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Subject: Westlaw Results : MA H.R. JOUR., 5/3/2007

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MA H.R. Jour., 5/3/2007

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Massachusetts House Journal, 5/3/2007

Massachusetts House Journal, May 3, 2007

May 3, 2007

Massachusetts House of Representatives

2007 Regular Session

Met according to adjournment, at eleven o'clock A.M., in an Informal Session, with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Eternal God, we take a moment for personal reflection and to offer a prayer to You, Our Creator. We are grateful for Your personal concern for our material and spiritual wellbeing. We believe that Your assistance is always available to us. We also pray for Your gift of wisdom which enables us to keep personal, legislative and public policy issues, even the most complex, in perspective. Wisdom also helps us to reason clearly with constituents and colleagues as we evaluate and discuss legislation, data and information which comes before us.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Special Communication.

The following communication, together with returns of votes and schedules therein, referred to, was received from the Secretary of the Commonwealth, to wit:--

Commonwealth of Massachusetts

Office of the Secretary

State House

Boston 02133

April 25, 2007.

To the Honorable House of Representatives:

I have the honor to lay before you the returns of votes cast at the special election held in this Commonwealth on the seventeenth day of April, 2007, for Representative in General Court, 14th Worcester District, together with schedules showing the number of ballots which appear to have been cast for each person voted for. District.

These returns have been duly canvassed by the Governor and Council, and are now transmitted for examination by the House of Representatives, as required by the Constitution.

Very truly yours,

WILLIAM FRANCIS GALVIN,

Secretary of the Commonwealth

The communication was read; and, there being no objection, it was placed on file.

Member Qualified.

The Chair (Mr. Donato of Medford) announced that Representative James J. O'Day of West Boylston, on Wednesday, May 2, in the Chamber of the House of Representatives, before His Excellency the Governor and His Honor the Lieutenant-Governor and in the presence of the members of the Honorable Council, the Speaker and members of the House and Senate, had taken and subscribed to the necessary oaths of office; and was now duly qualified as a member of the House of Representatives. of West Boylston.

Representative O'Day had been assigned Seat No. 67 by the Speaker.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. Brownsberger of Belmont) memorializing Congress to demand that Ethiopia meet its obligations under the Universal Declaration of Human Rights;

Resolutions (filed by Representatives Callahan of Sutton, Frost of Auburn and Peterson of Grafton) congratulating the Dudley-Gendron American Legion Post on the occasion of its sixtieth anniversary;

Resolutions (filed by Mr. Fagan of Taunton) congratulating Matthew P. Camara on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Mr. Fernandes of Milford and other members of the House)

commending the work of public employees and commemorating Public Service Recognition Week, May 7-13, 2007;

Resolutions (filed by Ms. Grant of Beverly) congratulating Frederick E. Berry on receiving the Beverly Democratic City Committee's Distinguished Democrat Award;

Resolutions (filed by Mrs. Haddad of Somerset) congratulating Kyle Joseph Rapoza on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Mr. Hall of Westford) in honor of the one hundredth anniversary of the Westford Water Department;

Resolutions (filed by Mr. Kafka of Stoughton) congratulating Michael Fox of Sharon on his elevation to the rank of Eagle Scout;

Resolutions (filed by Messrs. Kafka of Stoughton and Galvin of Canton) congratulating Mrs. Helen Hansen of the town of Stoughton;

Resolutions (filed by Representatives Kafka of Stoughton, Barrows of Mansfield and Poirier of North Attleborough) congratulating John A. Moretti on his retirement from the Mansfield school system;

Resolutions (filed by Messrs. Kafka of Stoughton and Galvin of Canton) congratulating Mr. Robert Parsons of the town of Stoughton;

Resolutions (filed by Mr. Nyman of Hanover) congratulating the South Shore Natural Science Center in Norwell on the occasion of its forty-fifth anniversary;

Resolutions (filed by Representatives Peisch of Wellesley and Richardson of Framingham) honoring Weston High School Athletic Director Peter Foley on a remarkable career;

Resolutions (filed by Ms. Peisch of Wellesley) honoring Trevor C. O'Leary on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Ms. Peisch of Wellesley) honoring Gregory H. Stravinski on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Ms. Peisch of Wellesley) honoring Benjamin F. Zaehring on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Representatives Poirier of North Attleborough, Barrows of Mansfield and Kafka of Stoughton) congratulating Alex Proal on receiving the Eagle Scout Award of the Boy Scouts of America;

Resolutions (filed by Mr. Rice of Gardner) recognizing Tanya Barnett for distinguished community service;

Resolutions (filed by Mr. Vallee of Franklin and other members of the House) recognizing Multiple Sclerosis Week May 14-18, 2007; and

Resolutions (filed by Mrs. Walrath of Stow) congratulating Eric Arntzen on receiving the Eagle Award of the Boy Scouts of America;

Mr. Scaccia of Boston, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Peterson of Grafton, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

#### Orders.

The following order (filed by Mr. Jones of North Readings was adopted:

Ordered, That the House of Representatives hereby calls for a joint session of the two Houses, conformably to the provisions of Article XLVIII (as amended by Article LXXXI) of the Amendments to the Constitution, for the purpose of considering the proposal for a legislative amendment to the Constitution establishing an independent redistricting commission and criteria for redistricting for state house representatives, senate, and councilor districts (House, No. 661), - - with reference to which the committee on Election Laws has reported, in accordance with Joint Rule 23, that the amendment ought NOT to pass.

The following order (filed by Mr. Kaufman of Lexington was adopted:

Ordered, That the House of Representatives hereby calls for a joint session of the two Houses, conformably to the provisions of Article XLVIII (as amended by Article LXXXI) of the Amendments to the Constitution, for the purpose of considering the proposal for a legislative amendment to the Constitution relative to a vacancy in the office of Governor or Lieutenant-Governor (House, No. 664), - - with reference to which the committee on Election Laws has reported, in accordance with Joint Rule 23, that the amendment ought to pass.

The following order (filed by Mr. Jones of North Readings was adopted:

Ordered, That the House of Representatives hereby calls for a joint session of the two Houses, conformably to the provisions of Article XLVIII (as amended by Article LXXXI) of the Amendments to the Constitution, for the purpose of considering the proposal for a legislative amendment to the Constitution prohibiting eminent domain takings for the purpose of economic development (House, No. 1497), - - with reference to which the committee on the Judiciary has reported, in accordance with Joint Rule 23, that the amendment ought to pass.

#### Petitions.

Petitions severally were presented and referred as follows:

By Mr. Rice of Gardner, petition (accompanied by bill, House, No. 4006) of Robert L. Rice, Jr., and Robert A. Antonioni (with the approval of the mayor and city council) that the city of Gardner be authorized to issue three additional licenses for the sale of alcoholic beverages to be drunk on the premises. To the committee on Consumer Protection and Professional Licensure.

By Mr. Golden of Lowell, petition (accompanied by bill, House, No. 4007) of Thomas A. Golden, Jr., and others (by vote of the town) for legislation to make certain changes in the charter of the town of Chelmsford; and

By Mr. Hargraves of Groton, petition (accompanied by bill, House, No. 4008) of Robert S. Hargraves (by vote of the town) relative to the Groton Country Club

Authority;

Severally to the committee on Municipalities and Regional Government.

By Mr. Koutoujian of Waltham, petition (accompanied by bill, House, No. 4009) of Ruth B. Balser and others (with the approval of the mayor and board of aldermen) for legislation to reclassify the position of dedicated fire apparatus mechanic in the fire department of the city of Newton; and

By Mr. Rice of Gardner, petition (accompanied by bill, House, No. 4010) of Robert L. Rice, Jr., and Robert A. Antonioni (with the approval of the mayor city council) that Jeffrey J. Giles of the city of Gardner be authorized to take a civil service examination for the position of police officer in said city, notwithstanding the minimum age requirements;

Severally to the committee on Public Service.

Severally sent to the Senate for concurrence.

Petitions (deposited with the Clerk previously to five o'clock in the afternoon on Wednesday, January 10, 2007) were transmitted to the State Secretary under Chapter 3 of the General Laws, as follows:

By Mr. Cabral of New Bedford, petition (subject to Joint Rule 9) of Antonio F. D. Cabral relative to the death benefit paid to beneficiaries upon the death of retired members of the New Bedford police department by the New Bedford Police Association.

By Mr. Mariano of Quincy, petition (subject to Joint Rule 9) of Ronald Mariano and Joseph R. Driscoll relative to the boundaries of a certain parcel of land on the Fore River and located in the city of Quincy and in the town of Braintree.

By Mr. Pignatelli of Lenox, petition (subject to Joint Rule 9) of William Smitty Pignatelli that the Department of Agricultural Resources be directed to grant a water supply permit to Daniel and Martha Tawczynski.

By Mr. Wallace of Boston, petition (subject to Joint Rule 9) of Brian P. Wallace and Thomas M. Menino that the Department of Environmental Management grant licenses to the Boston Redevelopment Authority to construct, maintain, and repair certain structures shown in the Fort Point Channel Watersheet Activation Plan.

Petitions severally were presented and referred as follows:

By Mr. Alicea of Charlton, petition (subject to Joint Rule 12) of Geraldo Alicea and others for legislation to protect certain students and clients of public or private institutions from inappropriate sexual contact of employees.

By the same member, petition (subject to Joint Rule 12) of Geraldo Alicea and others for legislation to increase the penalties imposed for rape of mentally retarded persons.

By Mr. Atsalis of Barnstable, petition (subject to Joint Rule 12) of Demetrius J. Atsalis that certain sex offenders assigned to vote in schools or libraries be required to vote by absentee ballot.

By Mr. Bosley of North Adams, petition (subject to Joint Rule 12) of Daniel E. Bosley and others for legislation to designate Norman Rockwell as the official artist of the Commonwealth.

By Mr. Bradley of Hingham, petition (subject to Joint Rule 12) of Garrett J. Bradley relative to the listings of banking institutions for the deposit of public funds by departments and agencies of the Commonwealth.

By the same member, petition (subject to Joint Rule 12) of Garrett J. Bradley that the Board of Retirement be directed to grant a pension to Tavesri-Jantima Boudreau, widow of Joseph R. Boudreau, a retired state police officer.

By the same member, petition (subject to Joint Rule 12) of Garrett J. Bradley for legislation to prohibit Level 3 sex offenders from establishing residences within certain distances of schools.

By Mr. Cabral of New Bedford, petition (subject to Joint Rule 12) of Antonio F. D. Cabral and others for legislation to require dangerous hearings for criminals charged in certain illegal drug transactions.

By Ms. Callahan of Sutton, petition (subject to Joint Rule 12) of Jennifer M. Callahan and Richard T. Moore that the Blackstone-Millville Regional School District be authorized to use proceeds from certain bonds for repairs and construction at the high school of said district.

By the same member, petition (subject to Joint Rule 12) of Jennifer M. Callahan that the Department of Mental Retardation be authorized to establish a sick leave bank for Diane Godin, an employee of said department.

By Mr. Dempsey of Haverhill, petition (subject to Joint Rule 12) of Brian S. Dempsey and others for legislation to designate a certain bridge on Route 110 in the city of Haverhill as the Emilio Brothers Memorial Bridge.

By Mr. Donelan of Orange, petition (subject to Joint Rule 12) of Christopher J. Donelan that the Bureau of Forest Fire Control of the Department of Conservation and Recreation be the liason with the Emergency Management office of the Commonwealth concerning natural disasters.

By Mr. Fagan of Taunton, petition (subject to Joint Rule 12) of James H. Fagan and others that the Department of Correction be directed to establish a sick leave bank for Sharon Easter, an employee of said department.

By Ms. Flanagan of Leominster, petition (subject to Joint Rule 12) of Jennifer L. Flanagan and Robert A. Antonioni relative to the disposition of molds, dies and forms used in the manufacture of plastics.

By Mr. Fresolo of Worcester, petition (subject to Joint Rule 12) of John P. Fresolo that certain retired veterans be entitled to additional benefits under the public employees noncontributory disability retirement law.

By Ms. Gifford of Wareham, petition (subject to Joint Rule 12) of Susan Williams Gifford and others that purchasers of defective or malfunctioning motor homes be covered under the "lemon law", so-called.

By Ms. Gifford of Wareham and Senator Pacheco, joint petition (subject to Joint

Rule 12) of Susan Williams Gifford and others for legislation to designate a certain bridge in the town of Carver as the Julian M. Southworth and Nelson J. Garnett Bridge.

By Ms. Gobi of Spencer, petition (subject to Joint Rule 12) of Anne M. Gobi for legislation to provide creditable service for retirement for certain teachers in the public schools in the Commonwealth.

By the same member, petition (subject to Joint Rule 12) of Anne M. Gobi for legislation to provide for the appointment of a poet laureate of the Commonwealth.

By the same member, petition (subject to Joint Rule 12) of Anne M. Gobi for legislation to provide for superannuation retirement for certain spouses of retired public employees.

By Mr. Guyer of Dalton, petition (subject to Joint Rule 12) of Denis E. Guyer for legislation to provide economic relief for certain snow-related businesses and the creation of a revenue fund for producers of milk.

By Mr. Hall of Westford (by request), petition (subject to Joint Rule 12) of Richard Diaz for adoption of resolutions by the General Court memorializing the Congress of the United States to prohibit the exportation of elemental mercury.

By Mr. Hynes of Marshfield and Senator Hedlund, joint petition (subject to Joint Rule 12) of Robert L. Hedlund and Frank M. Hynes that enrollment for elderly persons in the Prescription Drug Advantage Program and the federal Medicare Part D plan be held during the same period of time.

By Mr. Jones of North Reading, petition (subject to Joint Rule 12) of Bradley H. Jones, Jr., relative to the fees for filing certificates of organization with the State Secretary by limited liability companies.

By Mr. Kafka of Stoughton, petition (subject to Joint Rule 12) of Louis L. Kafka that health insurance policies be required to provide coverage for the treatment of children with cleft lips and palates.

By Mr. Kane of Holyoke and Senator Knapik, joint petition (subject to Joint Rule 12) of Michael F. Kane and Michael R. Knapik relative to the retention and expenditure of certain trust funds by the Soldiers' Home of Holyoke.

By Mr. Keenan of Salem, petition (subject to Joint Rule 12) of John D. Keenan and others that certain persons present during the abuse of children be required to register as sex offenders.

