

HOUSE No. 3337

By Messrs. Marzilli of Arlington and Patrick of Falmouth, petition of J. James Marzilli, Jr., and others to promote energy, climate and economic security through the generation of electricity by renewable energy facilities. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

PETITION OF:

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In the Year Two Thousand and Seven.

AN ACT TO PROMOTE ENERGY, CLIMATE AND ECONOMIC SECURITY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. Chapter 164 of the General Laws is hereby amended
- 2 by adding, after Section 137, the following section:—
- 3 Section 138. Net Metering.
- 4 Section 138. (a) In this section, unless context otherwise requires,
- 5 the following words shall have the following meanings:—
- 6 “Net metering”, the process of measuring the difference between
- 7 electricity delivered by an electric distribution company and elec-
- 8 tricity generated by a renewable-net-metering facility and fed back
- 9 to the distribution company.
- 10 “Renewable-net-metering facility”, a facility for the production of
- 11 electrical energy that has a generating capacity of not more than two
- 12 thousand (2,000) kilowatts, is located on or in the vicinity of a cus-

13 tomer's premise, is intended primarily to offset part or all of that
14 customer's requirements for electricity, and generates electricity
15 using any of the following:— (i) solar photovoltaic or solar thermal
16 electric energy; (ii) wind energy; (iii) ocean thermal, wave, or tidal
17 energy; (iv) fuel cells utilizing renewable fuels; (v) landfill gas; (vi)
18 naturally flowing water and hydroelectric; or (vii) low-emission,
19 advanced biomass power conversion technologies.

20 "Virtual billing", enables the combination of all the meters under
21 ownership or lease of a legally established entity in the Common-
22 wealth for the purposes of net metering.

23 (b) A distribution company customer that uses electricity gener-
24 ated by a renewable-net-metering-facility may elect net metering.

25 (i) If the electricity generated by the renewable-net-metering
26 facility during a billing period plus any generation credits carried
27 forward from prior billing periods exceeds the customer's kilowatt-
28 hour usage during the billing period, the customer shall be billed for
29 zero kilowatt-hour usage and the excess generation shall be credited
30 to the customer's account for the following billing period.

31 (ii) If the customer's kilowatt-hour usage exceeds the electricity
32 generated by the renewable-net-metering facility during the billing
33 period plus any generation credits carried forward from prior billing
34 periods, the customer shall be billed for the net kilowatt-hour usage
35 at the applicable rate.

36 (c) Net metering shall apply to all charges calculated on a kilo-
37 watt-hour basis, including distribution, transmission, generation, and
38 transition charges.

39 (d) Net metering shall be implemented using a single meter.
40 Where an electro-mechanical meter is employed, the meter shall reg-
41 ister the flow of electric power in both directions and shall display
42 the net flow. Where a digital meter is employed, it shall be pro-
43 grammed to register the net flow as implemented in electro-mechan-
44 ical meters, or shall separately register the inward flow to the
45 customer and the outward flow to the distribution company to enable
46 subsequent calculation of the net flow.

47 (e) Distribution companies are prohibited from imposing special
48 fees or higher rates on net metering customers, such as backup
49 charges, or additional controls or liability insurance as long as the
50 renewable-net-metering facility complies with the applicable inter-
51 connection, safety, and power quality standards; provided, however,

52 that distribution companies may charge a net metering customer
53 with a renewable-net-metering facility with a generating capacity
54 greater than 60 kilowatts for the actual cost of any additional
55 metering equipment required to implement net metering.

56 (f) Virtual billing for municipalities and their associations, busi-
57 nesses and their associations, homeowner or condominium associa-
58 tions, educational or non-profit institutions and their associations
59 shall be permitted.

1 SECTION 2. Chapter 164 of the General Laws is hereby amended
2 by adding, after Section 138, the following section:—

3 Section 139. Least Cost Planning.

4 Section 139. (a) In this section, unless context otherwise requires,
5 the following words shall have the following meanings:—

6 “Least Cost Planning” (LCP), requires that all new power sup-
7 plies and demand side management be prioritized for acceptance by
8 the Department of Telecommunications and Energy according to the
9 lowest combined financial, societal and environmental costs. The
10 combined costs are to be used to prioritize the acquisition of sources
11 of power, energy efficiency programs and demand side management
12 programs and will be based on the assumptions in the following
13 Power Supply Rankings Chart. Distribution companies and retail
14 electricity suppliers will pay the penalties per megawatt hour listed
15 in the Chart by purchasing new megawatts of renewable generation
16 that meets requirements of MGL Chapter 125 A, Section 11 F.

17 (b) The Department of Telecommunications, Utilities and Energy
18 will initiate proceedings at least every two years, or earlier at the dis-
19 cretion of the Chair, to adjust the Power Supply Rankings Chart
20 listed below.

21 Power Supply Rankings Chart (in dollars per megawatt hour)

22 Coal combustion; \$6.00

23 Clean Coal gasification; \$4.5

24 Clean Coal gasification with carbon sequestration; \$3.5

25 Oil #6 \$5.00

26 Oil #2 combined cycle turbines; \$4.00

27 Nuclear; \$3.5

28 Natural gas combustion; \$3.00

29 Natural gas combined cycle turbines; \$2.00

30 Waste to energy; \$2.00

31 Bio Mass Combustion; \$1.00
32 Hydro; \$0.5
33 Fuel cell; natural gas, \$0.5;
34 fuel cell with a renewable source of hydrogen, 0
35 Land-fill gas; 0
36 Bio Mass Composting; 0
37 Combined power and heat; 0
38 Wind; 0
39 Solar Thermal; 0
40 Solar Photovoltaic; 0
41 Energy Efficiency; minus \$1
42 Demand side response management; minus \$1;
43 peak demand side response management; minus \$1.5
44 (c) Within six months of the enactment of this act, all distribution
45 companies and retail power suppliers shall submit to the Department
46 a power supply procurement plan for all expected new demand of
47 electric power supply in their service areas or regions of operation
48 for a three year period. The Department will initiate proceedings to
49 accept public comment on each plan.
50 (d) The Department's approval of each plan will be contingent
51 upon a determination that each utility and retail provider of elec-
52 tricity has demonstrated a reasonable attempt to purchase all avail-
53 able energy efficiency, demand side management and renewable
54 energy supplies, as determined by a consultant under contract to the
55 Department.
56 (e) The Department shall set a goal for each distribution company
57 and retail provider of achieving zero growth of fossil fuel generated
58 electricity based upon ISO New England's projections for new
59 demand of electric power supply growth within the three year time
60 period.
61 (f) Contracts for renewables, efficiency and demand side manage-
62 ment that have longer terms shall be given a higher priority by the
63 Department.
64 (g) Within three years of the enactment of this legislation all dis-
65 tribution companies and retail suppliers of electricity shall submit a
66 power supply procurement plan for their complete power supply
67 portfolio to the Department for review and approval. Every five
68 years from that time going forward the Department will undertake

69 review of all distribution companies and retail power suppliers least
70 cost power supply procurement plans for review and approval.

71 (h) The Department shall set a new goal after three years, for dis-
72 tribution companies and retail suppliers, that reduces the consump-
73 tion of fossil fuel based electricity from levels of usage current at
74 that time. The Department's approval of the plans shall be based on
75 how well the distribution companies and retail suppliers achieve the
76 reduction of fossil fuel generated electricity in relation to the avail-
77 ability of non fossil fuel resources as determined by a consultant
78 under contract and employ of the department.

79 (i) The consultant(s) under contract with the department shall be
80 paid through an assessment of each utility that shall be recoverable
81 through an increase in systems benefit charge for energy efficiency
82 programs.

1 SECTION 3. Chapter 164 of the General Laws is hereby amended
2 by adding, after Section 139, the following section:—

3 Section 140. Adjustable Rate Cap.

4 Section 140. (a) In this section, unless context otherwise requires,
5 the following words shall have the following meanings:—

6 “Adjustable Rate Cap” (ARC), requires that the Department of
7 Telecommunications and Energy conduct hearings to determine the
8 level of revenue necessary to cover a utility's expenses and a reason-
9 able return on investment or profit level. The Department then sets
10 the rate to cover those expenses plus a reasonable profit. Positive or
11 negative differences in that profit level will be reconciled in con-
12 sumer rates in succeeding years.

13 (b) Within two months from the enactment of this act, The
14 Department shall initiate proceedings to determine the appropriate
15 level of revenue for each distribution company in the Common-
16 wealth and a process to reconcile profits or losses at the end of the
17 term. Rates for the succeeding term shall be adjusted to make up for
18 the difference from the established level of revenue approved by the
19 Department.

1 SECTION 4. Section 5B of Chapter 25 is hereby amended by
2 adding the following:—

3 By December 1, 2008 the department shall establish regulations
4 directing distribution companies serving customers in the

5 Commonwealth to procure, through contracts of no less than fifteen
6 years, certificates representing renewable electricity supply suffi-
7 cient to comply with the renewable energy mandates established in
8 Section 11F of Chapter 25A.

