AMENDMENT NO. 1 FILED: 11/9/2007 3:36:13 PM FOR H. 4365

Mr. Brownsberger of Belmont moves that the Bill, H4365, be amended by adding at the end thereof the following new section:

There shall be in the house of representatives a task force on climate change, hereinafter to be called the task force. The task force shall be appointed by the speaker of the house. It shall be the duty of the task force to investigate all issues related to climate change, including, but not limited to: (1) greenhouse gas emissions, (2) strategies to reduce emissions, and (3) strategies to adapt to climate change. The task force may hold hearings, as needed, to investigate and gather information. The task force shall submit a written report, including legislative recommendations, if any, to the clerk of the house of representatives by December 1, 2008.

This section shall take effect on January 1, 2008.

Mr. SPELLANE of WORCESTER moves that House Bill 4365 be amended by adding at the end the following section:

SECTION #. The Commonwealth shall establish the Massachusetts Hydrogen and Fuel Cell Institute as a joint venture among universities in Massachusetts to serve as a focal point for research, education, and commercialization activities in the state. Specific objectives of the Institute include: (1) coordinate and strengthen hydrogen and fuel cell research activities within the universities in Massachusetts; (2) strengthen collaborative research and development between universities and companies located within Massachusetts; (3) address critical technological barriers facing the hydrogen and fuel cell companies; (4) strengthen existing educational programs and introduce new curricula in Massachusetts universities to produce graduates conversant in hydrogen and fuel cell technologies; and (5) promote partnerships between Massachusetts universities and companies to jointly demonstrate hydrogen and fuel cell technologies and attract greater amounts of federal funding to the Commonwealth.

(a) The Massachusetts Hydrogen and Fuel Cell Institute will undertake collaborative research in areas deemed critical to Massachusetts firms, including competing for federal funding with joint proposals. It will provide access to facilities and equipment at participating universities for proprietary research under pre-negotiated terms. It will also provide

independent testing and validation of products manufactured by Massachusetts firms by establishing of a central testing and evaluation laboratory. The Institute will develop new curricula for undergraduate and graduate students and will provide conferences and seminars for industry executives, engineers, and scientists.

(b) Laboratories at Massachusetts Universities such as Boston University, University of Massachusetts, Harvard University, Massachusetts Institute of Technology, Northeastern University, Tufts, and Worcester Polytechnic Institute, have strong Fuel Cell and Hydrogen related programs with current ties to industry, and will jointly form the basis of the Massachusetts Fuel Cell Institute.

(c) The Massachusetts Hydrogen and Fuel Cell Institute would thus serve mainly in a coordinating capacity, with work to be conducted within Research Centers located at individual Massachusetts universities with pre-existing strengths.

(d) Worcester Polytechnic Institute (WPI) will lead the development of a business plan and will serve as the administrator for this Institute.

(e) A budget of $2 million per year over five years will be assigned for this program. In addition, $2 million will be provided in the first year to establish a central state-of-the-art central testing and evaluation laboratory available to all universities and companies within the Commonwealth.

Mr. SPELLANE of WORCESTER moves that House Bill 4365 be amended by adding at the end the following section:

SECTION #. The Commonwealth shall establish the Massachusetts Hydrogen and Fuel Cell Institute as a joint venture among universities in Massachusetts to serve as a focal point for research, education, and commercialization activities in the state. Specific objectives of the Institute include: (1) coordinate and strengthen hydrogen and fuel cell research activities within the universities in Massachusetts; (2) strengthen collaborative research and development between universities and companies located within Massachusetts; (3) address critical technological barriers facing the hydrogen and fuel cell companies; (4) strengthen existing educational programs and introduce new curricula in Massachusetts universities to produce graduates conversant in hydrogen and fuel cell technologies; and (5) promote partnerships between Massachusetts universities and companies to jointly demonstrate hydrogen and fuel cell technologies and attract greater amounts of federal funding to the Commonwealth.

(a) The Massachusetts Hydrogen and Fuel Cell Institute will undertake collaborative research in areas deemed critical to Massachusetts firms, including competing for federal funding with joint proposals. It will provide access to facilities and equipment at participating universities for proprietary research under pre-negotiated terms. It will also provide

independent testing and validation of products manufactured by Massachusetts firms by establishing of a central testing and evaluation laboratory. The Institute will develop new curricula for undergraduate and graduate students and will provide conferences and seminars for industry executives, engineers, and scientists.

(b) Laboratories at Massachusetts Universities such as Boston University, University of Massachusetts, Harvard University, Massachusetts Institute of Technology, Northeastern University, Tufts, and Worcester Polytechnic Institute, have strong Fuel Cell and Hydrogen related programs with current ties to industry, and will jointly form the basis of the Massachusetts Fuel Cell Institute.

(c) The Massachusetts Hydrogen and Fuel Cell Institute would thus serve mainly in a coordinating capacity, with work to be conducted within Research Centers located at individual Massachusetts universities with pre-existing strengths.

(d) Worcester Polytechnic Institute (WPI) will lead the development of a business plan and will serve as the administrator for this Institute.

AMENDMENT NO. 4 FILED: 11/13/2007 3:11:35 PM FOR H. 4365

Representative Finegold of Andover moves to amend the bill by inserting the following section immediately after Section 75:-

SECTION 75(A). To provide for programs that encourage economic investment in the Commonwealth, the sums set forth in this act for the several purposes and subject to the conditions specified in this act and are hereby made available subject to the provisions of law regulating the disbursement of public funds and approval thereof. Hydrogen and fuel cell Legislation to strengthen Massachusetts' competitiveness in the hydrogen and fuel cell industry resulted in expanded employment, increased private investment, greater federal funding, accelerated commercial sales, and increased public education and awareness. Social benefits include reduced dependence on foreign sources of energy, a cleaner environment, and an expanded manufacturing sector.

SECTION 75(A)(1). Massachusetts shall establish a research and development matching grant program to help companies in the Commonwealth to accelerate the commercialization of hydrogen and fuel cell technologies. Specific objectives include: (1) providing direct financing and business assistance to companies located in the Commonwealth; (2) building research capabilities within universities and forge closer ties to industry; (3) promoting early adoption of commercial and near-commercial technologies; (4) increasing public visibility and education associated with hydrogen and fuel cell solutions; and (5) attracting greater amounts of federal funding to Massachusetts.

(a) Companies and organizations ("Requesting Organizations") must be located in Massachusetts to be eligible for funding. Requesting organizations may request funding for

three purposes: (1) cost share requirements for federal research and development grants; (2) industry sponsored research at Massachusetts universities and colleges; and (3) demonstrations of near-commercial technologies. Requesting organizations must demonstrate how projects will lead to commercial success and create benefits to the Commonwealth.

(b) All three grant categories are subject to requesting organization contributions, with the specific contribution level depending on the type of funding requested. For federal research and development grants, the Commonwealth will provide a portion of the federally required cost share percentage, up to 50%. For other grant requests, the Commonwealth shall provide up to 50% of project costs. The maximum grant under any circumstance shall be no greater than 50% of the applicable project cost, and no grant provided by the Commonwealth shall be more than $500,000 per project, with no requesting organization receiving more than $1 million in any one year under this specific program.

(c) The research and development grant matching program shall be designed and administered by the Renewable Energy Trust of the Massachusetts Technology Collaborative (the “Trust”). The Trust shall design and implement a simple application process with explicit award criteria and rapid decision making. The program shall be available to requesting organizations on an open solicitation basis, allowing requesting organizations to submit proposals throughout the year.

(d) The MTC shall assign a budget of $10 million over five years for this program.

SECTION 75(A)(2). The Commonwealth should support the future activities identified in the June 2006 Report of the DG Collaborative to reduce the barriers to the adoption of fuel cells as part of distributed generation systems. In this regard, the Massachusetts Hydrogen Coalition,

Inc., or its assigns, should join the DG Collaborative (or its successor) and take an active role in the policy-making process on behalf of its members.

SECTION 75(A)(4). The Massachusetts department of revenue shall offer a fuel cell and hydrogen Investment Tax Credit, offering a tax credit to businesses and individuals that invest in eligible fuel cell and hydrogen systems. Eligible fuel cell or hydrogen systems' include, but are not limited to the following applications: all stationary, portable, assured or back-up power applications; fuel cells for forklifts and other mobile industrial electric-powered equipment, off-road vehicles and airport ground support equipment; auxiliary power units, remote power generators, and hydrogen production systems.

(a) Beginning on or after March 1, 2008, Massachusetts' based individuals and organizations may claim the fuel cell and hydrogen Investment Tax Credit, including individuals, partners in a partnership (including members of an LLC that is treated as a partnership for federal income tax purposes), shareholders of S corporations, and beneficiaries of estates and trusts.

(b) The credit applies to eligible equipment expenditures made on or after March 1, 2008, and is claimed for the tax year in which the equipment is placed in use.

(c) This law allows a credit for the purchase and installation of eligible equipment. The credit is 30% of the eligible equipment expenditures made on or after July 1, 2007, for the purchase and installation of the eligible equipment. However, the credit cannot exceed $1,000 per kilowatt for electric generating equipment or its equivalent, for each unit purchased. The equipment must be installed and used in Massachusetts and must be placed in service on or after July 1, 2007.

(d) To qualify for the credit, the rated capacity of the electric generating systems must be 0.25 kilowatts (250 watts) or more, but not more than one hundred kilowatts (100,000 watts), or its equivalent.

(e) This credit is not refundable. If the amount of credit exceeds the claiming entity's tax for the year, you may carry over the excess to the following five years.

(f) Qualified expenditures include expenditures incurred on or after March 1, 2008, for materials, labor costs properly allocated to assembly and installation, engineering services, designs and plans directly related to the construction or installation of the eligible equipment.

(g) This credit provision will expire in 2015 and will be available to businesses and individuals in addition to any federal tax credits that may apply.

SECTION 75(A)(5). The Massachusetts Department of Revenue shall extend the job creation incentive payment currently available for life science companies to hydrogen and fuel cell companies that create manufacturing jobs in Massachusetts.

(a) Companies must create at least ten jobs during the calendar year to receive tax credits.

(b) The incentive payment will be equal to 50% of state withholding tax (i.e., salaries times 5.3% times 50%.)

(c) The incentive payment will be paid in equal installments over three years.

SECTION 75(A)(6). The Commonwealth shall establish the Massachusetts Hydrogen and Fuel Cell Institute as a joint venture among universities in Massachusetts to serve as a focal point for research, education, and commercialization activities in the state. Specific objectives of the Institute include: (1) coordinate and strengthen hydrogen and

fuel cell research activities within the universities of Massachusetts; (2) strengthen collaborative research and development between universities and companies located within Massachusetts; (3) address critical technological barriers facing the hydrogen and fuel cell companies; (4) strengthen existing educational programs and introduce new curricula in Massachusetts universities to produce graduates conversant in hydrogen and fuel cell technologies; and (5) promote partnerships between Massachusetts universities and companies to jointly demonstrate hydrogen and fuel cell technologies and attract greater amounts of federal funding to the Commonwealth.

(a) The Massachusetts Hydrogen and Fuel Cell Institute will undertake collaborative research in areas deemed critical to Massachusetts firms, including competing for federal funding with joint proposals. It will provide access to facilities and equipment at participating universities for proprietary research under pre-negotiated terms. It will also provide independent testing and validation of products manufactured by Massachusetts firms by establishing a central testing and evaluation laboratory. The Institute will develop new curricula for undergraduate and graduate students and will provide conferences and seminars for industry executives, engineers, and scientists.

(b) Laboratories at Massachusetts universities such as Boston University, University of Massachusetts, Harvard University, Massachusetts Institute of Technology, Northeastern University, Tufts, and Worcester Polytechnic Institute, have strong Fuel Cell and Hydrogen related programs with current ties to industry, and will jointly form the basis of the Massachusetts Fuel Cell Institute.

(c) The Massachusetts Hydrogen and Fuel Cell Institute would thus serve mainly in a coordinating capacity, with work to be conducted within Research Centers located at individual Massachusetts universities with pre-existing strengths.

(d) The Secretary of Environmental Affairs will select the university to lead the development of a business plan and serve as the administrator for this Institute.

AMENDMENT NO. 5 FILED: 11/13/2007 4:01:22 PM FOR H. 4365

Mr. Turner of Dennis hereby moves to amend H 4365 as follows:

SECTION 1. The first sentence of subsection (b) of section 22 of Section 5 is hereby amended by striking out the words, “grants or loans”, inserting in place thereof the following words:-

“grants, loans and other financial products”

SECTION 2. Subsection (c) of said section 22 of said Section 5 is hereby amended by striking out the subsection in its entirety and inserting in place thereof the following subsection:-

(c). The department shall develop a list of qualified designers capable of designing renewable energy projects and a list of contractors and home improvement contractors registered pursuant to Chapter 142A and qualified to construct, install and complete renewable energy projects. Only renewable energy projects designed by designers on said designers list and constructed, installed and completed by a contractor or home improvement contractor on said list or those renewable energy projects designed, completed, constructed or installed via the low income weatherization and fuel assistance program network shall qualify for funding pursuant to this section.

SECTION 3. The last sentence of subsection (a) of section 22 of Section 8 is hereby amended by striking out the words, “distribution companies” and inserting in place thereof the following words:-

“energy efficiency program administrators”

SECTION 4. The second sentence of first paragraph of section 16 of said Section 28 is hereby amended by inserting after the word, “municipalities,” the following words:-

“municipal aggregators,”

SECTION 5. The first sentence of subsection (a) of said section 16 of said Section 28 shall be further by inserting after the word, “municipalities”, the words:-

“and other governmental entities”

SECTION 6. The second sentence of subsection (b) of said section 16 of said Section 28 is hereby inserting after the word, “loans”, the following words:-

“and other financial products”

SECTION 7. The first sentence of subsection (c) of said section 16 of said Section 28 is hereby amended by inserting after the word, “municipality”, the following words:

“or other governmental entity”

SECTION 8. The said first sentence of said subsection (c) of said section 16 of said Section 28 is hereby amended by inserting after the words, “division; and” the following word:-

“either”

SECTION 9. The first sentence of subsection (d) of said section 16 of said Section 28 is hereby amended by inserting after the word, “municipalities”, in both places that it appears, the following words:-

“or other government entities”

SECTION 10. The said first sentence of subsection (d) of said section 16 of said Section 28 is hereby amended by inserting after the word, “whether”, the following word:-

“such”

SECTION 1. Section 69K of chapter 164 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:-

Any city or town which owns or operates a water or sewage treatment facility and releases the treated waste water into a public body of water including, but not limited to a lake, river or stream, shall not be required to make available or sell the treated water from any such facility for reuse to any owner or operator of a combined cycle electric power generation facility with a generation capacity of 1200 megawatts or more for the purpose of allowing the electric power generation facility to recycle and reuse the treated water for cooling and other industrial purposes.