By Mr. Lepper of Attleboro, petition (subject to Joint Rule 12) of John A. Lepper for legislation to provide for an income deduction for the costs expended for long-term care insurance.

By Ms. L'Italien of Andover, petition (subject to Joint Rule 12) of Barbara A. L'Italien and others for legislation to provide for certain reimbursements to cities, towns and regional school districts for the cost of transportation of special education students.

By Mr. Miceli of Wilmington, petition (subject to Joint Rule 12) of James R. Miceli for legislation to designate the elephant as the official mammal of the

Commonwealth.

By the same member, petition (subject to Joint Rule 12) of James R. Miceli relative to the taxation of certain buildings and property improvements.

By the same member (by request), petition (subject to Joint Rule 12) of Hugh J. Fitzpatrick III for legislation to authorize electronic notarizations by notaries public.

By the same member (by request), petition (subject to Joint Rule 12) of Michael G. Messina that companies issuing insurance policies to homeowners be prohibited from cancelling such policies for harboring certain breeds of dogs.

By Mr. O'Flaherty of Chelsea, petition (subject to Joint Rule 12) of Eugene L. O'Flaherty others for legislation to designate the womens' dormitory at the Soldiers' Home of Chelsea as the Christie Serino Ward Area.

By the same member, petition (subject to Joint Rule 12) of Eugene L. O'Flaherty relative to the summoning of jurors by the Office of the Jury Commissioner to perform juror services in the courts of the Commonwealth.

By the same member, petition (subject to Joint Rule 12) of Eugene L. O'Flaherty for legislation to increase the compensation payable to the district attorneys in the Commonwealth.

By Mr. Patrick of Falmouth, petition (subject to Joint Rule 12) of Matthew C. Patrick that tax assessors of cities and towns be directed to determine the fair cash valuation of affordable housing.

By the same member, petition (subject to Joint Rule 12) of Matthew C. Patrick for legislation to designate a certain bridge over the Coonamessett River on Route 28 in the town of Falmouth as the Lieutenant Raleigh D. Costa Memorial Bridge.

By Ms. Peake of Provincetown, petition (subject to Joint Rule 12) of Sarah K. Peake that the Teachers' Retirement Board be required to reimburse Thomas P. Johnson for certain interest accrued on retirement fund contributions.

By Mr. Perry of Sandwich, petition (subject to Joint Rule 12) of Cleon H. Turner and Susan Williams Gifford relative to the powers and duties of the Insurers Insolvency Fund concerning claims under workers' compensation policies.

By the same member, petition (subject to Joint Rule 12) of Jeffrey Davis Perry and others relative to increasing the penalties on unlicensed operators of motor vehicles.

By Mr. Petrolati of Ludlow, petition (subject to Joint Rule 12) of Thomas M. Petrolati relative to the retirement benefits payable to Carmine Angeloni.

By Mr. Pignatelli of Lenox, petition (subject to Joint Rule 12) of William Smitty Pignatelli for legislation to designate the bridge over Route 7 in the town of Sheffield as the Veterans Memorial Bridge.

By Mrs. Poirier of North Attleborough, petition (subject to Joint Rule 12) of Elizabeth A. Poirier and Stephen Stat Smith relative to the granting of retirement



credit to certain elected official in cities and towns.

By the same member, petition (subject to Joint Rule 12) of Elizabeth A. Poirier and others for legislation to make available certain criminal offender record information of certain persons performing contract work with human service agencies.

By Mr. Puppolo of Springfield, petition (subject to Joint Rule 12) of Angelo J. Puppolo, Jr., and others that the Governor of the Commonwealth issue an annual proclamation declaring the month of November as Thrombosis Awareness Month.

By Mr. Rushing of Boston, petition (subject to Joint Rule 12) of Byron Rushing and others that the Department of Public Health be directed to establish a program providing for the protection and safety of victims of violence.

By Mr. Sannicandro of Ashland, petition (subject to Joint Rule 12) of Tom Sannicandro that parents and guardians of students involved in disputes with the Bureau of Special Education be entitled to fees and costs for attorneys.

By Mr. Smola of Palmer and Senator Brewer, joint petition (subject to Joint Rule 12) of Todd M. Smola and others relative to the distribution of funds under the compact between the Commonwealth and the State of Connecticut for flood control in the basin of the Thames River.

By the same members, joint petition (subject to Joint Rule 12) of Todd M. Smola and others for legislation to authorize cities and towns to withhold the issuance of licenses for the sale of alcoholic beverages for non-payment of meals taxes and payment of wages.

By Ms. Spiliotis of Peabody, petition (subject to Joint Rule 12) of Joyce A. Spiliotis that the Commissioner of Mental Health be directed to make an investigation and study relative to access for pediatricians to certain agencies of the Commonwealth under the child psychiatric access project.

By the same member, petition (subject to Joint Rule 12) of Joyce A. Spiliotis and others for legislation to establish a board for the registration of phlebotomists.

By the same member, petition (subject to Joint Rule 12) of Joyce A. Spiliotis and others that any condition or impairment of health caused by disease of the lungs or respiratory tract be considered to have been suffered in the line of duty under the public employees disability law.

By Mr. Turner of Dennis, petition (subject to Joint Rule 12) of Cleon H. Turner for legislation to further regulate the maintenance of roads, bridges, beaches and other common areas in private subdivisions.

By the same member, petition (subject to Joint Rule 12) of Cleon H. Turner for legislation to provide public employee retirement benefits for certain veterans.

By Mr. Wallace of Boston, petition (subject to Joint Rule 12) of Brian P. Wallace for legislation to make permanent the tax credits granted to the movie industry filming in the Commonwealth.

By the same member, petition (subject to Joint Rule 12) of Brian P. Wallace for legislation to increase the income tax credit for certain persons involved in the

motion picture industry in the Commonwealth.

Severally, under Rule 24, to the committee on Rules.

#### Papers from the Senate.

The following order was adopted, in concurrence:

Ordered, That, conformably to the provisions of Article XLVIII (48), as amended by Article LXXXI (81) of the Amendments to the Constitution, a joint session of the two Houses be held on Wednesday, May 9, 2007, at one o'clock P.M., for the purpose of considering proposals for amendments to the Constitution.

Insofar as applicable, the special rules of procedure, in effect in the preceding General Court, shall govern said joint session, and any further sessions called for the purpose of considering amendments to the Constitution.

#### Bills

Further regulating access to birth certificates (Senate, No. 63, amended by inserting after the enacting clause the following section:

"SECTION 1. Clause Twenty-sixth of section 7 of chapter 4 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after subclause (p) the following subclause:-

(q) Adoption contact information and indices therefore of the adoption contact registry established by section 31 of chapter 46.";

In section 1 (as printed), in line 8, by striking out the word "of" and inserting in place thereof the word "or" and, in line 10, by striking out the words "biological parent or parents listed on the initial birth certificate" and inserting in place thereof the words "parent or parents listed on the birth certificate prior to adoption.";

In section 4 (as printed), in line 24, by striking out the word "birth" and, in line 26, by striking out the words "original birth record" and inserting in place thereof the words "birth certificate registered prior to adoption";

In section 5 (as printed), in line 28, by striking out following: "SECTION 31. (a) Section 31." and inserting in place thereof the following: "Section 31. (a)" and in said section, in lines 37, 38 and 39, by striking out clause (d) as follows:

"(d) The information and indices held by the department of public health with respect to the adoption information contact registry are confidential and shall be exempt from the mandatory disclosure requirements of clause Twenty-sixth of section 7 of chapter 4 and section 10 of chapter 66." (on a petition);

Establishing a sick leave bank for Yaniris Cabrera, an employee of the Trial Court (Senate, No. 2181) (on a petition);

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 33, to the committee on Ways and Means.

#### Bills

Relative to volunteers at state parks (Senate, No. 786) (on a petition);

Relative to the Newton Community Development Authority and the Newton Housing Authority (Senate, No. 1162) (on a petition) [Local Approval Received];

Relative to the Wareham Fire District (Senate, No. 1186) (on House, No. 1939) [Local Approval Received];

Authorizing the town of Middleborough to use a portion of town-owned land for purposes other than water supply protection and storage (Senate, No. 1189) (on a petition) [Local Approval Received];

Relative to property owned by the Boys and Girls Club of Brockton, Inc. (Senate, No. 2175) (on a petition) [Local Approval Received];

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

A report of the committee on Education, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 305) of Gale D. Candaras, Bruce E. Tarr, James E. Timilty, Michael R. Knapik and other members of the General Court for legislation relative to school safety, - - and recommending that the same be referred to the committee on Public Safety and Homeland Security.

A report of the committee on Health Care Financing, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 667) of Mark C. Montigny and Steven A. Tolman for legislation relative to restoring health benefits to eligible legal immigrants, - - and recommending that the same be referred to the committee on Children, Families and Persons with Disabilities.

Severally accepted by the Senate, were considered forthwith, under Rule 42; and they were accepted, in concurrence.

The following notice was received from the Clerk of the Senate, to wit:- May 1, 2007. Honorable Salvatore F. DiMasi Speaker of the House of Representatives Room 356 State House Boston, MA 02133 Dear Mr. Speaker:

I have the honor to inform you that the Senate President has announced the following changes in membership of joint committees:

Senator Steven Tolman has resigned from the second position of the committee on Health Care Financing and has been replaced by Senator Marc R. Pacheco

Senator Benjamin B. Downing has been appointed to the previously vacant second position on the committee on Higher Education. Respectfully submitted, William F. Welch Clerk of the Senate

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, asking to be discharged from further consideration of the Bill requiring public notice prior to restricting MassHealth coverage (House, No. 1167), - - and recommending that the same be recommitted to the committee on Health Care Financing. Under Rule 42, the report was considered forthwith; and it was accepted.

By Mrs. Walrath of Stow, for the committee on Health Care Financing, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 1149) of Peter J. Koutoujian and others relative to the establishment of a commission for the elimination of health disparities within the Executive Office of Health and Human Services, - - and recommending that the same be referred to the committee on Public Health. Under Rule 42, the report was considered forthwith; and it was accepted. Sent to the Senate for concurrence.

By Mr. Murphy of Lowell, for the committee on Higher Education, asking to be discharged from further consideration

Of the petition (accompanied by bill, Senate, No. 714) of Jarrett T. Barrios and Pamela P. Resor for legislation relative to equal higher education opportunity for all Massachusetts high school graduates; and

Of the petition (accompanied by bill, House, No. 1197) of Marie P. St. Fleur and others relative to the eligibility of students for in-state tuition rates and fees at public higher educational institutions;

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

Under Rule 42, the reports severally were considered forthwith; and they were accepted. Severally sent to the Senate for concurrence in the discharge of the committee.

#### Emergency Measure.

The engrossed Bill further regulating the Massachusetts Commission Against Discrimination (see House, No. 3967, changed and amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 2 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) (which had been returned by His Excellency the Governor with recommendation of amendment) was passed to be re-enacted, in its amended form; and it was signed by the acting Speaker and sent to the Senate.

#### Engrossed Bills.

Engrossed bills

Establishing the Marlborough 2010 Corporation (see House, No. 2029); and

Authorizing the city known as the town of Franklin to grant an additional license for the sale of wines and malt beverages not to be drunk on the premises (see House, No. 3962, amended);

(Which severally originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Order.

On motion of Mr. DiMasi of Boston,--

Ordered, That when the House adjourns today, it adjourn to meet on Monday next at eleven o'clock A.M.

At twenty minutes after eleven o'clock A.M., on motion of Mr. Rushing of Boston (Mr. Donato of Medford being in the Chair), the House adjourned, to meet on Monday next at eleven o'clock A.M., in an Informal Session.

MA H.R. Jour., 5/3/2007

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Massachusetts House Journal, 6/11/2007

Massachusetts House Journal, June 11, 2007

Monday, June 11, 2007

Massachusetts House of Representatives

2007 Regular Session

Met according to adjournment, at eleven o'clock A.M., in an Informal Session, with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Message from the Governor.

A message from His Excellency the Governor recommending legislation relative to extending certain capital spending authorizations (House, No. 4083) was filed in the office of the Clerk on Friday, June 8.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Bonding, Capital Expenditures and State Assets. Sent to the Senate for concurrence.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. Perry of Sandwich) congratulating the Sandwich Historical Society; and

Resolutions (filed by Ms. Polito of Shrewsbury) recognizing "First Robotics Day" at the State House;

Mr. Scaccia of Boston, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. McMurtry of Dedham, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Papers from the Senate.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, Senate, No. 2256) of Patricia D. Jehlen and Timothy J. Toomey, Jr. (with the approval of the mayor and board of aldermen) for legislation relative to the sale of alcoholic beverages in the city of Somerville. To the committee on Consumer Protection and Professional Licensure.

Petition (accompanied by bill, Senate, No. 2257) of Marian Walsh (by vote of the town) for legislation to exempt Brian J. Donoghue of Norwood from the maximum age requirements for appointment as a firefighter in the town of Norwood. To the committee on Public Service.

Reports of Committees.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill amending the law providing incentives to the motion picture industry (printed in House, No. 4043) ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4084). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling with the amendment pending.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House; and, under said rule, it was placed in the Orders of the Day for the next sitting for a second reading, with the amendment pending.

By Mr. Kaufman of Lexington, for the committee on Public Service, on House, Nos. 2510, 2567 and 2787, a Bill relative to the oversight of disability pension benefits (House, No. 2510).

By the same member, for the same committee, on a joint petition, a Bill to provide employees at state and community colleges holding special state police officer powers with line of duty death benefits (House, No. 2550).

By the same member, for the same committee, on a petition, a Bill relative to in-the-line-of-duty injuries to county corrections officers (House, No. 2816).

By the same member, for the same committee, on Senate, Nos. 1492 and 1645 and House, Nos. 2525 and 2782, a Bill further regulating EMS benefits (House, No. 2782).

