Thursday, November 15, 2007.

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:

Prayer.

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.

Pledge of allegiance.

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:

Statement concerning Representative Atsalis of Barnstable.

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.

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:

Statement concerning Representative Bosley of North Adams.

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, was not present in the House Chamber for today's sitting due to a previous commitment in his district. Had he been present for the taking of yea and nay No. 218, on passing to be engrossed the House Bill relative to green communities (House, No. 4373, printed as amended), he would have voted in the affirmative. Any roll calls that he missed today is due entirely to the reason stated.

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.

Statement concerning 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.

Status of Women Commission.

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;

Nicholas P. Atcheson.

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

Adam Michael D'Amico.

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

Andrew McCaughey.

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

Eric Pinault.

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

Gregory Reynolds.

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

John Santos.

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

Aaron Yu.

Resolutions (filed by Mr. deMacedo of Plymouth) congratulating Justin A. Ehnes on receiving the Eagle Award of the Boy Scouts of America;

Justin A. Ehnes.

Resolutions (filed by Mr. deMacedo of Plymouth) congratulating Michael P. Ehnes on receiving the Eagle Award of the Boy Scouts of America;

Michael P. Ehnes.

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

David Arthur Prairie.

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

Sr. Susanna Jimenez.

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

Christopher C. Laplante.

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

Chanukah.

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

Robert S. Mant.

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.

State parks,—volunteers.

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

Lung cancer awareness.

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

Voter information.

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.

Wareham,—liquor licenses.

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:

Gift certificates,—cash redemption.

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.

Holden,—land conveyance.

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.

Retirement systems.

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. Forest Fire Control.

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. Bill enacted.

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, 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; and it was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment previously adopted by the House. Third reading bill.

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 Third reading bills.

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); Id.

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);

Third reading bills.

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.

Second reading bill engrossed.

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.

Second reading bill.

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

Second reading bills.

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. Recess.

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. Grafton,— water districts.

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. Bill enacted (land taking),— yea and nay No. 214.

[See Yea and Nay No. 214 in Supplement.]

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.

The Speaker being in the Chair,—

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

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. Recess.

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. Recess.

Green communities.

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 common-

wealth 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

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actions are calculated to advance the public purpose and public interests set forth in this section, including, but not limited to, the following: (i) the growth of the renewable energy-provider industry; (ii) the use of renewable energy by electricity customers in the commonwealth; (iii) public education and training regarding renewable energy; (iv) product and market development; (v) pilot and demonstration projects and other activities designed to increase the use and affordability of renewable energy resources by and for consumers in the commonwealth; (vi) the provision of financing in support of the development and application of related technologies at all levels, including, but not limited to, basic and applied research and commercialization activities; (vii) the design and making of improvements to existing renewable energy projects and facilities as defined herein which were in operation as of December 31, 1997; and (viii) matters related to the conservation of scarce energy resources. The secretary shall, in consultation with the advisory board established pursuant to subsection (g), adopt a detailed plan for the application of the fund in support of the design, implementation, evaluation, and assessment of a renewable energy program for the commonwealth, subject to periodic revision by the secretary, that ensures that the fund shall be employed to provide financial and non-financial resources to overcome barriers facing renewable energy enterprises, institutions, and projects in a prudent manner consistent with the public purposes and interests set forth in this section. Said plan, to the extent practicable, shall consist of at least four components: (i) 'product and market development' to establish a foundation for growth and expansion of the commonwealth's renewable energy enterprises, institutions, and projects, including pilot and demonstration projects, production incentives, and other activities designed to increase the use and affordability of renewable energy in the commonwealth; (ii) 'training and public information' to allow for the development and dissemination of complete, objective, and timely information, analysis, and policy recommendations related to the advancement of the public purposes and interests of the renewable energy fund; (iii) 'investment' to support the growth and expansion of renewable energy enterprises, institutions, and projects; and (iv) 'research and development' within the commonwealth related to renewable energy matters. Said plan shall specify the expenditure of such monies from the fund to each of these component activities; provided, however, that monies so expended shall be used to develop such renewable energy projects within the commonwealth. In developing said plan, the secretary is hereby authorized and directed to consult with and utilize the services of the executive office for such technical assistance as the secretary deems necessary or appropriate to the effective discharge of his responsibilities and duties relative to the fund.