Notwithstanding any general or special law to the contrary, the Commonwealth of Massachusetts is hereby prohibited from issuing any permits to new liquefied natural gas facilities that are to be located within 1mile of a school, hospital, or nursing home.

AMENDMENT NO. 8 FILED: 11/13/2007 4:42:52 PM FOR H. 4365

Mr. Patrick of Falmouth moves that the bill be amended in Section 19 of SECTION 8, by adding at the end thereof the following;

(d) Upon enactment, the department of revenue is authorized and directed to require a mandatory charge of .5 cents per gallon on all No. 1 distillate and No. 2 dyed distillate oil sold for use and consumption in the Commonwealth. All funds collected pursuant to this section shall be utilized to fund energy efficiency activities as set forth in this section. Such funds shall then be administered by the Secretary of the Environment and Energy in the manner set forth in this section. Said charge shall be on all oil sold by all wholesale bulk oil suppliers of the commonwealth to all wholesale bulk oil distributors of the commonwealth. The department of revenue shall issue regulations regarding the collection of such charge. Such regulations shall provide a mechanism for rebating to all oil distributors charges paid under this section for oil sold outside the commonwealth

(e) In order to implement this section the division of energy resources is hereby directed and authorized to enter into a contract with an appropriate organization, selected through a competitive procurement process, to deliver and operate, in a cost-effective manner, an energy efficiency program, including but not limited to demand-side management programs, that reduce demand for oil fired space heating. The division of energy resources shall issue regulations implementing this section within three months of enactment of this section and shall enter into a contract with an appropriate organization within 6 months after such regulations have been made final. Said regulations shall provide that at least 20 per cent of the amount expended for residential demand-side management programs pursuant to this section shall be spent on comprehensive low-income residential demand-side management and education programs and implemented as provided in (c) of this SECTION 8.

AMENDMENT NO. 9 FILED: 11/13/2007 4:42:52 PM FOR H. 4365

Mr. Patrick of Falmouth moves that the bill be amended in Section 16 (c) of SECTION 28, by striking all after the words “street and traffic lights from clean energy sources;”

AMENDMENT NO. 10 FILED: 11/13/2007 4:42:52 PM FOR H. 4365

Mr. Patrick of Falmouth moves that the Bill be amended in Section 138 the definition of "Neighborhood" of SECTION 58 by adding at the end thereof the following:

"…municipalities and institutional properties such as those owned by schools and non-profit organizations."

AMENDMENT NO. 11 FILED: 11/13/2007 4:42:52 PM FOR H. 4365

Mr. Patrick of Falmouth moves to amend the bill in Section 139 (c) of SECTION 58 by adding after the words “net metering facility” the following, “that exceeds the annual growth in power requirements”

AMENDMENT NO. 12 FILED: 11/13/2007 4:42:52 PM FOR H. 4365

Mr. Patrick of Falmouth moves that the Bill be amended in Section 139 (f) of SECTION 58, by striking the first sentence and replacing it with the following;

The “annual” aggregate capacity of net metering shall not exceed 1 per cent of the distribution company’s peak load “beyond the distribution company’s annual growth in power requirements as determined by the Independent Service Operator of New England”.

AMENDMENT NO. 13 FILED: 11/13/2007 4:42:52 PM FOR H. 4365

Mr. Patrick of Falmouth moves to amend the bill SECTION 64, in the second paragraph, by striking the figure “$1,000” and replacing it with the figure with “$10,000 for commercial utility customers” and striking the figure “$500 and replacing it with the figure “$5,000” for residential utility customers”.

AMENDMENT NO. 14 FILED: 11/13/2007 4:42:52 PM FOR H. 4365

Mr. Patrick of Falmouth moves that the Bill be amended in SECTION 72, by striking the words “electric heating systems” from the first paragraph, second sentence.

Section 72 is further amended in the third sentence of the second paragraph by adding after the words, “in offering said loan products by or through” the words, “present value”.

AMENDMENT NO. 15 FILED: 11/13/2007 4:42:52 PM FOR H. 4365

Mr. Patrick of Falmouth moves that the Bill be amended in SECTION 65 by adding after the third sentence, the following: “Each smart meter will include a real time instantaneous usage gauge in the building that is convenient to the customer to view and provides the quantity of kilowatt-hours being consumed at any moment.”

AMENDMENT NO. 16 FILED: 11/13/2007 5:04:19 PM FOR H. 4365

AMENDMENT TO HOUSE, No. 4365

Mr. Greene of Billerica moves that the bill be amended by inserting in SECTION 8, after section 21(a), the following:-

(1) The Commonwealth shall place a 2 year moratorium on the permitting, siting, and construction of any proposed new, or the expansion of any existing, non renewable energy power plants, for the purposes of allowing the regulations contained in this Act to take effect and to allow the Commonwealth to more accurately assess future energy demands. The following technologies or fuels shall not be considered renewable energy supplies: coal, oil, natural gas except when used in fuel cells, and nuclear power.

AMENDMENT NO. 17 FILED: 11/14/2007 8:23:48 AM FOR H. 4365

Mr. Kocot of Northampton moves that House bill 4365 be amended in section 61 by inserting at the end thereof the following:- "….provided, that no state agency, board or authority shall issue permits, certificates or other permissions to begin construction, produce or sell electricity, withdraw water from rivers, streams or other natural water bodies, or acquire transmission line or other easements across or through state –owned land for generating or the transmission of electricity, to any corporation, holding company, business, entity or project requesting authorization to produce and sell electricity generated primarily from the combustion of wood or other biomass products, prior to the completion of said study of energy siting facilities, provided further, that said commission shall hold at least one public hearing in the western region of the Commonwealth to review the local impacts of energy facility siting proposals."

Amendment No. 18

Mr. Walsh of Boston moves to amend the bill by adding the following new sections:

SECTION….Chapter 140 of the Acts of 2005 is hereby amended in Section 22 by striking the words “section 11C of chapter 25” and inserting in place thereof the following: Section 11I of Chapter 25A

SECTION….Chapter 140 of the Acts of 2005 is hereby further amended in section 23 by striking the words ”section 11C of chapter 25” and inserting in place thereof the following: Section 11I of Chapter 25A

Representatives Vallee of Franklin, Garry of Dracut and Loscocco of Holliston move to amend H. 4365 in SECTION 5, Subsection 22(d), by inserting after "[…] or tidal energy;" the following: "flywheel energy storage;";

in SECTION 19, Subsection (b), by inserting after "[…] refuse derived fuel;" the following: "(ix) flywheel energy storage;";

in SECTION 40, within "Renewable Energy" definition, by inserting after "[…] or tidal energy;" the following: "flywheel energy storage.";

in SECTION 47, within "Clean Energy Generating Unit" definition, by inserting after "[…] or tidal energy;" the following: "flywheel energy storage."

Ms. Wolf of Cambridge moves to amend H. 4365 by inserting after Section 1 the following Section:

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

Section 36B. The commissioner of administration shall establish and enforce regulations governing the fuel efficiency standards that all vehicles must meet. The average fuel efficiency for the entire fleet of passenger vehicles owned or leased by the commonwealth, except those vehicles used for emergency purposes, security purposes, and special services, shall not exceed the US Corporate Average Fuel Economy (CAFE) Standards as established by the National Highway Traffic Safety Administration (NHTSA) and the Environmental Protection Agency (EPA).

The commissioner of administration shall require that all passenger vehicles owned or leased by the commonwealth use any one or combination of the following fuels: natural gas, electric, fuel cell, gasoline, gasoline-alcohol combination, or B-100 Biodiesel. Passenger vehicles using diesel or B-20 Biodiesel may not be purchased or leased by the commonwealth unless there is no equivalent substitute and said vehicles have diesel particulate filters."

Ms. Wolf of Cambridge moves to amend H. 4365 by inserting after Section 1 the following section:

"SECTION 1A. Chapter 30 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding after Section 39S the following new section: Section 39T. Use of ultra low sulfur diesel fuel and best available technology in nonroad vehicles.

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

"Public entity" means the commonwealth, or political subdivision thereof, including authority, department, or by any county, city, town, district, or housing authority.

"Best Available Technology" means technology verified by the United States Environmental Protection Agency or the California Air Resources Board, either for nonroad or on-highway applications, which reduces the emissions of diesel pollutants and achieves the maximum level of reduction in particulate matter for a given engine and its application; or technology verified by the United States Environmental Protection Agency or the California Air Resources Board, either for nonroad or on-highway applications, which has been installed within the three years prior to the effective date of this section.

"Commissioner" means the commissioner of the Department of Environmental Protection.

"Contractor" means any person, corporation, partnership, joint venture, sole proprietorship, or other entity awarded a contract pursuant to sections 38A½ to 38O,

inclusive, of chapter 7 and any contract awarded or executed pursuant to section 11C of chapter 25A, section 39M of chapter 30, or sections 44A to 44H, inclusive, of chapter 149, which is for an amount or estimated amount greater than one hundred thousand dollars.

"Department" means the department of environmental protection.

"Motor vehicle" means any self-propelled vehicle designed for transporting persons or property on a street or highway.

"Nonroad engine" means an internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 7411 or section 7521 of title 42 of the United States code, except that this term shall apply to internal combustion engines used to power generators, compressors or similar equipment used in any construction program or project.

"Nonroad vehicle" means a vehicle that is powered by a nonroad engine, fifty horsepower and greater, and that is not a motor vehicle or a vehicle used solely for competition, which shall include, but not be limited to, excavators, backhoes, cranes, compressors, generators, bulldozers and similar equipment.

"Person" means any natural person, co-partnership, firm, company, association, joint stock association, corporation or other like organization.

"Public works contract" means a contract with a public entity for a construction program or project involving the construction, demolition, restoration, rehabilitation, repair, renovation, or abatement of any building, structure, tunnel, excavation, roadway, park or bridge; a contract with a public entity for the preparation for any construction

program or project involving the construction, demolition, restoration, rehabilitation, repair, renovation, or abatement of any building, structure, tunnel, excavation, roadway, park or bridge; or a contract with a public entity for any final work involved in the completion of any construction program or project involving the construction, demolition, restoration, rehabilitation, repair, renovation, or abatement of any building, structure, tunnel, excavation, roadway, park or bridge.

"Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of no more than fifteen parts per million.

(b) (1) Any diesel-powered nonroad vehicle that is owned by, operated by or on behalf of or leased by a public entity shall be powered by ultra low sulfur diesel fuel.

(2) Any diesel-powered nonroad vehicle that is owned by, operated by or on behalf of or leased by a public entity shall utilize the best available technology for reducing the emission of pollutants.

(c) (1) Any solicitation for a public works contract and any contract entered into as a result of such solicitation shall include a specification that all contractors in the performance of such contract shall use ultra low sulfur diesel fuel in diesel-powered nonroad vehicles and all contractors in the performance of such contract shall comply with such specification.

(2) Any solicitation for a public works contract and any contract entered into as a result of such solicitation shall include a specification that all contractors in the performance of such contract shall utilize the best available technology for reducing the emission of pollutants for diesel-powered nonroad vehicles and all contractors in the performance of such contract shall comply with such specification.

(d) (1) The commissioner shall make determinations, and shall publish a list containing such determinations, as to the best available technology for reducing the emission of pollutants to be used for each type of diesel- powered nonroad vehicle to which this section applies for the purposes of paragraph two of subdivision b and paragraph two of subdivision c of this section. Each such determination, which shall be updated on a regular basis, but in no event less than once every six months, shall be primarily based upon the reduction in emissions of particulate matter and nitrogen oxides associated with the use of such technology and shall in no event result in an increase in the emissions of either such pollutant. In determining the best available technology for reducing the emission of pollutants, the commissioner shall select technology from that which has been verified by the United States Environmental Protection Agency or the California Air Resources Board for use in nonroad vehicles or onroad vehicles where such technology may also be used in nonroad vehicles.

(2) No public entity or contractor shall be required to replace best available technology for reducing the emission of pollutants or other authorized technology utilized for a diesel-powered nonroad vehicle in accordance with the provisions of this section within three years of having first utilized such technology for such vehicle.

(e) A public entity shall not enter into a public works contract subject to the provisions of this section unless such contract permits independent monitoring of the contractor’s compliance with the requirements of this section and requires that the contractor comply with section 39S of this code. If it is determined that the contractor has failed to comply with any provision of this section, any costs associated with any

independent monitoring incurred by the public entity shall be reimbursed by the contractor.

(f) (1) The provisions of paragraph one of subdivision b of this section shall apply to all diesel-powered nonroad vehicles that are owned by, operated by or on behalf of or leased by a public entity and the provisions of paragraph one of subdivision c of this section shall apply to all public works contracts six months after the effective date of this section.

(2) The provisions of paragraph two of subdivision b of this section shall apply to all diesel-powered nonroad vehicles that are owned by, operated by or on behalf of or leased by a public entity and the provisions of paragraph two of subdivision c of this section shall apply to any public works contract that is valued at two million dollars or more one year after the effective date of this section.

(3) The provisions of paragraph two of subdivision c of this section shall apply to all public works contracts eighteen months after the effective date of this section.

(g) (1) On or before January 1, 2008, and every succeeding January 1, department shall publish a report on the use of ultra low sulfur diesel fuel in diesel-powered nonroad vehicles and the use of the best available technology for reducing the emission of pollutants and such other authorized technology in accordance with this section for such vehicles by public entities during the immediately preceding fiscal year. This report shall be compiled from data provided by public entities to the department. This report shall include, but not be limited to (i) the total number of diesel-powered nonroad vehicles owned by, operated by or on behalf of or leased by each public entity or used to fulfill the requirements of a public works contract for each public entity; (ii) the number of such

nonroad vehicles that were powered by ultra low sulfur diesel fuel; (iii) the number of such nonroad vehicles that utilized the best available technology for reducing the emission of pollutants, including a breakdown by vehicle model and the type of technology used for each vehicle; (iv) all findings and waivers, and renewals of such findings and waivers, issued pursuant to paragraph one or paragraph three of subdivision j or subdivision l of this section, which shall include, but not be limited to, all specific information submitted by a public entity or contractor upon which such findings, waivers and renewals are based and the type of such other authorized technology, if any, utilized in accordance with this section in relation to each finding, waiver and renewal, instead of the best available technology for reducing the emission of pollutants; (v) this report shall be provided annually to the joint committee on environment, natural resources, agriculture.

(h) This section shall not apply:

(1) where federal or state funding precludes the public entity from imposing the requirements of this section; or

(2) to purchases that are emergency procurements pursuant to section 8 of chapter 30B of the General Laws.

