

# HOUSE . . . . . No. 3965

By Speaker DiMasi of Boston, petition of Salvatore F. DiMasi, Brian S. Dempsey and Daniel E. Bosley for legislation to establish the green communities act of 2007 through the development of a comprehensive energy policy for the Commonwealth. Telecommunications, Utilities and Energy.

## The Commonwealth of Massachusetts

PETITION OF:

Salvatore F. DiMasi                      Daniel E. Bosley  
Brian S. Dempsey

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO THE GREEN COMMUNITIES ACT OF 2007.

*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. Section 91 of chapter 6 of the General Laws, as  
2     appearing in the 2004 Official Edition, is hereby amended by  
3     striking out, in line 20, the words “department of telecommunica-  
4     tions and energy” and inserting in place thereof the following  
5     words:— executive office of energy affairs.

1     SECTION 2. Section 16G of Chapter 6A of the General Laws,  
2     as appearing in the 2004 Official Edition, is hereby amended by  
3     striking in lines 19 through 20, inclusive, the following words:—  
4     “the department of telecommunications and energy,”.

1     SECTION 3. Said section 16G of said chapter 6A, as so appear-  
2     ing, is hereby further amended by striking out, in line 21, the  
3     following words:— “the division of professional licensure and the  
4     division of energy resources” and inserting in place thereof the  
5     following words:— the division of professional licensure.

1 SECTION 4. Section 18D of said chapter 6A, as so appearing,  
2 is hereby amended by striking out, in line 46, the words “telecom-  
3 munications and energy” and inserting in place thereof the follow-  
4 ing words:— broadband, cable television and telecommunications.

1 SECTION 5. Section 18E of said chapter 6A, as so appearing,  
2 is hereby amended by striking out, in line 3, the words “telecom-  
3 munications and energy” and inserting in place thereof the follow-  
4 ing words:— broadband, cable television and telecommunications.

1 SECTION 6. Section 18F of said chapter 6A, as so appearing,  
2 is hereby amended by striking out, in lines 1 and 2, the words  
3 “department of telecommunications and energy” and inserting in  
4 place thereof the following words:— executive office of energy  
5 affairs.

1 SECTION 7. Said section 18F of said chapter 6A, as so appear-  
2 ing, is hereby further amended by striking out, in line 6, the words  
3 “department of telecommunications and energy” and inserting in  
4 place thereof the following words:— executive office of energy  
5 affairs.

1 SECTION 8. Section 18H1/2 of said chapter 6A, as so appear-  
2 ing, is hereby amended by striking out, in lines 1 and 2, the words  
3 “telecommunications and energy” and inserting in place thereof  
4 the following words:— broadband, cable television and telecom-  
5 munications.

1 SECTION 9. Said section 18H1/2 of said chapter 6A, as so  
2 appearing, is hereby further amended by striking out, in line 8, the  
3 words “telecommunications and energy” and inserting in place  
4 thereof the following words:— broadband, cable television and  
5 telecommunications.

1 SECTION 10. Said section 18H1/2 of said chapter 6A, as so  
2 appearing, is hereby further amended by striking out, in line 18,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— broadband, cable television and  
5 telecommunications.

1 SECTION 11. Said chapter 6A of the General Laws, as so  
2 appearing, is hereby further amended by inserting at the end  
3 thereof the following:—

4 Section 104. As used in sections 104 through XX, inclusive, the  
5 following words shall, unless the context clearly requires other-  
6 wise, have the following meanings:—

7 “Department”, the department of transportation oversight

8 “Director”, the director of the department of transportation  
9 oversight.

10 Section 105. (a) There shall be within the executive office of  
11 transportation and construction, but not subject to the control  
12 of said executive office, a department of transportation oversight  
13 which shall be under the supervision and control of a director. The  
14 director shall be appointed by the governor and shall be a person  
15 of skill and experience in the field of transportation. The director  
16 shall be the executive and administrative head of the department  
17 and shall be responsible for administering and enforcing the pro-  
18 visions of law relative to the department and to each administra-  
19 tive unit thereof. The director shall serve at the pleasure of the  
20 governor, shall receive such salary as may be determined by law,  
21 and shall devote his full time to the duties of his office. In the case  
22 of an absence or vacancy in the office of the director, or in the  
23 case of disability as determined by the governor, the governor  
24 may designate an acting director to serve as director until the  
25 vacancy is filled or the absence or disability ceases. The acting  
26 director shall have all the powers and duties of the director and  
27 shall have similar qualifications as the director.

28 (b) The director may appoint such persons as he shall deem  
29 necessary to perform the functions of the department, provided  
30 that the provisions of chapter 31 and section 9A of chapter 30  
31 shall not apply to any person holding any such appointment.  
32 Every person so appointed to any position in the department shall  
33 have experience and skill in the field of such position. So far as  
34 practicable in the judgment of the director, appointments to such  
35 positions in the department shall be made by promoting or trans-  
36 ferring employees of the commonwealth serving in positions  
37 which are classified under chapter 31, and such appointments  
38 shall at all times reflect the professional needs of the administra-  
39 tive unit affected. If an employee serving in a position which is

40 classified under chapter 31 or in which an employee has tenure by  
41 reason of section 9A of chapter 30 of the general laws shall be  
42 appointed to a position within the department which is not subject  
43 to the provisions of chapter 31 of the general laws, the employee  
44 shall upon termination of his service in such position be restored  
45 to the position which he held immediately prior to such appoint-  
46 ment; provided, however, that his service in such position shall be  
47 determined by the civil service commission in accordance with the  
48 standards applied by said commission in administering chapter 31.  
49 Such restoration shall be made without impairment of his civil  
50 service status or tenure under section 9A of chapter 30 of the  
51 General Laws and without loss of seniority, retirement or other  
52 rights to which uninterrupted service in such prior position would  
53 have entitled him. During the period of such appointment, each  
54 person so appointed from a position in the classified civil service  
55 shall be eligible to take any competitive promotional examination  
56 for which he would otherwise have been eligible.

57 Section 106. The department shall perform such functions in  
58 relation to the administration, implementation, and enforcement of  
59 the department's authority over transportation including, but not  
60 limited to, the authority granted by chapters 159, 159A, 159B,  
61 160, 161, 161C, 161D, 162, and 163.

62 Section 107. The director shall have and exercise supervision  
63 and control over all the affairs of the department and shall preside  
64 at all hearings. In the hearing of all matters other than those of  
65 formal or administrative character coming before the department  
66 any such matter may be heard, examined and investigated by an  
67 employee of department designated and assigned thereto by the  
68 director. Such employee shall make a report in writing relative to  
69 every such matter to the director for his decision thereon. For the  
70 purposes of hearing, examining and investigating any such matter  
71 such employee shall have all of the powers conferred upon a com-  
72 missioner by section 109, and all pertinent provisions of said  
73 section shall apply to such proceedings.

74 Section 108. When so requested by any party interested, the  
75 department shall rule upon any question of substantive law prop-  
76 erly arising in the course of any proceeding before the department,  
77 and any party interested aggrieved by such ruling may object  
78 thereto, and may secure a review as hereinafter provided. Any

79 failure or refusal of the department to rule upon such question at  
80 or prior to the entry of a final order or decision shall be taken and  
81 recorded as a ruling adverse to the party requesting the ruling. An  
82 appeal as to matters of law from any final decision, order or ruling  
83 of the department may be taken to the supreme judicial court by  
84 an aggrieved party in interest by the filing of a written petition  
85 praying that the order of the department be modified or set aside  
86 in whole or in part.