Severally read; and referred, under Rule 33, to the committee on Ways and Means.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the following matters be scheduled for consideration by the House:

Senate bills

Relative to volunteers at state parks (Senate, No. 786);

Further regulating sewer connections in the town of Charlton (Senate, No. 1152, amended);

Further regulating water supply connections in the town of Charlton (Senate, No. 1153);

Authorizing the town of Middleborough to use a portion of town-owned land for purposes other than water supply protection and storage (Senate, No. 1189);

Establishing appointed positions of district clerk and district treasurer for the Bernardston Fire and Water District (Senate, No. 1198); and

Relative to property owned by the Boys and Girls Club of Brockton, Inc. (Senate, No. 2175); and

#### House bills

Streamlining the regional school budget process (House, No. 586, changed);

Establishing the state pharmacy council (House, No. 1138);

Authorizing the town of Belmont to establish another post-employment benefits trust fund (House, No. 1441);

Relative to provide funds for ADA compliance in cities and towns (House, No. 1916);

Regarding certain contracting procedures in the city of Boston (House, No. 1933);

Relative to legislation to protect the privacy of employees of municipalities (House, No. 1935);

Relative to town meeting votes in the town of Lexington (House, No. 1958);

Authorizing the town of Weymouth to make conveyance and sale of certain water supply land (House, No. 1975);

Authorizing the town of Tisbury to incur debt for the purpose of removing overhead utilities and replacing the same with underground facilities (House, No. 1996);

Relative to the Jacob Sears Memorial Library (House, No. 3787);

Relative to the fines for illegal dumping in the city of Fitchburg (House, No. 3939);

Relative to elections in the town of Merrimac (House, No. 3947);

To authorize the town of Natick to enter into a certain lease agreement (House, No. 3968);



Establishing a sick leave bank for Thomas A. Connolly, an employee of the Department of Correction (House, No. 4023);

Relative to the use of voting machines in the city of Haverhill (House, No. 4040); and

Authorizing the town of Westboro to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises (House, No. 4049);

Severally placed in the Orders of the Day for the next sitting for a second reading.

Order.

On motion of Mr. DiMasi of Boston,--

Ordered, That when the House adjourns today, it adjourn to meet on Wednesday next at eleven o'clock A.M.

At eight minutes after eleven o'clock A.M., on motion of Mr. Smizik of Brookline (Mr. Donato of Medford being in the Chair), the House adjourned, to meet on Wednesday next at eleven o'clock A.M.

MA H.R. Jour., 6/11/2007

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MA H.R. Jour., 6/13/2007

FOR EDUCATIONAL USE ONLY Page 1

Massachusetts House Journal, 6/13/2007

Massachusetts House Journal, June 13, 2007

Wednesday, June 13, 2007

Massachusetts House of Representatives

2007 Regular Session

Met according to adjournment, at eleven o'clock A.M., with Mr. Petrolati of Ludlow in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

At the opening of today's legislative session, we turn our thoughts and attention to You, God, Our Creator. We believe that Your always available assistance enables us at all times to make reasoned, honorable and the right ethical decisions. Grant us the wisdom, the intellectual and maral courage to remain faithful to our own ideals, principles and our human, spiritual and religious values. As elected officials, teach us to acknowledge and to respect the rights, views and opinions of all people. As members of diverse communities across the Commonwealth we disagree on legislative and public policy issues. May we continue to be open to new data and information in formulating our decisions.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

At the request of the Chair (Mr. Petrolati), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Silent Prayer.

At the request of Representatives Creedon of Brockton, Canavan of Brockton and Flynn of Bridgewater, the members, guests and employees stood for a moment of silent prayer in memory of U.S. Marine Staff Sergeant William J. Callahan of Easton who was killed in the line of duty in Al Anbar province, Iraq on April twenty-seventh. Staff Sergeant William J. Callahan was twenty-eight years old.

Message from the Governor.

A message from His Excellency the Governor recommending legislation relative to implementing the Division of Banks mortgage summit recommendations (House, No.

4085) was filed in the office of the Clerk on Monday, June 11.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Financial Services. Sent to the Senate for concurrence.

Statement Concerning Representative Ayers of Quincy.

A statement of Mr. Rogers of Norwood concerning Mr. Ayers of Quincy, was spread upon the records of the House, as follows:

SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Ayers of Quincy, will not be present in the House Chamber for the remainder of today's sitting due to a family emergency. Any roll calls that he may miss today will be due entirely to the reason stated. Representative Ayers of Quincy.

Statement Concerning Representative Pedone of Worcester.

A statement of Mr. Rogers of Norwood concerning Mr. Pedone of Worcester, was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Pedone of Worcester, will not be present in the House Chamber for today's sitting. Mr. Pedone is attending a legislative hearing at Wheaton College. Any roll calls that he may miss today or tomorrow will be due entirely to the reason stated. Representative Pedone of Worcester.

Statement Concerning Representative Sullivan of Fall River.

A statement of Mr. Rogers of Norwood concerning Mr. Sullivan of Fall River, was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Sullivan of Fall River, will not be present in the House Chamber for today's sitting due to illness. Any roll calls that he may miss today or tomorrow will be due entirely to the reason stated. Representative Sullivan of Fall River.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Ms. Fox of Boston) congratulating Elaine F. Munn on the occasion of her retirement from the Marblehead School System;

Resolutions (filed by Mr. Nyman of Hanover) congratulating the Bandstand Summer Concert Series on its twentieth anniversary;

Resolutions (filed by Mr. Ross of Wrentham) congratulating Adam deCarvalho of Wrentham upon his elevation to the rank of Eagle Scout;

Resolutions (filed by Mr. Ross of Wrentham) congratulating Matthew Kowalski of Wrentham upon his elevation to the rank of Eagle Scout;

Resolutions (filed by Mr. Ross of Wrentham) congratulating Matthew J. Shruhan of Wrentham upon his elevation to the rank of Eagle Scout; and

Resolutions (filed by Ms. Wolf of Cambridge) congratulating Lenora Jennings on the occasion of her retirement;

Mr. Scaccia of Boston, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Mariano of Quincy, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

#### Papers from the Senate.

A House petition of Joyce A. Spiliotis and others for legislation to establish a board of registration of phlebotomists, came from the Senate with the endorsement that said branch had concurred with the House in the suspension of Joint Rule 12, non-concurred in the reference to the committee on Public Health and that it had been referred, in nonconcurrence, to the committee on Consumer Protection and Professional Licensure.

On motion of Ms. Koutoujian of Waltham, the House then receded from its reference; and the petition (accompanied by bill, House, No. 4086) was referred, in concurrence, to the committee on Consumer Protection and Professional Licensure.

A House petition of Eugene L. O'Flaherty and others for legislation to designate the women's dormitory at the Soldiers' Home of Chelsea as the Christie Serino Ward Area, came from the Senate with the endorsement that said branch had concurred in the suspension of Joint Rule 12, non-concurred in the reference to the committee on Environment, Natural Resources and Agriculture and that it had been referred, in nonconcurrence, to the committee on Veterans and Federal Affairs.

On motion of Mr. Smizik of Brookline, the House then receded from its reference; and the petition (accompanied by bill, House, No. 4087) was referred, in concurrence, to the committee on Veterans and Federal Affairs.

A report of the committee on Elder Affairs, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 395) of Stephen M. Brewer, Anthony J. Verga, Barbara A. L'Italien, Kathi-Anne Reinstein and other members of the General Court for legislation to promote fire safe multiple dwelling residences for elders, infirm, and ailing, and recommending that the same be referred to the committee on Public Safety and Homeland Security,-- accepted by the Senate, was considered forthwith, under Rule 42; and it was accepted, in concurrence.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, Senate, No. 2263) of Edward M. Augustus, Jr. and Paul K. Frost (by vote of the town) for legislation to authorize the town of Auburn to establish an Auburn High School gymnasium health and recreation trust fund; and

Petition (accompanied by bill, Senate, No. 2264) of Michael W. Morrissey and

Robert J. Nyman (by vote of the town) for legislation to authorize the town of Rockland to establish a school building capital trust fund;

Severally to the committee on Municipalities and Regional Government.

#### Reports of Committees.

By Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the following petitions:

Petition (accompanied by bill) of Louis L. Kafka that health insurance policies be required to provide coverage for the treatment of children with cleft lips and palates. To the committee on Financial Services.

Petition (accompanied by bill) of Karyn E. Polito for legislation to establish a sick leave bank for Donna Tower, an employee of the Trial Court. To the committee on the Judiciary.

Petition (accompanied by bill) of Garrett J. Bradley relative to the listings of banking institutions for the deposit of public funds by departments and agencies of the Commonwealth. To the committee on State Administration and Regulatory Oversight.

Under suspension of the rules, on motion of Mr. Donato of Medford, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

By Ms. Balser of Newton, for the committee on Mental Health and Substance Abuse, asking to be discharged from further consideration of the petition (accompanied by resolve, House, No. 382) of Thomas M. Stanley and others for an investigation by a special commission (including members of the General Court) relative to the misclassification and misdiagnosis of former residents of the Fernald State School, - - and recommending that the same be referred to the committee on Children, Families and Persons with Disabilities. Under Rule 42, the report was considered forthwith; and it was accepted. Sent to the Senate for concurrence.

By Mr. Murphy of Lowell, for the committee on Higher Education, on House No. 3989, reported, in part, a Bill changing the name of the Massachusetts College of Art (House, No. 4088).

By Mr. Cabral of New Bedford, for the committee on State Administration and Regulatory Oversight, on a petition, a Bill honoring Massachusetts African Americans (House, No. 3193, changed by striking out the sentence contained in lines 1, 2 and 3 and inserting in place thereof the following sentence: "In recognition of the diverse history of the Commonwealth, the superintendent of state office buildings shall place subject to the approval of the art commissioner, a mural, plaques or busts, to honor the contributions made by individuals of African decent in Massachusetts.", and in line 4, by inserting after the word "placed", the words "in an area appropriately designated within the state house").

Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

By Mr. Cabral of New Bedford, for the committee on State Administration and Regulatory Oversight, on a petition, a Bill setting June 19th as juneteenth

independence day (House, No. 3194, changed in line 5 by inserting after the word "Day" the words "to be observed on the Sunday that is closest to June 19th of each year", and in line 6 by striking out the word "Southwest" and inserting in place thereof the words "Southwestern United States. In recognition of the end of slavery in the United States as well as the significant contributions, individuals of African decent have made to the Commonwealth and to the United States said day shall be observed in an appropriate manner by the people"). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. Correia of Fall River, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Ms. Fox of Boston, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed, its title having been changed by said committee to read: "An Act relative to the annual observance of juneteenth independence day.". The bill (House, No. 3194, changed) then was sent to the Senate for concurrence.

#### Orders of the Day.

The House Bill relative to the use of voting machines in the city of Haverhill (House, No. 4040) was read a second time; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Ms. Spiliotis of Peabody, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence

#### Senate bills

Relative to volunteers at state parks (Senate, No. 786);

Further regulating sewer connections in the town of Charlton (Senate, No. 1152, amended);

Further regulating water supply connections in the town of Charlton (Senate, No. 1153);

Authorizing the town of Middleborough to use a portion of town-owned land for purposes other than water supply protection and storage (Senate, No. 1189);

Establishing appointed positions of district clerk and district treasurer for the Bernardston Fire and Water District (Senate, No. 1198); and

Relative to property owned by the Boys and Girls Club of Brockton, Inc. (Senate, No. 2175); and

#### House bills

Streamlining the regional school budget process (House, No. 586, changed);

Establishing the state pharmacy council (House, No. 1138);

Authorizing the town of Belmont to establish another post-employment benefits trust fund (House, No. 1441);

Relative to legislation to protect the privacy of employees of municipalities (House, No. 1935);

Relative to town meeting votes in the town of Lexington (House, No. 1958);

Authorizing the town of Weymouth to make conveyance and sale of certain water supply land (House, No. 1975);

Authorizing the town of Tisbury to incur debt for the purpose of removing overhead utilities and replacing the same with underground facilities (House, No. 1996);

Relative to the Jacob Sears Memorial Library (House, No. 3787);

Relative to the fines for illegal dumping in the city of Fitchburg (House, No. 3939);

Relative to elections in the town of Merrimac (House, No. 3947);

To authorize the town of Natick to enter into a certain lease agreement (House, No. 3968);

Establishing a sick leave bank for Thomas A. Connolly, an employee of the Department of Correction (House, No. 4023); and

Authorizing the town of Westboro to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises (House, No. 4049);

Severally were read a second time; and they were ordered to a third reading.

Recess.

Mr. Donato of Medford being in the Chair, -

at twenty-five minutes after eleven o'clock A.M., on motion of Mr. Hynes of Marshfield (Mr. Donato of Medford having taken the Chair), the House recessed until one o'clock P.M.; and at thirteen minutes after two o'clock P.M. the House was called to order with Mr. Donato in the Chair.

Engrossed Bill -- Land Taking.

The engrossed Bill authorizing the transfer of certain land to the city of Boston

(see House, No. 53) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 154 members voted in the affirmative and 0 in the negative.

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

#### Orders of the Day.

Mr. Petrolati of Ludlow being in the Chair,-

the House Bill amending the law providing incentives to the motion picture industry (printed in House, No. 4043) was read a second time.

The amendment previously recommended by the committee on Ways and Means, - - that the bill be amended by substitution of a Bill amending the law providing incentives to the motion picture industry (House, No. 4084), - - was adopted; and the substituted bill was ordered to a third reading.

Subsequently under suspension of the rules; on motion of Mr. Binienda of Worcester, the bill (having been reported by the committee on Bill in the Third Reading to be correctly drawn) was read a third time, its title having been changed by said committee to read: "An Act providing incentives to the motion picture industry."

After debate on the question on passing the bill to be engrossed, Mr. Mariano of Quincy moved to amend it by adding the following section:

"SECTION 11. Section 9 of chapter 158 of the acts of 2005 is hereby amended by striking out the words "and before January 1, 2013, but credits allowed pursuant to this act may be carried forward pursuant to sections 1 and 2 after January 1, 2013."

The amendment was rejected.

Mr. Wallace of Boston then moved to amend the bill by inserting after after section 1 the following section:

"SECTION 1A. The definition of 'Motion picture production company' in paragraph (1) of subsection (1) of section 62 of the General Laws, as so appearing, is hereby amended by inserting after the first sentence the following 2 sentences:--

A 'motion picture production company' includes any company, including its subsidiaries, involved with the financial, technical, and organizational management in which a motion picture, video, digital media project, television series, or commercial is made. It is the company that is responsible for executing the physical production, including the filming or taping."; and by inserting after section 2 the following section:



SECTION 2A. Subparagraph (ii) of paragraph (5) of subsection (1) of said section 6 of said chapter 62, of the General Laws, as so appearing is hereby amended by adding the following sentence:--

There is no transference liability for the good faith buyer of a credit certificate."