(i) Paragraph one of subdivision b and paragraph one of subdivision c, as that paragraph applies to all contractors' duty to comply with the specification, of this section shall not apply to a public entity or contractor in its fulfillment of the requirements of a public works contract for such agency where such agency makes a written finding, which is approved, in writing, by the commissioner, that a sufficient quantity of ultra low sulfur diesel fuel, is not available to meet the requirements of paragraph one of subdivision b or

paragraph one of subdivision c of this section, provided that such agency or contractor in its fulfillment of the requirements of a public works contract for such agency, to the extent practicable, shall use whatever quantity of ultra low sulfur diesel fuel. Any finding made pursuant to this subdivision shall expire after sixty days, at which time the requirements of paragraph one of subdivision b and paragraph one of subdivision c of this section shall be in full force and effect unless the public entity renews the finding in writing and such renewal is approved by the commissioner.

(j) Paragraph two of subdivision b and paragraph two of subdivision c, as that paragraph applies to all contractors 'duty to comply with the specification, of this section shall not apply:

(1) to a diesel-powered nonroad vehicle where a public entity makes a written finding, which is approved, in writing, by the commissioner, that the best available technology for reducing the emission of pollutants as required by those paragraphs is unavailable for such vehicle, in which case such agency or contractor shall use whatever technology for reducing the emission of pollutants, if any, is available and appropriate for such vehicle; or

(2) to a diesel-powered nonroad vehicle that is used to satisfy the requirements of a specific public works contract for fewer than five calendar days.

(k) In determining which technology to use for the purposes of paragraph one of subdivision j of this section, a public entity or contractor shall consider the reduction in emissions of particulate matter and nitrogen oxides associated with the use of such technology, which shall in no event result in an increase in the emissions of either such pollutant.

(l) Any finding or waiver made or issued pursuant to paragraph one of subdivision k of this section shall expire after one hundred eighty days, at which time the requirements of paragraph two of subdivision b and paragraph two of subdivision c of this section shall be in full force and effect unless the public entity renews the finding, in writing, and the commissioner approves such finding, in writing, or the commissioner renews the waiver, in writing.

(m) All contracts that are applicable to this section, shall include an appropriate contract penalty in case of contract violations and to ensure proper enforcement, which may include withholding contract fees until the contractor is in compliance with the applicable contract terms.

(n) All contracts that are applicable to this section, shall include an appropriate contract penalty in case the contractor makes false claims to a public entity with respect to the provisions of this section.

(o) This section shall not apply to any public works contract entered into or renewed prior to the effective date of this section.

(p) Nothing in this section shall be construed to limit the public entity’s authority to cancel or terminate a contract, deny or withdraw approval to perform a subcontract or provide supplies, issue a non-responsibility finding, issue a non-responsiveness finding, deny a person or entity pre-qualification as a vendor, or otherwise deny a person or entity public entity business.”

AMENDMENT NO. 22 FILED: 11/14/2007 10:57:13 AM FOR H. 4365

Mr. Correia of Fall River moves that the bill (House, No. 4365) be amended by inserting after Section 75 the following Section:-

Item 2000-6966 of Section 2 of Chapter 28 of the Acts of 1996 is hereby amended by striking out the words:- “twenty-five million dollars shall be expended for the dredging, expansion, and development of commercial berths within the port of Fall River;” in lines 21 to 22 and inserting in place thereof the following words:-

“Seventeen million dollars shall be expended for the dredging, expansion and development of commercial berths within the port of Fall River, provided further that not less than eight million dollars shall be expended for the construction of a municipal marina within the port of Fall River.”.

The Secretary of Energy and Environmental Affairs shall undertake a study of the economic and technical feasibility of allowing communities and alliances of communities now served by investor-owned utilities to establish municipal electric utilities. The study will address, among other issues, the valuation methodology to determine a reasonable acquisition cost to the communities of the assets of the investor-owned utilities, anticipated operating costs of such municipal utilities (including payments into the state's Renewable Energy and Conservation fund,) and any necessary legislation to allow the creation of such municipal utility companies. The Secretary shall administer the study in collaboration with a board made up of one representative from each of Lexington, Newton, Plymouth, Cambridge and Worcester chosen by the executive of each municipality, one representative from the department of public utilities, and one representative from the department of clean energy who shall select and supervise the contractor for the study; provided further that the process of hiring a contractor for the study shall not be subject to the provisions of Chapter 30B of the Massachusetts General Laws provided further that the Secretary shall submit the report to the Joint Committee on Telecommunications, Utilities, and Energy, and the executive of each municipality by June 1, 2008.

AMENDMENT NO. 24 FILED: 11/14/2007 11:10:46 AM FOR H. 4365

Mr. SPELLANE of WORCESTER moves to amend SECTION 62 of House Bill 4365 by striking out paragraph four in its entirety and inserting in place thereof the following new paragraph:

> The distribution company shall not enter into long-term contracts pursuant to this section that would, in the aggregate, exceed 3 per cent of the total energy demand from all distribution customers of the distribution company in its service territory. As long as the electric distribution company has entered into long term contracts in compliance with this section, the electric distribution company shall not be required by regulation or order to enter into contracts with terms of more than three years in meeting its applicable annual renewable portfolio standard requirements set forth in section 11F of chapter 25A of the General Laws, unless the department finds that such contracts are in the best interest of customers, and provided further that the electric distribution company may execute such contracts voluntarily, subject to department of public utilities approval.

AMENDMENT NO. 25 FILED: 11/14/2007 11:23:00 AM FOR H. 4365

Ms. Polito of Shrewsbury hereby moves that H. 4365 be amended in Section 19 by adding the following:

(f) For purposes of this section, a Municipal Lighting Plant shall be considered a Retail Electricity Supplier; however, it shall be exempt from the obligations of a Retail Electricity Supplier contained in this section so long as and insofar as it is exempt from the requirements to allow competitive choice of generation supply pursuant to M.G.L. c. 164, § 47A.

and be further amended in Section 20 by adding at the end thereof the following :

(c) For purposes of this section, a Municipal Lighting Plant shall be considered a Retail Electricity Supplier; however, it shall be exempt from the obligations of a Retail Electricity Supplier contained in this section so long as and insofar as it is exempt from the requirements to allow competitive choice of generation supply pursuant to M.G.L. c. 164, § 47A.

AMENDMENT NO. 26 FILED: 11/14/2007 11:32:01 AM FOR H. 4365

**House No. 4365**

Mr. Webster of Hanson moves to amend House, No. 4365 in SECTION 2 by striking out, in subsection (c), the figure “10” and inserting in place thereof the figure “15”.

AMENDMENT NO. 27 FILED: 11/14/2007 11:32:29 AM FOR H. 4365

Mr. Marzilli of Arlington moves to amend the bill by adding the following section:

"SECTION -. Alternative fuels at fueling stations.

Section 1. On or before January 1, 2008, the Division of Energy Resources shall determine the amount of retail oil sales that constitutes the upper 25 percent of state retail fuel sales and term any oil company that sells fuel at and beyond that threshold a "major integrated oil company."

Section 2. The General Laws shall be amended to include after Chapter 161D the following Chapter:—
Chapter 161E. Motor Vehicle Fueling Stations.
Section 1. Definitions.
The term "alternative fuel" means methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more (or such other percentage, but not less than 70 percent, as determined by the Secretary of Transportation, by rule, to provide for requirements relating to cold start, safety, or vehicle functions) by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas, including liquid fuels domestically produced from natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar energy); and any other fuel the Secretary of Transportation determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits;
"Major integrated oil companies" are those companies whose retail sales are in the upper 25 percent of fuel sales, as determined by the Division of Energy Resources.
Section 2. Major Integrated Oil Companies.
(a) All major integrated oil companies shall make available to retail consumers at least one (1) alternative fuel by January 1, 2010.
(b) All major integrated oil companies shall make available to retail consumers at least two (2) alternative fuels by January 1, 2011.
Section 3. Massachusetts Turnpike Motor Vehicle Fueling Stations.
(a) Notwithstanding the provisions of the previous section, all motor vehicle fueling stations on the Massachusetts Turnpike shall make available at least one (1) alternative fuel by January 1, 2009.
(b) Notwithstanding the provisions of the previous section, all motor vehicle fueling stations on the Massachusetts Turnpike shall make available at least two (2) alternative fuels by July 1, 2010."

Mr. Marzilli of Arlington moves to amend the bill by striking the text of Section 33 and inserting in place thereof the following section:

“SECTION 33. Sliding-scale sales tax for fuel-efficient vehicles.

Section 1. Chapter 21A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following section:—
Section 3F. (a) Within 30 days of the annual release of U.S. Environmental Protection Agency’s and Department of Energy’s Fuel Economy Guide hereinafter referred to as “the Guide,” the commissioner of the department of environmental protection, in consultation with the commissioner of revenue, shall establish annually three schedules of energy efficient light-duty passenger vehicles for the purposes of sales tax rebates and excise tax exemptions pursuant to Section 25 of Chapter 64H and Section 1A of Chapter 60A. The three schedules shall be grouped based on seating capacity and include 2-4 seat passenger vehicles (excluding motorcycles), 5-6 seat passenger vehicles, and vehicles that seat 7 or more passengers. Each schedule shall include each vehicle’s combined city and highway mileage per gallon of regular gasoline (or energy equivalent for clean diesel and alternative fuels) as determined by the United States Environmental Protection Agency and a figure representing the percentage of the vehicle that is American-made pursuant to Title 49 CFR Part 583, as amended.
(b) The Commissioner shall have the discretion to create a formula that calculates what vehicles receive rebates or excise exemptions, and the amounts of said rebates or exemptions. In calculating the formula for eligible vehicles up to 20 per cent of the calculation may be based on the percentage of the car’s American-made content.
(c) The schedules shall be made available for public comment no later than 30 days after the release of the Guide.
(d) No sales tax rebate or excise tax exemption shall be applied to any vehicle previously titled for sale and each vehicle must be legal for sale in Massachusetts pursuant to Section 142K of Chapter 111 and its implementing regulations.
(e) The commissioner may promulgate guidance or regulations if necessary to carry out the provisions of this section.

Section 2. Section 1 of Chapter 60A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding after the ninth paragraph the following new paragraph:—
The excise imposed by this section shall be reduced pursuant to the schedule of energy efficient vehicles pursuant to section 3F of chapter 21A. Within 30 days from close of public comment on the schedule of energy efficient vehicles prepared by the department of environmental protection pursuant to section 3F of chapter 21A, the department of revenue shall distribute the final schedule to boards of assessors and tax collectors within each municipality. The collector of taxes of a municipality shall forward to the commissioner an accounting of the reductions in excise made pursuant to this paragraph, with a list of vehicles accounting for such reduction.

Section 3. Said Chapter 60A, as so appearing, is hereby amended by adding the following new section:—

Section 1A. Subject to appropriation, the commissioner shall, upon receipt of the list referenced in paragraph 10 of Section 1 of this Chapter, reimburse cities and towns for excise tax reduced on vehicles eligible under Section 3F of Chapter 21A.

Section 4. Section 25 of Chapter 64H of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding at the end thereof the following:—
The commissioner of revenue shall rebate to consumers, upon proof of sale within the tax year of an eligible vehicle, as defined pursuant to Section 3F of Chapter 21 that portion of the sales tax eligible for rebate. Notwithstanding any general or special law to the contrary, the amounts rebated pursuant to this section shall not count as an abatement with respect to calculation of the share of state sales tax apportioned to the Massachusetts Bay Transportation Authority or School Modernization and Reconstruction Trust Fund.

Section 5. This act will take effect on January 1, 2008."

AMENDMENT NO. 29 FILED: 11/14/2007 11:32:29 AM FOR H. 4365

Mr. Marzilli of Arlington moves to amend the bill by adding the following section:

“SECTION -. Green building tax credit.

Section 1. Declaration of policy and statement of purpose.
(a) It is the policy of Massachusetts to encourage the construction, rehabilitation and maintenance of buildings in this state in such a manner as to:—
(1) Promote better environmental standards for the construction, rehabilitation and maintenance of buildings in this state;
(2) improve energy efficiency and increase generation of energy through renewable and clean energy technologies;
(3) increase the demand for environmentally preferable building materials, finishes, and furnishings;
(4) Improve the environment by decreasing the discharge of pollutants from buildings; and
(5) Create industry and public awareness of new technologies that can improve the quality of life from building occupants.
(b) In order to facilitate the foregoing policies, the legislature hereby creates a business and personal income tax credit to promote the construction, rehabilitation and maintenance of buildings that meet the criteria set forth in this act.

Section 2. Section 6 of Chapter 62 of the General Laws, as amended by Sections 120 and 121 of Chapter 159 of the acts of 2000, is hereby further amended by inserting the following paragraph:—
(l) A tenant or owner of property located in the Commonwealth who is not a dependant of another taxpayer may take a tax credit against the income tax this chapter imposes in an amount equal to the sum of the credit components specified in 31N of Chapter 63 provided that:—
(1) for the credit allowance year, a taxpayer shall obtain and file an initial credit component certificate and an eligibility certificate the division of energy resources shall issue pursuant to Section 31O of Chapter 63;
(2) for each of the four years succeeding the credit allowance year, a taxpayer shall obtain and file an eligibility certificate pursuant to Section 31O of Chapter 63;
(3) the amount of each credit component does not exceed the limit set forth in the initial credit component certificate the corporation obtains pursuant to Section 31O of Chapter 63;
(4) a taxpayer may use a particular cost paid or incurred to determine the amount of only one credit component;
(5) where applicable, a taxpayer shall obtain a certificate of occupancy for the building for which the taxpayer intends to take the credit;
(6) in the case of a fuel cell or photovoltaic module, the property for which the taxpayer takes the credit remains in service;
(7) where the credit allowance year is the first taxable year in which a taxpayer may claim the credit pursuant to the initial credit component certificate, the green building remains in service during the year;

(8) a taxpayer shall not take a credit under this section unless the taxpayer complies with the requirements of Section 31O of Chapter 63, relating to reports to the division of energy resources;
(9) in the construction of a green building, a green base building, and a green tenant space, or the rehabilitation of a building, base building or tenant space to make a green building, green base building or green tenant space a taxpayer shall adhere to the regulations the commissioner promulgates and adopts under Section 31P of Chapter 63;
(10) a tenant or owner shall take a tax credit pursuant to the provisions of paragraphs (b), (c) and (d) of Section 31M of Chapter 63; and
(11) a taxpayer shall not take a credit under this section if the taxpayer is eligible for the credit under paragraph (a) of Section 31M of Chapter 63.