87 Such petition for appeal shall be filed with the department  
88 within 20 days after the date of service of the decision, order or  
89 ruling of the department, or within such further time as the depart-  
90 ment may allow upon request filed prior to the expiration of  
91 the 20 days after the date of service of said decision, order or ruling.  
92 The department shall serve such decision, order or ruling upon all  
93 parties in interest by mailing, postpaid, within 1 day of its being  
94 entered, and service shall be presumed to have occurred in the  
95 normal course of delivery of such mail. Within 10 days after such  
96 petition has been filed, the appealing party shall enter the appeal  
97 in the supreme judicial court sitting in Suffolk county by filing a  
98 copy thereof with the clerk of said court, and shall file therewith  
99 a certificate that he is of the opinion that there is such probable  
100 ground for the appeal as to make it a fit subject for judicial  
101 inquiry and that it is not intended for delay; and double costs may  
102 be assessed by the court upon any such party whose petition shall  
103 appear to the court not to be a fit subject for judicial inquiry or  
104 shall appear to be intended for delay.

105 The record on appeal shall include 1 copy of the petition of the  
106 appellant or other original papers, and of the decision, order or  
107 ruling of the department; and if and to the extent that either the  
108 department or the appellant or any other party to the proceedings  
109 so requests within 20 days from filing the petition for appeal with  
110 the department, it shall include 1 copy of the exhibits and docu-  
111 ments introduced in the proceeding before the department, of the  
112 official report of the proceedings and of the findings of fact of  
113 the department. The department shall make an estimate of the  
114 expense of the preparation and transmission of the necessary  
115 papers and copies of papers aforesaid, and shall give the appellant  
116 notice in writing of the amount of such estimate. The appel-  
117 lant, within 20 days after the date of such notice from the depart-

118 ment, shall pay to him the amount of such estimate and such fur-  
119 ther amount beyond such estimate as the department shall find to  
120 be then due for such preparation. The department then without  
121 delay shall prepare the papers and copies of papers aforesaid for  
122 transmission, and when they are ready shall give notice in writing  
123 of such fact to the appellant who, within 5 days after the date of  
124 such notice, shall pay to the department any balance then due  
125 therefor. The record on appeal shall then be certified to the  
126 supreme judicial court by the department. The department or  
127 the supreme judicial court or any justice or judge thereof may for  
128 cause shown extend the time for doing any of the acts required by  
129 this paragraph. The supreme judicial court may order the trans-  
130 mission of the original or a copy of any paper not appearing in the  
131 record, or appearing therein in an abbreviated form, if at any time  
132 such omitted paper or any omitted part of such abbreviated paper  
133 becomes material.

134 Each claim of appeal shall set forth separately and particularly  
135 each error of law asserted to have been made by the department.  
136 Upon the entry of the appeal it shall be heard and determined by  
137 the court, which shall have jurisdiction to affirm, modify or set  
138 aside such decision, order or ruling of the department in whole or  
139 in part, or remand the proceeding to the department with instruc-  
140 tions subject to review by the full court upon appeal.

141 Any decision, order or ruling of the department shall be effec-  
142 tive and may be enforced according to its terms and the operation  
143 or enforcement thereof shall not be suspended or stayed by the  
144 entry of an appeal therefrom. The procedure before the court,  
145 except as otherwise set forth herein, shall be that prescribed by its  
146 rules, which shall state upon what terms the operation or enforce-  
147 ment of the decision, order or ruling shall be stayed. Any stock,  
148 bonds, debentures, convertible debentures, coupon notes, notes or  
149 other evidences of indebtedness issued pursuant to and in accord-  
150 dance with a decision, order, or ruling of the department shall, if  
151 issued more than 60 days after the date of service of such deci-  
152 sion, order or ruling, be valid and binding in accordance with their  
153 terms notwithstanding such decision, order or ruling of the depart-  
154 ment is later modified or set aside in whole or in part unless the  
155 operation or enforcement of such decision, order or ruling has  
156 been suspended or stayed by the court prior to such issuance.

157 The burden of proof shall be upon the appealing party to show  
158 that the decision, order or ruling of the department appealed from  
159 is invalid.

160 No evidence beyond that contained in the record shall be intro-  
161 duced before the court, except that in cases where issues of con-  
162 fiscation or of constitutional right are involved the court may  
163 order such additional evidence as it deems necessary for the deter-  
164 mination of such issues to be taken before the department and to  
165 be adduced at the hearing in such manner and upon such terms  
166 and conditions as to the court may seem proper. Whenever the  
167 court shall order additional evidence to be taken, the department  
168 shall promptly hear and report such evidence to the court so that  
169 the proof may be brought as nearly as reasonably possible down to  
170 the date of its report thereof to the court. The department may,  
171 after hearing such evidence, modify its findings as to facts and its  
172 original decision or orders by reason of the additional evidence so  
173 taken, and it shall file with the court such amended decision or  
174 orders and such modified or new findings. If the department shall  
175 modify or amend its original decision or orders, the appealing  
176 party or any other party aggrieved by such modified or amended  
177 decision or order may file with the court, within such time as the  
178 court may allow, a specification of any errors of law claimed to  
179 have been made by the department in such modified decision or  
180 orders, which specification of errors shall thereupon be considered  
181 by the court in addition to the errors of law asserted in the claim  
182 of appeal.

183 Any proceeding in any court in the commonwealth directly  
184 affecting an order of the department, or to which it is a party, shall  
185 have preference over all other civil proceedings pending in such  
186 court, except election cases.

187 The supreme judicial court shall also have jurisdiction upon  
188 application of the department to enforce all orders of the depart-  
189 ment.

190 Section 109. In all investigations and inquiries authorized by  
191 law to be made by the department and in all proceedings before it  
192 the director may summon witnesses, administer oaths and take  
193 testimony. The fees of such witnesses for attendance and travel  
194 shall be the same as for witnesses before the superior court and  
195 shall be paid by the commonwealth upon the certificate of the

196 department filed with the comptroller. The fees of such witnesses  
197 need not be paid or tendered to them prior to their attendance and  
198 testimony. Subpoenas may be issued at the instance of a com-  
199 plainant, respondent or any other party to any proceeding before  
200 the department under such rules as the department may establish,  
201 in which case the cost of service and the fees of witnesses shall be  
202 borne by the party at whose instance the witness is summoned,  
203 and such fees shall be paid to the witnesses as provided in the case  
204 of witnesses before the superior court.

205 Section 110. The executive office of transportation and con-  
206 struction shall promulgate, in accordance with chapter 30A, rules  
207 and regulations for the transportation by rail of hazardous materi-  
208 als in the commonwealth. Said regulations shall be consistent with  
209 any federal regulations in effect.

210 Section 111. The department shall issue, following public hear-  
211 ings in accordance with chapter 30A, rules and regulations for the  
212 enforcement of section 33A of chapter 164.

213 Section 112. Except when a fee is required by another provision  
214 of law, and except in the case of a filing by the commonwealth or  
215 any of its political subdivisions, the department shall, in the  
216 following instances, charge and collect fees as determined annu-  
217 ally by the commissioner of administration under the provision of  
218 section 3B of chapter 7:

219 1. For filing a tariff having intrastate application only, schedule  
220 or amendment thereto, or a contract filed under section 7 of chap-  
221 ter 159B, and for filing an application for a permit for special  
222 service, under section 11A of chapter 159A; and

223 2. For any other approval or authority of the department.

224 The undersecretary shall designate one employee to receive all  
225 fees collected under this section who shall give bond to the state  
226 treasurer in the sum of \$10,000.00.