9 The department shall, after holding a public hearing, report to the
10 legislature, on the 30th of July of every year beginning in 2009, on
11 the distribution companies' compliance with this section.

1 SECTION 5. Chapter 111 of the General Laws, as appearing in
2 the 2004 Official Edition, is hereby amended by inserting after
3 Section 142N the following section:—

4 Section 142O. Greenhouse Gas Emissions; Definitions; Regional
5 Greenhouse Gas Initiative; Mandatory Greenhouse Gas Emissions
6 Reporting.

7 (a) As used in this section, the following words shall have the
8 following meanings unless the context clearly requires otherwise:—

9 “Allowance” an authorization to emit a fixed amount of carbon
10 dioxide.

11 “Cap and trade program”, a policy approach to controlling large
12 amounts of emissions from a group of electric generating stations at
13 costs that are lower than if sources were regulated individually. The
14 approach first sets an overall cap, or maximum amount of emissions
15 per compliance period, that will achieve the desired environmental
16 effects. Authorizations to emit in the form of emission allowances
17 are then allocated to electric generating stations, and the total
18 number of allowances cannot exceed the cap. Individual control
19 requirements are not specified for electric generating stations. The
20 only requirements are that sources completely and accurately mea-
21 sure and report all emissions and then turn in the same number of
22 allowances as emissions at the end of the compliance period.

23 “Regional Greenhouse Gas Initiative” or “RGGI”, the terms and
24 provisions described in the Memorandum of Understanding dated
25 December 20, 2005, as may be amended, that established a cap and
26 trade program within the northeast region of the United States.

27 “Regional Greenhouse Gas Registry” or “RGGR”, a registry
28 designed by the Northeast States for Coordinated Air Use Manag-
29 erment in support of RGGI reporting, state-wide mandatory reporting,
30 and voluntary reporting.

31 “Facility”, a building, structure or installation located on any one
32 or more contiguous or adjacent properties of commercial or indus-
33 trial sites that are sources of greenhouse gas emissions.

34 “Greenhouse gas”, any chemical or physical substance that is
35 emitted into the air and that the Commissioner of Environmental
36 Protection may reasonably anticipate will cause or contribute to cli-
37 mate change, including, but not limited to, carbon dioxide, methane,
38 nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur
39 hexafluoride.

40 “Indirect emissions”, emissions associated with the consumption
41 of purchased electricity, steam and heating or cooling by an entity or
42 facility.

43 “Major electricity generating station”, an electric generating
44 facility with a capacity equal to or greater than 25 megawatts.

45 (b) The department of environmental protection shall, in consulta-
46 tion with department of telecommunications and energy, through
47 appropriate rules and regulations, establish a carbon dioxide cap and
48 trade program that will limit and then reduce the total carbon dioxide
49 emissions released by major electric generating stations that generate
50 electric power in Massachusetts by 10% as of January 1, 2018.

51 (1) The department of environmental protection’s rules and regu-
52 lations establishing a carbon dioxide cap and trade program shall be
53 designed so as to fully comply with the Regional Greenhouse Gas
54 Initiative (RGGI) and permit the holders of carbon dioxide
55 allowances to trade them in a regional market proposed to be estab-
56 lished through the RGGI.

57 (2) The department of environmental protection shall facilitate an
58 allowance auction for the purpose of selling all allowances under the
59 carbon dioxide cap and trade program. Any monies received by the
60 Commonwealth as a result of the sale of allowances may be spent
61 for the purposes specified in this section, or purposes specified in the
62 RGGI, without further appropriation. All who wish to participate in
63 the allowance auction may do so. No less than twenty-five percent of
64 funds recovered from the allowance auction shall be used for energy
65 efficiency and renewable energy projects in municipalities. The
66 remaining percentage of funds recovered from the allowance auction
67 shall be used:—

68 (i) for consumer benefit or strategic energy purposes, including
69 the use of the allowances to promote energy efficiency;

70 (ii) to directly mitigate electricity ratepayer impacts;
71 (iii) to promote renewable or non-greenhouse gas emitting energy
72 technologies;
73 (iv) to stimulate or reward investment in the development of inno-
74 vative carbon dioxide emission abatement technologies with signifi-
75 cant carbon dioxide reduction potential; and
76 (v) to provide job training opportunities in renewable energy gen-
77 eration for individuals working in the fossil-fuel energy generation
78 industry.

79 (3) The responsibilities created by establishing a carbon dioxide
80 cap and trade program shall be in addition to all other responsibili-
81 ties imposed by any other general or special law or rule or regulation
82 and shall not diminish or reduce any power or authority of the
83 department of environmental protection including the authority to
84 adopt standards and regulations necessary for the Commonwealth to
85 join and fully participate in any multi-state program, at any stage in
86 the development and implementation of such a program, intended to
87 control emissions of carbon dioxide and/or other substances that are
88 determined by the department of environmental protections to be
89 damaging and/or altering the climate.

90 (4) The department of environmental protection shall promulgate
91 regulations that comply with RGGI so long as the cap in RGGI
92 requires at minimum a 10% reduction in carbon dioxide emissions
93 from major electric generating stations by 2018. If RGGI is amended
94 so as to lower the cap to any amount less than 10%, the department
95 of environmental protection shall maintain the requirement that
96 major electric generating stations reduce carbon dioxide emissions
97 by 10% by January 1, 2018.

98 (c) The department of environmental protection shall establish a
99 Regional Greenhouse Gas Registry (RGGR) for greenhouse gas
100 emissions and a regional reporting system in conjunction with other
101 states or a regional consortium.

102 Not later than April 15, 2007, and annually thereafter, the owner
103 or operator of any facility that is required to report air emissions data
104 to the Department of Environmental Protection pursuant to Title V
105 of the federal Clean Air Act, 42 U.S.C.A. § 7401 et seq., and that
106 has stationary emissions sources that emit greenhouse gases shall
107 report to the regional registry direct stack emissions of greenhouse
108 gases from such sources. The owner or operator shall report all

109 greenhouse gas emissions in a type and format that the regional reg-
110 istry can accommodate.

111 The department of environmental protection shall consider, on an
112 annual basis, requiring the expansion of reporting to the regional
113 greenhouse gas registry to include, but not be limited to, other facili-
114 ties or sectors, greenhouse gases, or direct and indirect emissions. A
115 decision for or against an expansion of reporting and an explanation
116 of such decision shall be included in an annual report.

117 Not later than June 30, 2007, the department of environmental
118 protection shall provide for the voluntary reporting of emissions of
119 greenhouse gas to RGGR by owners and operators of facilities that
120 are not required to submit information pursuant to subsections (b)
121 and (c) of this section but which do so on a voluntary basis. The
122 greenhouse gas emissions reported shall be of a type and format that
123 the regional greenhouse gas registry can accommodate.

124 If a regional greenhouse gas registry is not developed and imple-
125 mented by April 15, 2008, the department of environmental protec-
126 tion shall evaluate the feasibility of establishing and administering a
127 state-wide greenhouse gas registry for the collection of emissions
128 data pursuant to subsections (b) and (c) of this section. If a regional
129 greenhouse gas registry is developed after the department of envi-
130 ronmental protection establishes a Commonwealth-wide greenhouse
131 gas registry, the reporting requirements in subsections (b) and (c) of
132 this section shall revert to the regional greenhouse gas registry in
133 accordance with said subsections (b) and (c).

134 Not later than June 30, 2007, and triennially thereafter, the depart-
135 ment of environmental protection shall publish a state greenhouse
136 gas emissions inventory that includes comprehensive estimates of
137 the quantity of greenhouse gas emissions in the state for the last
138 three years in which data is available.

139 The department of environmental protection may adopt regula-
140 tions to implement the provisions of this section.

1 SECTION 6. Chapter 25 of General Laws is hereby amended by
2 adding, after Section 21, the following sections:—

3 Section 22. Energy Resources Procurement Board.

4 (a) There is established an Energy Resources Procurement Board
5 which shall consist of representatives appointed by the Governor of

6 (i) a state-wide manufacturing association, (ii) a state-wide business

7 association, (iii) a chamber of commerce, (iv) residential customers,
8 (v) low income customers, (vi) an environmental organization
9 knowledgeable in energy efficiency and energy procurement pro-
10 grams, (vii) the Division of Energy Resources, (viii) the Department
11 of Environmental Protection, (ix) and the Attorney General. Repre-
12 sentatives of the Department of Telecommunications and Energy and
13 of each of the electric and natural gas distribution companies shall
14 be non-voting, ex-officio members of the board. The board may
15 retain expert consultants provided such consultants may not have
16 any contractual relationship with an electric or natural gas distribu-
17 tion company or electricity or natural gas provider. The board shall
18 annually submit to the Department of Telecommunications and
19 Energy a proposal regarding the level of funding required for the
20 discharge of its duties, which proposal shall be approved by the
21 department either as submitted or as modified by the department.