Section 3. Chapter 63 of the General Laws is hereby amended by inserting the following sections:—
Section 31L.
As used in this section and Sections 31M, 31N, 31O and 31P of this chapter and Section 6 paragraph (l) of Chapter 62, the following terms shall have the following meanings:—
(a) “Allowable costs” means amounts properly chargeable to a capital account, other than for land, which a tenant or owner pays or incurs for:—
(1) construction or rehabilitation;
(2) commissioning costs;
(3) interest paid or incurred during the construction or rehabilitation period;
(4) legal, architectural, engineering and other professional fees allocable to construction or rehabilitation;
(5) closing costs for construction, rehabilitation or mortgage loans;
(6) recording taxes and filing fees incurred in construction or rehabilitation;
(7) site costs, including but not limited to, temporary electric wiring, scaffolding, demolition costs, and fencing and security facilities; and
(8) furniture, carpeting, partitions, walls, wall coverings, ceilings, drapes, blinds, lighting, plumbing, electrical wiring and ventilation; but
(9) not including telephone systems, computers, fuel cells and photovoltaic modules.
(b) “Base building” means area of a building not intended for occupancy, including but not limited to:—
(1) structural components of the building;
(2) exterior walls;
(3) floors;
(4) windows;
(5) roofs;
(6) foundations;
(7) chimneys and stacks;
(8) parking areas;
(9) mechanical rooms, mechanical systems and owner controlled and operated service spaces;
(10) sidewalks;

(11) main lobby;
(12) shafts and vertical transportation mechanisms;
(13) stairways; and
(14) corridors.
(c) “Credit allowance year” means the later of:—
(1) the taxable year during which a tenant or owner place a green building, a green base building or green tenant space in service or receives a final certificate of occupancy; or
(2) the first taxable year for which a tenant or owner may claim a credit pursuant to the initial credit component certificate that the division of energy resources issues.
(d) “Commissioner” means the commissioner of the division of energy resources,
(e) “Commissioning” means the testing and fine-tuning of heat, ventilating, air conditioning and other systems to assure proper functioning and adherence to design criteria, the preparation of system operation manuals, and the instruction of maintenance personnel.
(f) “Division” means the Massachusetts division of energy resources.
(g) “Economic development area” means an area as defined by Section 1 of Chapter 121C, or an empowerment zone or enterprise community as defined by Section 1391 of the Internal Revenue
Code.
(h) “Eligible building” means a building located in the Commonwealth that:—
(1) contains at least 20,000 square feet of interior space;
(2) meets or exceeds or upon completion will meet or exceed all federal, state and local:—
(i) zoning requirements;
(ii) building codes;
(iii) environmental laws, regulations and industry guidelines;
(iv) land use and erosion control requirements; and
(v) storm water management;
(3) the Massachusetts state building code or a subsequent code classifies as commercial and has a ventilation system that:—
(i) can replace 100 percent of air on any floor on a minimum of two floors at a time; and
(ii) has fresh air intakes located a minimum of 25 feet away from loading areas, building exhaust fans, cooling towers, and other points of source contamination;
(4) is a residential multi-family building with at least 12 units;
(5) is a residential multi-family building with at least 2 units that are part of a single or phased construction project with at least 10,000 square feet under construction or rehabilitation in any single phase; or
(6) is a combination of buildings described in (3), (4) and (5); and
(7) is not a building located on freshwater wetlands or tidal wetlands as defined by Section 40 and 40A of Chapter 131, or on wetlands that require a permit for construction pursuant to Section 404 of the federal clean water act (33 U.S.C.A 1344).
(i) “Energy code” means a chapter within the Massachusetts state building code that addresses energy or energy related issues.
(j) “EPA” means the United States Environmental Protection Agency.
(k) “Fuel cell” means a device that produces electricity directly from hydrogen or hydrocarbon fuel through a non-combustive electrochemical process.

(l) “Green base building” means a base building that is part of an eligible building and meets the standards for energy efficiency, zoning, indoor air quality, and building material, finishes and furnishing uses the commissioner establishes through regulations under this section.
(m) “Green building” means a building in which the base building is a green base building and the tenant space is green tenant space.
(n) “Green tenant space” means tenant space in an eligible building that meets the standards for energy efficiency, code requirements, indoor air quality, and building material, finishes and furnishing uses the commissioner establishes through regulations under this section.
(o) “Incremental cost of building-integrated photovoltaic modules” means:—
(1) the cost of a building-integrated photovoltaic module and associated inverter, additional wiring or other electrical equipment or mounting or structural materials, less the cost of spandrel glass or other building material the tenant or owner would have used in the event that the building-integrated photovoltaic module was not installed;
(2) labor costs properly allocable to on-site preparation, assembly and original installation of a photovoltaic module; and
(3) architectural and engineering services, designs and plans directly related to the construction or installation of the photovoltaic module.
(p) “LEED rating system” means the leadership in energy and environmental design green building rating system that the United States Green Building Council is developing.
(q) “Tenant improvements” means necessary and appropriate improvements needed to support or conduct the business of a tenant or occupying owner.
(r) “Tenant space” means the portion of a building designed or intended for the occupancy of the tenant or owner.
Section 31M.
(a) A corporation subject to tax under this chapter may take a credit against the excise this chapter imposes, in an amount equal to the sum of the credit components specified in Section 31N for the credit allowance year and each of the four succeeding years, provided that:—
(1) for the credit allowance year, a taxpayer shall obtain and file an initial credit component certificate and an eligibility certificate the division of energy resources shall issue pursuant to Section 31O;
(2) for each of the four years succeeding the credit allowance year, a taxpayer shall obtain and file an eligibility certificate pursuant to Section 31O;
(3) the amount of each credit component does not exceed the limit set forth in the initial credit component certificate the corporation obtains pursuant to Section 31O;
(4) a taxpayer may use a particular cost paid or incurred to determine the amount of only one credit component;
(5) where applicable, a taxpayer shall obtain a certificate of occupancy for the building for which the taxpayer intends to take the credit;
(6) in the case of a fuel cell or photovoltaic module, the property for which the taxpayer takes the credit remains in service;
(7) where the credit allowance year is the first taxable year in which a taxpayer may claim the credit pursuant to the initial credit component certificate, the green building remains in service during the year;

(8) a taxpayer shall not take a credit under this section unless the taxpayer complies with the requirements of Section 310, relating to reports to the division of energy resources; and
(9) in the construction of a green building, a green base building, and a green tenant space, or the rehabilitation of a building, base building or tenant space to make a green building, green base building or green tenant space a taxpayer shall adhere to the regulations the commissioner promulgates and adopts under Section 31P.
(b) A successor owner of property, for which the prior owner could have taken a tax credit pursuant to this section, may take a credit against the excise tax, provided that:—
(1) the subsequent owner may take a credit for the period allowable had the prior owner not sold the property; and
(2) for a taxable year, the prior and successor owners shall allocate the credit between themselves based on the number of days during the year that each party held property.
(c) A successor tenant, assuming tenancy in place of a prior tenant who could have taken a taken a tax credit pursuant to this section, may take a credit against the excise take, provided that:—
(1) the property upon which the successor tenant bases the credit remains in the building;
(2) the successor tenant may take a credit for the period allowable had the prior tenancy not been terminated; and
(3) for a taxable year, the prior and successor tenants shall allocate the credit between themselves based on the number of days during the year each party used the property.
(d) The commissioner may reveal to the successor owner or tenant information with respect to the credit of the prior owner or tenant that leads to the denial, in whole or part, of the credit the successor owner or tenant claims under paragraphs (b) or (c) of this section.
Section 31N.
(a) A tenant or owner of a green building may take a credit equal to the applicable percentage of the allowable costs the tenant or owner pays or incurs in constructing a green building or rehabilitating a building to make it a green building, provided that:—
(1) the applicable percentage a tenant or owner shall use to calculate the credit is 1.4 percent, except where the building is located in an economic development area, in which case the applicable percentage a tenant or owner shall use is 1.6 percent;
(2) a tenant or owner shall not claim a credit on costs in excess of 150 dollars per square foot for the portion of the building that comprises the base building;
(3) a tenant or owner shall not claim a credit on cost in excess of 75 dollars per square foot for the portion of the building that comprises tenant space.
(b) A tenant or owner of green tenant space may take a credit equal to the applicable percentage of the allowable costs a tenant or owner pays or incurs in constructing green tenant space or rehabilitating tenant space to make it green tenant space, provided that:—
(1) a tenant or owner shall not claim a credit for green tenant space smaller than 10,000 feet unless the base building in which the tenant space is located is a green base building;
(2) the applicable percentage a tenant or owner shall use to calculate the credit is 1 percent, except where the building is located in an economic development area, in which case the applicable percentage a taxpayer shall use is 1.2 percent;
(3) a tenant or owner shall not claim a credit on cost in excess of 75 dollars per square foot; and

(4) where a tenant and an owner both incur costs for the creation of a green tenant space, and such costs exceed 75 dollars per square foot, the owner shall have priority in claiming the owner's costs as the basis for the green tenant space credit component.
(c) A tenant or owner may take a credit equal to the applicable percentage of the allowable costs a tenant or owner pays or incurs in installing a fuel cell to serve a green building, green base building or green tenant space, provided that:—
(1) the fuel cell is a qualifying alternate energy source;
(2) the applicable percentage a tenant or owner shall use to calculate the credit is 6 percent of the sum of the capitalized costs a taxpayer pays or incurs for a fuel cell, including the cost of the foundation or platform and the labor cost associated with installation;
(3) the tenant or owner shall not claim a credit for capitalized costs in excess of 1,000 dollars per kilowatt of installed dc rated capacity; and
(4) the tenant or owner shall not include as part of the cost paid or incurred, a federal, state or local grant the tenant or owner receives for purchase and installation of a fuel cell, unless the tenant or owner includes the amount of the grant as part of the tenant or owner's federal gross income.
(d) A tenant or owner may take a credit equal to the applicable percentage of the allowable costs a tenant or owner pays or incurs in installing a photovoltaic module to serve a green building, green base building or green tenant space, provided that:—
(1) the photovoltaic module constitutes a qualifying alternate energy source;
(2) the applicable percentage a taxpayer shall use to calculate the credit is 20 percent of the incremental cost a taxpayer pays or incurs for building integrated photovoltaic modules;
(3) the applicable percentage a tenant or owner shall use to calculate the credit is 5 percent of the costs of non-building-integrated photovoltaic modules;
(4) the tenant or owner shall not claim a credit for costs in excess of the product of (1) three dollars and (2) the number of watts included in the dc rated capacity of the photovoltaic module;
(5) the tenant or owner shall not include as part of the cost paid or incurred, a federal, state or local grant the tenant or owner receives for purchase and installation of a photovoltaic module, unless the tenant or owner includes the amount of the grant as part of the tenant or owner's federal gross income.
(e) A tenant or owner of a green base building may take a credit equal to the applicable percentage of the allowable costs the tenant or owner pays or incurs in constructing a green base building or rehabilitating a building to make it a green base building, provided that:—
(1) the applicable percentage a tenant or owner shall use to calculate the credit is 1 percent, except where the building is located in an economic development area, in which case the applicable percentage a tenant or owner shall use is 1.2 percent;
(2) a tenant or owner shall not claim a credit on costs in excess of 150 dollars per square foot for the portion of the building that comprises the base building.
Section 31O.
(a) Upon a tenant or owner's application and showing that the tenant or owner is likely to place in service, in a reasonable time, property that qualifies for the tax credit under this section, the division shall issue an initial credit component certificate identifying:—

(1) the first taxable year for which the tenant or owner may claim a credit;
(2) the expiration date of the certificate, which the division may extend to avoid hardship;
(3) the property to which the certificate applies; and
(4) the maximum amount of the credit component allowable for each of the five taxable years for which the certificate allows the credit.
(b) In a taxable year for which a tenant or owner claims a tax credit under this section, the tenant or owner shall obtain an eligibility certificate from an architect or professional engineer licensed
to practice in the Commonwealth. The architect or engineer shall certify, under the seal of the architect or engineer, that, based upon the standards and guidelines in effect at the time in which the property was placed in service, the building, base building or tenant space for which the tenant or owner claims the credit is a green building, green base building or green tenant space, and that the fuel cell or photovoltaic module constitutes a qualifying energy source and remains in service. The architect or engineer shall set forth specific findings upon which the architect or engineer based certification and provide sufficient information to identify a building or space.
(c) Immediately following occupancy, and in a taxable year for which a tenant or owner claims a tax credit under this section, the tenant or owner shall hire to perform indoor air quality testing and record baseline readings, an engineer or industrial hygienist licensed or certified to practice in the Commonwealth or other professional the commissioner may approve. The engineer, industrial hygienist or other professional shall monitor supply and return air and ambient air for carbon monoxide, carbon dioxide, total volatile organic compounds, radon and particulate matter; provided that once radon measurements meet the standards the commissioner establishes, annual testing is not required.
(d) For each taxable year for which a tenant or owner claims a tax credit under this section, the tenant or owner shall maintain records for:—
(1) annual energy consumption for building, base building or tenant space;
(2) annual results of air monitoring for building, base building or tenant space;
(3) annual confirmation that the building, base building or tenant space continues to meet requirements regarding smoking area;
(4) written notifications from tenants regarding, and requests to remedy indoor air problems;
(5) monthly results of performance validation for photovoltaic modules and fuel cells; and
(6) certification as to off-gassing and other contamination, as prescribed in subsection paragraph 10 of this subsection.
(e) A tenant or owner claiming a tax credit under this section shall file the initial credit component certificate and the eligibility certificate with the department of revenue and shall file a duplicate with the division. In addition, when claiming a credit under this section, the tenant or owner shall provide the information collected pursuant to paragraph 3 of this subsection to the division. The commissioner shall specify the time and form in which the tenant or owner must provide the collected information.
(f) If the division has reason to believe that an architect or engineer engaged in professional misconduct when making a certification under this section, the division shall inform the board of registration of architects or the board of registration of engineers and land surveyors.