(e) Subject to the approval of the secretary, investment activity of monies from the fund may consist of the following: (i) an equity fund, to provide risk capital to renewable energy enterprises, institutions, and projects; (ii) a debt fund, to provide loans to renewable energy enterprises, institutions, projects, intermediaries, and end-users; and (iii) a market growth assistance fund, to be used to attract

private capital to the equity and debt funds. To implement these investment activities, the secretary is hereby authorized to retain, through a competitive bid process, a public or private sector investment fund manager or managers, who shall have prior knowledge and experience in fund management and possess related skills in renewable energy and related technologies development, to direct the investment activity described herein and to seek other fund co-sponsors to contribute public and private capital from the commonwealth and other states; provided, however, that such capital is appropriately segregated. Said manager or managers, subject to the approval of the secretary, shall be authorized to retain necessary services and consultants to carry out the purposes of the fund. Said manager or managers shall develop a business plan to guide investment decisions, which shall be approved by the secretary prior to any expenditures from the fund and which shall be consistent with the provisions of the plan for the fund as adopted by the secretary.

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

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

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

(h) In addition to the powers granted pursuant to chapters 23G and 40D of the General Laws, the agency is hereby authorized to borrow money and issue and secure its bonds for the purpose of financing renewable energy generating facilities, renewable energy

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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

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the commonwealth, of such amount as shall be transferred pursuant to the first sentence of this paragraph. The green power premium shall be determined by subtracting from the total amount of the purchase price the undifferentiated commodity price for electricity under then-current commonwealth contracts. No payments shall be required from the commonwealth pursuant to any such contract prior to the fiscal year ending June 30, 2005, and the maximum payment in any 1 fiscal year under all such contracts shall not exceed $5 million. The commonwealth shall be indemnified under such contracts by said owners or power marketers on such terms as the corporation shall deem commercially reasonable. The amounts collected under section 20 of chapter 25 are impressed with a trust for the benefit of the fund and, to facilitate the purchase by the executive office of electricity produced by renewable energy technologies or the purchase of certificates produced pursuant to the renewable energy portfolio standard regulations of the department representing the generation attributes of electrical energy produced by renewable energy technologies, and in consideration of the sale of such electricity or certificates, the commonwealth covenants with the sellers of such electricity or certificates that the amounts collected under said section 20 of chapter 25 will not be diverted from the fund and that the rates of the mandatory charges pursuant to said section 20 of chapter 25 will not be reduced during the term, which shall not exceed 20 years, of any contract entered into by the executive office for the purchase of such electricity or certificates below a level which will enable the executive office to fulfill the terms of such contracts. In furtherance of the public purposes of the fund, income derived from the investment of amounts collected under section 20 of chapter 25 shall be expended by the executive office as provided in subsection (a) and, in the discretion of the executive office, in furtherance of the public purposes of the executive office and for such costs of departments and agencies of the commonwealth that support or are otherwise consistent with the purposes of the fund.

(q) The department shall, pursuant to chapter 30A, within 180 days of the effective date of this section promulgate rules and regulations and establish guidelines for the administration and enforcement of this section, including, but not limited to, establishing applicant criteria, application forms and procedures, and renewable energy product requirements.

(r) The secretary shall annually, no later than July 1, file a report with the house and senate committees on ways and means and the joint committee on telecommunications, utilities and energy. Said report shall include: (i) a list of fund recipients; (ii) the associated grant and loan amounts; (iii) the amounts of non-ratepayer funding leveraged, if any, as a result of the grants and loans, including in-kind and other non-cash contributions; (iv) the purposes of the grants and loans; (v) an annual statement of cash inflows and outflows detailing the sources and uses of funds; (vii) a detailed breakdown of all investments made by the fund pursuant to subsection (e); and (viii) a detailed breakdown of the purposes and amounts of administrative costs, including salaries, charged to the fund”.; 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 11F½, 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

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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 indus-

trial 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 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 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 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 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 chap-

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ter 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 mate-

rials; 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

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for sale in Massachusetts pursuant to Section 142K of Chapter 111 and its implementing regulations.

(e) The commissioner may promulgate guidance or regulations if necessary to carry out the provisions of this section.