22 Section 23. Comprehensive Electric Resources Procurement Plan.

23 (a) The electric distribution companies, in coordination with the
24 board, shall develop a comprehensive plan for the procurement of
25 electric energy resources, including, but not limited to, conventional
26 and renewable generating facilities, energy efficiency, load manage-
27 ment, demand response, combined heat and power facilities, and dis-
28 tributed generation, to meet the projected requirements of their
29 customers in a manner which minimizes the cost of such resources
30 to customers over time consistent with the state's environmental
31 goals and standards. On or before October 1, 2007, and every three
32 years thereafter, the companies will submit to the board an assess-
33 ment of (i) the energy and capacity requirements of the customers
34 for each of the next ten years, (ii) the impact of current and projected
35 environmental standards, including, but not limited to, those related
36 to greenhouse gas emissions and the federal Clean Air Act goals,
37 and how different resources could assist in achieving those standards
38 and goals, (iii) energy security and economic risks associated with
39 potential energy resources, and (iv) the estimated lifetime cost and
40 availability of potential energy resources. The board will review the
41 assessment and provide comments to the companies within two
42 months thereafter.

43 (b) Based on the assessment and the comments of the board, the
44 electric distribution companies shall submit proposed comprehen-
45 sive electric resources procurement plan(s) to the board within three

46 months after receiving the comments of the Board. Resource needs
47 shall first be met through all available energy efficiency and demand
48 reduction resources that are cost effective, reliable and feasible. The
49 plan shall specify (i) the total amount of energy and capacity
50 resources that are needed to meet the requirements of all customers,
51 (ii) the extent to which demand side measures, including efficiency,
52 conservation, demand response, and load management can cost-
53 effectively meet these needs, (iii) needs for generating capacity and
54 transmission and distribution improvements, (iv) how the develop-
55 ment of said resources will reduce and stabilize the costs of elec-
56 tricity to consumers and (v) the manner in which each of the
57 proposed resources should be procured, including the optimal con-
58 tract periods for various resources (vi) the manner in which the plan
59 will further air quality goals and reduce greenhouse gas emissions.
60 The plan shall consider:—

- 61 (a) approaches to maximize the impact of demand side measures,
- 62 (b) the extent to which generation needs can be met by renewable
63 and combined heat and power facilities and by the impact of
64 regional market incentives,
- 65 (c) types and locations for generation that would optimize the
66 generation portfolio within the state,
- 67 (d) fuel types, diversity, availability, firmness of supply, and secu-
68 rity and environmental impacts thereof, including impacts on
69 meeting the state's greenhouse gas emission goals;
- 70 (e) reliability, peak load and energy forecasts, system contingen-
71 cies, and existing resource availabilities;
- 72 (f) import limitations and the appropriate reliance on such
73 imports;
- 74 (g) the costs and benefits of options for the ownership of energy
75 resources, including ownership by an electric distribution company,
- 76 (h) if it is in the best interest of customers, how new resources
77 could be integrated into the standard service provided pursuant to
78 Chapter 25 of the General Laws; and
- 79 (i) the impact of the electric resources procurement plan on the
80 costs of electric customers, including, but not limited to, effects on
81 capacity and energy costs, rate stability, and affordability for low-
82 income customers. The electric resources procurement plan shall
83 include a summary of the savings secured by the plan for electric
84 customers.

85 (c) The proposed electric resources procurement plan shall be
86 reviewed by the board and approved as submitted or as modified by
87 the board within four months after receipt. The companies shall pro-
88 vide any additional information requested by the board which is rele-
89 vant to the consideration of the electric resources procurement plan.
90 The board shall submit the approved plan, together with a statement
91 of any unresolved issues to the Department of Telecommunications
92 and Energy. The department shall consider the plan in an uncon-
93 tested docket and shall provide an opportunity for interested parties
94 to submit comments regarding the plan. Not later than one hundred
95 twenty days after submission of the plan, the department shall
96 approve or modify and approve the plan.

97 Section 24. Implementation of Comprehensive Electric Resources
98 Procurement Plan.

99 (a) The department shall implement the electric resources pro-
100 curement plan by (i) issuing requests for proposals to meet specified
101 electric energy resource needs set forth in the plan or by directing
102 the Division of Energy Resources or the electric distribution compa-
103 nies to issue such requests for proposals, (ii) directing the electric
104 distribution companies to incorporate additional demand-side mea-
105 sures set forth in the plan into the comprehensive conservation and
106 load management plan prepared pursuant to Sec. 1.7 of this act for
107 review by the Energy Efficiency Board, (iii) directing the distribu-
108 tion companies to submit proposals for specific transmission, distribu-
109 tion or generating facility improvements or projects set forth in the
110 plan, or (iv) taking other actions within its authority to implement
111 the electric resources procurement plan.

112 (b) If the department determines to implement provisions of the
113 plan by issuing one or more requests for proposals, it shall conduct a
114 contested case proceeding to develop and issue the request. The
115 department shall publish requests for proposals under this section in
116 one or more newspapers or periodicals, as selected by the depart-
117 ment and shall post such request for proposals on its web site. The
118 department may retain the services of a third-party entity with expe-
119 rience in the area of energy procurement to oversee the development
120 of the requests for proposals and to assist the department in its
121 approval of proposals pursuant to this section. The department may
122 require the electric distribution companies to enter into contracts
123 with entities whose proposals are approved by the department. The

124 provisions of such contracts shall be consistent with the electric
125 resources procurement plan and shall be approved by the depart-
126 ment.

127 (c) The electric distribution companies shall provide quarterly
128 implementation reports to the Board commencing two and half
129 months after the approval of the electric resources procurement plan
130 by the department. Such quarterly reports shall include:— descrip-
131 tion of the extent to which the implementation of the plan is meeting
132 the elements specified in the plan as required by Section 1.3 (b) of
133 this act and a summary of the savings secured by the implementation
134 thus far of the plan for electric customers. The quarterly reports shall
135 also include the targets for each electric energy resource included in
136 the plan approved by the department and the achieved percentages to
137 date for each electric energy resource including the achieved per-
138 centages for efficiency, distributed generation, demand response,
139 combined heat and power and renewables. The electric distribution
140 companies shall provide annual implementation reports commencing
141 one year after the approval of the electric resources procurement
142 plan by the department that include all the same elements as the
143 quarterly reports to the department, the board, and General
144 Assembly.

145 (d) Effective January 1, 2008, until the comprehensive electric
146 procurement plan is implemented by the department, the electric dis-
147 tribution companies shall include all available energy efficiency and
148 demand reduction resources that are cost effective, reliable and fea-
149 sible in a comprehensive conservation and load management plan
150 prepared pursuant to Sec. 7 of this act for review by the Energy Con-
151 servation Board.

152 (e) All costs associated with the development and implementation
153 of the electric plan which are not otherwise directly allocable shall
154 be recoverable through electric distribution rates.

155 (f) The limitation on the assessment of additional charges relative
156 to energy efficiency programs contained in Chapter 25, Sec. 19 of
157 the General Laws shall not apply to charges required to implement
158 the comprehensive electric procurement plan.

159 Section 25. Comprehensive Natural Gas Resources Procurement
160 Plan.

161 (a) The natural gas distribution companies, in coordination with
162 the Energy Resources Procurement Board, shall develop a compre-

163 hensive plan for the procurement of natural gas energy resources,
164 including, but not limited to, conventional supply and storage con-
165 tracts, energy efficiency, load management, and combined heat and
166 power facilities to meet the projected requirements of their cus-
167 tomers in a manner which minimizes the cost of such resources to
168 customers over time consistent with the state's environmental goals
169 and standards. On or before October 1, 2008, and every three years
170 thereafter, the companies will submit to the board an assessment of
171 (i) the volumetric natural gas and capacity requirements of the cus-
172 tomers for each of the next ten years, (ii) the impact of current and
173 projected environmental standards, including, but not limited to,
174 those related to greenhouse gas emissions and the federal Clean Air
175 Act goals, and how different resources could assist in achieving
176 those standards and goals, (iii) energy security and economic risks
177 associated with potential energy resources, and (iv) the estimated
178 lifetime cost and availability of potential energy resources. The
179 board will review the assessment and provide comments to the com-
180 panies within two months thereafter.