(g) An owner of a green tenant space claiming the tax credit under this section shall:—
(1) prior to initial occupancy and upon a tenant's request, provide a tenant with:—
(i) written notification of the opportunity to apply for a tax credit pursuant to this section; and
(ii) written guidelines regarding opportunities to improve the energy efficiency and air quality of tenant space and reduce and recycle waste stream; and
(2) in an owner occupied building, make all tenant space green tenant space.
(h) A tenant or owner claiming the tax credit under this section shall provide separate waste disposal chutes or a carousel compactor system for recyclable materials or otherwise facilitate recycling by providing a readily accessible collection area with sufficient space to store recyclable materials between collection dates.
(i) If a tenant or owner claiming the tax credit under this section permits smoking, the tenant or owner shall provide separate air ventilation and circulation systems for smoking and non-smoking areas.
(j) Prior to occupancy or re-occupancy, a tenant or owner claiming the tax credit under this section shall purge the air for a period of one week on every floor. A tenant or owner may purge for less time if the tenant or owner obtains certification from an engineer, industrial hygienist or other professional verifying that offgassing and other contamination can be reduced to acceptable levels in less than one week.
Section 31P.
(a) The commissioner may promulgate and adopt regulations that:—
(1) encourage the development of green buildings, green base buildings and green tenant space;
(2) establish high, commercially reasonable standards for obtaining the tax credits under this section;
(3) establish a reasonable time or period of time for submission of an application;
(4) establish a method for allocating initial credit component certificates among eligible applicants; and
(5) apply only to a green building, green base building, or green tenant space as defined in this section.
(b) Within 6 months of the effective date of this section, the commissioner shall promulgate and adopt regulations that establish:—
(1) standards for energy, including:—
(i) standards for energy use for eligible buildings provided that;
(A) energy use for a newly constructed green building, green base building or green tenant space cannot exceed 65 percent of the use permitted under the energy code; and
(B) energy use for a building, base building or tenant space rehabilitated to make a green building, green base building or tenant space cannot exceed 75 percent of the use permitted under the energy code;
(ii) standards for appliances and heating, cooling and water heating equipment for which, as of the effective date of this section, the United States department of energy, the environmental protection agency or some other federal agency provides specifications; and
(iii) standards for the commissioning of the mechanical plant of a building. The commissioner shall use documents such as the American Society of Heating, Refrigerating and Air Conditioning Engineers G-1 and the United States General

Services Administration “Model Commissioning Plan and Guide Specifications” as a guide for the regulation;
(2) standards for indoor air quality in base buildings, including:—
(i) ventilation and exchange of indoor and outdoor air;
(ii) indoor air quality management plans for the construction or rehabilitation process, including provisions to protect ventilation system components and pathways from contamination;
(iii) clean procedures for a project that fails to follow a proper air quality management plan; and
(iv) levels of carbon monoxide, carbon dioxide and total volatile organic compounds, radon and particulate matter for indoor air;
(3) the minimum percentage of recycled content and renewable source material and maximum levels of toxicity and volatile organic compounds in building materials, finishes and furnishings, including but not limited to concrete and concrete masonry units, wood and wood products, millwork substrates, insulation, ceramic, glass and cementitious tiles, ceiling tiles and panels, flooring and carpet, paints, coatings, sealants, adhesives, and furniture. The commissioner
shall use the LEED rating system as a guide for the regulations;
(4) standards for a building located in an area where water use is not metered that require:—
(i) a gray water system that recovers non-sewage waste water or uses roof or ground storm water collection systems, or recovers ground water from a sump pump;
(ii) a delimiter for cooling tower systems, to reduce drift and evaporation; and
(iii) exterior plants to be tolerant of climate, soils and natural water availability and restricts the use of municipal potable water for watering exterior plants;
(5) standards for a building located in an area that does not have sewers or that has designated storm sewers that require:—
(i) an oil grit separator or water quality pond for pretreatment of runoff from any surface parking area; or
(ii) at least 50 percent of non-landscape areas, including roadways, surface parking area, plazas and pathways, must utilize pervious paving materials; and
(6) a methodology by which a tenant or owner shall demonstrate compliance with the standards for energy efficiency, material use, water use, and storm water runoff included in this section and developed by the commissioner.
(c) The commissioner shall review and update regulations promulgated under this section every two years from the date on which the commissioner adopts the regulations.
(d) The commissioner shall design and conduct state-wide, educational seminars and programs to assist developers, tenants, and others who may participate in the green building tax credit program. The commissioner shall also design written guidelines that owners of green tenant space can provide their tenants that explain opportunities to improve energy efficiency and air quality of tenant space and reduce and recycle waste stream.
(e) On or before April 1, 2008 the commissioner shall submit a written report to the governor, the president of the senate, the speaker of the house, the chairman of the senate finance committee and the chairman of the house ways and means committee, identifying:—

(1) the number of certifications filed with the division;
(2) the number of taxpayers claiming the credit under this section;
(3) the amount of the credits taxpayers have claimed; and
(4) other information the commissioner believes meaningful and appropriate in evaluating the tax credit under this section.
(f) Funding
(1) Sufficient funds shall be appropriated to the division to fill 3 full-time staff positions at the division for the administration of this section.
(2) Additional funding of 150,000 dollars shall be appropriated to the division for state-wide, educational seminars and programs to assist developers, tenants, and others who may participate in the green building tax credit program.
(3) Upon application by a taxpayer, the Division shall issue an initial credit component certificate where the taxpayer has made a showing that the taxpayer is likely within a reasonable time to place in service property which would warrant the allowance of a credit under this section. Such certificate shall state the first taxable year for which the credit may be claimed and an expiration date, and shall apply only to property placed in service by such expiration date. Such expiration date may be extended at the discretion of the Division, in order to avoid unwarranted hardship. Such certificates may be issued in years 2006-2010. Such certificates shall state the maximum amount of credit component allowable for each of the five taxable years for which the credit component is allowed, under Section 31N.
(i) Period one. Initial credit component certificates for period one may be issued in years 2006-2010. Such certificates for period one shall not be issued, in the aggregate, for more than twenty-five million dollars worth of credit components. The total amount of credit component allowable for the five taxable years for which the credit components are allowed, as set forth on any one initial credit component certificate, shall be limited to two million dollars. However, a taxpayer that is the owner or tenant of more than one building that qualifies for the credits provided for under this section may be issued initial credit component certificates with respect to each such building with the aggregate amount of credit components permitted for each such certificate being two million dollars. In addition, such certificates for period one shall be limited in their applicability, as follows:—

| Credit components in the aggregate shall not be allowed for more than:— | With respect to taxable years beginning in:— |
|---|---|
| $ 1 million | 2007 |
| $ 2 million | 2008 |
| $ 3 million | 2009 |
| $ 4 million | 2010 |
| $ 5 million | 2011 |
| $ 4 million | 2012 |
| $ 3 million | 2013 |
| $ 2 million | 2014 |
| $ 1 million | 2015 |

Provided, however, that if as of the end of a calendar year, certificates for credit component amounts totaling less than the amount permitted with respect to taxable years commencing in such calendar year have been issued, then the amount permitted with respect to taxable years commencing in the subsequent calendar year shall be augmented by the amount of such shortfall.

(ii) Period two. Initial credit component certificates for period two may be issued in years 2011-2015. Such certificates for period two shall not be issued, in the aggregate, for more than twenty-five million dollars worth of credit components. The total amount of credit component allowable for the five taxable years for which the credit components are allowed, as set forth on any one initial credit component certificate, shall be limited to two million dollars. However, a taxpayer that is the owner or tenant of more than one building that qualifies for the credits provided for under this section may be issued initial credit component certificates with respect to each such building with the aggregate amount of credit components permitted for each such certificate being two million dollars. Provided further, a taxpayer that is the owner or tenant of a building for which an initial credit component certificate was issued for period one, shall not be issued an initial credit component certificate with respect to such building for period two. In addition, such certificates for period two shall be limited in their applicability, as follows:—

| Credit components in the aggregate shall not be allowed for more than:— | With respect to taxable years beginning in:— |
|---|---|
| $ 1 million | 2012 |
| $ 2 million | 2013 |
| $ 3 million | 2014 |
| $ 4 million | 2015 |
| $ 5 million | 2016 |
| $ 4 million | 2017 |
| $ 3 million | 2018 |
| $ 2 million | 2019 |
| $ 1 million | 2020 |

Provided, however, that if as of the end of a calendar year, certificates for credit component amounts totaling less than the amount permitted with respect to taxable years commencing in such calendar year have been issued, then the amount permitted with respect to taxable years commencing in the subsequent calendar year shall be augmented by the amount of such shortfall. Provided, further, that if at the end of calendar year two thousand nine, certificates for credit component amounts issued by the Division have totaled less than twenty-five million dollars for calendar years 2011-2015, then the period to issue initial credit component certificates shall be extended to the end of calendar year two thousand sixteen and the Division shall be permitted to issue in two thousand sixteen initial credit component certificates for amounts that equal the difference between the amounts issued for calendar years 2011-2015 and twenty-five million dollars.”

AMENDMENT NO. 30 FILED: 11/14/2007 11:32:29 AM FOR H. 4365

Mr. Marzilli of Arlington moves to amend the bill in Section 8, in line 230, by inserting after the words “other benefits during the previous year” the following:

“(e) Heating Oil Use.

(1) The energy efficiency advisory council shall develop programs to provide energy efficiency services for home heating oil consumers. The programs shall be developed with advice and input from heating oil dealers and service technicians. The council shall ensure that input is solicited from heating oil dealers and service technicians located in different regions of the state.

(2) The council will issue a request for proposals and select a program administrator(s) to develop and implement programs for cost effective heating and fuel oil efficiency.

(3) A not for profit corporation shall be created, the Fuel Oil Efficiency Trust, with a board comprised of 5 representatives elected from the membership of the council by the council to collect and administer monies for heating and fuel oil conservation. Upon approval of an efficiency plan by the council, the Fuel Oil Efficiency Trust shall pay the approved amount to the program administrator.

(4) The state shall impose a one cent per gallon tax on the sale of number 2 fuel oil (fuel and heating oil, use in electric generation and transportation exempt) at the wholesale level which shall be paid to the Fuel Oil Efficiency Trust. The state will create a corresponding one cent per gallon tax credit for wholesale distributors of fuel oil when they contribute one cent per gallon on the sale of number 2 fuel oil to the Fuel Oil Efficiency Trust.”

AMENDMENT NO. 31 FILED: 11/14/2007 11:32:29 AM FOR H. 4365

Mr. Marzilli of Arlington moves to amend the bill by adding the following section:

“SECTION -. The Massachusetts Highway Department shall evaluate highway lighting statewide to explore how money can be saved by replacing existing fixtures with lower-wattage full cut off fixtures or eliminating lighting altogether where appropriate and report back to DOER annually beginning on January 1, 2008.”

AMENDMENT NO. 32 FILED: 11/14/2007 11:32:29 AM FOR H. 4365

Mr. Marzilli of Arlington moves to amend the bill by adding the following section:

“SECTION -. Energy conservation and outdoor lighting.

Section 1. Chapter 85 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding at the end thereof the following new sections:—
Section 37. As used in section thirty-seven A, the following words shall, unless the context clearly requires otherwise, have the following meaning:—
“Candela”, a unit of luminous intensity.
“Direct light”, light emitting generally in a downward direction by a lamp, off a reflector, or through a refractor of a luminaire.
“Full-cutoff luminaire”, a luminaire that allows no direct light 11 from the luminaire above a horizontal plane through the luminaire’s lowest light-emitting part, in its mounted form.
“Glare”, direct light emitted by a luminaire that causes reduced visibility of objects or momentary blindness.
“Illuminance”, the luminous power incident per unit area of a surface, as measured in lux (lumens per square meter) or foot-candles (lumens per square foot).
“Lamp”, the component of a luminaire that produces light.
“Light Pollution”, artificial light directed, reflected, or scattered 20 upward into the atmosphere.
“Light trespass”, light emitted by a luminaire that shines beyond the boundaries of the property on which the luminaire is located.
“Lumen”, a specific standard unit of measurement of luminous flux.
“Luminaire”, a complete lighting unit, including a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply.
“Outdoor light fixtures”, outdoor artificial illuminating devices, permanently installed or portable, used for flood-lighting, roadway and area lighting, general illumination, or advertisement. “Permanent outdoor luminaire”, any fixed luminaire or system of luminaires that is outdoors and that is intended to be used for seven days or longer.
“Roadway lighting”, permanent outdoor luminaires that are specifically intended to illuminate roadways for automotive vehicles.
“Semi-cutoff luminaire”, a luminaire whose light distribution restricts the candela per lamp lumen to no more than five percent at angles exceeding degrees above nadir.
“State funds”, any bond revenues or any money appropriated or allocated by the General Court.
Section 37A. No state funds shall be used to install any new permanent outdoor luminaire or to replace an existing permanent outdoor luminaire unless the following conditions are met:—
(a) The new or replacement luminaire is a full-cutoff luminaire when the rated output of the lamp is greater than one thousand eight hundred (1800) lumens;
(b) If a lighting recommendation or regulation applies, the minimum illuminance specified by the recommendation or regulation is used;

(c) If no lighting recommendation or regulation applies, the minimum illuminance adequate for the intended purpose is used with consideration given to recognized standards, including, but not limited to, recommended practices adopted by the illuminating engineering society of North America (IESNA);
(d) For roadway lighting unassociated with intersections of two or more streets or highways, a determination is made by the department of highways that the purpose of the lighting installation or replacement cannot be achieved by installation of reflectorized roadway markers, lines, warnings or informational signs, or other passive means; and
(e) Adequate consideration has been given to the conservation of energy and to the minimization of glare, light pollution, and light trespass. The requirements of this section shall not apply in any of the following circumstances, settings or location:—
(1) a federal law, rule or regulation preempts state law;
(2) the outdoor lighting fixture is used on a temporary basis by emergency personnel requiring additional illumination for emergency procedures or used by repair personnel on a temporary basis for road repair;
(3) navigational lighting systems at airports and other lighting necessary for aircraft safety;
(4) special events or situations that may require additional illumi nation, including, but not limited to, sporting events and the illumination of historic structures, monuments, or flags; provided however, that all such illumination shall be selected and installed to shield the lamp used from direct view to the greatest extent possible, and to minimize light pollution and light trespass;
(5) any urban area where there is high night-time pedestrian traffic which has been examined by an engineer employed by the commonwealth and experienced in outdoor lighting and deemed to be an area where the installation of semi-cutoff luminaires is necessary;
(6) a state prison, county house of correction or county jail; or
(7) when a compelling safety interest exists that cannot be addressed by any other method. The division of energy resources, in consultation with the department of highways, shall promulgate regulations to implement and enforce this section, including a system to ensure that the use of state funds for street lighting complies with the requirements set forth herein. Said regulations shall include the establishment of a waiver process, to be administered by the secretary of administration and finance or his designee, whereby a state agency, division or department may apply for and may be granted an exemption by said secretary from the requirements of this section on the grounds that a bonafide operational, temporary, safety or specific aesthetic need exists to an extent that warrants such an exemption or upon the establishment by said agency, division or department that the installation and use of the permanent outdoor luminaries required by this section will not be cost effective over the expected use life of said luminaries.

Section 2. The provisions of this act shall take effect as of January 1, 2008.”

AMENDMENT NO. 33 FILED: 11/14/2007 11:32:29 AM FOR H. 4365

Mr. Marzilli of Arlington moves to amend the bill by adding the following section:

“SECTION -. Renewable energy competition.

Section 11F of Chapter 25A of the General Laws, as appearing in the 2004 Official Edition is hereby amended by inserting after subsection (b) the following new subsection: (c) Notwithstanding anything to the contrary, for determinations of eligibility of a source made after January 1, 2007 a renewable energy generating source and new renewable energy generating source as defined in this Section 11F shall not include a source or facility that is or will be included in the rate base or similar mechanism of an electric utility. The foregoing shall not apply to a municipal lighting plant or municipal lighting plant cooperative organized under MGL c. 164 or to the Massachusetts Municipal Wholesale Electric Company organized under Chapter 775 of the Acts of 1975.”

AMENDMENT NO. 34 FILED: 11/14/2007 11:32:29 AM FOR H. 4365

Mr. Marzilli of Arlington moves to amend the bill by adding the following section:

“SECTION -. Municipalities and renewable energy facilities.