Section 2. Section 1 of Chapter 60A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding after the ninth paragraph the following new paragraph:—

The excise imposed by this section shall be reduced pursuant to the schedule of energy efficient vehicles pursuant to section 3F of chapter 21A. Within 30 days from close of public comment on the schedule of energy efficient vehicles prepared by the department of environmental protection pursuant to section 3F of chapter 21A, the department of revenue shall distribute the final schedule to boards of assessors and tax collectors within each municipality. The collector of taxes of a municipality shall forward to the commissioner an accounting of the reductions in excise made pursuant to this paragraph, with a list of vehicles accounting for such reduction.

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

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

Section 4. Section 25 of Chapter 64H of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding at the end thereof the following:—

The commissioner of revenue shall rebate to consumers, upon proof of sale within the tax year of an eligible vehicle, as defined pursuant to Section 3F of Chapter 21 that portion of the sales tax eligible for rebate. Notwithstanding any general or special law to the contrary, the amounts rebated pursuant to this section shall not count as an abatement with respect to calculation of the share of state sales tax apportioned to the Massachusetts Bay Transportation Authority or School Modernization and Reconstruction Trust Fund.

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

Amendment rejected,— yea and nay No. 215.

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.

[See Yea and Nay No. 215 in Supplement.]

Therefore the amendment was rejected.

Mr. Marzilli then moved to amend the bill by adding 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:—

(l) 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 31O of Chapter 63;

(2) for each of the four years succeeding the credit allowance year, a taxpayer shall obtain and file an eligibility certificate pursuant to Section 31O of Chapter 63;

(3) the amount of each credit component does not exceed the limit set forth in the initial credit component certificate the corporation obtains pursuant to Section 31O of Chapter 63;

(4) a taxpayer may use a particular cost paid or incurred to determine the amount of only one credit component;

(5) where applicable, a taxpayer shall obtain a certificate of occupancy for the building for which the taxpayer intends to take the credit;

(6) in the case of a fuel cell or photovoltaic module, the property for which the taxpayer takes the credit remains in service;

(7) where the credit allowance year is the first taxable year in which a taxpayer may claim the credit pursuant to the initial credit component certificate, the green building remains in service during the year;

(8) a taxpayer shall not take a credit under this section unless the taxpayer complies with the requirements of Section 31O of Chapter 63, relating to reports to the division of energy resources;

(9) in the construction of a green building, a green base building, and a green tenant space, or the rehabilitation of a building, base building or tenant space to make a green building, green base building or green tenant space a taxpayer shall adhere to the regulations the commissioner promulgates and adopts under Section 31P of Chapter 63;

(10) a tenant or owner shall take a tax credit pursuant to the provisions of paragraphs (b), (c) and (d) of Section 31M of Chapter 63; and

(11) a taxpayer shall not take a credit under this section if the taxpayer is eligible for the credit under paragraph (a) of Section 31M of Chapter 63.

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Section 3. Chapter 63 of the General Laws is hereby amended by inserting the following sections:—

Section 31L. As used in this section and Sections 31M, 31N, 31O and 31P of this chapter and Section 6 paragraph (l) of Chapter 62, the following terms shall have the following meanings:—

(a) 'Allowable costs' means amounts properly chargeable to a capital account, other than for land, which a tenant or owner pays or incurs for:—

(1) construction or rehabilitation;

(2) commissioning costs;

(3) interest paid or incurred during the construction or rehabilitation period;

(4) legal, architectural, engineering and other professional fees allocable to construction or rehabilitation;

(5) closing costs for construction, rehabilitation or mortgage loans;

(6) recording taxes and filing fees incurred in construction or rehabilitation;

(7) site costs, including but not limited to, temporary electric wiring, scaffolding, demolition costs, and fencing and security facilities; and

(8) furniture, carpeting, partitions, walls, wall coverings, ceilings, drapes, blinds, lighting, plumbing, electrical wiring and ventilation; but

(9) not including telephone systems, computers, fuel cells and photovoltaic modules.

(b) 'Base building' means area of a building not intended for occupancy, including but not limited to:—

(1) structural components of the building;

(2) exterior walls;

(3) floors;

(4) windows;

(5) roofs;

(6) foundations;

(7) chimneys and stacks;

(8) parking areas;

(9) mechanical rooms, mechanical systems and owner controlled and operated service spaces;

(10) sidewalks;

(11) main lobby;

(12) shafts and vertical transportation mechanisms;

(13) stairways; and

(14) corridors.

(c) 'Credit allowance year' means the later of:—

(1) the taxable year during which a tenant or owner place a green building, a green base building or green tenant space in service or receives a final certificate of occupancy; or

(2) the first taxable year for which a tenant or owner may claim a credit pursuant to the initial credit component certificate that the division of energy resources issues.