227 Section 113. The director may assign to all officers and  
228 employees appointed or employed under the preceding section  
229 such duties as it shall from time to time deem advisable, but all  
230 acts of such officers and employees shall be done under the super-  
231 vision and control of, and subject to revision by, the director.

1 SECTION 12. The General Laws are hereby amended by insert-  
2 ing after Chapter 6A the following chapter:—



41 dispute resolution proceeding, or an employee designated as being  
42 non-decisional in a proceeding.

43 “Director”, the director of the office of ratepayer advocacy.

44 “Energy conservation”, shall include, but not be limited to, the  
45 modification of or change in operation of real or personal property  
46 in a manner likely to improve the efficiency of energy use, and  
47 shall include energy conservation measures, and any process to  
48 audit or identify and specify energy and cost savings.

49 “Energy conservation measures”, measures involving modifica-  
50 tions of maintenance and operating procedures of a building or  
51 facility and installations therein, which are designed to reduce  
52 energy consumption in such building or facility, or the installation  
53 or modification of an installation in a building or facility which is  
54 primarily intended to reduce energy consumption.

55 “Energy conservation projects”, projects to promote energy  
56 conservation, including but not limited to, energy conserving  
57 modification to windows and doors; caulking and weather strip-  
58 ping; combined heat and power facilities; insulation; automatic  
59 energy control systems; hot water systems; real time metering;  
60 equipment required to operate variable steam, hydraulic, and ven-  
61 tilating systems; plant and distribution system modifications  
62 including, but not limited to, replacement of burners, furnaces or  
63 boilers; devices for modifying fuel openings; electrical or  
64 mechanical furnace ignition systems; utility plant system conver-  
65 sions; replacement or modification of lighting fixtures; energy  
66 recovery systems; cogeneration systems and any other measure  
67 the secretary may otherwise determine.

68 “Energy efficiency”, the implementation of an action, policy, or  
69 measure which entails the application of a lesser amount of energy  
70 required to produce a desired or given output.

71 “Energy management services”, a program of services, includ-  
72 ing energy audits, energy conservation measures, energy conser-  
73 vation projects, or a combination thereof, and building  
74 maintenance and financing services, primarily intended to reduce  
75 the cost of energy and water in operating 1 or more buildings,  
76 which may be paid for in whole or in part, by cost savings attrib-  
77 utable to a reduction in energy and water consumption which  
78 result from the services.

79 “Energy management systems”, the design and installation of  
80 systems or maintenance programs to conserve energy use within a  
81 building including, but not limited to, performance-contracting  
82 energy saving projects; the installation or modification of new and  
83 existing equipment which will reduce energy and water consump-  
84 tion associated with heating, ventilation, and air conditioning sys-  
85 tem, lighting system, building envelope, domestic hot water  
86 system, and other energy and water using devices.

87 “Executive office”, the executive office of energy affairs.

88 “Financing document”, an instrument entered into by the  
89 agency with one or more persons pertaining to the issuance or  
90 securing of bonds or the application to the purposes of the agency  
91 of proceeds of bonds or other funds of the agency. A financing  
92 document may include, but need not be limited to, a lease, install-  
93 ment sale agreement, conditional sale agreement, mortgage, loan  
94 agreement, trust agreement, security agreement, letter of credit,  
95 reimbursement agreement, or currency or interest rate swap agree-  
96 ment. A financing document may also be an agreement between  
97 the agency and a lending institution which has agreed to make a  
98 loan to a user to finance a project.

99 “Governmental bodies”, an agency, executive office, depart-  
100 ment, board, commission, bureau, division, or authority or other  
101 instrumentality of the commonwealth or political subdivision of  
102 the commonwealth or 2 or more subdivisions thereof.

103 “Municipality”, a city or town within which a proposed clean  
104 energy generating unit, a clean energy research and development  
105 facility or a clean energy manufacturing facility is located, if a  
106 proposed clean energy generating unit, a clean energy research  
107 and development facility or a clean energy manufacturing facility  
108 is located in more than one city or town, each such city or town.

109 “Off-the-record communication”, any communication relevant  
110 to the merits of a contested on-the-record proceeding that, if writ-  
111 ten, is not filed with the commission and not served on the parties  
112 to the proceeding in accordance with commission’s duly issued  
113 regulations governing service of process or, if oral, is made with-  
114 out reasonable prior notice to the parties to the proceeding and  
115 without the opportunity for such parties to be present when the  
116 communication is made.

117 “Person”, a natural person, association, corporation, partnership  
118 or other legal entity.

119 “Relevant to the merits”, reasonably capable of affecting the  
120 outcome of a proceeding, or of influencing a decision, or provid-  
121 ing an opportunity to influence a decision, on any issue in the pro-  
122 ceeding, but does not include: (i) procedural inquiries, such as a  
123 request for information relating solely to the status of a proceed-  
124 ing, unless the inquiry states or implies a preference for a particular  
125 party or position, or is otherwise intended, directly or indirectly,  
126 to address the merits or influence the outcome of a proceeding;  
127 (ii) a general background or broad policy discussion involving an  
128 industry or a substantial segment of an industry, where the discus-  
129 sion occurs outside the context of any particular proceeding  
130 involving a party or parties and does not address the specific merits  
131 of the proceeding; and (iii) communications relating to compli-  
132 ance matters not the subject of an ongoing proceeding.

133 “Secretary” the secretary of the executive office of energy  
134 affairs.

135 Section 2. (a) There shall be an executive office of energy  
136 affairs which shall be under the supervision, direction and control  
137 of a secretary of energy affairs. The secretary shall be appointed  
138 by the governor and shall be a person of skill and experience in  
139 the field of energy regulation or policy. The secretary shall be the  
140 executive and administrative head of the executive office and shall  
141 be responsible for administering and enforcing the provisions of  
142 law relative to the executive office and to each administrative unit  
143 thereof. At the discretion of the governor, 1 individual may simul-  
144 taneously serve as the secretary of the executive office of energy  
145 affairs and the executive office of environmental affairs. If the  
146 governor elects to have 1 individual simultaneously serve as sec-  
147 retary the executive office of energy affairs and as secretary of the  
148 executive office of environmental affairs the office may be  
149 referred to as the Executive Office of Energy and Environmental  
150 Affairs. The secretary shall serve at the pleasure of the governor,  
151 shall receive such salary as may be determined by law, and shall  
152 devote his full time to the duties of his office; provided, however,  
153 that if the governor elects to have 1 individual simultaneously  
154 serve as secretary the executive office of energy affairs and as sec-  
155 retary of the executive office of environmental affairs said indi-

156 vidual shall be considered to be devoting his full time and atten-  
157 tion to the duties of his office; provided further, that if the gover-  
158 nor elects to have 1 individual simultaneously serve as secretary  
159 the executive office of energy affairs and as secretary of the exec-  
160 utive office of environmental affairs said secretary shall only col-  
161 lect 1 salary, and salary shall be paid entirely from the executive  
162 office of environmental affairs. In the case of an absence or  
163 vacancy in the office of the secretary, or in the case of disability  
164 as determined by the governor, the governor may designate an act-  
165 ing secretary to serve as secretary until the vacancy is filled or the  
166 absence or disability ceases. The acting secretary shall have all the  
167 powers and duties of the secretary and shall have similar qualifi-  
168 cations as the secretary.