Section 1. Section 10 of chapter 44 of the Massachusetts General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following section:—
Cities and towns may design and install renewable energy facilities, as defined in Ch. 164, on parcels owned or leased by the municipality, prepare and improve the sites, acquire all equipment necessary for the renewable energy facilities, make improvements and extraordinary repairs to the facilities, and pay all other costs incidental and related thereto.

Section 2. Cities and towns may issue bonds or notes up to but not exceeding the sum of $2,000,000 in the aggregate in order to finance all or a portion of the costs of the renewable energy facility projects authorized pursuant to section 1. Notwithstanding chapter 44 of the General Laws to the contrary, the maturities of any such bonds issued by the city or town under this act either shall be arranged so that for each issue the annual combined payments of principal and interest payable in each year, commencing with the first year in which a principal payment is required, shall be as nearly equal as practicable in the opinion of the city or town treasurer, or shall be arranged in accordance with a schedule providing for a more rapid amortization of principal. The first payment of principal of each issue of bonds or of any temporary notes issued in anticipation of the bonds shall be not later than 5 years from the estimated date of commencement of regular operation of the renewable energy facilities financed thereby, as determined by the city or town treasurer, and the last payment of principal of the bonds shall be not later than 25 years from the date of the bonds. Indebtedness incurred under this act shall not be included in determining the limit of indebtedness of the city or town under section 10 of said chapter 44, but, except as otherwise provided in this act, shall be subject to the provisions of said chapter 44.

Section 3. Notwithstanding any general or special law to the contrary, the city or town may operate any renewable energy facilities installed pursuant to section 1, sell any electricity generated from such facilities and sell any other marketable products resulting from its generation of renewable energy at such facilities or from its generation of any type of renewable energy at any renewable energy facility which the city or town is authorized by law to operate, including electronic certificates created to represent the “generation attributes” as such term is defined under 225 CMR 14.02 of each megawatt hour of energy generated by the renewable energy facilities or any such other renewable energy producing facilities. The mayor or board of selectman of the city or town may enter into 1 or more contracts on behalf of the city or town for the sale of electricity and other marketable products resulting from the generation of renewable energy at the renewable energy facilities with such parties and upon such terms and conditions as the mayor or board of selectman determines to be in the best interest of the city or town, but any such contract shall be subject to the approval of the city council or town meeting.

Section 4. The city or town shall procure any services required for the design, installation, improvement, repair and operation of the renewable energy facilities authorized pursuant to this act and the acquisition of any equipment necessary in connection therewith in accordance with the procurement requirements of chapter 30B of the General Laws, and the city or town may procure any such services and equipment together as one procurement or as separate procurements thereunder.

Section 5. The city or town may establish an enterprise fund pursuant to section 53F 1/2 of chapter 44 of the General Laws for the receipt authorized pursuant to this act and from any other renewable energy producing facilities which the city or town is authorized by law to operate and all moneys received for the benefit of the renewable energy facilities and any such other renewable energy facilities, other than the proceeds of bonds or notes issued therefore. Such receipts are to be used to pay costs of operation and maintenance of renewable energy facilities, to pay costs of future improvements and repairs thereto, and to pay the principal and interest on any bonds or notes issued therefor.

Section 6. This act shall take effect upon its passage.”

AMENDMENT NO. 35 FILED: 11/14/2007 11:32:29 AM FOR H. 4365

Mr. Marzilli of Arlington moves to amend the bill by adding the following section:

“SECTION -. Renewable energy tax credit.

Chapter 62, Section 6(d) of the General Laws is amended by striking the first paragraph and replacing it with the following text:—
(d) any owner or tenant of residential property located in the Commonwealth who is not a dependent of another taxpayer and who occupies said property as his principal residence, shall be allowed a credit equal to fifty per cent of the net expenditure for a renewable energy source property or five thousand dollars, whichever is lesser; provided, however, that in the case of a newly constructed residence the credit shall be available to the original owner/occupant. Any taxpayer entitled to this credit for any taxable year, the amount of which exceeds his total tax due for the then current taxable year, may carry over the excess amount, as reduced from year to year, and apply it to his tax liability for any one or more of the next succeeding three taxable years; provided, however, that in no taxable year may the amount of the credit allowed exceed the total tax due of the taxpayer for the relevant taxable year. Joint owners of a residential property shall share any credit available to the property under this subsection in the same proportion as their ownership interest.”

AMENDMENT NO. 36 FILED: 11/14/2007 11:32:29 AM FOR H. 4365

Mr. Marzilli of Arlington moves to amend the bill by adding the following section:

“SECTION -. Solar and wind power development.

Section 548 of Chapter 26 of the 2003 Session Laws shall be amended to include after subsection (n) the following new subsection:
(o) The development and construction of solar- and wind-power generating facilities shall qualify as exceptional circumstances notwithstanding the further requirements of the Massachusetts Environmental Policy Act, Section 61 of Chapter 30 of the General Laws.”

AMENDMENT NO. 37 FILED: 11/14/2007 11:38:38 AM FOR H. 4365

**Representative Jay Kaufman moves to amend House Bill 4355, by inserting the following:**

**Section XX**. The department of clean energy shall conduct a study of the effect of establishing municipal electric utilities in Lexington, Newton, Plymouth, Cambridge and Worcester on the communities and on the remaining ratepayers of the investor-owned utility that currently owns the assets and distributes the power in said municipalities. In order to conduct the study, the department of clean energy shall convene a study commission made up of one representative from each of Lexington, Newton, Plymouth, Cambridge and Worcester chosen by the executive of each municipality, one representative from the department of public utilities, and one representative from the department of clean energy. The department of clean energy shall submit the study to the Joint Committee on Telecommunications, Utilities, and Energy, and the executive of each municipality within six months of the effective date of this statute.

AMENDMENT NO. 38 FILED: 11/14/2007 11:40:15 AM FOR H. 4365

Mr. Kulik of Worthington hereby moves to amend H 4365 as follows:

In Section 28 of the bill, in the last sentence of the second paragraph of proposed section 18 of chapter 25A strike the following words:-- "in any district zoned for industrial use or".

AMENDMENT NO. 39 FILED: 11/14/2007 11:40:15 AM FOR H. 4365

Mr. Kulik of Worthington, Mr. Kocot of Northampton, Ms. Story of Amherst and Mr. Scibak of South Hadley move that the Bill H 4365, be amended by adding at the end thereof the following sections:

SECTION _. Section 7 of chapter 4 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after clause (p) the following clause-

(q) trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted under a license granted by the department of telecommunications and energy to act as an energy supplier under section 1F of chapter 164 when such disclosure will adversely affect the ability to conduct business in relation to other entities making, selling, or distributing electric power and energy, provided that this clause shall not exempt a public entity from disclosure required of a private entity so licensed.

SECTION _. Clause (33) of subsection (b) of section 1 of chapter 30B, as so appearing, is hereby amended by inserting at the end of the clause the following words:- provided further, that for any such contract determined to contain confidential information under clause (q) of section 7 of chapter 4, the governmental body shall maintain a record of the procurement processes and awards for six years after the date of the final payment. The governmental body shall make these records available to the office of the inspector general upon demand, and that office shall not disclose the information.

SECTION _. Section 9G of chapter 34, as so appearing, is hereby amended by inserting after clause (7) the following clause:-

(8) trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted under a license granted by the department of telecommunications and energy to act as an energy supplier under section 1F of chapter 164 when such disclosure will adversely affect the ability to conduct business in relation to other entities making, selling, or distributing electric power and energy.

SECTION _. Section 23B of chapter 39 of the General Laws, as so appearing, is hereby amended by inserting after clause (9) the following clause:-

(10) To discuss trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted under a license granted by the department of telecommunications and energy to act as an energy supplier under section 1F of chapter 164 when such disclosure will adversely affect the ability to conduct business in relation to other entities making, selling, or distributing electric power and energy.

AMENDMENT NO. 40 FILED: 11/14/2007 11:40:15 AM FOR H. 4365

Mr. Kulik of Worthington hereby moves to amend H 4365 as follows:

In section 28 of the bill, amend by striking in entirety proposed Section 17 of chapter 25A.

AMENDMENT NO. 41 FILED: 11/14/2007 11:44:42 AM FOR H. 4365

Mr. Jones of North Reading, Ms. Rogeness of Longmeadow, Mr. Peterson of Grafton, and Mr. Lepper of Attleboro move to amend House bill 4365 by adding, after SECTION 31, the following new section:-

SECTION 31A. Section 5 of chapter 59 of the General Laws, as so appearing, is hereby amended by striking out clause forty-fifth, and inserting in place thereof the following clause:-

Forty-fifth, Any renewable energy generating source, as defined by subsection (b) of section 11F of chapter 25A, or alternative energy generating source, as defined by subsection (a) of section 11F1/2 of chapter 25A, which is being utilized as a primary or auxiliary power system for the purpose of heating or otherwise supplying the energy needs of property taxable under this chapter; provided however, that the exemption under this clause shall be allowed only for a period of twenty years from the date of the installation of such source.

AMENDMENT NO. 42 FILED: 11/14/2007 11:44:42 AM FOR H. 4365

Mr. Jones of North Reading, Ms. Rogeness of Longmeadow, Mr. Peterson of Grafton, and Mr. Lepper of Attleboro move to amend House bill 4365 in section 5, in the first sentence of proposed subsection (d) of section 22 of chapter 21A, by adding after the words "refuse -derived fuel" the following:- energy efficient steam engine technologies;

and move to further amend section 5, in the last sentence of proposed subsection (d) of section 22 of chapter 21A, by adding, after the word "cells," the following:- energy efficient steam engines,.

AMENDMENT NO. 43 FILED: 11/14/2007 11:44:42 AM FOR H. 4365

Mr. Jones of North Reading, Ms. Rogeness of Longmeadow, Mr. Peterson of Grafton, and Mr. Lepper of Attleboro move to amend House bill 4365 by striking SECTION 69 and inserting in place thereof the following section:-

SECTION 69. There is hereby established a special commission to consist of 2 members of the senate to be appointed by the senate president, including the senate chairman for the joint committee on telecommunications, utilities and energy who shall serve as co-chairman, and 1 member of the senate appointed by the minority leader of the senate, 2 members of the house of representatives appointed by the speaker, including the house chairman for the joint committee on telecommunications, utilities and energy who shall serve as co-chairman, and 1 member of the house appointed by the minority leader in the house, the commissioner of the department of clean energy or his designee, the secretary of energy and environmental affairs or his designee and 3 persons to be appointed by the governor, 1 of whom shall be a representative of the waste-to-energy industry, and 1 of whom shall be a representative of a consumer advocacy organization, for the purpose of making an investigation and study relative to the burning of commercial and demolition waste as it relates to the Massachusetts Renewable Energy Portfolio Standard Program, established by section 11F of chapter 25A of the General Laws. Said commission shall report the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect by filing the same with the clerks of the senate and the house of representatives on or before July 1, 2008.

Representatives Jones of North Reading, Rogeness of Longmeadow, Peterson of Grafton, Lepper of Attleboro, and deMacedo of Plymouth move to amend House bill 4365 by inserting after section 72 the following sections:-

“SECTION 72A. Subsection (k) of section 6 of chapter 62 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “commissioner.”, in line 319, the following:-

The real estate tax payment to be considered for purposes of calculating this credit shall also include 50 percent of the owner’s home heating oil, natural gas, or propane, actually paid in the taxable year for which the credit is sought.

SECTION 72B. Subsection (k) of said section 6 of said chapter 62 of the General Laws, as so appearing, is hereby further amended by inserting after the word “thereof.”, in line 323, the following sentence:-

The rent constituting real estate tax payment to be considered for purposes of calculating this credit shall also include 50 percent of the owner’s home heating oil, natural gas, or propane, actually paid in the taxable year for which the credit is sought.”

AMENDMENT NO. 45 FILED: 11/14/2007 11:44:42 AM FOR H. 4365

Mr. Jones of North Reading, Ms. Rogeness of Longmeadow, Mr. Peterson of Grafton, and Mr. Lepper of Attleboro move to amend House bill 4365, in the second paragraph of SECTION 61, by striking out the following language: "the house and senate chairmen of the joint committee on telecommunications, utilities and energy; the house and senate chairmen of the joint committee economic development and emerging technologies" and inserting in place thereof the following:-"the house and senate chairmen of the joint committee on telecommunications, utilities and energy and the ranking minority members of said committee; the house and senate chairmen of the joint committee economic development and emerging technologies and the ranking minority members of said committee;"

AMENDMENT NO. 46 FILED: 11/14/2007 11:44:42 AM FOR H. 4365

Mr. Jones of North Reading, Ms. Rogeness of Longmeadow, Mr. Peterson of Grafton, and Mr. Lepper of Attleboro move to amend House bill 4365 by adding after SECTION 34 the following new section:-

SECTION 34A. Section 6 of Chapter 64H, as most recently amended by Chapter 260 of the acts of 2006, is hereby further amended by adding at the end thereof the following new paragraph:—

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

and further amended, by adding at the end thereof the following two sections:

SECTION XX. Section 34A of this act shall take effect on January 1, 2008.

SECTION XX. Section 34A of this act shall expire on December 31, 2008.

Representatives Jones of North Reading, Rogeness of Longmeadow, Peterson of Grafton, Lepper of Attleboro, and deMacedo of Plymouth move to amend House bill 4365 by inserting after section 60 the following new section:-

SECTION 60A. Chapter 140 of the acts of 2005 is hereby amended, in sections 14 to 16, inclusive, by striking out, in each instance in which they appear, the following figures: “2005” and inserting in place thereof the following figures: “2008”; and further, by striking out, in each instance in which they appear, the following figures: “2006” and inserting in place thereof the following figures: “2009”.

AMENDMENT NO. 48 FILED: 11/14/2007 11:44:42 AM FOR H. 4365

Mr. Jones of North Reading, Ms. Rogeness of Longmeadow, Mr. Peterson of Grafton, and Mr. Lepper of Attleboro move to amend House bill 4365, in subsection (d) of SECTION 70, by striking the last sentence and inserting in place thereof the following:- "If said report includes (i) any findings affirming any added costs to the seller or the purchaser, or (ii) any recommendations deemed appropriate by the board, including but not limited to, any added costs being absorbed by any existing energy efficiency program funding sources or mechanisms, the implementation of said regulations shall not be effective until the legislature enacts legislation which mitigates any added cost to the seller or purchaser and effectuates any recommendations of the board."

AMENDMENT NO. 49 FILED: 11/14/2007 11:44:42 AM FOR H. 4365

Mr. Jones of North Reading, Ms. Rogeness of Longmeadow, Mr. Peterson of Grafton, and Mr. Lepper of Attleboro move to amend House bill 4365 by adding, after SECTION 34, the following new section:-

SECTION 34A. Section 6 of chapter 64H, as so appearing, is hereby amended by inserting after paragraph (ww) the following new paragraph:-

(xx) Sales on the incremental price difference between a hybrid or alternative fuel vehicle, as defined by section 1 of chapter 62, and the same vehicle that uses traditional fuel. The commissioner of revenue, in consultation with the secretary of transportation and public works and the secretary of energy and environmental affairs, shall determine the exemption available pursuant to this paragraph based on the incremental price difference between a hybrid or alternative fuel vehicle and the same non-hybrid or traditional fuel vehicle available for purchase in the Commonwealth; provided, if the same non-hybrid or traditional fuel vehicle does not exist in order to determine said incremental price difference, a similar non-hybrid or traditional fuel vehicle shall be substituted.