(d) 'Commissioner' means the commissioner of the division of energy resources,

(e) 'Commissioning' means the testing and fine-tuning of heat, ventilating, air conditioning and other systems to assure proper functioning and adherence to design criteria, the preparation of system operation manuals, and the instruction of maintenance personnel.

(f) 'Division' means the Massachusetts division of energy resources.

(g) 'Economic development area' means an area as defined by Section 1 of Chapter 121C, or an empowerment zone or enterprise community as defined by Section 1391 of the Internal Revenue Code.

(h) 'Eligible building' means a building located in the Commonwealth that:—

(1) contains at least 20,000 square feet of interior space;

(2) meets or exceeds or upon completion will meet or exceed all federal, state and local:—

(i) zoning requirements;

(ii) building codes;

(iii) environmental laws, regulations and industry guidelines;

(iv) land use and erosion control requirements; and

(v) storm water management;

(3) the Massachusetts state building code or a subsequent code classifies as commercial and has a ventilation system that:—

(i) can replace 100 percent of air on any floor on a minimum of two floors at a time; and

(ii) has fresh air intakes located a minimum of 25 feet away from loading areas, building exhaust fans, cooling towers, and other points of source contamination;

(4) is a residential multi-family building with at least 12 units;

(5) is a residential multi-family building with at least 2 units that are part of a single or phased construction project with at least 10,000 square feet under construction or rehabilitation in any single phase; or

(6) is a combination of buildings described in (3), (4) and (5); and

(7) is not a building located on freshwater wetlands or tidal wetlands as defined by Section 40 and 40A of Chapter 131, or on wetlands that require a permit for construction pursuant to Section 404 of the federal clean water act (33 U.S.C.A 1344).

(i) 'Energy code' means a chapter within the Massachusetts state building code that addresses energy or energy related issues.

(j) 'EPA' means the United States Environmental Protection Agency.

(k) 'Fuel cell' means a device that produces electricity directly from hydrogen or hydrocarbon fuel through a non-combustive electrochemical process.

(l) 'Green base building' means a base building that is part of an eligible building and meets the standards for energy efficiency, zoning, indoor air quality, and building material, finishes and furnishing uses the commissioner establishes through regulations under this section.

(m) 'Green building' means a building in which the base building is a green base building and the tenant space is green tenant space.

(n) 'Green tenant space' means tenant space in an eligible building that meets the standards for energy efficiency, code requirements,

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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 31O, relating to reports to the division of energy resources; and

(9) in the construction of a green building, a green base building, and a green tenant space, or the rehabilitation of a building, base building or tenant space to make a green building, green base building or green tenant space a taxpayer shall adhere to the regulations the commissioner promulgates and adopts under Section 31P.

(b) A successor owner of property, for which the prior owner could have taken a tax credit pursuant to this section, may take a credit against the excise tax, provided that:—

(1) the subsequent owner may take a credit for the period allowable had the prior owner not sold the property; and

(2) for a taxable year, the prior and successor owners shall allocate the credit between themselves based on the number of days during the year that each party held property.

(c) A successor tenant, assuming tenancy in place of a prior tenant who could have taken a taken a tax credit pursuant to this section, may take a credit against the excise take, provided that:—

(1) the property upon which the successor tenant bases the credit remains in the building;

(2) the successor tenant may take a credit for the period allowable had the prior tenancy not been terminated; and

(3) for a taxable year, the prior and successor tenants shall allocate the credit between themselves based on the number of days during the year each party used the property.

(d) The commissioner may reveal to the successor owner or tenant information with respect to the credit of the prior owner or tenant that leads to the denial, in whole or part, of the credit the successor owner or tenant claims under paragraphs (b) or (c) of this section.

Section 31N. (a) A tenant or owner of a green building may take a credit equal to the applicable percentage of the allowable costs the tenant or owner pays or incurs in constructing a green building or rehabilitating a building to make it a green building, provided that:-

(1) the applicable percentage a tenant or owner shall use to calculate the credit is 1.4 percent, except where the building is located in an economic development area, in which case the applicable percentage a tenant or owner shall use is 1.6 percent;

(2) a tenant or owner shall not claim a credit on costs in excess of 150 dollars per square foot for the portion of the building that comprises the base building;

(3) a tenant or owner shall not claim a credit on cost in excess of 75 dollars per square foot for the portion of the building that comprises tenant space.