169 (b) The secretary shall, notwithstanding the provisions of chap-  
170 ter 30 and section 9A of chapter 31 and subject to the approval of  
171 the governor, appoint 3 undersecretaries: 1 of whom shall be the  
172 undersecretary for alternative and renewable energy development  
173 and shall be a person of skill and experience in the fields of alter-  
174 native or renewable energy; 1 of whom shall be the undersecretary  
175 for broadband, cable television and telecommunications and shall  
176 be a person of skill and experience in the fields of broadband  
177 development, cable television or telecommunications; and 1 of  
178 whom shall be the undersecretary for utility regulation and over-  
179 sight and shall be a person of skill and experience in utility regu-  
180 lation, rate regulation, energy economics, energy, electricity, or  
181 gas. Each undersecretary shall receive such salary as the secretary  
182 shall determine, subject to the approval of the governor, and shall  
183 devote his full time to the duties of his office.

184 (c) Subject to appropriation, the secretary may appoint such  
185 persons as he shall deem necessary to perform the functions of the  
186 executive office, provided that the provisions of chapter 31 and  
187 section 9A of chapter 30 shall not apply to any person holding any  
188 such appointment. Every person so appointed to any position in  
189 the executive office shall have experience and skill in the field of  
190 such position. So far as practicable in the judgment of the secre-  
191 tary, appointments to such positions in the executive office shall  
192 be made by promoting or transferring employees of the common-  
193 wealth serving in positions which are classified under said chap-  
194 ter 31, and such appointments shall at all times reflect the

195 professional needs of the administrative unit affected. If an  
196 employee serving in a position which is classified under said chap-  
197 ter 31 or in which an employee has tenure by reason of said  
198 section 9A of chapter 30 shall be appointed to a position within  
199 this office which is not subject to the provisions of said chapter  
200 31, the employee shall upon termination of his service in such  
201 position be restored to the position which he held immediately  
202 prior to such appointment; provided, however, that his service in  
203 such position shall be determined by the civil service commission  
204 in accordance with the standards applied by said commission in  
205 administering said chapter 31. Such restoration shall be made  
206 without impairment of his civil service status or tenure under said  
207 section 9A of chapter 30 and without loss of seniority, retirement  
208 or other rights to which uninterrupted service in such prior posi-  
209 tion would have entitled him. During the period of such appoint-  
210 ment, each person so appointed from a position in the classified  
211 civil service shall be eligible to take any competitive promotional  
212 examination for which he would otherwise have been eligible.

213 Section 3. The executive office shall serve as the principal  
214 agency of the executive department of the government of the com-  
215 monwealth for the development of state energy and telecommuni-  
216 cations policies and in so doing they shall:

217 (1) Regulate, develop, coordinate and administer the energy  
218 and telecommunications industries, policies and programs within  
219 the commonwealth;

220 (2) Supervise and manage the organization and conduct of the  
221 business affairs of the administrative units within the executive  
222 office to improve administrative efficiency and program effective-  
223 ness and to preserve fiscal resources;

224 (3) Develop and implement effective policies, regulations and  
225 programs to assure the coordination and quality of services pro-  
226 vided by the executive office and all of the administrative units  
227 thereof;

228 (4) Act as the single state agency to supervise and administer  
229 state programs and to maximize federal financial participation for  
230 the administrative units within the executive office.

231 (5) Regulate investor and municipally owned public utilities in  
232 the commonwealth;

- 233 (6) Protect consumers from unjust utility practices and monitor-  
234 ing the quality of service provided by utility companies;
- 235 (7) Ensure that electric and gas service is provided to con-  
236 sumers in a safe and reliable manner at the lowest possible cost;
- 237 (8) Ensure that the retail competitive electric market is imple-  
238 mented in a fair and efficient manner that brings benefits to con-  
239 sumers of electricity;
- 240 (9) Facilitate access to high speed internet connectivity and  
241 telecommunications in the commonwealth, with a special interest  
242 in increasing the presence of affordable, state-of-the-art wireless  
243 internet, cellular and broadband access across the commonwealth  
244 to promote economic development, meet the commonwealth's  
245 homeland security and emergency preparedness needs, improve  
246 government efficiency, and improve the quality of life for the  
247 commonwealth's residents;
- 248 (10) Govern cable franchising, franchise renewal and transfers  
249 of cable licenses within the commonwealth, establish basic cable  
250 rates and enforce consumer protection standards;
- 251 (11) Develop and administer programs relating to energy con-  
252 servation, alternative energy development, non-renewable energy  
253 supply and resource development, energy bond authority, energy  
254 information, and energy emergencies;
- 255 (12) Advise, assist, and cooperate with other state, local,  
256 regional, and federal agencies in developing appropriate programs  
257 and policies relating to energy planning and regulation in the com-  
258 monwealth, including assistance and advice in the preparation of  
259 loan or grant applications with respect to energy programs, for  
260 state, local and regional agencies;
- 261 (13) Develop energy data and information management capabil-  
262 ities to aid energy planning and decision-making;
- 263 (14) Promote the development of sound energy education  
264 programs;
- 265 (15) Apply for, receive, expend, represent and act on behalf of  
266 the commonwealth in connection with federal grants, grant pro-  
267 grams or reimbursements, or private grants, keep accounts,  
268 records, personal data, enter into contracts, including contracts for  
269 the insurance of vehicles in the alternative fuel vehicle demonstra-  
270 tion program, and adjust claims;

271 (16) Accept gifts, grants, funds, monies, bequests, and devises,  
272 whether real or personal, from any source, whether public or pri-  
273 vate, for the purpose of assisting the commissioner in the dis-  
274 charge of his duties;

275 (17) Promulgate rules and regulations necessary to carry out  
276 their statutory responsibilities;

277 (18) Seek the laboratory, technical, educational, and research  
278 skills of state institutions of higher education in order to carry out  
279 the provisions of this chapter;

280 (19) Plan, develop, oversee, and operate programs to help con-  
281 sumers understand, evaluate, and select retail energy supplies and  
282 related services offered as a consequence of electric and gas utility  
283 restructuring, in accordance with the provisions of section 11D;  
284 and

285 (20) Provide technical assistance to municipalities and govern-  
286 mental bodies seeking assistance during the transition to a com-  
287 petitive market, including, but not limited to, the voluntary  
288 aggregation of their citizens' demand for electricity pursuant to  
289 section 134 of chapter 164.

290 Section 4. (a) The secretary may from time to time, subject to  
291 appropriation, establish within the executive office such adminis-  
292 trative units as may be necessary for the efficient and economical  
293 administration of the executive office, and when necessary for  
294 such purpose, may abolish any such administrative unit, or may  
295 merge any two or more units, as the secretary deems advisable.  
296 The secretary shall prepare and keep current a statement of the  
297 organization of the executive office, of the assignment of its func-  
298 tions to its various administrative units, offices and employees,  
299 and of the places at which and the methods whereby the public  
300 may receive information or make requests. Such statement shall  
301 be known as the executive office's description of organization. A  
302 current copy of the description of organization shall be kept on  
303 file in the office of the secretary of state and in the office of the  
304 secretary of administration.

305 Section 5. (a) There shall be within the executive office a divi-  
306 sion of municipal services which shall perform such functions as  
307 the secretary may determine in relation to the executive office's  
308 interaction with municipalities and other governmental bodies.  
309 The division shall be under the supervision and control of a direc-

310 tor appointed by the secretary. The director shall be the executive  
311 and administrative head of the division and shall be responsible  
312 for administering and enforcing the provisions of law relative to  
313 the division and to each administrative unit thereof. The duties  
314 given to the director in this chapter and in any other general or  
315 special law shall be exercised and discharged subject to the direc-  
316 tion, control and supervision of the secretary.