AMENDMENT NO. 50 FILED: 11/14/2007 11:44:42 AM FOR H. 4365

Representatives Jones of North Reading, Rogeness of Longmeadow, Peterson of Grafton, Lepper of Attleboro, and deMacedo of Plymouth move to amend House Bill 4365 by striking SECTION 33 and inserting in place thereof the following:-

SECTION 33. Section 6 of chapter 62 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after subsection (l) the following new subsection: —

(m) Any purchaser of a hybrid or alternative fuel vehicle, as defined by section 1 of this chapter, shall be allowed a credit equal to $500. The department of revenue may require a proof of purchase to be submitted with a return in order to be eligible for the credit.

AMENDMENT NO. 51 FILED: 11/14/2007 11:44:42 AM FOR H. 4365

Mr. Jones of North Reading, Ms. Rogeness of Longmeadow, Mr. Peterson of Grafton, and Mr. Lepper of Attleboro move to amend House bill 4365 in SECTION 8, in the proposed subsection (d) of section 22 of chapter 21A, by adding at the end thereof the following: — "For purposes of this section the term "electric distribution utilities" shall not include municipal lighting plants."

and further, in SECTION 66, by adding at the end thereof the following: — "For purposes of this section the term "electric utilities" shall not include municipal lighting plants."

AMENDMENT NO. 52 FILED: 11/14/2007 11:44:42 AM FOR H. 4365

Mr. Jones of North Reading, Ms. Rogeness of Longmeadow, Mr. Peterson of Grafton, and Mr. Lepper of Attleboro move to amend House bill 4365 by inserting at the end thereof the following two sections:-

SECTION XX. Notwithstanding any general or special law to the contrary, a municipality may operate any renewable energy generating facility, sell any electricity generated from such facilities, and sell any other marketable products resulting from its generation of renewable energy at such facilities, including electronic certificates created to represent the “generation attributes” as such term is defined under 225 CMR 14.02 of each megawatt hour of energy generated by the renewable energy facilities.

SECTION XX. For the purposes of this section, a renewable energy generating facility is one which generates electricity using any of the following: (i) solar photovoltaic or solar thermal electric energy; (ii) wind energy; (iii) ocean thermal, wave, or tidal energy.

AMENDMENT NO. 53 FILED: 11/14/2007 11:44:42 AM FOR H. 4365

Mr. Jones of North Reading, Ms. Rogeness of Longmeadow, Mr. Peterson of Grafton, and Mr. Lepper of Attleboro move to amend House bill 4365 by adding at the end thereof the following:-

SECTION XX. Notwithstanding any general or special law to the contrary, the director of the division of green communities shall establish a green communities pilot program. Said pilot shall be modeled after the green communities program established under section 16 of chapter 25A, and shall be limited to municipalities or other governmental bodies served by a municipal lighting plant, which are exempt from the green communities program pursuant to subsection (g) of said section. Municipalities or other governmental bodies served by a municipal lighting plant wishing to participate in said pilot shall comply with all provisions required under the section 16 of chapter 25A for certification as a green community. Funding for the green communities pilot program shall be available from the Alternative and Clean Energy Trust, established pursuant to section 35FF of chapter 10.

Mr. Naughton of Clinton moves to amend the bill in Section 5 at Section 22 (d) after the word exceeds by deleting the figure: “375” and inserting the figure: “1”

AMENDMENT NO. 55 FILED: 11/14/2007 11:48:17 AM FOR H. 4365

Representative Scibak of South Hadley moves that the bill be amended in Section 32 by inserting after “capability of operating” the following: “at discrete times” and by inserting after “original use” the following: “of the alternative fuel system”.

AMENDMENT NO. 56 FILED: 11/14/2007 11:48:17 AM FOR H. 4365

Representative Scibak of South Hadley moves that the bill be amended in Section 33 by inserting after “an individual who purchases a” the following: “new”.

AMENDMENT NO. 57 FILED: 11/14/2007 11:48:17 AM FOR H. 4365

Representative Scibak of South Hadley moves that the bill be amended in Section 34 by striking out Section 38U and inserting in place thereof the following section: -

Section 38U. (a) A credit of up to $300 or 15 per cent, whichever is less, of the aggregate cost of the purchase and installation of a solar water heating system shall be allowed per return against the taxes imposed by this chapter for the cost of the retail purchase and installation of a solar water heating system in a commercial building.

(b) a credit of up to $300 or 15 per cent, whichever is less, of the aggregate cost of the purchase and installation of an alternative fuel system shall be allowed per return against the taxes imposed by this chapter for the cost of the retail purchase and installation of a solar water heating system in a commercial building.

(c) The commissioner of revenue shall promulgate rules and regulations necessary for the implementation of this section. The rules and regulations shall include provisions to prevent the generation of multiple credits with respect to the same property.

(d) A credit allowed under this section for the purchase and installation of a solar water heating system in a commercial building between November 1, 2008 and March 31, 2009 may be applied for the taxable year 2008. The taxpayer may carry over and apply to the tax, in taxable year 2008, the portion of those credits which exceed the tax for

AMENDMENT NO. 58 FILED: 11/14/2007 11:48:17 AM FOR H. 4365

Representative Scibak moves to amend SECTION 33 in Part B of section 3 of said chapter 62, as so appearing, by inserting after paragraph 9 the following paragraph:-

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

AMENDMENT NO. 59 FILED: 11/14/2007 11:50:36 AM FOR H. 4365

Representative Kennedy of Brockton moves to amend the bill in

SECTION 19. (c) After the words “or the net increase from incremental” by striking the words “new generating capacity” and replace with the word “generation”

AMENDMENT NO. 60 FILED: 11/14/2007 11:51:22 AM FOR H. 4365

Mr. Naughton of Clinton moves to amend the bill in Section 5 at Section 22 (d) after the term: “organic refuse – derived fuel” by adding the term: “cellulosic biomass technologies”.

AMENDMENT NO. 61 FILED: 11/14/2007 11:52:26 AM FOR H. 4365

Representatives Creedon of Brockton, Canavan of Brockton and Kennedy of Brockton move to amend the bill by adding the following section:

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

AMENDMENT NO. 62 FILED: 11/14/2007 11:52:26 AM FOR H. 4365

Representatives Creedon of Brockton, Canavan of Brockton, Kennedy of Brockton, Stanley of Waltham and Hynes of Marshfield move to amend the bill in section 28, in sub-section 18, by striking out, in the 2nd paragraph, the following: "; provided, however, that notwithstanding any local zoning bylaw or ordinance to the contrary, if a clean energy generating facility other than a waste-to-energy facility is proposed in any district zoned for industrial use or on any real property designated and accepted pursuant to this section, the use shall be allowed as of right, subject to the imposition of reasonable conditions through a site plan review process".

AMENDMENT NO. 63 FILED: 11/14/2007 11:53:51 AM FOR H. 4365

Ms. Reinstein of Revere moves to amend the bill in section 67, by inserting after the word “affairs” the words “, in consultation with the executive office of housing and economic development,” and inserting after the word “before” the words “March 1 and November 1 each year, starting March 1, 2008.”

AMENDMENT NO. 64 FILED: 11/14/2007 11:53:51 AM FOR H. 4365

Ms. Reinstein of Revere moves to amend the bill in section 28 by inserting after the word "Chapter 21A" the words ", provided, however, that in furtherance of the public purposes and interests of the Massachusetts Renewable Energy Trust Fund the secretary shall, on an annual basis and in consultation with the low-income weatherization and fuel assistance program network, appropriate ten percent of the amount deposited in the Massachusetts Renewable Energy Trust Fund to fund projects for the benefit of low-income ratepayers, including projects implemented by the low-income weatherization and fuel assistance program network;".

AMENDMENT NO. 65 FILED: 11/14/2007 11:53:51 AM FOR H. 4365

Ms. Reinstein of Revere moves to amend the bill in section 43 by striking out after the word “second” the word “third”.

AMENDMENT NO. 66 FILED: 11/14/2007 11:53:51 AM FOR H. 4365

Ms. Reinstein of Revere moves to amend the bill by striking section 63 in its entirety.

AMENDMENT NO. 67 FILED: 11/14/2007 11:56:01 AM FOR H. 4365

Ms. Rogeness of Longmeadow moves to amend House Bill 4365 by striking sections 35 and 70;

And moves to further amend the bill by adding at the end thereof the following section:

SECTION ____ There shall be a special commission to review and evaluate the feasibility of establishing a home energy scoring program. The commission shall study and evaluate the value of home energy scoring, the cost of energy scoring tests, and the result of such scoring on the conservation of energy. The commission shall consist of: the house and senate chairs of the joint committee on telecommunications, utilities and energy or their designees, who shall co-chair the commission; the house minority leader, or his designee; the senate minority leader, or his designee; 1 member of the board of registration for home inspectors, one member of the state board of building regulations, a representative from the department of clean energy, the chairman of the joint committee on consumer protection and professional licensure or their designee; the chairman of the committee on housing, or their designee, one representative from the Massachusetts Association of REALTORS, one representative from the Greater Boston Real Estate Board, and one member of the home inspection industry. The commission shall have not less than 4 meetings and shall file a report of its findings, including any legislative or regulatory recommendations, with the clerks of the House of Representatives and the Senate on or before December 31, 2008.

AMENDMENT NO. 68 FILED: 11/14/2007 11:56:01 AM FOR H. 4365

Ms. Rogeness of Longmeadow move to amend House bill 4365, in SECTION 32, by inserting after paragraph (q) the following paragraph:-

(v) “High-Efficiency Vehicle” means a model year two thousand eight or later motor vehicle, as defined in section one hundred twenty-five of the vehicle and traffic law, that is certified in the two thousand eight or later fuel economy guide of the federal environmental protection agency to have a highway fuel economy estimate of thirty-five miles per gallon or better, or which uses no motor fuel or diesel fuel.

and further, by striking SECTION 33 and inserting in place thereof the following:-

SECTION 33. Section 6 of chapter 62 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after subsection (l) the following new subsection: —

(m) Any purchaser of a hybrid or alternative fuel vehicle or high-efficiency vehicle, as defined by section 1 of this chapter, shall be allowed a credit equal to $500. The department of revenue may require a proof of purchase to be submitted with a return in order to be eligible for the credit.

AMENDMENT NO. 69 FILED: 11/14/2007 11:56:07 AM FOR H. 4365

Mr. Naughton of Clinton moves to amend the bill in Section 2 at Section 39(D)(i) by inserting after the words: “energy system” the word “geothermal” and by inserting after the words “water heating” the words “air conditioning”.

AMENDMENT NO. 70 FILED: 11/14/2007 11:55:50 AM FOR H. 4365

Representative Dempsey of Haverhill moves to amend House number 4365 in Section 20, in the first paragraph in clause (a), by inserting after the words “oil, and natural gas, except when used in coal gasification” the following words: “and nuclear power”

AMENDMENT NO. 71 FILED: 11/14/2007 11:55:50 AM FOR H. 4365

Representative Dempsey of Haverhill moves to amend House number 4365 by inserting before the enacting clause the following emergency preamble:-

"Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for clean and renewable energy in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."

AMENDMENT NO. 72 FILED: 11/14/2007 11:55:50 AM FOR H. 4365

Representative Dempsey of Haverhill moves to amend House number 4365 in Section 3, by striking out in the first paragraph, clause (a) and inserting in place thereof the following clause:

"(a) There shall be within the office of the attorney general, an office of ratepayer advocacy. The attorney general through the office of ratepayer advocacy is hereby authorized to intervene, appear and participate in administrative or judicial proceedings held in the commonwealth on behalf of any group of consumers in connection with any matter involving the rates, charges, prices, tariffs of an electric company, gas company, telephone company or telegraph company doing business in the commonwealth and subject to the jurisdiction of the department of public utilities or the department of telecommunications and cable"

AMENDMENT NO. 73 FILED: 11/14/2007 11:55:50 AM FOR H. 4365

Representative Dempsey of Haverhill moves to amend House number 4365 by striking out Section 60.

AMENDMENT NO. 74 FILED: 11/14/2007 11:55:50 AM FOR H. 4365

Representative Dempsey of Haverhill moves to amend House number 4365 by striking out Section 66.

AMENDMENT NO. 75 FILED: 11/14/2007 11:55:50 AM FOR H. 4365

Representative Dempsey of Haverhill moves to amend House number 4365 by striking out Section 67.

Representative Dempsey of Haverhill moves to amend House number 4365 in Section 5, by striking out section 22 and inserting in place thereof the following section:

“Section 22 (a) There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Massachusetts Renewable Energy Trust Fund, hereinafter in this section referred to as the fund. The secretary of energy and environmental affairs shall hold the fund in an account separate from other funds or accounts. There shall be credited to the fund any revenue from appropriations or other monies authorized by the general court and specifically designated to be credited to the fund, and any gifts, grants, private contributions, investment income earned on the fund’s assets and all other sources and all amounts collected pursuant to section 20 of chapter 25 and any income derived from the investment of amounts credited to the fund. All amounts credited to the fund shall be held in trust and used solely for activities and expenditures consistent with the public purpose of the fund as set forth in subsection (c) and in no case shall any money remaining in the fund at the end of a fiscal year revert to the General Fund.

(b) The secretary, in consultation with the advisory board established pursuant to subsection (g), may draw upon monies in the fund for the public purpose of generating the maximum economic and environmental benefits over time to the ratepayers of the commonwealth from renewable energy through a series of initiatives which exploit the advantages of renewable energy in a more competitive energy marketplace by promoting the increased availability, use, and affordability of renewable energy, by making operational improvements to existing renewable energy projects and facilities which, in the determination of the secretary, have achieved results which would indicate that future

investment in said facilities would yield results in the development of renewable energy more significant if said funds were made available for the creation of new renewable energy facilities, and by fostering the formation, growth, expansion, and retention within the commonwealth of preeminent clusters of renewable energy and related enterprises, institutions, and projects, which serve the citizens of the commonwealth.