(b) A tenant or owner of green tenant space may take a credit equal to the applicable percentage of the allowable costs a tenant or owner pays or incurs in constructing green tenant space or rehabilitating tenant space to make it green tenant space, provided that:—

(1) a tenant or owner shall not claim a credit for green tenant space smaller than 10,000 feet unless the base building in which the tenant space is located is a green base building;

(2) the applicable percentage a tenant or owner shall use to calculate the credit is 1 percent, except where the building is located in an economic development area, in which case the applicable percentage a taxpayer shall use is 1.2 percent;

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(3) a tenant or owner shall not claim a credit on cost in excess of 75 dollars per square foot; and

(4) where a tenant and an owner both incur costs for the creation of a green tenant space, and such costs exceed 75 dollars per square foot, the owner shall have priority in claiming the owner's costs as the basis for the green tenant space credit component.

(c) A tenant or owner may take a credit equal to the applicable percentage of the allowable costs a tenant or owner pays or incurs in installing a fuel cell to serve a green building, green base building or green tenant space, provided that:—

(1) the fuel cell is a qualifying alternate energy source;

(2) the applicable percentage a tenant or owner shall use to calculate the credit is 6 percent of the sum of the capitalized costs a taxpayer pays or incurs for a fuel cell, including the cost of the foundation or platform and the labor cost associated with installation;

(3) the tenant or owner shall not claim a credit for capitalized costs in excess of 1,000 dollars per kilowatt of installed dc rated capacity; and

(4) the tenant or owner shall not include as part of the cost paid or incurred, a federal, state or local grant the tenant or owner receives for purchase and installation of a fuel cell, unless the tenant or owner includes the amount of the grant as part of the tenant or owner's federal gross income.

(d) A tenant or owner may take a credit equal to the applicable percentage of the allowable costs a tenant or owner pays or incurs in installing a photovoltaic module to serve a green building, green base building or green tenant space, provided that:—

(1) the photovoltaic module constitutes a qualifying alternate energy source;

(2) the applicable percentage a taxpayer shall use to calculate the credit is 20 percent of the incremental cost a taxpayer pays or incurs for building integrated photovoltaic modules;

(3) the applicable percentage a tenant or owner shall use to calculate the credit is 5 percent of the costs of non-building-integrated photovoltaic modules;

(4) the tenant or owner shall not claim a credit for costs in excess of the product of (1) three dollars and (2) the number of watts included in the dc rated capacity of the photovoltaic module;

(5) the tenant or owner shall not include as part of the cost paid or incurred, a federal, state or local grant the tenant or owner receives for purchase and installation of a photovoltaic module, unless the tenant or owner includes the amount of the grant as part of the tenant or owner's federal gross income.

(e) A tenant or owner of a green base building may take a credit equal to the applicable percentage of the allowable costs the tenant or owner pays or incurs in constructing a green base building or rehabilitating a building to make it a green base building, provided that:—

(1) the applicable percentage a tenant or owner shall use to calculate the credit is 1 percent, except where the building is located in an economic development area, in which case the applicable percentage a tenant or owner shall use is 1.2 percent;

(2) a tenant or owner shall not claim a credit on costs in excess of 150 dollars per square foot for the portion of the building that comprises the base building.

Section 31O. (a) Upon a tenant or owner's application and showing that the tenant or owner is likely to place in service, in a reasonable time, property that qualifies for the tax credit under this section, the division shall issue an initial credit component certificate identifying:—

(1) the first taxable year for which the tenant or owner may claim a credit;

(2) the expiration date of the certificate, which the division may extend to avoid hardship;

(3) the property to which the certificate applies; and

(4) the maximum amount of the credit component allowable for each of the five taxable years for which the certificate allows the credit.

(b) In a taxable year for which a tenant or owner claims a tax credit under this section, the tenant or owner shall obtain an eligibility certificate from an architect or professional engineer licensed to practice in the Commonwealth. The architect or engineer shall certify, under the seal of the architect or engineer, that, based upon the standards and guidelines in effect at the time in which the property was placed in service, the building, base building or tenant space for which the tenant or owner claims the credit is a green building, green base building or green tenant space, and that the fuel cell or photovoltaic module constitutes a qualifying energy source and remains in service. The architect or engineer shall set forth specific findings upon which the architect or engineer based certification and provide sufficient information to identify a building or space.