317 (b)(i) The division shall serve as the principal point of contact  
318 for municipalities and other governmental bodies concerning all  
319 matters under the jurisdiction of the executive office, including  
320 without limitation, providing advice and technical assistance to  
321 municipalities and other governmental bodies seeking said advice  
322 and technical assistance in the procurement of electricity and nat-  
323 ural gas on the competitive retail market, with aggregation activi-  
324 ties pursuant to section 134 of chapter 164, with implementation  
325 of the energy efficiency and green communities program estab-  
326 lished pursuant to subsection (c) and with any other matter the  
327 secretary may deem appropriate.

328 (b)(ii) The division shall design and implement a competitive  
329 bidding procedure for the procurement of electric generation from  
330 clean energy generating facilities on behalf of municipalities seek-  
331 ing assistance with said procurement pursuant to subsection (c)(ii);  
332 provided further, that any such competitive bids received shall  
333 include payment options with rates that remain uniform for a min-  
334 imum period of 5 years; and provided further, that in lieu of  
335 designing and implementing a competitive bidding process as  
336 required by this section, the director may become a member of  
337 one or more programs organized and administered by the Massa-  
338 chusetts Health and Educational Facilities Authority or its sub-  
339 sidiary organization for the purpose of such competitive group  
340 purchasing of electricity.

341 (c)(i) The division shall establish an energy efficiency and  
342 green communities program. The purpose of said program shall be  
343 to provide financial assistance, in the form of grants and loans,  
344 from the Massachusetts Energy Efficiency Trust Fund established  
345 pursuant to section 24 and the Massachusetts Renewable Energy  
346 Trust Fund established pursuant to section 25, to municipalities  
347 and other governmental bodies that qualify as green communities  
348 pursuant to this section to finance the costs of studying, designing,

349 constructing and implementing energy efficiency activities, includ-  
350 ing but not limited to, energy conservation measures and projects;  
351 procurement of energy management services; installation of  
352 energy management systems; adoption of demand side reduction  
353 initiatives; adoption of energy efficiency policies; and the siting  
354 and construction of clean energy projects on municipally owned  
355 land. The division may also award grants to provide technical  
356 assistance to municipalities applying to qualify as a green commu-  
357 nity pursuant to this section.

358 (c)(ii) In order to qualify as a green community a municipality  
359 shall: (i) file an application with the division in a form and man-  
360 ner to be prescribed by the division; and (ii) accept a designation  
361 as a qualifying clean energy community by the clean energy facil-  
362 ity site screening committee established pursuant to section xx  
363 and permit the construction of a minimum of 1 clean energy gen-  
364 erating facility within the community on municipally or privately  
365 owned real property identified by the secretary as real property  
366 which could potentially be utilized to site clean energy generating  
367 facilities, clean energy research and development facilities, and  
368 clean energy manufacturing facilities pursuant to section 20;  
369 (iii) adopt an expedited application and permitting process pur-  
370 suant to which clean energy generating facilities or clean energy  
371 research and development or manufacturing facilities may be sited  
372 within the municipality; provided, however, that said process shall  
373 not exceed 1 year from the date of initial application to the date of  
374 final approval; provided, further, that in lieu of adopting such an  
375 expedited application and permitting process a municipality may  
376 agree to transfer the right, without recourse to the municipality, to  
377 site clean energy generating facilities within the municipality to  
378 the energy facilities siting board established pursuant to sec-  
379 tion 64H of chapter 164; or (iv) agree to enter into a contract  
380 wherein the municipality shall purchase a fixed percentage of  
381 electricity consumed by municipally owned buildings, street and  
382 traffic lights from clean energy sources; provided, however, that  
383 the maximum percentage of clean energy generation required to  
384 satisfy the provisions of this subsection shall not exceed 20 per  
385 cent of a municipality's total electric load as determined by the  
386 division.

387 (c)(iii) In determining the funding priority for municipalities  
388 qualifying as green communities pursuant to subsection (c)(ii), the  
389 secretary shall consider whether municipalities have undertaken  
390 any other initiatives to reduce energy consumption, promote  
391 energy conservation or promote the development of clean energy  
392 generating facilities including, but not limited to, the following:  
393 (a) entering into long-term contracts, as may defined by the secre-  
394 tary, for the purchase of clean energy to satisfy the provisions of  
395 subsection (c)(ii); (b) establishing an energy use baseline inven-  
396 tory for municipal buildings, street and traffic lighting and putting  
397 in place a comprehensive plan to reduce said baseline; (c) adopt-  
398 ing a policy of purchasing only fuel efficient municipal vehicles  
399 whenever such vehicles are commercially available and practica-  
400 ble; (d) adopting an ordinance or bylaw requiring any new com-  
401 mercial and industrial real estate development projects to minimize  
402 the life-cycle cost of the facility by utilizing energy efficiency, water  
403 conservation, or other clean energy technologies; (e) adopting a pol-  
404 icy instituting a comprehensive energy curriculum for use by the  
405 public schools within the municipality; (f) adopting a policy institut-  
406 ing a comprehensive energy education program for residential users  
407 of electricity; and (g) aligning local building codes with the state  
408 energy efficiency code established pursuant to chapter 143.

409 (d) The division shall establish general policy, guidelines and  
410 standards regarding energy conservation measures and projects;  
411 procurement of energy management services; installation of  
412 energy management systems; adoption of demand side reduction  
413 initiatives; adoption of energy efficiency policies; and the siting  
414 and construction of renewable energy projects on municipally  
415 owned land and shall administer the energy efficiency and green  
416 communities program in accordance with the provisions of this  
417 chapter. The director of the division shall be responsible for the  
418 administration and oversight of the energy efficiency and green  
419 communities program as established herein, and shall, in consulta-  
420 tion with the undersecretary for alternative and renewable energy  
421 development, apply and disburse monies and revenues of the  
422 Massachusetts Energy Efficiency Trust Fund established pursuant  
423 to section 24 and the Massachusetts Renewable Energy Trust  
424 Fund established pursuant to section 25 without further appropria-

425 tion or allotment, subject to restrictions imposed by subsection (e)  
426 and consistent with the provisions of said sections 24 and 25.

427 (e) The total amount of annual funding available for the energy  
428 efficiency and green communities program in any one fiscal year  
429 shall not exceed 20 per cent of the revenues generated by the  
430 Massachusetts Energy Efficiency Trust Fund established pursuant  
431 to section 24 for energy conservation measures and projects,  
432 energy management services, energy management systems and  
433 demand side reduction initiatives and 40% of the revenues gener-  
434 ated by the Massachusetts Renewable Energy Trust Fund estab-  
435 lished pursuant to section 25 for renewable energy projects in said  
436 fiscal year.

437 (f) A municipality or other governmental body served by a  
438 municipal lighting plant exempt from the provisions of section 24  
439 and section 25 shall not be eligible for designation as an energy  
440 efficient and green community pursuant to this section.

441 (g) The division shall establish rules, regulations and guidelines  
442 for the administration and enforcement of this section, including, but  
443 not limited to, establishing applicant criteria, application forms and  
444 procedures, and energy efficiency product requirements.

445 Section 6. (a) There shall be within the executive office, but not  
446 subject to the control of said office, an office for ratepayer advo-  
447 cacy. The governor shall appoint a director of the office of rate-  
448 payer advocacy for a term of 6 years. The governor may remove  
449 the director only for cause including, but not limited to, any viola-  
450 tions of the provisions of section 7, and shall fill any vacancy for  
451 the unexpired term. The director shall devote his full time and  
452 attention to the duties of his office.