181 (b) Based on the assessment and the comments of the board, the
182 natural gas distribution companies shall submit a proposed compre-
183 hensive natural gas resources procurement plan to the board within
184 three months after receiving the comments of the Board. Resource
185 needs shall first be met through all available energy efficiency and
186 demand reduction resources that are cost effective, reliable and fea-
187 sible. The plan shall specify (i) the total amount of volumetric nat-
188 ural gas and capacity resources that are needed to meet the
189 requirements of all customers, (ii) the extent to which demand side
190 measures, including efficiency, conservation, and load management
191 can cost-effectively meet these needs, (iii) needs for transmission
192 and distribution improvements, (iv) how the development of said
193 resources will reduce and stabilize the costs of natural gas con-
194 sumers; (v) the manner in which each of the proposed resources
195 should be procured, including the optimal contract periods for var-
196 ious resources and (vi) the manner in which the plan will further air
197 quality goals and reduce greenhouse gas emissions. The plan shall
198 consider:—

199 (a) approaches to maximizing the impact of demand side mea-
200 sures,

201 (b) reliability, peak demand and energy forecasts, system contin-
202 gencies, and existing resource availabilities;

203 (c) pipeline and other supply limitations; and

204 (d) the impact of the natural gas resources procurement plan on
205 the costs of natural gas customers, including, but not limited to,
206 effects on volumetric and capacity costs, rate stability, and afford-
207 ability for low-income customers. The natural gas resources procure-
208 ment plan shall include a summary of the savings secured by the
209 plan for natural gas customers.

210 (c) The proposed natural gas resources procurement plan shall be
211 reviewed by the board and approved as submitted or as modified by
212 the board within four months after receipt. The companies shall pro-
213 vide any additional information requested by the board which is rele-
214 vant to the consideration of the natural gas resources procurement
215 plan. The board shall submit the approved plan, together with a
216 statement of any unresolved issues to the Department of Telecom-
217 munications and Energy. The department shall consider the plan in
218 an uncontested docket and shall provide an opportunity for inter-
219 ested parties to submit comments regarding the plan. Not later than
220 one hundred twenty days after submission of the plan, the depart-
221 ment shall approve or modify and approve the plan.

222 Section 26. Implementation of the Comprehensive Natural Gas
223 Resources Procurement Plan.

224 (a) The department shall implement the natural gas resources pro-
225 curement plan by (i) issuing requests for proposals to meet specified
226 natural gas energy resource needs set forth in the plan or by directing
227 the Division of Energy Resources or the natural gas distribution
228 companies to issue such requests for proposals, (ii) directing the nat-
229 ural gas distribution companies to incorporate additional demand-
230 side measures set forth in the plan into the comprehensive
231 conservation and load management plan prepared pursuant to Sec.
232 1.7 of this act for review by the Energy Efficiency Board, (iii)
233 directing the distribution companies to submit proposals for specific
234 transmission, distribution or generating facility improvements or
235 projects set forth in the plan, or (iv) taking other actions within its
236 authority to implement the natural gas resources procurement plan.

237 (b) If the department determines to implement provisions of the
238 plan by issuing one or more requests for proposals, it shall conduct a
239 contested case proceeding to develop and issue the request. The
240 department shall publish requests for proposals under this section in
241 one or more newspapers or periodicals, as selected by the depart-
242 ment and shall post such request for proposals on its web site. The
243 department may require the natural gas distribution companies to
244 enter into contracts with entities whose proposals are approved by
245 the department. The provisions of such contracts shall be consistent
246 with the natural gas resources procurement plan and shall be
247 approved by the department.

248 (c) The natural gas distribution companies shall provide quarterly
249 implementation reports to the Board commencing two and half
250 months after the approval of the natural gas resources procurement
251 plan by the department. Such quarterly reports shall include—
252 description of the extent to which the implementation of the plan is
253 meeting the elements specified in the plan as required by Section 1.4
254 (b) of this act and a summary of the savings secured by the imple-
255 mentation thus far of the plan for electric customers. The quarterly
256 reports shall also include the targets for each natural gas energy
257 resource included in the plan approved by the department and the
258 achieved percentages to date for each natural gas energy resource
259 including but not limited to efficiency and load management. The
260 natural gas distribution companies shall provide annual implementa-
261 tion reports commencing one year after the approval of the natural
262 gas resources procurement plan by the department that include all
263 the same elements as the quarterly reports to the department, the
264 board, and the Massachusetts General Court.

265 (d) Effective January 1, 2008, until the comprehensive natural gas
266 procurement plan is implemented by the department, the natural gas
267 distribution companies shall include all available energy efficiency
268 and demand reduction resources that are cost effective, reliable and
269 feasible in a comprehensive conservation and load management plan
270 prepared pursuant to Sec. 1.7 of this act for review by the Energy
271 Efficiency Board, provided that funding for such energy efficiency
272 and demand reduction resources shall be not less than 20 mills per
273 therm for all consumers of natural gas in the Commonwealth.

274 (e) All costs associated with the development and implementation
275 of the natural gas plan which are not otherwise directly allocable
276 shall be recoverable through natural gas distribution rates.

277 Section 27. Aligning Utility Incentives with Reducing Consumer
278 Costs and Increased Energy Efficiency.

279 (a) The department shall ensure that estimates of sales or demand
280 elasticity do not result in material over or under collections by distri-
281 bution, transmission, and gas companies organized and doing busi-
282 ness in the Commonwealth pursuant to the provisions of this chapter.
283 On or after the issuance of a final decision in a proceeding on
284 amendments to rate schedules for any electric or natural gas com-
285 pany, but not later than January 1, 2009, any purchased natural gas
286 adjustment clause or energy adjustment clause approved by the
287 department for such company shall include a provision that requires
288 the electric or natural gas company to charge or reimburse customers
289 for any under-recovery or over-recovery of overhead and fixed costs
290 due solely to the deviation of actual retail sales of electricity or nat-
291 ural gas from projected retail sales of electricity or natural gas.

292 (b) On or before July 1, 2008, the department shall conduct an
293 uncontested docket to establish a performance based incentive plan
294 which allows for additional compensation for each electric and nat-
295 ural gas distribution company based on the level of success in miti-
296 gating and reducing the cost and variability of electric and natural
297 gas services for customers through implementation of the electric
298 and natural gas procurement plans and shall provide an opportunity
299 for interested parties to submit comments regarding the plan.

300 Section 28. Energy Efficiency Program Oversight.

301 (a) The Division of Energy Resources shall appoint and convene
302 an Energy Efficiency Board which shall include representatives
303 of:— (i) a state-wide manufacturing association, (ii) a state-wide
304 business association, (iii) a chamber of commerce, (iv) a heating oil
305 industry representative (v) residential customers, (vi) low income
306 customers, (vii) an environmental organization knowledgeable in
307 energy efficiency and energy procurement programs, (viii) the Divi-
308 sion of Energy Resources, (ix) the Department of Environmental
309 Protection, (x) and the Attorney General. Representatives of the
310 Department of Telecommunications and Energy and of each of the
311 electric and natural gas distribution companies shall be non-voting,
312 ex-officio members of the board.

313 (b)(1) The Energy Efficiency Board shall advise and assist the
314 electric and natural gas distribution companies in the development
315 and implementation of comprehensive plans, which plans shall be
316 approved by the Department of Telecommunications and Energy, to
317 implement cost-effective energy efficiency programs and market
318 transformation initiatives. The plan shall be consistent with the com-
319 prehensive procurement plans approved by the Energy Resources
320 Procurement Board pursuant to Sections 1.2 and 1.4 of this act at the
321 time of submission to the department. Each program contained in the
322 plan shall be either accepted or rejected by the Energy Efficiency
323 Board prior to submission to the department for approval. The
324 Energy Efficiency Board shall, as part of its review, examine oppor-
325 tunities to offer joint programs providing similar efficiency measures
326 that save more than one fuel resource or otherwise to coordinate pro-
327 grams targeted at saving ore than one fuel resource. Any costs for
328 joint programs shall be allocated equitably among the efficiency pro-
329 grams.

330 (2) Programs included in the plan developed under subdivision
331 (1) of this section shall be screened through cost-effectiveness
332 testing which compares the value and payback period of program
333 benefits to program costs to ensure that programs are designed to
334 obtain energy savings and system benefits whose value is greater
335 than the costs of the programs. Program cost-effectiveness shall be
336 reviewed annually, or otherwise as is practicable. If a program is
337 determined to fail the cost-effectiveness test as part of the review
338 process, it shall either be modified to meet the test or shall be termi-
339 nated. On or before March 1, 2008, and annually thereafter, the
340 board shall provide a report to the Massachusetts House and Senate
341 Ways and Means Committees that documents expenditures and fund
342 balances and evaluates the cost-effectiveness of such programs con-
343 ducted in the preceding year.