The amendments were rejected.

Mr. Mariano of Quincy then moved to amend the bill by adding the following section:

"SECTION 11. (a) For the purposes of this section, a state-certified infrastructure project shall mean an infrastructure project approved by the executive office of housing and economic development. A minimum investment of \$500,000 shall be required for certification as a 'state-certified infrastructure project'. The term 'infrastructure project' shall not include movie theaters or other commercial exhibition facilities.

An applicant for a state-certified infrastructure project shall submit an application to the executive office of housing and of economic development.

(b) Any taxpayer may claim an income tax credit of up to 20 percent for the construction, conversion, or equipping of a state-certified infrastructure project, or any combination of the activities of a motion picture, television, digital media, video gaming, post-production facility or any businesses that support such activity including but not limited to equipment rental, camera rental, film laboratory, or telecine facility. Unused credits may be carried forward 15 succeeding taxable years. All credits cannot reduce a taxpayer's income tax liability below 0 in any given year

(c) The secretary of economic development shall promulgate rules, regulations or guidelines relative to the administration and enforcement of this section; provided, however, that said rules, regulations or guidelines shall be promulgated by the secretary no later than December 31, 2007."

The amendment was rejected.

Mr. Mariano then moved to amend the bill by adding the following section:

"SECTION 11. Section 2 of chapter 58 of the General Laws, as appearing in the 2006 official edition, is hereby amended by inserting after the first paragraph the following paragraph:--

A film, television or new media production facility shall permanently qualify as a manufacturing corporation and shall be entitled to any and all tax benefits, subsidies and other state programs designed and enacted into law for manufacturing corporations."

The amendment was rejected.

Mr. Binienda of Worcester then moved to amend the bill 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 promote the Massachusetts motion picture industry, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."

The amendment was adopted.

On the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Binienda; and on the roll call 153 members voted in the affirmative and 1 in the negative.

Therefore the bill (House, No. 4084, amended) was passed to be engrossed. Sent to the Senate for concurrence.

#### Engrossed Bill -- Land Taking.

The engrossed Bill authorizing the town of North Reading to convey and acquire land (see House, No. 1954) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 153 members voted in the affirmative and 0 in the negative.

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

The engrossed Bill authorizing the town of North Reading to convey and acquire land (see House, No. 1955) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 155 members voted in the affirmative and 0 in the negative.

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

The engrossed Bill authorizing the town of Wellesley to convey a certain parcel of land (see printed in House, No. 3748) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 154 members voted in the affirmative and 0 in the negative.

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

The engrossed Bill authorizing the town of Wellesley to convey a certain parcel of land (see House, No. 3954) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call (Mrs. Harkins of Needham being in the Chair) 152 members voted in the affirmative and 0 in the negative.

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Order.

On motion of Mr. DiMasi of Boston,--

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at eleven o'clock A.M..

Messrs. Honan of Boston and Moran of Boston then moved that as a mark of respect to the memory of Michael J. Daly, a member of the House from the Brighton section of the city of Boston from 1967 to 1976, inclusive, the House adjourn; and the motion prevailed.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at twenty-six minutes after three o'clock P.M., on motion of Mr. Honan of Boston (Mrs. Harkins of Needham being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M., in an Informal Session.

MA H.R. Jour., 6/13/2007

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MA H.R. Jour., 7/26/2007

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Massachusetts House Journal, 7/26/2007

Massachusetts House Journal, July 26, 2007

Thursday, July 26, 2007

Massachusetts House of Representatives

2007 Regular Session

Met according to adjournment, at eleven o'clock A.M., with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

God of Compassion and Truth, each day our intention is to serve You and constituents in a faithful and thoughtful manner. Your always-available assistance enables us to respond conscientiously and responsibly to the list of proposed legislative issues and administrative programs which come before us. Grant us the patience and an open mind to look at these matters in an objective, fair, but critical way as we select our best legislative options. Inspire us to remain committed to our traditional principles, our human and religious values and beliefs as we go about our daily routine. Grant us the wisdom to unite our various constituencies in seeking the best present and future interests of people, communities and the Commonwealth.

Bestow Your blessings on the Speaker, the members and employees of this House and their families. Amen.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Messages from the Governor -- Bills Returned with Recommendations of  
Amendments.

A message from His Excellency the Governor returning with recommendation of amendment the engrossed Bill relative to the use of certain school building assistance program reimbursements to the city of Medford [see House, No. 4096, changed and amended] (for message, see House, No. 4180) was filed in the office of the Clerk on Wednesday, July 25.

The message was read; and, under the provisions of Article LVI of the Amendments

to the Constitution, the bill was thereupon "before the General Court and subject to amendment and re-enactment".

Pending the question on adoption of the amendment recommended by His Excellency, the bill was referred, on motion of Mr. Golden of Lowell, to the committee on Bills in the Third Reading.

Subsequently said committee reported recommending that the amendment recommended by the Governor be considered in the following form:

By striking out section 2 and inserting in place thereof the following section:

"SECTION 2. The city of Medford shall restore any amount appropriated under this act to the reserved grant funds by fiscal year 2011 by making annual payments of equal increments in each fiscal year beginning in fiscal year 2009. The city shall notify the commissioner of revenue of the annual payments, and if payments are not equal to or in excess of the amount necessary to achieve full restoration on the annual payment schedule by fiscal year 2011, the state treasurer shall deduct from Medford's total state school aid, as defined in section 2 of chapter 70 of the General Laws, sufficient funds to make the payments and deposit the funds in the reserved grant funds. If the city pays in excess of the required incremental payment, then the excess shall carry over and apply to the next fiscal year payment. The amount to be repaid shall not include amounts paid by the city of Medford for debt service on the repair project that would have been funded by the reserve in fiscal years 2008, 2009 and 2010 if transfers had not been made under section 1."

The report was accepted.

The amendment recommended by the Governor then was adopted. Sent to the Senate for concurrence.

A message from His Excellency the Governor returning with recommendation of amendment the engrossed Bill relative to security freezes and notification of data breaches [see House, No. 4144] (for message, see House, No. 4181) was filed in the office of the Clerk on Wednesday, July 25.

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

Pending the question on adoption of the amendment recommended by His Excellency, the bill was referred, on motion of Mr. Golden of Lowell, to the committee on Bills in the Third Reading.

Subsequently said committee reported recommending that the amendment recommended by the Governor be considered in the following form:

In section 16, in subsection 2, in paragraph (b), by striking out the first sentence and inserting in place thereof the following sentence: "The supervisor of records, with the advice and consent of the information technology division to the extent of its jurisdiction to set information technology standards under paragraph (d) of section 4A of chapter 7, shall establish rules or regulations designed to safeguard the personal information of residents of the commonwealth that is owned or licensed."

The report was accepted.

The amendment recommended by the Governor then was adopted. Sent to the Senate for concurrence.

#### Message from the Governor.

A message from His Excellency the Governor recommending legislation relative to protecting the Commonwealth from natural disasters or emergencies that threaten the public health or safety of its citizens (House, No. 4182) was filed in the office of the Clerk on Wednesday, July 25.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Ways and Means.

#### Statement of Representative Alicea of Charlton.

A statement of Mr. Alicea of Charlton was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I was not able to be present in the House Chamber for a portion of today's sitting due to official business in another part of the State House. Any roll calls that I may have missed was due entirely to the reason stated. Alicea of Charlton.

#### Statement Concerning Representative Spellane of Worcester.

A statement of Mr. Rushing of Boston concerning Mr. Spellane of Worcester, was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Spellane of Worcester, was not present in the House Chamber for today's sitting due to a scheduling conflict. Any roll calls that he missed today is due entirely to the reason stated. If he had been present for roll call nos. \_\_\_\_ and \_\_\_\_, he would have voted in the affirmative, in both instances. Representative Spellane of Worcester.

#### Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. Alicea of Charlton and other members of the House) honoring the premiere of the "Borinqueneers", a documentary film about the all-Puerto Rican sixty-fifth infantry regiment;

Resolutions (filed by Mr. Bosley of North Adams) congratulating President Dr. Ira S. Lapidus on the occasion of his retirement from the Williamstown Theatre Festival's Board of Trustees;

Resolutions (filed by Representatives Gobi of Spencer and Alicea of Charlton) recognizing Reverend Paul Samuelson and Diane Samuelson for their endless dedication to the 4-H community;

Resolutions (filed by Messrs. Guyer of Dalton, Bosley of North Adams, Pignatelli of Lenox and Speranzo of Pittsfield) congratulating President and Chief Executive Officer William R. Wilson, Jr. on the occasion of his retirement from the Berkshire Visitors Bureau;

Resolutions (filed by Representatives Smola of Palmer, Alicea of Charlton, Frost of Auburn, Gobi of Spencer and Kujawski of Webster) congratulating Richard M. Mangion on the occasion of his retirement from Harrington Memorial Hospital; and

Resolutions (filed by Ms. St. Fleur of Boston and other members of the House) recognizing Charlotte Golar Richie of Dorchester for her outstanding achievements in public service;

Mr. Scaccia of Boston, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Galvin of Canton, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

#### Order.

The following order (filed this day by Mr. DiMasi of Boston) was referred, under Rule 85, to the committee on Rules:

Ordered, That the precept to be issued by the Speaker, under the provisions of Section 141 of Chapter 54 of the General Laws, appointing a time for the election to fill the vacancy existing in the office of Representative in the General Court from the First Suffolk District shall designate Tuesday, October 23, 2007 as the time ordered by the House of Representatives for said election.

Mr. Scaccia of Boston, for the committee on Rules, then reported that the order ought to be adopted. Under suspension of the rules, on motion of Mrs. Walrath of Stow, the order was considered forthwith; and it was adopted.

#### Petition.

Mr. DiMasi of Boston presented a petition (subject to Joint Rule 12) of Salvatore F. DiMasi and others relative to child abuse and neglect; and the same was referred, under Rule 24, to the committee on Rules.

Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, then reported recommending that Joint Rule 12 be suspended. Under suspension of the rules, on motion of Mr. Rogers of Norwood, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Children, Families and Persons with Disabilities. Sent to the Senate for concurrence.

#### Papers from the Senate.

The Senate Bill relative to the Wallace Civic Center and Planetarium in the city of Fitchburg (Senate, No. 2209) came from the Senate with the endorsement that said branch had concurred with the House in its amendment (striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4171), with the following further amendments:



In section 1, in the first sentence, striking out the year "2007" and inserting in place thereof the year "2008" and in item 7110-0101, in line 9, inserting after the word "received" the words "by the college or the division";

In section 4, striking out subsection (b) and inserting in place thereof the following subsection:

"(b) Nothing in this section shall prohibit the college, whether pursuant to any management or other agreement or lease its authorities under this act, including its authority to collect, apply and expend any revenues from the management, maintenance and operation of the civic center, and to do so upon terms and subject to requirements or limitations as it may deem necessary or appropriate."; and

In section 6, in subsection (b), striking out the fourth sentence and inserting in place thereof the following sentence: "All consideration received by the college or the division from a lease shall be payable into the retained revenue account established in section 1 and shall be held, applied and expended in accordance with the terms thereof.".

Under suspension of Rule 35, on motion of Mr. DiNatale of Fitchburg, the further amendments (reported by the committee on Bills in the Third Reading to be correctly drawn, as changed) were considered forthwith; and they were adopted, in concurrence.

The House Bill relative to certain playground land in the town of Provincetown (House, No. 3754) came from the Senate passed to be engrossed, in concurrence, with amendments inserting in section 1, in line 4, inserting after the word "committee" the words "for playground purposes"; and striking out section 2 and inserting in place thereof the following two sections:

"SECTION 2. If the land authorized for transfer in section 1 ceases to be used purposes described in section 1, the land shall revert to the board of selectmen of the town of Provincetown for playground purposes.

SECTION 3. This act shall take effect upon its passage."

Under suspension of Rule 35, on motion of Ms. Peake of Provincetown, the amendments (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted, in concurrence.

A Bill to transfer the care and custody of a portion of Cameron School conservation land from the conservation commission to the council on aging (printed as House, No. 4165) [Local Approval Received], passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Ms. Sandlin of Agawam, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Mr. Hall of Westford, the bill (having been reported by the committee on Bills in the Third Reading was read a third time; and it was passed to be engrossed, in concurrence, its title

having been changed by said committee to read: "An Act transferring the care and custody of a portion of Cameron School conservation land from the conservation commission to the council on aging in the town of Westford."

#### Bills

Regarding compliance with the streamlined sales and use tax agreement (Senate, No. 1757) (on a petition); and

Relative to welfare reform (Senate, No. 2298) (on Senate, Nos. 115 and 2295);

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 33, to the committee on Ways and Means.

#### Bills

Authorizing the appointment of Jonathan M. Robertson as a firefighter in the town of Milford notwithstanding the maximum age requirements (Senate, No. 2252) (on a petition) [Local Approval Received];

Authorizing the appointment of Antonio F. Dinis as a police officer in the town of Milford notwithstanding the maximum age requirements (Senate, No. 2253) (on a petition) [Local Approval Received];

Authorizing the appointment of Alcino Fernandes as a police officer in the town of Milford notwithstanding the maximum age requirements (Senate, No. 2254) (on a petition) [Local Approval Received];

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

A petition (accompanied by bill, Senate, No. 2297) of Pamela P. Resor and James B. Eldridge (by vote of the town) for legislation relative to the group insurance program of the town of Boxborough, was referred, in concurrence, to the committee on Public Service.

A petition of Michael R. Knapik and Donald F. Humason for legislation to establish a sick leave bank for Rosemary Rozak, an employee of the Department of Revenue, came from the Senate referred, under suspension of Joint Rule 12, to the committee on Public Service.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2302) was referred, in concurrence, to the committee on Public Service.

#### Reports of Committees.

By Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the following petitions:

Petition (accompanied by bill) of Donald F. Humason, Jr., and Michael R. Knapik for legislation to establish a sick leave bank for Therese M. Bull, an employee of the Department of Social Services; and

Petition (accompanied by bill) of Denise Provost and Timothy J. Toomey, Jr., for legislation to establish a sick leave bank for Savina J. Whitney, an employee of the Department of Social Services;

Severally to the committee on Public Service.