453 (b) The director is hereby authorized to intervene in administra-  
454 tive or judicial proceedings held in the commonwealth, in any  
455 other New England state and before any federal agency on behalf  
456 of any group of consumers in connection with any matter involv-  
457 ing the rates, charges, prices or tariffs of an electric, gas, tele-  
458 phone or telegraph company doing business in the commonwealth  
459 and subject to the jurisdiction of the executive office.

460 For the purpose of such intervention the director may expend  
461 such funds as may be appropriated therefor; provided, however,  
462 that such expenditures shall not exceed the amount assessed annu-

463 ally against such electric, gas, telephone and telegraph company  
464 under the provisions of section 10(e).

465 (c) The director may appoint such persons as he shall deem  
466 necessary to perform the functions of the office of ratepayer advo-  
467 cacy, provided that the provisions of chapter 31 and section 9A of  
468 chapter 30 shall not apply to any person holding any such appoint-  
469 ment. Every person so appointed to any position in the office of  
470 ratepayer advocacy shall have experience and skill in the field of  
471 such position. So far as practicable in the judgment of the secre-  
472 tary, appointments to such positions in the executive office shall  
473 be made by promoting or transferring employees of the common-  
474 wealth serving in positions which are classified under chapter 31,  
475 and such appointments shall at all times reflect the professional  
476 needs of the administrative unit affected. If an employee serving  
477 in a position which is classified under chapter 31 or in which an  
478 employee has tenure by reason of section 9A of chapter 30 of the  
479 General Laws shall be appointed to a position within this office  
480 which is not subject to the provisions of chapter 31 of the General  
481 Laws, the employee shall upon termination of his service in such  
482 position be restored to the position which he held immediately  
483 prior to such appointment; provided, however, that his service in  
484 such position shall be determined by the civil service commission  
485 in accordance with the standards applied by said commission in  
486 administering chapter 31. Such restoration shall be made without  
487 impairment of his civil service status or tenure under section 9A  
488 of chapter 30 of the General Laws and without loss of seniority,  
489 retirement or other rights to which uninterrupted service in such  
490 prior position would have entitled him. During the period of such  
491 appointment, each person so appointed from a position in the clas-  
492 sified civil service shall be eligible to take any competitive pro-  
493 motional examination for which he would otherwise have been  
494 eligible.

495 Section 7. (a) The secretary, undersecretaries, commissioners,  
496 and directors of the executive office shall be sworn to the faithful  
497 performance of their official duties. Each secretary, undersecre-  
498 tary, commissioner, and director shall conduct themselves in a  
499 manner so as to render decisions that are fair and impartial and in  
500 the public interest; avoid impropriety and the appearance of

501 impropriety in all matters under their jurisdiction; avoid all pro-  
502 hibited communications; require staff and personnel subject to  
503 their direction and control to observe the same standards of  
504 fidelity and diligence; disqualify themselves from proceedings in  
505 which their impartiality might reasonably be questioned; refrain  
506 from financial or business dealings which would tend to reflect  
507 adversely on impartiality, although the secretary, undersecretaries,  
508 commissioners, and directors may hold and manage investments  
509 which are not incompatible with the duties of their office or the  
510 provisions of this section; conform to such additional rules as may  
511 be prescribed by the secretary from time to time.

512 (b) The secretary, undersecretaries, commissioners, directors  
513 and employees shall not own, or be in the employ of, or own any  
514 stock in, any regulated industry company, nor shall they be in any  
515 way directly or indirectly pecuniarily interested in, or connected  
516 with, any such regulated industry company or in the employ or  
517 connected with any person financing any regulated industry com-  
518 pany. The secretary, undersecretaries, commissioners, directors  
519 and employees shall not personally, or through any partner or  
520 agent, render any professional service or make or perform any  
521 business contract with or for any regulated industry company,  
522 except contracts made with the commissioners as common carriers  
523 for furnishing of services, nor shall he or she directly or indirectly  
524 receive any commission, bonus, discount, gift or reward from any  
525 regulated industry company.

526 For the purposes of this section and the provisions of chap-  
527 ter 164, a regulated industry company shall be defined as any  
528 corporation, city, town or other governmental subdivision, part-  
529 nership or other organization, or any individual engaged within  
530 the commonwealth in any business which is, or the persons  
531 engaged in which are, in any respect made subject to the supervi-  
532 sion or regulation of the executive office by any provision of law  
533 except chapter 110A of the General Laws and chapter 651 of the  
534 Acts of 1910, as amended.

535 Section 8. The secretary shall annually develop a short and long  
536 term resource adequacy forecast projecting capacity and demand  
537 for both electric generation and natural gas throughout the com-  
538 monwealth. The analysis and publication of all data and informa-  
539 tion collected by the executive office shall be utilized to inform

540 consumers, energy suppliers and other market participants, the  
541 executive office, and the general court about short and long term  
542 resource adequacy, the operation of retail markets and any defi-  
543 ciencies in the operation of those markets, and to recommend  
544 improvements to such.

545 The secretary shall coordinate with the operator of the bulk  
546 power system in New England, the federal energy regulatory com-  
547 mission, and the other public utility commissions in the states of  
548 Connecticut, Maine, New Hampshire, New York, Rhode Island,  
549 and Vermont to adopt and implement appropriate policy initiatives  
550 and statutory reforms including, but not limited to, the further  
551 development of the operator of the bulk power system, to ensure  
552 the independent operation of the regional bulk power system in  
553 order to provide for full and fair competition in electric generation  
554 while preserving the reliability of the system.

555 The governor, acting by and through the secretary, shall pursue  
556 the formation of a regional oversight committee with members  
557 from the various public utilities regulatory bodies from Connecti-  
558 cut, Maine, New Hampshire, New York, Rhode Island, and Ver-  
559 mont to monitor any independent systems operator serving the  
560 New England/New York area formed through federal statute or  
561 regulation. Said committee shall be encouraged to pursue regional  
562 coordination of transmission oversight including, but not limited  
563 to, the development and execution of a regional compact agree-  
564 ment, subject to federal congressional and executive approval, in  
565 an effort to jointly monitor issues of reliability which affect the  
566 region as a whole and to require publicly and investor-owned util-  
567 ities located in the aforementioned states that sell energy to retail  
568 customers in the commonwealth to adhere to enforceable stan-  
569 dards and protocols to protect the reliability of the regional trans-  
570 mission and distribution systems.

571 The executive office shall annually issue a report containing  
572 information on all issues of electricity system reliability includ-  
573 ing, but not limited to, generation and transmission data detailing  
574 load and capacity for the prior calendar year and forecasting  
575 potential future capacity excesses or deficits for the next 10 calen-  
576 dar years. The executive office shall utilize any and all informa-  
577 tion available to forecast potential capacity excesses or deficits  
578 including, but not limited to, analyses by the independent system

579 operator and other such data collected by the executive office pur-  
580 suant to section 24. Said report shall contain: (i) electricity spot  
581 price information for the previous calendar year, including, but  
582 not limited to, the average regional monthly spot price; (ii) a  
583 determination of the extent to which the energy markets are main-  
584 taining necessary levels of reliability; (iii) a determination of  
585 whether or not all customer classes are being adequately served by  
586 competitive energy markets; (iv) a determination of the competi-  
587 tiveness of energy markets; including a determination whether or  
588 not the electric industry is providing consumers with the lowest  
589 prices possible within a restructured, competitive retail market-  
590 place; and (v) a determination of the extent to which the energy  
591 markets are achieving the energy efficiency and fuel diversity  
592 goals of the commonwealth. Said report shall identify any sub-  
593 stantial fluctuation or pricing differences in the cost of electricity  
594 available to consumers, especially with respect to geographic  
595 regions and low and moderate income consumers. Said report  
596 shall make recommendations for improving any deficiencies so  
597 identified in electricity energy markets which are within the  
598 authority of the general court, the executive office, the federal  
599 energy regulatory commission, or any other governmental body  
600 with jurisdiction over the deficiency so identified. The executive  
601 office shall annually submit such report to the house and senate  
602 committees on ways and means, the joint committee on telecom-  
603 munications, utilities and energy and the joint committee on eco-  
604 nomic development and emerging technologies no later than April  
605 30, including drafts of legislation to implement recommendations  
606 contained within such report.