344 (3) Programs included in the plan developed under subdivision
345 (1) of subsection (d) of this section may include, but not be limited
346 to:—

347 (A) conservation and load management programs, including pro-
348 grams that benefit low-income individuals;

349 (B) research, development and commercialization of products or
350 processes which are more energy-efficient than those generally
351 available;

- 352 (C) development of markets for such products and processes;
- 353 (D) support for energy use assessment, real-time monitoring sys-
354 tems, engineering studies and services related to new construction or
355 major building renovation;
- 356 (E) the design, manufacture, commercialization and purchase of
357 energy-efficient appliances and heating, air conditioning and lighting
358 devices;
- 359 (F) program planning and evaluation;
- 360 (G) joint fuel efficiency initiatives programs targeted at reducing
361 consumption of more than one fuel resource; and
- 362 (H) public education regarding efficiency. Such support may be
363 by direct funding, manufacturers' rebates, sale price and loan subsi-
364 dies, leases and promotional and educational activities. The plan
365 shall also provide for expenditures by the Energy Efficiency Board
366 for the retention of expert consultants and reasonable administrative
367 costs provided such consultants shall not be employed by, or have
368 any contractual relationship with, an electric or natural gas distribu-
369 tion company. Such costs shall not exceed five per cent of the total
370 costs of the plans.
- 371 Section 29. Heating Oil Use.
- 372 (a) The Energy Efficiency Board shall develop programs to pro-
373 vide energy efficiency services for home heating oil consumers. The
374 programs shall be developed with advice and input from heating oil
375 dealers and service technicians. The Board shall ensure that input is
376 solicited from heating oil dealers and service technicians located in
377 different regions of the state.
- 378 (b) The Board will issue a request for proposals and select a pro-
379 gram administrator(s) to develop and implement programs for cost
380 effective heating and fuel oil efficiency. The elements of the plan,
381 approval process, and implementation will be consistent with
382 Section 1.7 of this act.
- 383 (c) A not for profit corporation shall be created, the Fuel Oil Effi-
384 ciency Trust, with a board comprised of 5 representatives elected
385 from the membership of the Board by the Board to collect and
386 administer monies for heating and fuel oil conservation. Upon
387 approval of an efficiency plan by the Board, the Fuel Oil Efficiency
388 Trust shall pay the approved amount to the program administrator.
- 389 (d) The state shall impose a one cent per gallon tax on the sale of
390 number 2 fuel oil (fuel and heating oil, use in electric generation and

391 transportation exempt) at the wholesale level which shall be paid to
392 the Fuel Oil Efficiency Trust. The state will create a corresponding
393 one cent per gallon tax credit for wholesale distributors of fuel oil
394 when they contribute one cent per gallon on the sale of number 2
395 fuel oil to the Fuel Oil Efficiency Trust.

396 Section 30. Combined Heat and Power.

397 (a) The Department of Telecommunications and Energy shall
398 develop a program utilizing incentives, competitive contracts, or a
399 portfolio standard, after a review of the most cost-effective mecha-
400 nisms, to increase the generation of electricity from combined heat
401 and power systems in the state.

402 (b) Eligible combined heat and power systems shall be new, oper-
403 ational after January 1, 2007, and achieve an efficiency of seventy
404 five percent or greater on an annual basis, with annual reporting to
405 the Department.

406 (c) The program or policies developed by the Department shall
407 supply one percent of the states total electric supply in 2010, and
408 increase by one percent per year to six percent in 2015. The Depart-
409 ment and the Division of Energy Resources shall assess the potential
410 to increase the combined heat and power target in the years beyond
411 2015 and the Department shall have the authority to increase the per-
412 centages at any time if it is in the state's economic and environ-
413 mental interest to do so. The programs or policies shall be funded
414 through electric distribution rates.

1 SECTION 7. Chapter 164 of General Laws, Section 1E(a) is
2 hereby amended by inserting "success in mitigating and reducing the
3 cost and variability of electric and natural gas services for customers
4 through implementation of the electric and natural gas procurement
5 plans, effective delivery of energy efficiency and demand side man-
6 agement," after the words "satisfaction services outages."

1 SECTION 8. The Secretary of Environmental Affairs shall
2 develop and submit to the Governor and the Legislature within
3 twelve months from the effective date hereof a written plan to maxi-
4 mize the storage of carbon within the forested, agricultural, and
5 other open lands of the Commonwealth. Such plan shall be devel-
6 oped in consultation with other interested persons chosen by the
7 Secretary, including without limitation mangers of public lands, land

8 trusts and other environmental groups, academic forestry experts,
9 and private landowners and forestry experts. Such plan shall include,
10 without limitation, the following elements:—

11 (1) a strategy for so managing the forested, agricultural, and other
12 open lands owned or managed by the Commonwealth, or any agency
13 thereof, as to maximize the storage of carbon therein in trees, plants,
14 and other natural resources;

15 (2) a strategy for acquisition by the Commonwealth, or any
16 agency thereof, and for permanent conservation by private persons,
17 of such additional lands as shall maintain the storage of carbon now
18 existing thereon and permit the increase of such carbon storage to
19 the extent practicable;

20 (3) guidelines for the management of forested, agricultural, and
21 open lands held by private persons which will promote existing and
22 increased storage of carbon thereon, together with recommended
23 incentives, such as tax credits, to be adopted as law in order to
24 encourage the implementation of such guidelines by such private
25 landowners;

26 (4) a proposed method of measuring carbon storage upon the
27 public and private lands of the Commonwealth and a recommenda-
28 tion as to how such storage might receive credit under any national
29 or other system designed to regulate or control carbon emissions;
30 and

31 (5) a description of such changes in law or regulation as may be
32 necessary to effectively carry out the plan submitted by the Secretary
33 hereunder.

34 Nothing contained herein shall prevent the Secretary, or any other
35 agency of the Commonwealth, from carrying out any element of
36 such a plan, or taking any other action with respect to carbon storage
37 or land management, as may be permitted under existing law either
38 before or after the submission of such plan.

1 SECTION 9. Chapter 21A of the General Laws, as appearing in
2 the 2004 Official Edition, is hereby amended by adding the
3 following section:—

4 Section 3F. (a) Within 30 days of the annual release of U.S. Envi-
5 ronmental Protection Agency's and Department of Energy's Fuel
6 Economy Guide hereinafter referred to as "the Guide," the commis-
7 sioner of the department of environmental protection, in consultation

8 with the commissioner of revenue, shall establish annually three
9 schedules of energy efficient light-duty passenger vehicles for the
10 purposes of sales tax rebates and excise tax exemptions pursuant to
11 section 25 of Chapter 64H and Section 1A of Chapter 60A. The
12 three schedules shall be grouped based on seating capacity and
13 include 2-4 seat passenger vehicles (excluding motorcycles), 5-6
14 seat passenger vehicles, and vehicles that seat 7 or more passengers.
15 Each schedule shall include each vehicle's combined city and
16 highway mileage per gallon of regular gasoline (or energy equiva-
17 lent for clean diesel and alternative fuels) as determined by the
18 United States Environmental Protection Agency and a figure repre-
19 senting the percentage of the vehicle that is American-made pur-
20 suant to Title 49 CFR Part 583, as amended.

21 (b) The Commissioner shall have the discretion to create a formula
22 that calculates what vehicles receive rebates or excise exemptions,
23 and the amounts of said rebates or exemptions. In calculating the
24 formula for eligible vehicles up to 20 per cent of the calculation may
25 be based on the percentage of the car's American-made content.

26 (c) The schedules shall be made available for public comment no
27 later than 30 days after the release of the Guide.

28 (d) No sales tax rebate or excise tax exemption shall be applied to
29 any vehicle previously titled for sale and each vehicle must be legal
30 for sale in Massachusetts pursuant to Section 142K of Chapter 111
31 and its implementing regulations.

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

1 SECTION 10. Section 1 of Chapter 60A of the General Laws, as
2 appearing in the 2004 Official Edition, is hereby amended by adding
3 after the ninth paragraph the following new paragraph:—

4 The excise imposed by this section shall be reduced pursuant to
5 the schedule of energy efficient vehicles pursuant to Section 3F of
6 Chapter 21A. Within 30 days from close of public comment on the
7 schedule of energy efficient vehicles prepared by the department of
8 environmental protection pursuant to Section 3F of Chapter 21A, the
9 department of revenue shall distribute the final schedule to boards of
10 assessors and tax collectors within each municipality. The collector
11 of taxes of a municipality shall forward to the commissioner an

12 accounting of the reductions in excise made pursuant to this para-
13 graph, with a list of vehicles accounting for such reduction.

1 SECTION 11. Said Chapter 60A, as so appearing, is hereby
2 amended by adding the following new section:—

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

1 SECTION 12. Section 25 of Chapter 64H of the General Laws, as
2 appearing in the 2004 Official Edition, is hereby amended by adding
3 at the end thereof the following:—

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

1 SECTION 13. Section 9A of Chapter 7 is hereby amended by
2 inserting after sub-Section (d), the following new sub-section (e):—

3 (e) a complete listing of low-emission fuel-efficient state pas-
4 senger vehicles and light duty trucks purchased in the preceding cal-
5 endar year. The secretary shall only authorize and approve the
6 purchase of replacement vehicles in accordance with Section one
7 hundred and forty-two J and K of Chapter one hundred and eleven.
8 No state vehicles may be purchased unless they meet or exceed fuel
9 efficiency standards and emissions standards established by the com-
10 missioner of department of environmental protection.