Under suspension of the rules, on motion of Mr. Sullivan of Fall River, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, asking to be discharged from further consideration of the Bill to increase recycling by landlords and tenants (House, No. 738), - - and recommending that the same be referred to the committee on Ways and Means. Under Rule 42, the report was considered forthwith; and it was accepted.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill establishing a sick leave bank for Daniel Curran, an employee of the Department of Correction (Senate, No. 2280) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Scibak of South Hadley, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on further motion of the same member, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed, in concurrence.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill establishing a sick leave bank for John J. Bish, an employee of the District Court Department (Senate, No. 2285, amended) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Kaufman of Lexington, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Ms. Gobi of Spencer, the bill (having been reported by the committee on Bills in the Third Reading was read, a third time; and it was passed to be engrossed, in concurrence, its title having been changed by said committee to read: "An Act establishing a sick leave bank for John J. Bish, an employee of the trial court."

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill authorizing the conveyance of a certain parcel of land in the city of Boston (House, No. 4066) ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4185). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling with the amendment pending.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Walsh of Boston, the bill was read a second time forthwith.

The amendment recommended by the committee on Ways and Means then was adopted; and the substituted bill (House, No. 4185) was ordered to a third reading.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill authorizing the Commissioner of the Division of Capital Asset Management and Maintenance to convey certain land to Sullivan and McLaughlin Companies, Inc. (House, No. 4067) ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4186). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling with the amendment pending.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Walsh of Boston, the bill was read a second time forthwith.

The amendment recommended by the committee on Ways and Means then was adopted; and the substituted bill (House, No. 4086) was ordered to a third reading.

By Mr. Rodrigues of Westport, for the committee on Consumer Protection and Professional Licensure, on a petition, a Bill relative to the maximum storage charges on motor vehicles involuntarily towed (House, No. 319).

By the same member, for the same committee, on House, No. 3978, a Bill relative to the issuance of an all alcohol beverage license in the city of Easthampton (House, No. 4176) [Local Approval Received].

By the same member, for the same committee, on House, No. 4093, a Bill authorizing the town of Weston to grant a single license for the sale of wine at a food store (House, No. 4177) [Local Approval Received].

By the same member, for the same committee, on House, No. 4094, a Bill authorizing the town of Westborough to grant an additional license for sale of wine and malt beverages to be drunk on the premises (House, No. 4178) [Local Approval Received].

By the same member, for the same committee, on House, No. 4095, a Bill relative to Aquinnah (House, No. 4179) [Local Approval Received].

Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

#### Engrossed Bills.

The engrossed Bill relative to property owned by the Boys and Girls Club of Brockton, Inc. (see Senate, No. 2175) (which originated in the Senate), in respect to which the Senate had concurred in adoption of the emergency preamble, was passed to be enacted; and it was signed by the acting Speaker and sent to the

Senate.

The engrossed Bill increasing the salaries of the licensing board in the city of Boston (see House, No. 2012) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

#### Motions to Discharge Certain Matters in the Orders of the Day.

Mr. Kaufman of Lexington moved that the Senate Bill relative to pension divestment, (Senate, No. 2255, amended), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill then was read a second time.

The amendment previously recommended by the committee on Ways and Means, - -that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4172, - -was adopted; and the bill, as amended, was ordered to a third reading.

Mr. Peterson of Grafton moved that the House Bill establishing a sick leave bank for Linda M. Supernor, an employee of the Department of Revenue (House, No. 4163), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill then was read a second time; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on further motion of the same members, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

#### Recess.

At twenty-three minutes before twelve o'clock noon, on motion of Mr. Fallon of Malden (Mr. Donato of Medford being in the Chair), the House recessed until half past twelve o'clock; and at a quarter before one o'clock P.M. the House was called to order with Mr. Hall of Westford in the Chair.

#### Orders of the Day.

Senate bills

Further regulating sewer connections in the town of Charlton (Senate, No. 1152, amended);

Further regulating water supply connections in the town of Charlton (Senate, No. 1153); and

Relative to the charter of the town of Bourne (Senate, No. 1177);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed, in concurrence.

#### House bills

Relative to the regional school budget process (House, No. 586, changed) (its title having been changed by the committee on Bills in the Third Reading);

Providing that certain physical conditions shall be presumed to have been suffered in the line of duty (House, No. 2578); and

Directing the superintendent of state office buildings to place a monument in honor of African Americans (House, No. 3193, changed) (its title having been changed by the committee on Bills in the Third Reading);

Severally reported by said committee to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

#### House bills

Approving the town of Nantucket to use, or to sell, convey or otherwise dispose of certain land situated in the town of Nantucket for any lawful purpose (printed as Senate, No. 2225); and

Approving the Nantucket Islands Land Bank and the town of Nantucket to use, or to sell, convey or otherwise dispose of certain land situated in the town of Nantucket for any lawful purpose (printed as Senate, No. 2227);

Severally were read a second time; and they were ordered to a third reading.

#### Recess.

At thirteen minutes before one o'clock P.M., on motion of Mr. O'Day of West Boylston (Mr. Hall of Westford being in the Chair), the House recessed until the hour of one o'clock; and at twenty-six minutes before two o'clock the House was called to order with Mr. Donato of Medford in the Chair.

#### Quorum.

Mr. Peterson of Grafton thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Donato of Medford), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 148 members were recorded as being in attendance. No. 124.

Therefore a quorum was present.

## Orders of the Day.

The Senate Bill relative to volunteers at state parks (Senate, No. 786), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

On the question on passing the bill to be engrossed, in concurrence, the sense of the House was taken by yeas and nays, at the request of Mr. Smizik of Brookline; and on the roll call 154 members voted in the affirmative and 0 in the negative. yea and nay No. 125.

Therefore the bill (Senate, No. 786) was passed to be engrossed, in concurrence.

The Senate Bill prohibiting internet hunting (Senate, No. 860, amended) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time.

On the question on passing the bill to be engrossed, in concurrence, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 151 members voted in the affirmative and 0 in the negative. yea and nay No. 126. [See Yea and Nay No. 126 in Supplement.]

Therefore the bill (Senate, No. 860, amended) was passed to be engrossed, in concurrence.

## Reports of Committees.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill providing for a certain exemption from the sales tax (House, No. 2876) ought to pass with certain amendments. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Binienda of Worcester, the bill was read a second time forthwith.

The amendments recommended by the committee on Ways and Means, - -that the bill be amended in section 3, in line 1, by striking out the word "Reporting" and inserting in place thereof the words "Notwithstanding any general or special law to the contrary, reporting"; by striking out section 4 and inserting in place thereof the following section:

"SECTION 4. (a) Notwithstanding any general or special law to the contrary, on or before December 31, 2007 the commissioner of revenue shall certify to the comptroller the amount of sales tax foregone, as as new revenue raised from personal and corporate income taxes and other sources pursuant to this act.

(b) Notwithstanding any general or special law to the contrary, the commissioner of revenue shall file a report with the joint committee on revenue and the house and senate committees on ways and means detailing the impact of this act. Said

report shall include, without limitation, an analysis by fund of the amounts under general or special laws governing the distribution of revenues under Chapter 64H of the General Laws which would have been deposited in each fund notwithstanding this act."; in section 5, line 1, by striking out the word "The" and inserting in place thereof the words "Notwithstanding any general or special law to the contrary, the"; and in section 6, in line 1, by striking out the word "Eligible" and inserting in place thereof the words "Notwithstanding any general or special law to the contrary, eligible",- were adopted.

After remarks on the question on ordering the bill, as amended, to a third reading, Mr. Jones of North Reading and other members of the House moved to amend it by inserting after section 6 the following two sections:

"SECTION 7. Chapter 64H of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after section 6 following new section:-

Section 6A. The commissioner shall, no later than July 15 of each year, designate a two-day weekend in August during which no excise shall be imposed upon non-business sales at retail in the commonwealth of tangible personal property, as defined in section 1 of this chapter. For the purposes of this section, tangible personal property shall not include telecommunications, tobacco products subject to the excise imposed by chapter 64C, gas, steam, electricity, motor vehicles, motorboats, meals, or any single item whose price is in excess of \$2,500. On such weekend, no vendor in the commonwealth shall add to the sales price or collect from any non-business purchaser an excise upon sales at retail of tangible personal property. The Commissioner shall not require any vendor to collect and pay excise upon sales at retail of tangible personal property purchased on the designated weekend, but any excise erroneously or improperly collected during these two day shall be remitted to the department of revenue.

Notwithstanding any general or special to the contrary, any reporting requirements imposed upon vendors of tangible personal property, by law or by regulation, including, but not limited to, the requirements for filing returns required by chapter 62C, shall remain in effect for sales for the two designated days.

Notwithstanding any general or special law to the contrary, on or before December 31 of each year, the commissioner shall certify to the comptroller the amount of sales tax revenue foregone due to the operation of this section. The commissioner shall issue a report, detailing by fund the amounts under general and special laws governing the distribution of revenues under chapter 64H which would have been deposited in each fund, notwithstanding this section.

Notwithstanding any general or special law to the contrary, the commissioner shall issue any instructions or forms, or promulgate any rules or regulations, deemed necessary to carry out this section.

Notwithstanding any general or special law to the contrary, eligible sales at retail of tangible personal property under the first paragraph of this section are restricted to those transactions occurring on the designated two-day weekend in August, as declared by the commissioner by July 15 of each year. Transfer the possession of or payment in full for the property shall occur on one of those weekend days, and prior sales or layaway sales are ineligible.

SECTION 8. Section 7 of this act shall take effect beginning January 1, 2008."

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 19 members voted in the affirmative and 134 in the negative.



Therefore the amendment was rejected.

Messrs. Peterson of Grafton and O'Day of West Boylston then moved to amend the bill by striking out the date "August 11" and inserting in place thereof, in each instance, the date "August 18" and by striking out the date "August 12" and inserting in place thereof, in each instance, the date "August 19".

After debate on the question on adoption of the amendments, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson; and on the roll call 20 members voted in the affirmative and 133 in the negative.

Therefore the amendments were rejected.

On the question on ordering the bill, as amended, to a third reading, the sense of the House was taken by yeas and nays, at the request of Mr. Binienda of Worcester; and on the roll call 145 members voted in the affirmative and 8 in the negative.

Therefore the bill (House, No. 2876, amended) was ordered to a third reading.

Subsequently, under suspension of the rules, on further motion of the same member, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill to continue the safe placement of newborn infants (Senate, No. 2177, amended) ought to pass with certain amendments. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Finegold of Andover, the bill was read a second time forthwith.

The amendments recommended by the committee on Ways and Means, - -that the bill be amended in section 1, in lines 1 and 2, by striking out the following: "Chapter 119 of the General Laws is hereby amended in Section 39 1/2 by inserting at the end thereof the following paragraph" and inserting in place thereof the following: "Section 39 1/2 of chapter 119 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting at the end thereof the following" and in line 29 by inserting after the word "on" the words "or before", - -were adopted.

After debate on the question on ordering the bill, as amended, to a third reading, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 151 members voted in the affirmative and 1 in the negative.

Therefore the bill, as amended, was ordered to a third reading.

Subsequently, under suspension of the rules, on further motion of Mr. Finegold, the bill (having been reported by the committee on Bills in the Third Reading was read a third time; and it was passed to be engrossed, in concurrence, its title

having been changed by said committee to read: "An Act relative to the safe placement of newborn infants.". Sent to the Senate for concurrence in the amendments.

The Speaker being in the Chair, - -

By Mr. Smizik of Brookline, for the committee on Environment, Natural Resources and Agriculture, on House, No. 3757, a Bill relative to the licensing requirements for certain tidelands (House, No. 4184) [Representative Brownsberger of Belmont dissenting]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. Smizik, the bill was read a second time forthwith.

Pending the question on ordering the bill to a third reading, Mr. Jones of North Reading asked for a count of the House to ascertain if a quorum was present. The Speaker, having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 149 members were recorded as being in attendance.

Therefore a quorum was present.

After debate on the question on ordering the bill to a third reading, Mr. Toomey of Cambridge and other members of the House moved to amend it in section 6 by inserting after the first paragraph the following paragraph:

"Notwithstanding the foregoing paragraph, any use or structure within the Northpoint development district defined in Section 114 of Chapter 123 of the Acts of 2006 shall be required to obtain a license under this chapter."

The amendment was rejected.

Mr. Toomey and other members of the House then moved to amend the bill in section 6 by inserting after the words "lacked the authority to issue such regulations" the words "Notwithstanding the foregoing paragraph, a license shall be required for any use or structure on landlocked tidelands that is part of a development that consists of one million gross square feet or more of buildings or structures, if construction has not started on such use or structure as of the effective date of this act. In determining whether any such development consists of one million gross square feet or more, the entirety of the planned or permitted development, including any likely future expansion, and not separate phases or segments thereof shall be considered. For this purpose, the development may not be phased or segmented to evade this requirement."

After debate on the question on adoption of the amendment, Mr. DeLeo of Winthrop moved to amend it by striking out the text thereof and inserting in place thereof the following:

"By adding at the end thereof the following section:-

SECTION 9. Notwithstanding chapter 28B or any other general or special law to the contrary, the director shall administer a public benefit determination for any development on filled tidelands including landlocked tidelands that consists of one million gross square feet or more of buildings or structures and that has been given a Certificate by the Secretary of Environmental Affairs but is not fully constructed on the effective date of this act. In determining whether any such development consists of one million gross square feet or more, the entirety of the planned or permitted development and not separate phases or segments thereof shall be considered. For this purpose, the development may not be phased or segmented to evade this requirement. The director shall conduct a public hearing for any public benefit determination under this section."

After debate on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Toomey of Cambridge; and on the roll call 115 members voted in the affirmative and 36 in the negative.

Therefore the further amendment was adopted, thus precluding a vote on the pending amendment.

Mr. Moran of Boston then moved to amend the bill in section 8 by inserting after the word "overpass" the words "or a public way subject to chapter 92, section 35"; and the amendment was rejected.

Ms. Walz of Boston and other members of the House then moved to amend the bill in section 4, in the third paragraph, in the third sentence, by inserting after the word "municipality" the words "or by a state or federal agency"; and the amendment was adopted.