607 Section 9. There is hereby established within the executive  
608 office an energy advisory board which shall consist of 13 mem-  
609 bers appointed by the governor: 3 of whom shall be representa-  
610 tives of investor-owned electric utilities; 1 of whom shall be a  
611 representative of an investor-owned gas utility; 2 of whom shall  
612 be representatives of the environmental community; 2 of whom  
613 shall be representatives of the business community; 1 of whom  
614 shall be a consumer representative; 1 of whom shall be a represen-  
615 tative of organized labor appointed from a list of 3 qualified  
616 names submitted by the Massachusetts State Labor Council, AFL-  
617 CIO; 1 of whom shall be a representative of energy conservation

618 providers; 1 of whom shall be a representative of the independent  
619 power industry and 1 of whom shall be the secretary. Said advisory  
620 board shall meet at least 4 times annually and shall make recommendations  
621 to the governor respecting mandated assessments  
622 and fees; relating to the provision of energy and energy services in  
623 the commonwealth; the relationship between existing fees and  
624 assessments on public utilities and patterns of timely regulatory  
625 action; the elimination of duplication of regulatory activity and  
626 relative to long-term planning and the future of the common-  
627 wealth's energy policy. Said advisory board shall annually, no  
628 later than October 1, report to the governor and to the house and  
629 senate committees on ways and means and the joint committee on  
630 telecommunications, utilities and energy. The members of the  
631 advisory board shall serve without compensation.

632 Section 10. (a) The secretary is hereby authorized to make an  
633 assessment against each electric, gas, cable television, telephone  
634 and telegraph company under the jurisdictional control of the  
635 executive office and each generation company and supplier  
636 licensed by the executive office to do business in the common-  
637 wealth, based upon the intrastate operating revenues subject to the  
638 jurisdiction of the executive office of each of said companies  
639 derived from sales within the commonwealth of electric, gas,  
640 cable television, telephone and telegraph service, respectively, as  
641 shown in the annual report of each of said companies to the executive  
642 office. Said assessments shall be made at a rate not exceeding  
643 0.2 per cent of such intrastate operating revenues, as shall be  
644 determined and certified annually by the secretary as sufficient to  
645 reimburse the commonwealth for funds appropriated by the  
646 general court for the operation and general administration of  
647 the executive office, exclusive of funds appropriated by the  
648 general court for the cost of fringe benefits as established by  
649 the commissioner of administration pursuant to section 5D of  
650 chapter 29, including group life and health insurance, retirement  
651 benefits, paid vacations, holidays and sick leave. The funds may  
652 be used to compensate consultants in hearings on petitions filed  
653 by companies subject to assessment under this section. Assess-  
654 ments made under this section may be credited to the normal operating  
655 cost of each company. Each company shall pay the amount  
656 assessed against it within 30 days after the date of the notice of

657 assessment from the executive office. Such assessments shall be  
658 collected by the executive office and credited to the General Fund.  
659 Any funds unexpended in any fiscal year for the purposes for  
660 which such assessments were made shall be credited against the  
661 assessment to be made in the following fiscal year and the assess-  
662 ment in the following fiscal year shall be reduced by any such  
663 unexpended amount.

664 (b) For the purpose of providing the executive office with addi-  
665 tional operating funds for the regulation of electric companies, the  
666 secretary may make a separate assessment proportionally against  
667 each electric company under the jurisdictional control of the exec-  
668 utive office and each generation company and supplier licensed by  
669 the executive office to do business in the commonwealth, based  
670 upon the intrastate operating revenues subject to the jurisdiction  
671 of the executive office of each of such companies derived from  
672 sales within the commonwealth of electric service, as shown in  
673 the annual report of each of such companies to the executive  
674 office. Such assessment shall be made at a rate as shall be deter-  
675 mined and certified annually by the secretary as sufficient to pro-  
676 duce an annual amount of not less than \$2,438,000 commencing  
677 in fiscal year 1998 and in each fiscal year thereafter, plus the costs  
678 of fringe benefits and indirect costs as established by the commis-  
679 sioner of administration pursuant to section 5D of chapter 29,  
680 including group life and health insurance, retirement benefits,  
681 paid vacations, holidays and sick leave. The amount of such  
682 assessment may be increased by the secretary annually by a rate  
683 not to exceed the most recent annual consumer price index as cal-  
684 culated for the northeast region for all urban consumers. Assess-  
685 ments made under this section may be credited to the normal  
686 operating cost of each company. Each company shall pay the  
687 amount assessed against it within 30 days after the date of  
688 the notice of assessment from the secretary. Such assessments  
689 shall be collected by the executive office, and credited to the  
690 Executive office of Energy Affairs Trust Fund established pur-  
691 suant section 35CC of chapter 10.

692 (c) A schedule of filing fees shall be determined annually by  
693 the commissioner of administration under the provisions of  
694 section 3B of chapter 7 for the following: (i) petitions for certifi-  
695 cates of environmental impact and public need, provided, how-

696 ever, that such filing fee for any municipal corporation empow-  
697 ered to operate a municipal lighting plant under the provisions of  
698 section 35 or 36 of chapter 164 shall not exceed a maximum  
699 amount; and (ii) notices of intention to construct an oil facility,  
700 with a maximum amount per oil facility to be graduated in accor-  
701 dance with the expected capital investment in the facility.

702 (d) Notwithstanding the provisions of section 20 of chapter 159  
703 and section 94 of chapter 164, during any fiscal year in which  
704 such assessment is made, the executive office shall have no  
705 authority to suspend the effective date of any rate, price or charge  
706 set forth in any schedule filed subsequent to January 1, 1977 by a  
707 telephone or telegraph company under the provisions of said chap-  
708 ter 159 or by a gas or electric company under the provisions of  
709 said section 94 of said chapter 164 for a period longer than 6 months;  
710 provided, however, that in the event that such 6 month period  
711 expires on a Sunday or legal holiday, any rate, price or charge sus-  
712 pended under this section shall remain suspended until the day  
713 following the next day which is not a Sunday or legal holiday.

714 (e) The secretary is hereby authorized to make an annual  
715 assessment against each electric, gas, telephone and telegraph  
716 company doing business in the commonwealth and subject to the  
717 supervision of the executive office, based upon intrastate operat-  
718 ing revenues of each of such companies derived from the sales of  
719 electric, gas, telephone and telegraph services, respectively, as  
720 shown on the annual report or annual statement of each such com-  
721 pany filed with the appropriate supervising agency. Such assess-  
722 ment shall be in such amount as determined and certified annually  
723 by the director to be sufficient to produce \$1,350,145 in revenue  
724 to the commonwealth and shall be assessed proportionately  
725 against each such company on the basis of such intrastate operat-  
726 ing revenues of each such company; provided, however, that in  
727 addition to such assessment amount, the assessment shall include  
728 amounts to be credited to the General Fund for fringe benefit costs  
729 including, but not limited to, group life and health insurance and  
730 retirement benefits, paid vacations and holidays and sick leave,  
731 not to exceed 22 percent of the amount attributable to personnel  
732 costs of the director's office subject to assessment under the pro-  
733 visions of this section and section 6 in the fiscal year in which  
734 such assessment is made; and, provided further, that if the director

735 fails to expend in any fiscal year the total amount of \$1,350,145  
736 for the purposes set forth under the provisions of said section 6,  
737 any amount unexpended in such fiscal year shall be credited  
738 against the assessment to be made in the following year and the  
739 assessment in such following year shall be reduced by such unex-  
740 pended amount.