(c) The public purposes to be advanced through the secretary's actions shall include, but not be limited to, the following: (i) developing, permitting, and constructing renewable energy projects, or procuring the development, permitting or construction of renewable energy projects, thereby increasing the use and affordability of renewable energy resources in the commonwealth; (ii) protecting the environment and the health of the citizens of the commonwealth through the prevention, mitigation, and alleviation of the adverse pollution effects associated with certain electricity generation facilities; (iii) ensuring delivery to all consumers of the commonwealth of as many benefits as possible created as a result of increased fuel and supply diversity; (iv) creating additional employment opportunities in the commonwealth through the development of renewable energy technologies; (v) stimulating increased public and private sector investment in, and competitive advantage for, renewable energy and related enterprises, institutions, and projects in the commonwealth; (vi) stimulating entrepreneurial activities in these and related enterprises, institutions, and projects; (vii) providing non-financial assistance for the development, permitting, and construction of renewable energy projects; (viii) entering into bulk purchasing agreements for energy, renewable energy credits, or renewable energy equipment; (ix) providing economic assistance for the growth and

development of a renewable energy sector; and (x) undertaking any other action consistent with provisions of this chapter.

(d) In furtherance of these and other public purposes and interests, the secretary may, in consultation with the advisory board established pursuant to subsection (g), expend monies from the fund to make grants, contracts, loans, equity investments, energy production credits, bill credits, or rebates to customers, to provide financial or debt service obligation assistance, or to take any other actions, in such forms, under such terms and conditions and pursuant to such selection procedures as the secretary deems appropriate and otherwise in a manner consistent with good business practices; provided, however, that the secretary shall generally employ a preference for competitive procurements; provided, further, that the secretary shall endeavor to leverage the full range of the resources, expertise, and participation of other state and federal agencies and instrumentalities in the design and implementation of programs under this section; and provided, further, that the secretary has determined that such actions are calculated to advance the public purpose and public interests set forth in this section, including, but not limited to, the following: (i) the growth of the renewable energy-provider industry; (ii) the use of renewable energy by electricity customers in the commonwealth; (iii) public education and training regarding renewable energy; (iv) product and market development; (v) pilot and demonstration projects and other activities designed to increase the use and affordability of renewable energy resources by and for consumers in the commonwealth; (vi) the provision of financing in support of the development and application of related technologies at all levels, including, but not limited to, basic and applied research and commercialization activities; (vii) the design and making of

improvements to existing renewable energy projects and facilities as defined herein which were in operation as of December 31, 1997; and (viii) matters related to the conservation of scarce energy resources.

The secretary shall, in consultation with the advisory board established pursuant to subsection (g), adopt a detailed plan for the application of the fund in support of the design, implementation, evaluation, and assessment of a renewable energy program for the commonwealth, subject to periodic revision by the secretary, that ensures that the fund shall be employed to provide financial and non-financial resources to overcome barriers facing renewable energy enterprises, institutions, and projects in a prudent manner consistent with the public purposes and interests set forth in this section. Said plan, to the extent practicable, shall consist of at least four components: (i) “product and market development” to establish a foundation for growth and expansion of the commonwealth's renewable energy enterprises, institutions, and projects, including pilot and demonstration projects, production incentives, and other activities designed to increase the use and affordability of renewable energy in the commonwealth; (ii) “training and public information” to allow for the development and dissemination of complete, objective, and timely information, analysis, and policy recommendations related to the advancement of the public purposes and interests of the renewable energy fund; (iii) “investment” to support the growth and expansion of renewable energy enterprises, institutions, and projects; and (iv) “research and development” within the commonwealth related to renewable energy matters. Said plan shall specify the expenditure of such monies from the fund to each of these component activities; provided, however, that monies so expended shall be used to develop such renewable

energy projects within the commonwealth. In developing said plan, the secretary is hereby authorized and directed to consult with and utilize the services of the executive office for such technical assistance as the secretary deems necessary or appropriate to the effective discharge of his responsibilities and duties relative to the fund.

(e) Subject to the approval of the secretary, investment activity of monies from the fund may consist of the following: (i) an equity fund, to provide risk capital to renewable energy enterprises, institutions, and projects; (ii) a debt fund, to provide loans to renewable energy enterprises, institutions, projects, intermediaries, and end-users; and (iii) a market growth assistance fund, to be used to attract private capital to the equity and debt funds. To implement these investment activities, the secretary is hereby authorized to retain, through a competitive bid process, a public or private sector investment fund manager or managers, who shall have prior knowledge and experience in fund management and possess related skills in renewable energy and related technologies development, to direct the investment activity described herein and to seek other fund co-sponsors to contribute public and private capital from the commonwealth and other states; provided, however, that such capital is appropriately segregated. Said manager or managers, subject to the approval of the secretary, shall be authorized to retain necessary services and consultants to carry out the purposes of the fund. Said manager or managers shall develop a business plan to guide investment decisions, which shall be approved by the secretary prior to any expenditures from the fund and which shall be consistent with the provisions of the plan for the fund as adopted by the secretary.

(f) For the purposes of expenditures from the fund, renewable energy technologies eligible for assistance shall include the following: solar photovoltaic and solar thermal

electric energy; wind energy; ocean thermal, wave, or tidal energy; geothermal; fuel cells; landfill gas; naturally flowing water and hydroelectric; low emission, advanced biomass power conversion technologies, such as gasification using such biomass fuels as wood, agricultural, or food wastes, energy crops, biogas, biodiesel, or organic refuse-derived fuel. Such funds may also be used for investment by distribution companies to overcome barriers to renewable energy development, if consistent with the provisions of this section. The following technologies or fuels shall not be considered renewable energy supplies: coal, oil, natural gas, and nuclear power.

(g) The secretary is hereby authorized to transfer amounts from the fund to, and enter into funding or subsidy agreements with, the Massachusetts Development Finance Agency established pursuant to section 2 of chapter 23G, hereinafter referred to as the agency; provided, however, that the secretary shall not transfer more than 50 per cent of the revenue deposited into the fund pursuant to section 20 of chapter 25 to the agency in any one fiscal year.

Notwithstanding chapter 23G or any other general or special law to the contrary, amounts transferred to the agency shall be applied to make loans to users as defined in said chapter 23G for the purpose of financing or refinancing costs of renewable energy projects approved by the secretary, or to insure or provide loan guarantees for loans, or to provide reserves for or otherwise secure bonds of the agency issued for such purpose, or to provide for or otherwise subsidize debt service costs on such loans or other forms of financial assistance or such bonds, as agreed in an operating or other agreement between the agency and the secretary. Any such amounts transferred to the agency shall be held and applied by the agency separate and apart from all other monies of the agency.

(h) In addition to the powers granted pursuant to chapters 23G and 40D of the General Laws, the agency is hereby authorized to borrow money and issue and secure its bonds for the purpose of financing renewable energy generating facilities, renewable energy research and development facilities and renewable energy manufacturing facilities, as provided in, and subject to, the provisions of this section; provided further that the provisions of said chapters 23G and 40D shall apply to bonds issued under this section, except that the provisions of subsection (b) of section 8 of said chapter 23G and section 12 of said chapter 40D shall not apply to bonds issued pursuant to this section or to the renewable energy generating facilities, renewable energy research and development facilities or renewable energy manufacturing facilities financed thereby; and provided further, that renewable energy generating facilities, renewable energy research and development facilities and renewable energy manufacturing facilities financed by the agency pursuant to this section shall constitute a project within the meaning of section 1 of said chapter 23G and section 1 of said chapter 40D, but shall not be considered facilities to be used in a commercial enterprise.

(i) Prior to financing any renewable energy generating facilities, renewable energy research and development facilities and renewable energy manufacturing facilities in accordance with this section, the agency shall find and determine that: (i) the renewable energy generating facility, renewable energy research and development facility or renewable energy manufacturing facility has been approved by the secretary upon a finding by the secretary that the financing of said facility is expected to promote the use of renewable energy resources in the commonwealth and help to achieve the public purposes of this chapter; (ii) the recipient is a responsible party; (iii) the agency’s bonds,

if any, and the financing documents therefore contain reasonable provisions and comply with the applicable provisions of this chapter and chapters 23G and 40D; and (iv) payments to be made under the applicable financing documents, including any moneys made available from the fund, are adequate to pay the current expenses of the agency in connection with the renewable energy project and to make payments on the bonds, if any, issued by the agency therefore.

(j) In addition to the provisions of said chapters 23G and 40D pertaining to the security of bonds issued by the agency, bonds issued by the agency pursuant to this section may be secured by funds received, or to be received, by the agency as provided in this section. Bonds issued pursuant to this section may be issued under, and secured by, a trust agreement or other financing document with such terms and conditions as the agency may determine in accordance with this sectoin and the applicable provisions of said chapters 23G and 40D.

(k) Bonds issued by the agency pursuant to this section shall not be deemed to be a debt or a pledge of the faith and credit of the commonwealth or any political subdivision thereof and shall be payable solely from revenue received from the fund and from any other monies and rights pledged for their payment. All bonds issued by the agency pursuant to this section shall recite that neither the commonwealth nor any political subdivision thereof shall be obligated to pay the same and neither the full faith and credit nor the taxing power of the commonwealth or any political subdivision thereof is pledged to such payment.

(l) Nothing in this section shall be construed to limit or otherwise diminish the power of the agency to finance the costs of projects authorized pursuant to said chapters 23G and

40D within a certified economic development project upon compliance with the provisions of said chapters 23G and 40D.

(m) The use by the secretary of monies to implement the provisions of this section shall be deemed to be an essential governmental function.

(n) The governor shall appoint an advisory committee to assist the secretary in matters related to the fund and in the implementation of the provisions of this section. Said advisory committee shall include not more than 15 individuals with an interest in matters related to the general purpose and activities of the fund and the knowledge and experience in at least one of the following areas: electricity distribution, generation, supply, or power marketing; the concerns of commercial and industrial ratepayers; residential ratepayers, including low-income ratepayers; economics, financial or investment consulting expertise relative to the fund; regional environmental concerns; academic issues related to power generation, distribution or the development or commercialization of renewable energy sources; institutions of higher education; municipal or regional aggregation matters; and renewable energy issues. The secretary shall consult with said advisory committee in discharging his obligations under this section.

(o) The books and records of the executive office relative to expenditures and investments of monies from the fund shall be subject to a biennial audit by the auditor of the commonwealth.

(p) Notwithstanding any general or special law to the contrary, including without limitation any laws related to the procurement of electricity, and subject to this paragraph, the secretary shall, upon the written request of the governor, transfer monies

in the fund, in an amount not exceeding $17 million in the aggregate, to the commonwealth for deposit in the General Fund. As a condition precedent to any such transfer, the commonwealth, acting by and through the executive office for administration and finance, shall enter into an agreement with the executive office under which the commonwealth, at the direction of the executive office, shall enter into 1 or more contracts with owners of facilities that generate electricity using renewable energy technologies, or with wholesale power marketers or other market intermediaries selling such electricity, for the purchase by the commonwealth, for its own use or for the use of any municipal electric department, public instrumentality or other governmental or nongovernmental entity in the commonwealth, of electricity produced by renewable energy technologies. The secretary shall determine the particular type or types of technologies which shall be the subject of any such contract based on such criteria as it shall deem advisable, including without limitation retail consumer choices of such renewable energy technologies. The aggregate dollar amount of the green power premium associated with electricity purchases to be made by the commonwealth for its own use under such contracts shall have a present value, determined according to such discount rate as shall be mutually agreeable to the corporation and the commonwealth, of such amount as shall be transferred pursuant to the first sentence of this paragraph. The green power premium shall be determined by subtracting from the total amount of the purchase price the undifferentiated commodity price for electricity under then-current commonwealth contracts. No payments shall be required from the commonwealth pursuant to any such contract prior to the fiscal year ending June 30, 2005, and the maximum payment in any 1 fiscal year under all such contracts shall not exceed $5

million. The commonwealth shall be indemnified under such contracts by said owners or power marketers on such terms as the corporation shall deem commercially reasonable. The amounts collected under section 20 of chapter 25 are impressed with a trust for the benefit of the fund and, to facilitate the purchase by the executive office of electricity produced by renewable energy technologies or the purchase of certificates produced pursuant to the renewable energy portfolio standard regulations of the department representing the generation attributes of electrical energy produced by renewable energy technologies, and in consideration of the sale of such electricity or certificates, the commonwealth covenants with the sellers of such electricity or certificates that the amounts collected under said section 20 of chapter 25 will not be diverted from the fund and that the rates of the mandatory charges pursuant to said section 20 of chapter 25 will not be reduced during the term, which shall not exceed 20 years, of any contract entered into by the executive office for the purchase of such electricity or certificates below a level which will enable the executive office to fulfill the terms of such contracts. In furtherance of the public purposes of the fund, income derived from the investment of amounts collected under section 20 of chapter 25 shall be expended by the executive office as provided in subsection (a) and, in the discretion of the executive office, in furtherance of the public purposes of the executive office and for such costs of departments and agencies of the commonwealth that support or are otherwise consistent with the purposes of the fund.

(q) The department shall, pursuant to chapter 30A, within 180 days of the effective date of this section promulgate rules and regulations and establish guidelines for the administration and enforcement of this section, including, but not limited to, establishing

applicant criteria, application forms and procedures, and renewable energy product requirements.

(r) The secretary shall annually, no later than July 1, file a report with the house and senate committees on ways and means and the joint committee on telecommunications, utilities and energy. Said report shall include: (i) a list of fund recipients; (ii) the associated grant and loan amounts; (iii) the amounts of non-ratepayer funding leveraged, if any, as a result of the grants and loans, including in-kind and other non-cash contributions; (iv) the purposes of the grants and loans; (v) an annual statement of cash inflows and outflows detailing the sources and uses of funds; (vii) a detailed breakdown of all investments made by the fund pursuant to subsection (e); and (viii) a detailed breakdown of the purposes and amounts of administrative costs, including salaries, charged to the fund",

AMENDMENT NO. 77 FILED: 11/14/2007 11:58:54 AM FOR H. 4365

Representative Dempsey of Haverhill moves to amend House number 4365 in Section 8 striking out section 24.

AMENDMENT NO. 78 FILED: 11/14/2007 11:59:49 AM FOR H. 4365

Ms. Callahan of Sutton moves that the bill be amended in section X by adding the following:

The Commonwealth of Massachusetts will reimburse communities with existing natural gas power generating facilities 50% of lost taxable appreciation in any given year in the form of direct financial grant to the municipality. This will apply to communities who have experienced such loss beginning Fiscal Year 2007.

AMENDMENT NO. 79 FILED: 11/14/2007 12:23:18 PM FOR H. 4365

Mr. Binienda of Worcester moves that the Bill (H.4365) be amended by striking out, in Section 34, Paragraph (c) of Section 38U of Chapter 63 of the General Laws and inserting in place thereof the following Paragraph:--

(c) The credit allowed under this section may be taken in the fiscal year in which any qualifying purchase was made. The amount of credit that exceeds the total tax due for the fiscal year in which the credit is taken may be carried over, as reduced, and applied against the tax liability for the next fiscal year; provided, however, that in no fiscal year may the amount of the credit allowed exceed the total tax due of the taxpayer for the relevant fiscal year.

And by striking out, in Section 76, the date “March 31, 2009” and inserting in place thereof the following date: -- January 1, 2008.