1 SECTION 14. On or before January 1, 2008, the Division of
2 Energy Resources shall determine the amount of state retail oil sales
3 that constitutes the upper 25 percent of retail fuel sales and term any
4 oil company that sells fuel at and beyond that threshold a “major
5 integrated oil company.”

1 SECTION 15. The General Laws shall be amended to include
2 after Chapter 161D the following Chapter:—

3 **Chapter 161E.**

4 **Motor Vehicle Fueling Stations**

5 Section 1. Definitions.

6 The term “alternative fuel” means methanol, denatured ethanol,
7 and other alcohols; mixtures containing 85 percent or more (or such
8 other percentage, but not less than 70 percent, as determined by the
9 Secretary of Transportation, by rule, to provide for requirements
10 relating to cold start, safety, or vehicle functions) by volume of
11 methanol, denatured ethanol, and other alcohols with gasoline or
12 other fuels; natural gas, including liquid fuels domestically produced
13 from natural gas; liquefied petroleum gas; hydrogen; coal-derived
14 liquid fuels; fuels (other than alcohol) derived from biological mate-
15 rials; electricity (including electricity from solar energy); and any
16 other fuel the Secretary of Transportation determines, by rule, is sub-
17 stantially not petroleum and would yield substantial energy security
18 benefits and substantial environmental benefits;

19 “Major integrated oil companies” are those companies whose
20 retail sales are in the upper 25 percent of fuel sales, as determined by
21 the Division of Energy Resources.

22 Section 2. Major Integrated Oil Companies.

23 (a) All major integrated oil companies shall make available to
24 retail consumers at least one (1) alternative fuel by January 1, 2010.

25 (b) All major integrated oil companies shall make available to
26 retail consumers at least two (2) alternative fuels by January 1, 2011.

27 Section 3. Massachusetts Turnpike Motor Vehicle Fueling Sta-
28 tions.

29 (a) Notwithstanding the provisions of the previous section, all
30 motor vehicle fueling stations on the Massachusetts Turnpike shall
31 make available at least one (1) alternative fuel by January 1, 2009.

32 (b) Notwithstanding the provisions of the previous section, all
33 motor vehicle fueling stations on the Massachusetts Turnpike shall
34 make available at least two (2) alternative fuels by July 1, 2010.

1 SECTION 16. The Massachusetts Highway Department shall
2 evaluate highway lighting statewide to explore how money can be
3 saved by replacing existing fixtures with lower-wattage full cut off

4 fixtures or eliminating lighting altogether where appropriate and
5 report back to DOER annually beginning on August 31, 2007.

1 SECTION 17. Section 6 of Chapter 62 of the General Laws, as
2 appearing in the 1998 Official Edition, is hereby amended by
3 striking out the words “fifteen per cent”, in line 21, and inserting in
4 place thereof the following:— 50 per cent.

1 SECTION 18. Said Section 6 of said Chapter 62, as so appearing,
2 is hereby further amended by striking out the words “five thousand
3 dollars”, in line 22, and inserting in place thereof the figure:—
4 \$5,000.

1 SECTION 19. Said Section 6 of said Chapter 62, as so appearing,
2 is hereby further amended by inserting after line 52 the following
3 clause:—

4 (iii) an energy bill summary for the previous 12 months from the
5 utility or energy company, or actual bills, before the installation of
6 the system and a 12 month summary of bills after the installation of
7 the system, or bills, from the utility or energy company must be sub-
8 mitted as proof of a reduction in energy usage directly attributable to
9 the new system with the tax credit form to qualify for the credit.

1 SECTION 20. Subsection (h) or Section 94 of Ch. 143 of the
2 General Laws is hereby amended by inserting after the words “spe-
3 cialized codes referred to in Section ninety six” the words “and
4 including the energy conservation code.”

1 SECTION 21. Section 94 of Ch. 143 of the General Laws shall be
2 amended to add after subsection (l) the following new subsection:—

3 (m) To adopt, at least once every three (3) years, the latest edition
4 of the model energy conservation code, the International Energy
5 Conservation Code (IECC), published by the International Code
6 Council. No amendments to the Massachusetts energy conservation
7 code shall be adopted that increase energy consumption in buildings.
8 The Board of Building Regulations and Standards jointly with the
9 Division of Energy Resources shall adopt regulations to certify and
10 train qualified energy code inspectors and require that all new
11 construction and major renovations pass inspections by certified

12 energy code inspectors demonstrating full compliance with the
13 Massachusetts energy conservation code.

1 SECTION 22. Section 6 of Chapter 62 of the General Laws, as
2 amended by Sections 120 and 121 of Chapter 159 of the acts of
3 2000, is hereby further amended by inserting the following para-
4 graph:—

5 (1) A tenant or owner of property located in the Commonwealth
6 who is not a dependant of another taxpayer may take a tax credit
7 against the income tax this chapter imposes in an amount equal to
8 the sum of the credit components specified in Section 31N of
9 Chapter 63 provided that:—

10 (1) for the credit allowance year, a taxpayer shall obtain and file
11 an initial credit component certificate and an eligibility certificate
12 the division of energy resources shall issue pursuant to Section 31O
13 of Chapter 63;

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

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

20 (4) a taxpayer may use a particular cost paid or incurred to deter-
21 mine the amount of only one credit component;

22 (5) where applicable, a taxpayer shall obtain a certificate of occu-
23 pancy for the building for which the taxpayer intends to take the
24 credit;

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

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

31 (8) a taxpayer shall not take a credit under this section unless the
32 taxpayer complies with the requirements of Section 31O of Chapter
33 63, relating to reports to the division of energy resources;

34 (9) in the construction of a green building, a green base building,
35 and a green tenant space, or the rehabilitation of a building, base
36 building or tenant space to make a green building, green base

37 building or green tenant space a taxpayer shall adhere to the regula-
38 tions the commissioner promulgates and adopts under Section 31P
39 of Chapter 63;

40 (10) a tenant or owner shall take a tax credit pursuant to the provi-
41 sions of paragraphs (b), (c) and (d) of Section 31M of Chapter 63;
42 and

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

1 SECTION 23. Chapter 63 of the General Laws is hereby amended
2 by inserting the following sections:—

3 Section 31L.

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

7 (a) “Allowable costs” means amounts properly chargeable to a
8 capital account, other than for land, which a tenant or owner pays or
9 incurs for

10 (1) construction or rehabilitation;

11 (2) commissioning costs;

12 (3) interest paid or incurred during the construction or rehabilita-
13 tion period;

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

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

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

20 (7) site costs, including but not limited to, temporary electric
21 wiring, scaffolding, demolition costs, and fencing and security facili-
22 ties; and

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

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

- 28 (b) “Base building” means area of a building not intended for
29 occupancy, including but not limited to:
- 30 (1) structural components of the building;
 - 31 (2) exterior walls;
 - 32 (3) floors;
 - 33 (4) windows;
 - 34 (5) roofs;
 - 35 (6) foundations;
 - 36 (7) chimneys and stacks;
 - 37 (8) parking areas;
 - 38 (9) mechanical rooms, mechanical systems and owner controlled
39 and operated service spaces;
 - 40 (10) sidewalks;
 - 41 (11) main lobby;
 - 42 (12) shafts and vertical transportation mechanisms;
 - 43 (13) stairways; and
 - 44 (14) corridors.
- 45 (c) “Credit allowance year” means the later of:
- 46 (1) the taxable year during which a tenant or owner place a green
47 building, a green base building or green tenant space in service or
48 receives a final certificate of occupancy; or
 - 49 (2) the first taxable year for which a tenant or owner may claim a
50 credit pursuant to the initial credit component certificate that the
51 division of energy resources issues.
- 52 (d) “Commissioner” means the commissioner of the division of
53 energy resources.
- 54 (e) “Commissioning” means the testing and fine-tuning of heat,
55 ventilating, air conditioning and other systems to assure proper func-
56 tioning and adherence to design criteria, the preparation of system
57 operation manuals, and the instruction of maintenance personnel.
- 58 (f) “Division” means the Massachusetts division of energy
59 resources.
- 60 (g) “Economic development area” means an area as defined by
61 Section 1 of Chapter 121C, or an empowerment zone or enterprise
62 community as defined by Section 1391 of the Internal Revenue
63 Code.
- 64 (h) “Eligible building” means a building located in the Common-
65 wealth that
- 66 (1) contains at least 20,000 square feet of interior space;

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

69 (i) zoning requirements;

70 (ii) building codes;

71 (iii) environmental laws, regulations and industry guidelines;

72 (iv) land use and erosion control requirements; and

73 (v) storm water management;

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

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

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

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

82 (5) is a residential multi-family building with at least 2 units that
83 are part of a single or phased construction project with at least
84 10,000 square feet under construction or rehabilitation in any single
85 phase; or

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

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

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

93 (j) “EPA” means the United States Environmental Protection
94 Agency.