(c) Immediately following occupancy, and in a taxable year for which a tenant or owner claims a tax credit under this section, the tenant or owner shall hire to perform indoor air quality testing and record baseline readings, an engineer or industrial hygienist licensed or certified to practice in the Commonwealth or other professional the commissioner may approve. The engineer, industrial hygienist or other professional shall monitor supply and return air and ambient air for carbon monoxide, carbon dioxide, total volatile organic compounds, radon and particulate matter; provided that once radon measurements meet the standards the commissioner establishes, annual testing is not required.

(d) For each taxable year for which a tenant or owner claims a tax credit under this section, the tenant or owner shall maintain records for:—

(1) annual energy consumption for building, base building or tenant space;

(2) annual results of air monitoring for building, base building or tenant space;

(3) annual confirmation that the building, base building or tenant space continues to meet requirements regarding smoking area;

(4) written notifications from tenants regarding, and requests to remedy indoor air problems;

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(5) monthly results of performance validation for photovoltaic modules and fuel cells; and

(6) certification as to off-gassing and other contamination, as prescribed in subsection paragraph 10 of this subsection.

(e) A tenant or owner claiming a tax credit under this section shall file the initial credit component certificate and the eligibility certificate with the department of revenue and shall file a duplicate with the division. In addition, when claiming a credit under this section, the tenant or owner shall provide the information collected pursuant to paragraph 3 of this subsection to the division. The commissioner shall specify the time and form in which the tenant or owner must provide the collected information.

(f) If the division has reason to believe that an architect or engineer engaged in professional misconduct when making a certification under this section, the division shall inform the board of registration of architects or the board of registration of engineers and land surveyors.

(g) An owner of a green tenant space claiming the tax credit under this section shall:—

(1) prior to initial occupancy and upon a tenant's request, provide a tenant with:—

(i) written notification of the opportunity to apply for a tax credit pursuant to this section; and

(ii) written guidelines regarding opportunities to improve the energy efficiency and air quality of tenant space and reduce and recycle waste stream; and

(2) in an owner occupied building, make all tenant space green tenant space.

(h) A tenant or owner claiming the tax credit under this section shall provide separate waste disposal chutes or a carousel compactor system for recyclable materials or otherwise facilitate recycling by providing a readily accessible collection area with sufficient space to store recyclable materials between collection dates.

(i) If a tenant or owner claiming the tax credit under this section permits smoking, the tenant or owner shall provide separate air ventilation and circulation systems for smoking and non-smoking areas.

(j) Prior to occupancy or re-occupancy, a tenant or owner claiming the tax credit under this section shall purge the air for a period of one week on every floor. A tenant or owner may purge for less time if the tenant or owner obtains certification from an engineer, industrial hygienist or other professional verifying that offgassing and other contamination can be reduced to acceptable levels in less than one week.

Section 31P. (a) The commissioner may promulgate and adopt regulations that:—

(1) encourage the development of green buildings, green base buildings and green tenant space;

(2) establish high, commercially reasonable standards for obtaining the tax credits under this section;

(3) establish a reasonable time or period of time for submission of an application;

(4) establish a method for allocating initial credit component certificates among eligible applicants; and

(5) apply only to a green building, green base building, or green tenant space as defined in this section.

(b) Within 6 months of the effective date of this section, the commissioner shall promulgate and adopt regulations that establish:—

(1) standards for energy, including:—

(i) standards for energy use for eligible buildings provided that:

(A) energy use for a newly constructed green building, green base building or green tenant space cannot exceed 65 percent of the use permitted under the energy code; and

(B) energy use for a building, base building or tenant space rehabilitated to make a green building, green base building or tenant space cannot exceed 75 percent of the use permitted under the energy code;

(ii) standards for appliances and heating, cooling and water heating equipment for which, as of the effective date of this section, the United States department of energy, the environmental protection agency or some other federal agency provides specifications; and

(iii) standards for the commissioning of the mechanical plant of a building. The commissioner shall use documents such as the American Society of Heating, Refrigerating and Air Conditioning Engineers G-1 and the United States General Services Administration "Model Commissioning Plan and Guide Specifications" as a guide for the regulation;

(2) standards for indoor air quality in base buildings, including:—

(i) ventilation and exchange of indoor and outdoor air;