Ms. Walz and other members of the House then moved to amend the bill in section 7, in the first paragraph, in the third sentence, by inserting the word "feasible:" the following: "(1)" and, in said sentence, by inserting after the word "ponds" the following: "and (2) which tidelands are private tidelands and which are Commonwealth tidelands, as defined by 310 CMR 9.02".

The amendments were adopted.

Ms. Walz then moved to amend the bill in section 1, in subsection 4, in the fourth paragraph, by striking out the word "minimal" and inserting in place thereof the words "de minimus"; and the amendment was adopted.

Ms. Wolf of Cambridge and other members of the House then moved to amend the bill in section 4, in the second paragraph, by striking out the first sentence, as follows: "No license shall be required under this chapter for fill on landlocked tidelands, or for uses or structures within landlocked tidelands."; and by striking out section 10, as follows:

"SECTION 10. The first paragraph of section 4 shall apply to all fill, uses and structures existing before, on, or after the effective date of this act."

The amendments were rejected.

Ms. Provost of Somerville and other members of the House then moved to amend the bill by adding at the end thereof the following section:

"SECTION 12. The Department of Environmental Protection shall take appropriate

enforcement action against all violations of c. 91 license #4632, dated December 13, 1962."

After remarks the amendment was rejected.

Ms. Provost and other members of the House then moved to amend the bill in section 1 by striking out the definition of "Public benefit" and inserting in place thereof the following definition:

"'Public benefit', shall mean public access, open space recreational activities, and other uses, mitigation, or compensation relative to chapter 91 licenses and permits; the positive impact on abutters and the surrounding community; enhancement to the property; benefits secured previously through city or town permits; environmental protection and preservation; community activities planned to occur at the development; enhancement of the public health and safety"; and in said section, in subsection 4, by striking out the fourth paragraph contained therein, as follows:

"The director shall also establish regulations relative to exempting the development of certain parcels of land that are determined to be of minimal impact from the public benefit determination."

Pending the question on adoption of the amendments, Mr. DeLeo of Winthrop moved that they be amended by striking out the definition of "Public benefit" and inserting in place thereof the following:

"'Public benefit', shall include, but not be limited to: public access; open space; recreational activities and other uses related to chapter 91 licenses and permits; mitigation or compensation for the use of tidelands; the purpose and effect of development; the impact on the abutters and the surrounding community; leases, easements or transfers; enhancement to the property, benefits of previously secured city or town permits, including but not limited to, community activities on the development; environmental protection and preservation; housing; commerce; economic development; the public health, safety and general welfare."; by striking out the language proposed to strike out the fourth paragraph contained in said subsection 4; and in said subsection by inserting after the second paragraph the following paragraph:

"Any determination of the director shall not supersede the rules and regulations of the department of environmental protection or any other requirements under chapter 91."

The further amendments were adopted, thus precluding a vote on the pending amendments.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by striking out sections 1 and 7.

After remarks on the question on adoption of the amendments, the sense of the House was taken by yeas and nays, at the request of Mr. Jones; and on the roll call 25 members voted in the affirmative and 126 in the negative.

Therefore the amendments were rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the bill in section 1, in subsection 1, in the definition of "Applicant", by inserting

after the word "form" the words "after the effective date of this act"; and the amendment was adopted.

On the question on ordering the bill, as amended, to a third reading, the sense of the House was taken by yeas and nays, at the request of Ms. Wolf of Cambridge; and on the roll call 119 members voted in the affirmative and 32 in the negative.

Therefore the bill, as amended, was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Mr. Golden of Lowell, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. The bill (House, No. 4184, printed as amended) then was sent to the Senate for concurrence.

#### Emergency Measure.

The engrossed Bill making provisions for the management and operation of the Wallace Civic Center and Planetarium in the city of Fitchburg (see Senate, No. 2209, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 55 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 150 members voted in the affirmative and 0 in the negative.

Therefore the bill was passed to be enacted; and it was signed by the Speaker; and sent to the Senate.

#### Engrossed Bills.

Mr. Donato of Medford being in the Chair, - -

Engrossed bills

Relative to volunteers at state parks (see Senate, No. 786);

Prohibiting internet hunting (see Senate, No. 860, amended); and

Relative to the charter of the town of Bourne (see Senate, No. 1177);

(Which severally originated in the Senate);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

The engrossed Bill relative to written majority authorization evidence of collective bargaining results (see House, No. 2465, amended) (which originated in the House), was put upon its final passage.

Pending the question on passing the bill to be enacted, Mr. DeLeo of Winthrop moved that Rule 40 be suspended; and the motion prevailed.

The same member and other members of the House then moved to amend the bill by adding at the end thereof the following two sections:

"SECTION 5. Section 3 of Chapter 150A of the General Laws is hereby amended by inserting after the text thereof the following sentence:- Employees shall have the right to refrain from any or all of such activities, except to the extent of making payment of service fees to an exclusive representative.

SECTION 6. Section 4A of the Chapter 150A of the General Laws is hereby amended by inserting at the end of paragraph (3) the following:-

; or

(4) To interfere with, restrain, or coerce any employer or employee in the exercise of any right guaranteed under this chapter."

The amendment was adopted. The bill (see House, No. 2465, amended) then was sent to the Senate for concurrence.

Recess.

At ten minutes after seven o'clock P.M., on motion of Mr. Smizik of Brookline (Mr. Donato of Medford being in the Chair), the House recessed until half past seven o'clock; and at eighteen minutes before eight o'clock the House was called to order with Mr. Donato in the Chair.

Engrossed Bills -- Land Takings.

The engrossed Bill relative to certain playground land in the town of Provincetown (see House, No. 3754, amended) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 150 members voted in the affirmative and 0 in the negative.

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

The engrossed Bill transferring the care and custody of a portion of Cameron School conservation land from the conservation commission to the council on aging in the town of Westford (see Senate bill printed as House, No. 4165) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call (the Speaker being in the Chair) 149 members voted in the affirmative and 0 in the negative.

Therefore the bill was passed to be enacted; and it was signed by the Speaker and sent to the Senate.

Order.

On motion of Mr. DiMasi of Boston,--

Ordered, That when the House adjourns today, it adjourn to meet on Monday next at eleven o'clock A.M.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at fourteen minutes before eight o'clock P.M., on motion of Mr. Costello of Newburyport (Mr. Donato of Medford being in the Chair), the House adjourned, to meet on Monday next at eleven o'clock A.M., in an Informal Session.

MA H.R. Jour., 7/26/2007

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Massachusetts House Journal, 11/15/2007

Massachusetts House Journal, November 15, 2007

Thursday, November 15, 2007

Massachusetts House of Representatives

2007 Regular Session

Met according to adjournment, at eleven o'clock A.M., with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

God, Our Creator, we look to You for Your always-available guidance as we take up and examine the legislative items on today's legislative calendar. Your gift of wisdom enables us to comprehend and to articulate clearly the often complex items on the day's agenda for the benefit of associates and constituents. In our daily struggle, as elected officials, help us to make the correct, ethical and compassionate decisions which best serve the many human and spiritual needs of people and families in our districts and in the Commonwealth. Guide our efforts to make our communities civil, safe, drug-free and alert to the needs of these and future times.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

At the request of the Chair (Mr. Donato) the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Statement Concerning Representative Atsalis of Barnstable.

A statement of Mr. Rogers of Norwood concerning Mr. Atsalis of Barnstable, was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Atsalis of Barnstable, will not be present in the House Chamber for today's sitting due out-of-state business. Any roll calls that he may miss today is due entirely to the reason stated. Representative Atsalis of Barnstable.



Statement Concerning Representative Bosley of North Adams.

A statement of Mr. Rogers of Norwood concerning Mr. Bosley of North Adams, was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Bosley of North Adams, will not be present in the House Chamber for today's sitting due to a previous commitment in his district. Any roll calls that he may miss today is due entirely to the reason stated. Representative Bosley of North Adams.

Statement Concerning Representative Flynn of Bridgewater.

A statement of Mr. Rogers of Norwood concerning Mr. Flynn of Bridgewater, was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Flynn of Bridgewater, will not be present in the House Chamber for today's sitting due to a previously scheduled commitment. Any roll calls that he may miss today is due entirely to the reason stated. Representative Flynn of Bridgewater.

Re-appointment to the Commission on the Status of Women.

The Speaker announced that (under Section 66 of Chapter 3 of the General Laws) he had re-appointed Ms. Helen Corbett to the Commission on the Status of Women.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. Atsalis of Barnstable) congratulating Nicholas P. Atcheson on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Mr. Atsalis of Barnstable) congratulating Adam Michael D'Amico on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Mr. D'Amico of Seekonk) congratulating Andrew McCaughey on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Mr. D'Amico of Seekonk) congratulating Eric Piñault on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Mr. D'Amico of Seekonk) congratulating Gregory Reynolds on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Mr. D'Amico of Seekonk) congratulating John Santos on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Mr. D'Amico of Seekonk) congratulating Aaron Yu on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Mr. D'Amico of Seekonk) congratulating Justin A. Ehnes on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Mr. D'Amico of Seekonk) congratulating Michael P. Ehnes on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Ms. Haddad of Somerset) congratulating David Arthur Prairie on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Mr. Kocot of Northampton) honoring Sister Susana Jimenez for fifty years in religious life;

Resolutions (filed by Mr. Ross of Wrentham) congratulating Christopher C. Laplante upon his elevation to the rank of Eagle Scout;

Resolutions (filed by Mr. Smizik of Brookline) commemorating the celebration of Chanukah; and

Resolutions (filed by Mr. Turner of Dennis) honoring a lifetime of contributions by Robert S. Mant to the Commonwealth;

Mr. Scaccia of Boston, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Ms. Wolf of Cambridge, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

#### Papers from the Senate.

The engrossed Bill relative to volunteers at state parks (see Senate, No. 786), which had been returned to the Senate by the Governor with recommendation of amendment (for message, see Senate, No. 2311), came from said branch with the endorsement that it had been amended by striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2402.

Under suspension of Rule 35, on motion of Ms. Flanagan of Leominster, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

#### Bills

Designating the month of November as Lung Cancer Awareness Month (Senate, No. 1871) (on a petition); and

Authorizing cities, towns and districts to send certain information to registered voters (Senate, No. 2409) (on Senate bill, No. 2387);

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

A petition (accompanied by bill, Senate, No. 2410) of Marc R. Pacheco (by vote of the town) for legislation regarding the location of alcoholic beverage licenses in the town of Wareham, was referred, in concurrence, to the committee on Consumer Protection and Professional Licensure.

Petitions were referred, in concurrence, under suspension of Joint Rule 12, as follows:

Petition (accompanied by bill, Senate, No. 2419) of Susan C. Tucker for legislation to allow cash redemption of certain gift certificates. To the committee on Consumer Protection and Professional Licensure.

Petition (accompanied by bill, Senate, No. 2420) of Harriette L. Chandler and Lewis G. Evangelidis for legislation to authorize the Division of Capital Asset Management and Maintenance to grant an easement in certain land in the town of Holden. To the committee on Bonding, Capital Expenditures and State Assets.

#### Reports of Committees.

By Mr. Kaufman of Lexington, for the committee on Public Service, on House, No. 2610, a Bill to provide accountability, efficiency and equity in retirement systems (House, No. 4370). Referred, under Joint Rule 1E, to the committee on Health Care Financing

By Mr. Costello of Newburyport, for the committee on Public Safety and Homeland Security, on a petition, a Bill relative to the Bureau of Forest Fire Control (House, No. 2370, changed in section 5 in lines 10 and 11 by striking out the following: "October 25, 2007" and inserting in place thereof the following: "June 30, 2008".). Read; and referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

#### Engrossed Bill.

The engrossed Bill relative to the assessment of taxes in the town of Uxbridge (see House, No. 4345) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting-Speaker and sent to the Senate.

#### Orders of the Day.

The Senate Bill allowing for the continued use of state-owned property for fishing, boating and tourism purposes on the Congamond Lakes in the town of Southwick (Senate, No. 2248) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time; and it was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment previously adopted by the House.

#### Senate bills

Authorizing the Division of Capital Asset Management and Maintenance to exchange land held for conservation and recreation purposes with the Nye Family of America Association, Inc (Senate, No. 2210); and

Authorizing the town of Tyngsborough to establish a recreation fields fund (Senate, No. 2291);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed, in concurrence.

House bills

Relative to certain conservation land in the town of Amherst (printed as Senate, No. 2247);

Establishing a task force within the Department of Education to examine hygienic procedures pertaining to band instruments (House, No. 413);

Relative to eligibility for cooperative housing corporations (House, No. 1224);

Relative to the Old King's Highway District (House, No. 1997);

Designating May 24 as Phenylketonuria Awareness Day (House, No. 3174);

Authorizing the town of Falmouth to install, finance and operate wind energy facilities (House, No. 3769);

Relative to the change from conservation use to general municipal use of a portion of the property known as Ridge Hill Reservation in the town of Needham (House, No. 4122);

Authorizing a retirement allowance for Leo Senecal (House, No. 4139) (its title having been changed by the committee on Bills in the Third Reading);

Authorizing the town of Weston to grant a license for the sale of wine at a food store (House, No. 4177) (its title having been changed by the committee on Bills in the Third Reading);

Relative to abandoned vessels (House, No. 4187);

Providing for the disposition of certain property at Medfield State Hospital (House, No. 4214);

Authorizing the sale of a certain parcel of land in the city of Waltham to said city (House, No. 4342);

Authorizing the town of Foxborough to grant three additional licenses for the sale of all alcoholic beverages to be drunk on the premises (House, No. 4300); and

Authorizing the transfer of the former Fisher Hill Reservoir in the town of Brookline (House, No. 4343);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally

sent to the Senate for concurrence.

The Senate Bill relative to members of the Executive Council (Senate, No. 2332) was read a second time; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Mr. Kaufman of Lexington, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed, in concurrence.

The Senate Bill relative to the Salem State College Assistance Corporation (Senate, No. 2242) was ordered to a third reading.