95 (k) “Fuel cell” means a device that produces electricity directly
96 from hydrogen or hydrocarbon fuel through a non-combustive elec-
97 trochemical process.

98 (l) “Green base building” means a base building that is part of an
99 eligible building and meets the standards for energy efficiency,
100 zoning, indoor air quality, and building material, finishes and fur-
101 nishing uses the commissioner establishes through regulations under
102 this section.

103 (m) “Green building” means a building in which the base building
104 is a green base building and the tenant space is green tenant space.

105 (n) “Green tenant space” means tenant space in an eligible
106 building that meets the standards for energy efficiency, code require-
107 ments, indoor air quality, and building material, finishes and fur-
108 nishing uses the commissioner establishes through regulations under
109 this section.

110 (o) “Incremental cost of building-integrated photovoltaic mod-
111 ules” means:

112 (1) the cost of a building-integrated photovoltaic module and
113 associated inverter, additional wiring or other electrical equipment or
114 mounting or structural materials, less the cost of spandrel glass or
115 other building material the tenant or owner would have used in the
116 event that the building-integrated photovoltaic module was not
117 nstalled;

118 (2) labor costs properly allocable to on-site preparation, assembly
119 and original installation of a photovoltaic module; and

120 (3) architectural and engineering services, designs and plans
121 directly related to the construction or installation of the photovoltaic
122 module.

123 (p) “LEED rating system” means the leadership in energy and
124 environmental design green building rating system that the United
125 States Green Building Council is developing.

126 (q) “Tenant improvements” means necessary and appropriate
127 improvements needed to support or conduct the business of a tenant
128 or occupying owner.

129 (r) “Tenant space” means the portion of a building designed or
130 intended for the occupancy of the tenant or owner.

131 Section 31M.

132 (a) A corporation subject to tax under this chapter may take a
133 credit against the excise this chapter imposes, in an amount equal to
134 the sum of the credit components specified in Section 31N for the
135 credit allowance year and each of the four succeeding years, pro-
136 vided that:—

137 (1) for the credit allowance year, a taxpayer shall obtain and file
138 an initial credit component certificate and an eligibility certificate
139 the division of energy resources shall issue pursuant to Section 31O;

140 (2) for each of the four years succeeding the credit allowance
141 year, a taxpayer shall obtain and file an eligibility certificate pur-
142 suant to Section 31O;

143 (3) the amount of each credit component does not exceed the limit
144 set forth in the initial credit component certificate the corporation
145 obtains pursuant to Section 310;

146 (4) a taxpayer may use a particular cost paid or incurred to deter-
147 mine the amount of only one credit component;

148 (5) where applicable, a taxpayer shall obtain a certificate of occu-
149 pancy for the building for which the taxpayer intends to take the
150 credit;

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

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

157 (8) a taxpayer shall not take a credit under this section unless the
158 taxpayer complies with the requirements of Section 310, relating to
159 reports to the division of energy resources; and

160 (9) in the construction of a green building, a green base building,
161 and a green tenant space, or the rehabilitation of a building, base
162 building or tenant space to make a green building, green base
163 building or green tenant space a taxpayer shall adhere to the regula-
164 tions the commissioner promulgates and adopts under Section 31P.

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

168 (1) the subsequent owner may take a credit for the period allow-
169 able had the prior owner not sold the property; and

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

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

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

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

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

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

188 Section 31N.

189 (a) A tenant or owner of a green building may take a credit equal
190 to the applicable percentage of the allowable costs the tenant or
191 owner pays or incurs in constructing a green building or rehabili-
192 tating a building to make it a green building, provided that:—

193 (1) the applicable percentage a tenant or owner shall use to calcu-
194 late the credit is 1.4 percent, except where the building is located in
195 an economic development area, in which case the applicable per-
196 centage a tenant or owner shall use is 1.6 percent;

197 (2) a tenant or owner shall not claim a credit on costs in excess of
198 150 dollars per square foot for the portion of the building that com-
199 prises the base building;

200 (3) a tenant or owner shall not claim a credit on cost in excess of
201 75 dollars per square foot for the portion of the building that com-
202 prises tenant space.

203 (b) A tenant or owner of green tenant space may take a credit
204 equal to the applicable percentage of the allowable costs a tenant or
205 owner pays or incurs in constructing green tenant space or rehabili-
206 tating tenant space to make it green tenant space, provided that:

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

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

214 (3) a tenant or owner shall not claim a credit on cost in excess of
215 75 dollars per square foot; and

216 (4) where a tenant and an owner both incur costs for the creation
217 of a green tenant space, and such costs exceed 75 dollars per square

218 foot, the owner shall have priority in claiming the owner's costs as
219 the basis for the green tenant space credit component.

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

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

225 (2) the applicable percentage a tenant or owner shall use to calcu-
226 late the credit is 6 percent of the sum of the capitalized costs a tax-
227 payer pays or incurs for a fuel cell, including the cost of the
228 foundation or platform and the labor cost associated with installa-
229 tion;

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

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

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

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

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

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

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

253 (5) the tenant or owner shall not include as part of the cost paid or
254 incurred, a federal, state or local grant the tenant or owner receives
255 for purchase and installation of a photovoltaic module, unless the

256 tenant or owner includes the amount of the grant as part of the tenant
257 or owner's federal gross income.

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

263 (1) the applicable percentage a tenant or owner shall use to calcu-
264 late the credit is 1 percent, except where the building is located in an
265 economic development area, in which case the applicable percentage
266 a tenant or owner shall use is 1.2 percent;

267 (2) a tenant or owner shall not claim a credit on costs in excess of
268 150 dollars per square foot for the portion of the building that com-
269 prises the base building.

270 Section 31O.

271 (a) Upon a tenant or owner's application and showing that the
272 tenant or owner is likely to place in service, in a reasonable time,
273 property that qualifies for the tax credit under this section, the divi-
274 sion shall issue an initial credit component certificate identifying:

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

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

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

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

283 (b) In a taxable year for which a tenant or owner claims a tax
284 credit under this section, the tenant or owner shall obtain an eligi-
285 bility certificate from an architect or professional engineer licensed
286 to practice in the Commonwealth. The architect or engineer shall
287 certify, under the seal of the architect or engineer, that, based upon
288 the standards and guidelines in effect at the time in which the prop-
289 erty was placed in service, the building, base building or tenant
290 space for which the tenant or owner claims the credit is a green
291 building, green base building or green tenant space, and that the fuel
292 cell or photovoltaic module constitutes a qualifying energy source
293 and remains in service. The architect or engineer shall set forth spe-
294 cific findings upon which the architect or engineer based certifica-

295 tion and provide sufficient information to identify a building or
296 space.

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

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

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

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

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

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

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

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

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

331 (f) If the division has reason to believe that an architect or engi-
332 neer engaged in professional misconduct when making a
333 certification under this section, the division shall inform the board of

334 registration of architects or the board of registration of engineers and
335 land surveyors.

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

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

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

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

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

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

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

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

362 Section 31P.

363 (a) The commissioner may promulgate and adopt regulations that
364 (1) encourage the development of green buildings, green base
365 buildings and green tenant space;

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

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

370 (4) establish a method for allocating initial credit component cer-
371 tificates among eligible applicants; and

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

374 (b) Within 6 months of the effective date of this section, the com-
375 missioner shall promulgate and adopt regulations that establish:

376 (1) standards for energy, including:

377 (i) standards for energy use for eligible buildings provided that;

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

381 (B) energy use for a building, base building or tenant space reha-
382 bilitated to make a green building, green base building or tenant
383 space cannot exceed 75 percent of the use permitted under the
384 energy code;

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

389 (iii) standards for the commissioning of the mechanical plant of a
390 building. The commissioner shall use documents such as the Amer-
391 ican Society of Heating, Refrigerating and Air Conditioning Engi-
392 neers G-1 and the United States General Services Administration
393 “Model Commissioning Plan and Guide Specifications” as a guide
394 for the regulation;

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

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

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

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

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

404 (3) the minimum percentage of recycled content and renewable
405 source material and maximum levels of toxicity and volatile organic
406 compounds in building materials, finishes and furnishings, including
407 but not limited to concrete and concrete masonry units, wood and
408 wood products, millwork substrates, insulation, ceramic, glass and
409 cementitious tiles, ceiling tiles and panels, flooring and carpet,
410 paints, coatings, sealants, adhesives, and furniture. The commis-

411 sioner shall use the LEED rating system as a guide for the regula-
412 tions;

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

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

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

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

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

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

427 (ii) at least 50 percent of non-landscape areas, including road-
428 ways, surface parking area, plazas and pathways, must utilize per-
429 vious paving materials; and

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

434 (c) The commissioner shall review and update regulations pro-
435 mulgated under this section every two years from the date on which
436 the commissioner adopts the regulations.