(ii) indoor air quality management plans for the construction or rehabilitation process, including provisions to protect ventilation system components and pathways from contamination;

(iii) clean procedures for a project that fails to follow a proper air quality management plan; and

(iv) levels of carbon monoxide, carbon dioxide and total volatile organic compounds, radon and particulate matter for indoor air;

(3) the minimum percentage of recycled content and renewable source material and maximum levels of toxicity and volatile organic compounds in building materials, finishes and furnishings, including but not limited to concrete and concrete masonry units, wood and wood products, millwork substrates, insulation, ceramic, glass and cementitious tiles, ceiling tiles and panels, flooring and carpet, paints, coatings, sealants, adhesives, and furniture. The commissioner shall use the LEED rating system as a guide for the regulations;

(4) standards for a building located in an area where water use is not metered that require:—

(i) a gray water system that recovers non-sewage waste water or uses roof or ground storm water collection systems, or recovers ground water from a sump pump;

(ii) a delimiter for cooling tower systems, to reduce drift and evaporation; and

(iii) exterior plants to be tolerant of climate, soils and natural water availability and restricts the use of municipal potable water for watering exterior plants;

(5) standards for a building located in an area that does not have sewers or that has designated storm sewers that require:—

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(i) an oil grit separator or water quality pond for pretreatment of runoff from any surface parking area; or

(ii) at least 50 percent of non-landscape areas, including roadways, surface parking area, plazas and pathways, must utilize pervious paving materials; and

(6) a methodology by which a tenant or owner shall demonstrate compliance with the standards for energy efficiency, material use, water use, and storm water runoff included in this section and developed by the commissioner.

(c) The commissioner shall review and update regulations promulgated under this section every two years from the date on which the commissioner adopts the regulations.

(d) The commissioner shall design and conduct state-wide, educational seminars and programs to assist developers, tenants, and others who may participate in the green building tax credit program. The commissioner shall also design written guidelines that owners of green tenant space can provide their tenants that explain opportunities to improve energy efficiency and air quality of tenant space and reduce and recycle waste stream.

(e) On or before April 1, 2008 the commissioner shall submit a written report to the governor, the president of the senate, the speaker of the house, the chairman of the senate finance committee and the chairman of the house ways and means committee, identifying:—

(1) the number of certifications filed with the division;

(2) the number of taxpayers claiming the credit under this section;

(3) the amount of the credits taxpayers have claimed; and

(4) other information the commissioner believes meaningful and appropriate in evaluating the tax credit under this section.

(f) Funding

(1) Sufficient funds shall be appropriated to the division to fill 3 full-time staff positions at the division for the administration of this section.

(2) Additional funding of 150,000 dollars shall be appropriated to the division for state-wide, educational seminars and programs to assist developers, tenants, and others who may participate in the green building tax credit program.

(3) Upon application by a taxpayer, the Division shall issue an initial credit component certificate where the taxpayer has made a showing that the taxpayer is likely within a reasonable time to place in service property which would warrant the allowance of a credit under this section. Such certificate shall state the first taxable year for which the credit may be claimed and an expiration date, and shall apply only to property placed in service by such expiration date. Such expiration date may be extended at the discretion of the Division, in order to avoid unwarranted hardship. Such certificates may be issued in years 2006-2010. Such certificates shall state the maximum amount of credit component allowable for each of the five taxable years for which the credit component is allowed, under Section 31N.

(i) Period one. Initial credit component certificates for period one may be issued in years 2006-2010. Such certificates for period

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

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

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

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

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

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

After debate on the question on adoption of the amendment, Messrs. Dempsey of Haverhill and DeLeo of Winthrop moved to amend it by adding 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.

Amendment adopted,— yea and nay No. 216.

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.

[See Yea and Nay No. 216 in Supplement.]

Therefore the amendment, as amended, was adopted.

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

“SECTION 81. The department of clean energy shall conduct a study of the effect of establishing municipal electric utilities in Lex-

ington, 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.".

Point of order.

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 11F½ 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

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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 11F½ 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 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 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.".

Amendment adopted,— yea and nay No. 217.

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

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Mr. Jones; and on the roll call 152 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 217 in Supplement.]

Therefore the amendment was adopted.

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

Bill passed to be engrossed,—yea and nay No. 218.

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.

[See Yea and Nay No. 218 in Supplement.]

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. Next sitting.

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.