#### Senate bills

Authorizing the town of Wakefield to issue pension obligation bonds or notes (Senate, No. 1650);

Authorizing the Middlesex Retirement Board to grant a certain pension to James Charles Mickel (Senate, No. 2208);

Authorizing the town of Dedham to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (Senate, No. 2336, amended);

Authorizing bilingual ballots in municipal elections in the city of Worcester (Senate, No. 2362);

Establishing a sick leave bank for Peter Hebert, an employee of the Department of Mental Retardation (Senate, No. 2376); and

Relative to a certain motor vehicle number plate (printed as House, No. 221); and

#### House bills

To eliminate the use of the word retardation from the general laws (House, No. 1899);

To increase retirement benefits (House, No. 2594);

Establishing the Caleb Chase trust fund revenue fund in the town of Dennis (House, No. 3153);

Relative to the appointment of retired police officers in the city of Everett (House, No. 3982);

Relative to the special police force in the town of West Springfield (House, No. 4080);

Relative to administrative oversight of the hiring process in the town of West Boylston (House, No. 4099);

To permit town resident Daniel Wesinger to take the civil service test for the position of firefighter in the town of Arlington (House, No. 4123);

To permit town resident Brendan Gormley to take the civil service test for the position of firefighter in the town of Arlington (House, No. 4142);

Relative to technical corrections to the Massachusetts Business Corporation Act (House, No. 4301); and

Making amendments to the Uniform Commercial Code covering general provisions, documents of title and secured transactions including technical amendments (House, No. 4302);

Severally were read a second time; and they were ordered to a third reading.

Recess.

At thirteen minutes after eleven o'clock A.M., on motion of Mr. Golden of Lowell (Mr. Donato of Medford being in the Chair), the House recessed until the hour of one o'clock P.M.; and at eight minutes after one o'clock the House was called to order with Mr. Donato in the Chair.

Engrossed Bill -- Land Taking.

The engrossed Bill relative to the Grafton and South Grafton water districts (see House, No. 4241) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 156 members voted in the affirmative and 0 in the negative.

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

The Speaker being in the Chair,--

The House Bill relative to green communities (House, No. 4365) was read a second time.

After remarks on the question on ordering the bill to a third reading, at two minutes after three o'clock P.M., the Speaker declared a recess subject to the call of the Chair; and at six minutes after five o'clock the House was called to order with the Speaker in the Chair.

The bill then was ordered to a third reading.

At eight minutes after five o'clock P.M., on motion of Mr. Dempsey of Haverhill (the Speaker being in the Chair), the House recessed until a quarter before six

o'clock P.M.; and at twelve minutes after six o'clock the House was called to order with the Speaker in the Chair.

Under suspension of the rules, on motion of Mr. Dempsey, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time.

Pending the question on passing the bill to be engrossed, Mr. DeLeo of Winthrop and other members of the House moved to amend it 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."; by striking out section 3 and inserting in place thereof the following section:

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

Section 11E. (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, generator, transmission 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.

(b) The office of ratepayer advocacy shall be under the direction of an assistant attorney general appointed pursuant to section 2. The assistant attorney general shall devote his full time and attention to the duties of the office."; in section 5, by striking out subsection 22 and inserting in place thereof the following subsection:

"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 cosponsors 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 section 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.

(g) 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".; by striking out section 6 and inserting in place thereof the following section:

"SECTION 6. Chapter 25 of the General Laws is hereby amended by inserting after section 5D the following section:-

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

The department may, from time to time, audit all companies subject to the jurisdiction of said department, including, but not limited to, review of the following documents: (i) all financial statements, the balance sheet, the income statement, the statement of cash flows, the statement of retained earnings, the notes to the financial statements, the information in the annual return to the department of public utilities; (ii) all reconciling mechanisms related to rates, prices or charges, merger, acquisition or consolidation related costs and savings three years following the merger, acquisition or consolidation; and, (iii) service quality measure statistics and the service quality performance at least every 3 years or whenever service quality penalties equal to or exceed 50 percent of the maximum."; in section 8, by striking out subsection 24; in section 20, in subsection 11F1/2, in clause (a), in the third sentence, by inserting after the word "oil" the words ", nuclear power"; in section 28, in subsection 16, in paragraph (a), by inserting after the word "municipalities" the following words "and other governmental bodies", in said subsection 16, in paragraph (c), by inserting after the word "municipality" (the first, third, fourth and sixth time it appears) the words "or other governmental body", and in said subsection 16, in paragraph (d), by inserting, after the word "municipalities", in each instance, the words "and other governmental bodies"; in section 34, in subsection 38U, by striking out subsection (c) and inserting in place thereof the following subsection:

"(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."; by striking out section 35 and inserting in place thereof the following section:

"SECTION 35. Section 16 of chapter 132A of the General Laws, as so appearing, is hereby amended by adding at the end of the first paragraph the following sentence:- Notwithstanding any general or special law to the contrary, generating and transmission facilities for the production of energy via renewable resources, including but not limited to, solar photovoltaic or solar thermal electric energy, wind energy, ocean thermal, wave or tidal energy, and fuel cells utilizing renewable fuels, shall be a permitted use in any of the commonwealth's ocean sanctuaries other than the Cape Cod ocean sanctuary."; by striking out sections 60, 66 and 70; and by striking out section 76 and inserting in place thereof the following three sections:

"SECTION 76. Notwithstanding any general or special law to the contrary, the department of public utilities shall open an investigation and study relative to off-the-record ex-parte communications in any contested on-the-record proceeding before the department. The department shall report to the general court 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 clerk of the house of representatives, the clerk of the senate, who shall forward the same to the chairmen of the joint committee on telecommunications, utilities and energy on or before than April 1, 2008.

SECTION 77. Notwithstanding any general or special law to the contrary, 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.

SECTION 78. Notwithstanding any general or special law to the contrary, section 34 shall take effect on January 1, 2008."

After remarks the amendments were adopted.

Mr. Deleo of Winthrop and other members of the House then moved to amend the bill in section 2, in subsection 39D, in clause (a), in paragraph (i), in the first sentence, by inserting after the words "energy system" (the second time it appears) the word ", geothermal"; and in said sentence, by inserting after the words "water heating" the words ", air conditioning".

After remarks the amendments were adopted.

Mr. DeLeo and other members of the House then moved to amend the bill in section 28, in subsection 18, in the second paragraph, in the second sentence, by striking out the words "; 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"; by inserting after section 29 the following section:

"SECTION 29A. Chapter 30 of the General Laws, as so appearing, 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)."; and by adding at the end thereof the following section:

"SECTION 79. Notwithstanding any general or special law to the contrary, the department of clean energy shall establish a special commission to study the siting of clean and renewable energy generating facilities other than a waste to energy facility on property zoned for industrial use."

After remarks the amendments were adopted.

Mr. Kennedy of Brockton then moved to amend the bill by adding at the end thereof the following section:

"SECTION 80. 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."

The amendment was rejected.

Ms. Haddad of Somerset then moved to amend the bill by adding at the end thereof the following section:

"SECTION 80. 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 1 mile of a school, hospital, or nursing home."

The amendment was rejected.

Mr. Walsh of Boston then moved to amend the bill by adding at the end thereof the following two sections:

"SECTION 80. 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 81. 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."

The amendment was rejected.

Mr. Vallee of Franklin and other members of the House then moved to amend the bill in section 5, in subsection 22, in paragraph (d), in the first sentence, by inserting after the words "or tidal energy" the words "; flywheel energy storage"; in section 19, in subsection 22, in paragraph (b), in the first sentence, by inserting after the words "refuse-derived fuel" the following: "; (ix) flywheel energy storage"; in section 40, in the definition of "Renewable Energy", in the first sentence, by inserting after the words "or tidal energy" the words "; flywheel energy storage"; in section 47, in the definition of "Clean Energy Generating Unit", by inserting after the words "or tidal energy" the words "; flywheel energy storage".

The amendments were rejected.

Mr. Correia of Fall River then moved to amend the bill by inserting after section 75 the following section:

"SECTION 75A. 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 amendment was rejected.

Mr. Marzilli of Arlington then moved to amend the bill by adding at the end thereof the following section:

"SECTION 80. 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."

The amendment was rejected.

Mr. Marzilli then moved to amend the bill by striking out 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."

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Marzilli of Arlington; and on the roll call 33 members voted in the affirmative and 119 in the negative.

Therefore the amendment was rejected.

Mr. Marzilli then moved to amend the bill by adding at the end thereof the following section:

"SECTION 80. 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:-

(1) A tenant or owner of property located in the Commonwealth who is not a dependent 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 310 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 310 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 310 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 (1) 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 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 310.

(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 delimitter 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 With respect to taxable

aggregate shall not years beginning in:-

be allowed for more than:-

\$ 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 With respect to taxable

aggregate shall not years beginning in:-

be allowed for more than:-

\$ 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."

After debate on the question on adoption of the amendment, Messrs. Dempsey of Haverhill and DeLeo of Winthrop moved to amend it by adding at the end thereof the following subsection:

"Section 4. Notwithstanding any special or general law to the contrary, the provisions of this section shall not take effect until such time as the department of revenue has furnished a study of their impact on the state's economy and the revenue cost to the commonwealth and its cities and towns, including, but not limited to, a distributional analysis showing the impact on taxpayers of varying income levels, the current practice of other states, any anticipated change in employment, and ancillary economic activity, to the joint committee on revenue and the house and senate committees on ways and means."

After remarks the further amendment was adopted.

On the question on adoption of the amendment, as amended, the sense of the House was taken by yeas and nays, at the request of Mr. Marzilli of Arlington; and on the roll call 150 members voted in the affirmative and 2 in the negative.

Therefore the amendment, as amended, was adopted.

Mr. Kaufman of Lexington then moved to amend the bill by adding at the end thereof the following section:

"SECTION 81. 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."

The amendment was adopted.



Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after section 72 the following two 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."

Mr. Dempsey of Haverhill thereupon raised a point of order that the amendment offered by the gentleman from North Reading, et als, was improperly before the House because it went beyond the scope of the pending bill.

The Speaker state that the point of order was well taken; and the amendment was laid aside accordingly.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after section 31 the following 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."

Pending the question on adoption of the amendment, Mr. Jones and other members of the House moved that it be amended by striking out proposed section 31A and inserting in place thereof the following section:

"SECTION 31A. Clause (i) of section 59 of chapter 40 of the General Laws, as so appearing, is hereby amended by adding at the end thereof the following:-

provided further, notwithstanding the aforementioned provisions of this clause, any property having been improved with a renewable energy generating source, as defined by subsection (b) of section 11F of chapter 25A, or alternative energy generating source, as defined by subsection (a) of section 11F1/2 of chapter 25A, shall be designated a TIF zone;".

The further amendment was adopted, thus precluding a vote on the pending amendment.

Mr. Jones of North Reading and other members of the House then moved to amend the bill 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."

The amendment was adopted.

Mr. Jones and other members of the House then moved to amend the bill, in section 61, in paragraph 2, by striking out the words "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 words "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".

The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after section 34 the following 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 by adding at the end thereof the following two sections:

"SECTION 82. Section 34A of this act shall take effect on January 1, 2008.

SECTION 83. Section 34A of this act shall expire on December 31, 2008."

The amendments were rejected.

Mr. Jones and other members of the House then moved to amend the bill by inserting after section 60 the following 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."

The amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by adding at the end thereof the following section:

"SECTION 82. Sales on the incremental price difference between a hybrid or alternative fuel vehicle, as defined by section 1 of chapter 62 of the General Laws, and the same vehicle that uses traditional fuel shall be exempt from the tax imposed pursuant to chapter 64H of the General Laws for 1 year commencing on July 1, 2008. The commissioner of revenue, in consultation with the secretary of transportation and public works and the secretary of energy and environmental affairs, shall determine the exemption available pursuant to this section based on the incremental price difference between a hybrid or alternative fuel vehicle and the same non-hybrid or traditional fuel vehicle available for purchase in the commonwealth; provided, however, that 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."

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Jones; and on the roll call 152 members voted in the affirmative and 0 in the negative.

Therefore the amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by adding at the end thereof the following section:

"SECTION 83. 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."

The amendment was rejected.

Mrs. Creedon of Brockton and other members of the House then moved to amend the bill by adding at the end thereof the following section:

"SECTION 83. 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."

The amendment was rejected.

Ms. Callahan of Sutton then moved to amend the bill by adding at the end thereof the following section:

"SECTION 83. 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."

The amendment was rejected.

After debate on the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Puppolo of Springfield; and on the roll call 151 members voted in the affirmative and 0 in the negative.

Therefore the bill (House, No. 4373, printed as amended) was passed to be engrossed. Sent to the Senate for concurrence.

Order.

Mr. Donato of Medford being in the Chair,--

On motion of Mr. DiMasi of Boston,--

Ordered, That when the House adjourns today, it adjourn to meet on Monday next at eleven o'clock A.M.

Accordingly, without further consideration of the remaining matters in the Orders of the Day at twenty-five minutes after eight o'clock P.M., on motion of Miss Garry of Dracut (Mr. Donato of Medford being in the Chair), the House adjourned, to meet on Monday next at eleven o'clock A.M., in an Informal Session.

MA H.R. Jour., 11/15/2007

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Massachusetts House Journal, 11/19/2007

Massachusetts House Journal, November 19, 2007

Monday, November 19, 2007

Massachusetts House of Representatives

2007 Regular Session

Met according to adjournment, at eleven o'clock A.M., in an Informal Session, with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Eternal God, at the beginning of this busy, happy and family-oriented week, Thanksgiving week, we pray for Your continued assistance as we try to keep our personal and legislative priorities in clear focus. As a nation and a people, we are grateful for our many material and spiritual blessings which You have given us. Inspire us, during this week, to reflect and think about the historical origin of the events which we celebrate on Thursday. In these world-wide unstable times and possible terrorist activities, teach us to respect, without exception, the dignity and rights of all people, which include the youngest child to the most senior adult. May our respect for the importance of each individual person be an example for all nations to follow.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Message from the Governor.

A message from His Excellency the Governor recommending legislation relative to financing the production and preservation of housing for low and moderate income residents (House, No. 4375) was filed in the office of the Clerk on Friday, November 16.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Housing. Sent to the Senate for concurrence.

## Appointment to a Special Task Force.

The Speaker announced the appointment of Representative Murphy of Lowell as co-chairperson of the special task force established (under Section 83 of Chapter 61 of the Acts of 2007) to examine existing college campus policies, procedures and programs, communication plans, the staffing and training of security personnel and make recommendations to reduce and prevent incidents of campus violence.

## Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. Casey of Winchester) congratulating Carl A. Accardo on the occasion of his retirement from Massachusetts Institute of Technology; and

Resolutions (filed by Mr. D'Amico of Seekonk) congratulating James Drohan on receiving the Eagle Award of the Boy Scouts of America;

Mr. Scaccia of Boston, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of the same member, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

## Petitions.

Petitions severally were presented and referred as follows:

By Mr. Walsh of Lynn, petition (accompanied by bill, House, No. 4378) of Steven M. Walsh and others (with the approval of the mayor and city council) for legislation to authorize the city of Lynn to grant an additional license for the sale of alcoholic beverages not to be drunk on the premises to Salvy the Florist. To the committee on Consumer Protection and Professional Licensure.

By Mr. DeLeo of Winthrop, petition (accompanied by bill, House, No. 4379) of Robert A. DeLeo and others (with the approval of the mayor and city council) that the retirement board of the city of Revere be authorized to pay an alternative retirement allowance to Kathryn Walsh, the widow of John Walsh, a retired fire fighter of said city. To the committee on Public Service.

By Mr. Calter of Kingston, petition (accompanied by bill, House, No. 4380) of Thomas J. Calter and others (by vote of the town) that the board of assessors of the town of Duxbury be authorized to assess certain tax betterments relative to funding for the repair of seawalls in the Gurnet Road area of said town; and

By Ms. Peake of Provincetown, petition (accompanied by bill, House, No. 4381) of Sarah K. Peake (by vote of the town) relative to property tax exemptions for rental properties restricted as affordable housing in the town of Truro;

Severally to the committee on Revenue.

Severally sent to the Senate for concurrence.

Petitions severally were presented and referred as follows:

By Representative Eldridge of Acton and Senator Resor, joint petition (subject to Joint Rule 12) of James B. Eldridge and Pamela P. Resor for legislation to provide certain tax credits for construction of a renewable energy manufacturing facility within the Devens Regional Enterprise Zone.

By Mr. Evangelidis of Holden, petition (subject to Joint Rule 12) of Lewis G. Evangelidis relative to reinstatement fees imposed on junior operators for reinstatement of suspended licenses for the operation of motor vehicles.

By Mr. Peterson of Grafton, petition (subject to Joint Rule 12) of George N. Peterson, Jr., for legislation to designate a certain bridge over Depot Street in the town of Grafton as the Private Walter Ermak Bridge.

By Mr. Spellane of Worcester, petition (subject to Joint Rule 12) of Robert P. Spellane for legislation to provide an income tax credit for costs associated with requirements imposed by the Registry of Motor Vehicles on applicants for a junior operators license.

By Ms. Spiliotis of Peabody, petition (subject to Joint Rule 12) of Joyce A. Spiliotis relative to the granting of police duties and powers to court officers on premises of the judicial branch.

By Mr. Stanley of Waltham, petition (subject to Joint Rule 12) of Thomas M. Stanley that cities and towns be authorized to regulate the placement of double poles for the transmission of electricity.

By Mr. Vallee of Franklin, petition (subject to Joint Rule 12) of James E. Vallee for legislation to establish a sick leave bank for Matthew Charleson, an employee of the Department of Correction.

By Mr. Walsh of Lynn, petition (subject to Joint Rule 12) of Steven M. Walsh and others for an investigation by a special commission (including members of the General Court) relative to the equity of tolls charged motorists by the Massachusetts Turnpike Authority.

By Mr. Welch of West Springfield, petition (subject to Joint Rule 12) of James T. Welch for legislation to establish a family assistance fund for victims of murder.

By the same member, petition (subject to Joint Rule 12) of James T. Welch for legislation to authorize cities and towns to grant real estate tax benefits to veterans held as prisoners of war.

Severally, under Rule 24, to the committee on Rules.

Papers from the Senate.

A Bill relative to the administration of elections to be held in the year 2008 (Senate, No. 2414) (on Senate, No. 439) [Senators Brown and Creedon, for the committee on Election Laws, dissenting], passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.



Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Ms. Wolf of Cambridge, the bill was read a second time forthwith.

Pending the question on ordering the bill to a third reading, Mr. Bradley of Hingham moved to amend it by striking out section 7 and inserting in place thereof the following section:

"SECTION 7. Notwithstanding sections 34 and 70E of chapter 53 of the General Laws or any general or special law to the contrary, the state secretary may print the names of candidates for special state primaries on the same ballot for use at the presidential primary in any city or town within a district in which a special state primary is called for February 5, 2008. The appearance of the order of offices on presidential primary ballots in 2008 on which state primary candidates are also printed shall be at the discretion of the state secretary."; and by striking out section 14 and inserting in place thereof the following section:

"SECTION 14. Notwithstanding any general or special law to the contrary, the state secretary shall have the authority to add or change any dates relating to the presidential primary held on February 5, 2008 as he deems necessary for the orderly administration of the election by providing notice of such change to any affected person, by filing notice with the rules and regulations division, by posting on his website and by whatever other means he deems appropriate."

The amendments were adopted; and the bill (Senate, No. 2414, amended) was ordered to a third reading.

A Bill to establish the Massachusetts Commission on advanced practice nursing (Senate, No. 2418) (on a part of Senate bill No. 23992), passed to be engrossed by the Senate, was read; and it was referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

#### Bills

Protecting the natural resources of the Commonwealth (Senate, No. 2388, amended in section 1, in line 25, by striking out the words "preservation restrictions,") (on Senate, No. 542); and

To facilitate homeowner heating oil spill remediation (Senate, No. 2404) (on Senate, No. 538);

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 33, to the committee on Ways and Means.

#### Bills

Authorizing the certification and eligibility of Bradley Fitzgerald, James Cambra, Robert Chase, Steven Baptiste and Timothy Larkin as firefighters in the city of Taunton (Senate, No. 2154) (on a petition) [Local Approval Received];

Regulating the provision of health insurance to surviving spouses of certain employees of the town of Wareham (Senate, No. 2157) (on a petition) [Local

Approval Received];

Further regulating the group insurance program of the town of Boxborough (Senate, No. 2297) (on a petition) [Local Approval Received];

Further amending the representative town meeting procedures in the town of Randolph (Senate, No. 2305) (on a petition) [Local Approval Received];

Authorizing the town of Hopedale to acquire certain property for municipal purposes (Senate, No. 2321) (on a petition) [Local Approval Received];

Relative to the membership of the conservation commission of the town of Carver (Senate, No. 2326) (on a petition) [Local Approval Received];

A Bill authorizing the city of Lowell to pay a certain court judgment (Senate, No. 2329) (on a petition) [Local Approval Received]; and

Relative to Gary J. Lopes, Jr., an employee of the town of Wareham (Senate, No. 2333) (on a petition) [Local Approval Received];

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

The following notice was received from the Clerk of the Senate, to wit:- < asis> November 19, 2007. <asis> Honorable Salvatore F. DiMasi Speaker of the House of Representatives Room 356 State House Boston, MA 02133 <asis> Dear Mr. Speaker:

I have the honor to inform you that the Honorable Honorable Richard R. Tisei, Senate Minority Leader, has announced his appointment of Senator Bruce E. Tarr (pursuant to Section 35EE of Chapter 61 of the Acts of 2007) as a member of the Board of Trustees of the Commonwealth Covenant Fund. <asis> Respectfully submitted, <asis> William F. Welch <asis> Clerk of the Senate

#### Reports of Committees.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill establishing a sick leave bank for Michelle Souther, an employee of the Registry of Motor Vehicles (Senate, No. 2384) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Verga of Gloucester, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Kaufman of Lexington, for the committee on Public Service, on a petition, a Bill authorizing Michael McHugh to take the civil service examination for police officer (House, No. 4271).

By Mr. Cabral of New Bedford, for the committee on State Administration and Regulatory Oversight, on a petition, a Bill declaring November Thrombosis Awareness Month (House, No. 4288).

Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Donato of Medford, for said committee, then reported that the matters be scheduled for consideration by the House; and, under said rule, they were placed in the Orders of the Day for the next sitting for a second reading.

By Mr. Scaccia of Boston, for the committees on Rules of the two branches, acting concurrently, that the following

Bill establishing the grandparents raising grandchildren commission (House, No. 617); and

Bill relative to a special commission on seafood marketing (House, No. 777, changed);

Severally referred, under Rule 33, to the committee on Ways and Means.

By Mrs. Walrath of Stow, for the committee on Health Care Financing, on House, No. 4199, a Bill relative to school nutrition (House, No. 4376) [Cost: \$995,695.00].

By Mr. Torrisi of North Andover, for the committee on Labor and Workforce Development, on House No. 1799, reported, in part, a Bill relative to unemployment insurance rates (House, No. 4374).

By Mr. Kaufman of Lexington, for the committee on Public Service, on a petition, a Bill relative to creditable service for municipal planning board members (House, No. 2476).

By the same member, for the same committee, on a petition, a Bill relative to the credible service of Ray Silva (House, No. 2673).

By the same member, for the same committee, on a petition, a Bill relative to the Massachusetts Teachers' Retirement Board (House, No. 2677, changed in line 3, by inserting after the word "Jr." the words "three months", and by striking out, in lines 4 and 5, the following: "rendered from November 1985 to September 1989").

By the same member, for the same committee, on a petition, a Bill further regulating the retirement benefits of correctional officers (House, No. 2691).

By the same member, for the same committee, on the joint petition, a Bill directing the State Retirement Board to retire Robert Emmet Fitzgerald (House, No. 2751).

By Mr. Wagner of Chicopee, for the committee on Transportation, on House, No. 3524, a Bill relative to the operation of low-speed motor vehicles (House, No. 4377).

Severally read; and referred, under Rule 33, to the committee on Ways and Means.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling,

that the following matters be scheduled for consideration by the House:

The Senate Bill abolishing the North East Solid Waste Committee (Senate, No. 549, amended); and

House bills

Relative to professional engineers and land surveyors (House, No. 278);

Relative to assistant chief probation officers, first assistant chief probation officers and probation officers in charge (House, No. 1742); and

Requiring continuing education of construction supervisors (House, No. 4230);

Severally placed in the Orders of the Day for the next sitting for a second reading, with the amendments previously recommended by the committee on Ways and Means pending.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the following matters be scheduled for consideration by the House:

Senate bills

Relative to reckless endangerment of a disabled person (Senate, No. 1143); and

Authorizing the appointment of special police officers in the city of Fall River (Senate, No. 2251) [Local Approval Received]; and

House bills

Authorizing Jeffrey J. Giles to take the civil service examination for police officer in the city of Gardner notwithstanding the minimum age requirement (House, No. 4010) [Local Approval Received];

For special police officers for the city of Fall River (House, No. 4076) [Local Approval Received];

Exempting all positions in the town of Franklin's department of public works from the civil service law (House, No. 4103) [Local Approval Received];

Relative to the physician credentialing process (House, No. 4145);

Relative to town meetings in Orange (House, No. 4277) [Local Approval Received];

Establishing a sick leave bank for a certain employee of the Berkshire County sherrif's department (House, No. 4285);

Authorizing the city of Methuen to lease a portion of that building known as the Quinn Building to Methuen Municipal Employees Federal Credit Union (House, No. 4325) [Local Approval Received];

Relative to the Greenfield town charter (House, No. 4331), [Local Approval Received]; and

To clarify the site assignment process (House, No. 4363);

Severally placed in the Orders of the Day for the next sitting for a second reading.

By Mr. Wagner of Chicopee, for the committee on Transportation, ought NOT to pass, on the petition (accompanied by bill, House, No. 631) of Bruce J. Ayers that cities and towns be authorized to issue temporary placards for handicapped parking spaces.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2258) of Louanne Fucci for legislation to further regulate post trip inspections by drivers of school buses.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3378) of Louanne Fucci for legislation to regulate the movement of motor vehicles after students have alighted from or boarded school buses.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3428) of Demetrius J. Atsalis for legislation to further regulate the wearing of helmets for passengers and operators of motorcycles.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3430) of Bruce J. Ayers relative to further regulating junior operator's licenses.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3432) of Bruce J. Ayers relative to increasing the fine for handicapped parking violations.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3471) of John Walsh relative to increasing the age for obtaining a motor vehicle driving license.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3486) of Donna Peters for legislation to impose a penalty for operating a motor vehicle while smoking if children are riding as passengers in such vehicle.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3493) of Anne M. Gobi and others relative to the operation of motorcycles in the breakdown lane during heavy traffic periods.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3494) of Anne M. Gobi and others relative to protective headgear while operating or riding as a passenger on a motorcycle.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3538) of Thomas P. Kennedy that stop arm warning

devices be required on both sides of school buses.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3641) of Louanne Fucci relative to the installation of school bus safety gates.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3647) of Benjamin Swan and others for legislation to establish driver education and training reform.

Severally referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Donato of Medford, for said committee, reported that the matters be scheduled for consideration by the House; and, under said rule, they were placed in the Orders of the Day for the next sitting, the question, in each instance, being on acceptance.

#### Emergency Measure.

The engrossed Bill authorizing the Division of Capital Asset Management and Maintenance to exchange land held for conservation and recreation purposes with the Nye Family of America Association, Inc. (see Senate, No. 2210), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 5 to 0. Sent to the Senate for concurrence.

#### Engrossed Bills.

The engrossed Bill relative to volunteers at state parks (see Senate, No. 786, amended) (which originated in the Senate) (which had been returned by His Excellency the Governor with recommendation of amendment), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be re-enacted, in its amended form; and it was signed by the acting Speaker and sent to the Senate.

#### Engrossed bills

Authorizing the town of Tyngsborough to establish a recreation fields fund (see Senate, No. 2291);

Relative to members of the Executive Council (see Senate, No. 2332);

(Which severally originated in the Senate); and

Authorizing the city of Salem to issue additional liquor licenses for the sale of wines and malt beverages not to be drunk on the premises (see House, No. 4274) (which originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Orders of the Day.

The Senate Bill establishing a sick leave bank for Peter Hebert, an employee of the Department of Mental Retardation (Senate, No. 2376), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed, in concurrence.

Order.

On motion of Mr. DiMasi of Boston,--

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at eleven o'clock A.M.

At twenty-one minutes before twelve o'clock noon, on motion of Mr. deMacedo of Plymouth (Mr. Donato of Medford being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M.

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