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

444 (e) On or before April 1, 2008 the commissioner shall submit a
445 written report to the governor, the president of the senate, the
446 speaker of the house, the chairman of the senate finance committee
447 and the chairman of the house ways and means committee, identi-
448 fying:

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

450 (2) the number of taxpayers claiming the credit under this section;
451 (3) the amount of the credits taxpayers have claimed; and
452 (4) other information the commissioner believes meaningful and
453 appropriate in evaluating the tax credit under this section.

454 (f) Funding.

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

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

462 (3) Upon application by a taxpayer, the Division shall issue an ini-
463 tial credit component certificate where the taxpayer has made a
464 showing that the taxpayer is likely within a reasonable time to place
465 in service property which would warrant the allowance of a credit
466 under this section. Such certificate shall state the first taxable year
467 for which the credit may be claimed and an expiration date, and shall
468 apply only to property placed in service by such expiration date.
469 Such expiration date may be extended at the discretion of the Divi-
470 sion, in order to avoid unwarranted hardship. Such certificates may
471 be issued in years 2006-2010. Such certificates shall state the max-
472 imum amount of credit component allowable for each of the five
473 taxable years for which the credit component is allowed, under
474 Section 31N.

475 (i) Period one. Initial credit component certificates for period one
476 may be issued in years 2006-2010. Such certificates for period one
477 shall not be issued, in the aggregate, for more than twenty-five mil-
478 lion dollars worth of credit components. The total amount of credit
479 component allowable for the five taxable years for which the credit
480 components are allowed, as set forth on any one initial credit compo-
481 nent certificate, shall be limited to two million dollars. However, a
482 taxpayer that is the owner or tenant of more than one building that
483 qualifies for the credits provided for under this section may be
484 issued initial credit component certificates with respect to each such
485 building with the aggregate amount of credit components permitted
486 for each such certificate being two million dollars. In addition, such
487 certificates for period one shall be limited in their applicability, as
488 follows:—

489	Credit components in	With respect to taxable
490	the aggregate shall not	years beginning in:
491	be allowed for more than:	
492	\$ 1 million	2007
493	\$ 2 million	2008
494	\$ 3 million	2009
495	\$ 4 million	2010
496	\$ 5 million	2011
497	\$ 4 million	2012
498	\$ 3 million	2013
499	\$ 2 million	2014
500	\$ 1 million	2015

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

507 (ii) Period two. Initial credit component certificates for period two
 508 may be issued in years 2011-2015. Such certificates for period two
 509 shall not be issued, in the aggregate, for more than twenty-five mil-
 510 lion dollars worth of credit components. The total amount of credit
 511 component allowable for the five taxable years for which the credit
 512 components are allowed, as set forth on any one initial credit compo-
 513 nent certificate, shall be limited to two million dollars. However, a
 514 taxpayer that is the owner or tenant of more than one building that
 515 qualifies for the credits provided for under this section may be
 516 issued initial credit component certificates with respect to each such
 517 building with the aggregate amount of credit components permitted
 518 for each such certificate being two million dollars. Provided further,
 519 a taxpayer that is the owner or tenant of a building for which an ini-
 520 tial credit component certificate was issued for period one, shall not
 521 be issued an initial credit component certificate with respect to such
 522 building for period two. In addition, such certificates for period two
 523 shall be limited in their applicability, as follows:—

524	Credit components in the	With respect to taxable
525	aggregate shall not be	years beginning in:
526	allowed for more than:	
527	\$ 1 million	2012
528	\$ 2 million	2013
529	\$ 3 million	2014
530	\$ 4 million	2015
531	\$ 5 million	2016
532	\$ 4 million	2017
533	\$ 3 million	2018
534	\$ 2 million	2019
535	\$ 1 million	2020

536 Provided, however, that if as of the end of a calendar year, certifi-
537 cates for credit component amounts totaling less than the amount
538 permitted with respect to taxable years commencing in such calendar
539 year have been issued, then the amount permitted with respect to
540 taxable years commencing in the subsequent calendar year shall be
541 augmented by the amount of such shortfall. Provided, further, that if
542 at the end of calendar year two thousand nine, certificates for credit
543 component amounts issued by the Division have totaled less than
544 twenty-five million dollars for calendar years 2011-2015, then the
545 period to issue initial credit component certificates shall be extended
546 to the end of calendar year two thousand sixteen and the Division
547 shall be permitted to issue in two thousand sixteen initial credit com-
548 ponent certificates for amounts that equal the difference between the
549 amounts issued for calendar years 2011-2015 and twenty-five mil-
550 lion dollars.

1 SECTION 24. Section 548 of Chapter 26 of the 2003 Session
2 Laws shall be amended to include after subsection (n) the following
3 new subsection:

4 (o) The development and construction of solar- and wind-power
5 generating facilities shall qualify as exceptional circumstances
6 notwithstanding the further requirements of the Massachusetts Envi-
7 ronmental Policy Act, Section 61 of Chapter 30 of the General
8 Laws.

1 SECTION 25. Section 10 of Chapter 44 of the Massachusetts
2 General Laws, as appearing in the 2006 Official Edition, is hereby
3 amended by adding the following section: —

4 Cities and towns may design and install renewable energy facili-
5 ties, as defined in Ch. 164, on parcels owned or leased by the munic-
6 ipality, prepare and improve the sites, acquire all equipment
7 necessary for the renewable energy facilities, make improvements
8 and extraordinary repairs to the facilities, and pay all other costs
9 incidental and related thereto.

1 SECTION 26. Cities and towns may issue bonds or notes up to
2 but not exceeding the sum of \$2,000,000 in the aggregate in order to
3 finance all or a portion of the costs of the renewable energy facility
4 projects authorized pursuant to Section 1. Notwithstanding Chapter
5 44 of the General Laws to the contrary, the maturities of any such
6 bonds issued by the city or town under this act either shall be
7 arranged so that for each issue the annual combined payments of
8 principal and interest payable in each year, commencing with the
9 first year in which a principal payment is required, shall be as nearly
10 equal as practicable in the opinion of the city or town treasurer, or
11 shall be arranged in accordance with a schedule providing for a more
12 rapid amortization of principal. The first payment of principal of
13 each issue of bonds or of any temporary notes issued in anticipation
14 of the bonds shall be not later than 5 years from the estimated date of
15 commencement of regular operation of the renewable energy facili-
16 ties financed thereby, as determined by the city or town treasurer,
17 and the last payment of principal of the bonds shall be not later than
18 25 years from the date of the bonds. Indebtedness incurred under this
19 act shall not be included in determining the limit of indebtedness of
20 the city or town under Section 10 of said Chapter 44, but, except as
21 otherwise provided in this act, shall be subject to the provisions of
22 said Chapter 44.

1 SECTION 27. Notwithstanding any general or special law to the
2 contrary, the city or town may operate any renewable energy facili-
3 ties installed pursuant to Section 1, sell any electricity generated
4 from such facilities and sell any other marketable products resulting
5 from its generation of renewable energy at such facilities or from its
6 generation of any type of renewable energy at any renewable energy

7 facility which the city or town is authorized by law to operate,
8 including electronic certificates created to represent the “generation
9 attributes” as such term is defined under 225 CMR 14.02 of each
10 megawatt hour of energy generated by the renewable energy facili-
11 ties or any such other renewable energy producing facilities. The
12 mayor or board of selectman of the city or town may enter into 1 or
13 more contracts on behalf of the city or town for the sale of electricity
14 and other marketable products resulting from the generation of
15 renewable energy at the renewable energy facilities with such parties
16 and upon such terms and conditions as the mayor or board of
17 selectman determines to be in the best interest of the city or town,
18 but any such contract shall be subject to the approval of the city
19 council or town meeting.

1 SECTION 28. The city or town shall procure any services
2 required for the design, installation, improvement, repair and opera-
3 tion of the renewable energy facilities authorized pursuant to this act
4 and the acquisition of any equipment necessary in connection there-
5 with in accordance with the procurement requirements of Chapter
6 30B of the General Laws, and the city or town may procure any such
7 services and equipment together as one procurement or as separate
8 procurements thereunder.

1 SECTION 29. The city or town may establish an enterprise fund
2 pursuant to Section 53F 1/2 of Chapter 44 of the General Laws for
3 the receipt authorized pursuant to this act and from any other renew-
4 able energy producing facilities which the city or town is authorized
5 by law to operate and all moneys received for the benefit of the
6 renewable energy facilities and any such other renewable energy
7 facilities, other than the proceeds of bonds or notes issued therefor.
8 Such receipts are to be used to pay costs of operation and mainte-
9 nance of renewable energy facilities, to pay costs of future improve-
10 ments and repairs thereto, and to pay the principal and interest on
11 any bonds or notes issued thereof.

1 SECTION 30. Sections 9, 10, 11, and 12 shall take effect on
2 August 1, 2007.

1 SECTION 31. Sections 26, 27, 28, and 29 shall take effect upon
2 passage.