741 Assessments made under this subsection may be credited to the  
742 normal operating costs of each such company and shall be utilized  
743 by the director solely for the purposes set forth under the provi-  
744 sions of section 6. The secretary is hereby authorized to make a  
745 further annual assessment for the purpose of providing funds to  
746 the director for the representation of consumer interests in pro-  
747 ceedings held pursuant to section 94G of chapter 164 and such  
748 other proceedings as may be reasonably related to said sec-  
749 tion 94G. Such assessments shall be assessed proportionately  
750 against each electric company under the jurisdictional control of  
751 the executive office based upon the intrastate operating revenues  
752 of each such company derived from wholesale and retail sales of  
753 electricity within the commonwealth as shown in the annual report  
754 of such company to the executive office. Such assessment shall be  
755 made at a rate which shall be determined and certified annually by  
756 the director as sufficient to produce not more than \$75,000 in rev-  
757 enue to be credited to the General Fund for each fiscal year for  
758 which such assessment is made.

759 (f) The secretary may make an assessment against each electric  
760 and gas utility company doing business in the commonwealth.  
761 This subsection shall not apply to municipally owned electric and  
762 gas companies. The assessments shall be made to finance activi-  
763 ties undertaken by the department of alternative and renewable  
764 energy development in accordance with section 24 related to over-  
765 sight and coordination of ratepayer funded programs for energy  
766 efficiency, energy conservation, and demand reduction programs.  
767 The assessment shall be made at a rate determined and certified  
768 annually by the secretary as sufficient to reimburse the common-  
769 wealth for funds appropriated by the general court for activities of  
770 the department of alternative and renewable energy development  
771 related to the oversight and coordination of programs for energy  
772 efficiency, energy conservation, and demand reduction. The  
773 assessment shall not exceed an amount equal to 0.75 per cent of

774 the total annual mandatory charge collected by each utility com-  
775 pany under section 11. Assessments made under this section shall  
776 be charged by the utility companies against the revenues so col-  
777 lected under section 11 or as the revenues are approved by the  
778 commission or otherwise required by law, as applicable. Each  
779 company shall pay the amount assessed against it within 30 days  
780 after the date of the notice of assessment from the department.

781 (g) The secretary shall make an assessment for each fiscal year  
782 against each licensee issued a license pursuant to section 39 with  
783 operating revenues exceeding \$1,000,000 based upon the operat-  
784 ing revenues of each licensee derived from sales within the com-  
785 monwealth of community antenna television service as shown in  
786 the most recent annual report to the director of the division of  
787 community antenna television of each said licensee. Said assess-  
788 ment shall be determined and certified by the secretary so as to  
789 produce not more than \$720,000 in revenue for each fiscal year to  
790 be allocated among such licensees in the proportion that each  
791 licensee's share of such operating revenues bears to the total of all  
792 such licensees in the commonwealth during the previous calendar  
793 year. The funds produced by such assessment shall be allocated to  
794 the administrative, operational, equipment and personnel expenses  
795 of the division of community antenna television established pur-  
796 suant to section 37, subject to appropriation.

797 (h) On or before October 1 of the year in which an assessment  
798 is made pursuant this section, the secretary shall certify to the  
799 commissioner of revenue the amount of the assessment to be made  
800 and the name and address of each company against whom such  
801 assessment is made. Such assessments shall be collected by said  
802 commissioner in accordance with applicable provisions of chap-  
803 ter 63; provided, however, that each such company shall pay the  
804 amount assessed against it within 30 days from the receipt of  
805 notice of assessment from said secretary. The amount so collected  
806 shall be credited to the General Fund.

807 Section 11. (a) The executive office shall require a mandatory  
808 charge per kilowatt-hour for all electricity consumers of the com-  
809 monwealth, except those consumers served by a municipal lighting  
810 plant which does not supply generation service outside its own serv-  
811 ice territory or does not open its service territory to competition at  
812 the retail level, to fund energy efficiency activities including, but not

813 limited to, demand-side management programs. Said charge shall be  
814 in the amount of 2.5 mills (\$0.0025) per kilowatt-hour. 50 per cent  
815 of all revenues generated by said mandatory charge shall be the  
816 deposited into the Massachusetts Clean Energy Trust Fund, estab-  
817 lished pursuant to section 23 and 50 per cent of all revenues gener-  
818 ated by said mandatory charge shall be the deposited into the  
819 Massachusetts Energy Efficiency Trust Fund, established pursuant to  
820 section 24.

821 (b) The executive office shall require a mandatory charge per  
822 therm for all natural gas consumers in the commonwealth, to fund  
823 energy efficiency activities including, but not limited to, demand-  
824 side management programs. Said charge shall be in the amount  
825 of 12.5 mills (\$0.0125) per therm. 50 per cent of all revenues gen-  
826 erated by said mandatory charge shall be deposited into the  
827 Massachusetts Clean Energy Trust Fund, established pursuant to  
828 section 23 and 50 per cent of all revenues generated by said man-  
829 datory charge shall be deposited into the Massachusetts Energy  
830 Efficiency Trust Fund, established pursuant to section 24.

831 Section 12. (a) The executive office shall require a mandatory  
832 charge per kilowatt-hour for all electricity consumers of the com-  
833 monwealth, except those consumers served by a municipal light-  
834 ing plant which does not supply generation service outside its own  
835 service territory or does not open its service territory to competi-  
836 tion at the retail level, to support the development and promotion  
837 of clean and renewable energy projects. Said charge shall be in the  
838 amount of 1/2 of 1 mill (\$0.0005) per kilowatt-hour. 50 per cent of  
839 all revenues generated by said mandatory charge shall be  
840 deposited into the Massachusetts Clean Energy Trust Fund, estab-  
841 lished pursuant to section 23 and 50 per cent of all revenues gen-  
842 erated by said mandatory charge shall be deposited into the  
843 Massachusetts Renewable Energy Trust Fund, established pur-  
844 suant to section 25.

845 (b) The executive office shall require a mandatory charge per  
846 therm for all natural gas consumers in the commonwealth, to sup-  
847 port the development and promotion of clean and renewable energy  
848 projects. Said charge shall be in the amount of 12.5 mills (\$0.0125)  
849 per therm. 50 per cent of all revenues generated by said man-  
850 datory charge shall be deposited into the Massachusetts Clean  
851 Energy Trust Fund, established pursuant to section 23 and 50 per cent

852 of all revenues generated by said mandatory charge shall be deposited  
853 into the Massachusetts Renewable Energy Trust Fund, established  
854 pursuant to section 25.

855 Section 13. The secretary, in conjunction with the secretary of  
856 administration and finance, shall design and implement a competi-  
857 tive bidding process for the competitive procurement of electric  
858 generation on behalf of any agency, executive office, department,  
859 board, commission, bureau, division, or authority of the common-  
860 wealth procuring electricity from a local distribution company via  
861 basic service pursuant to subsection (e) of section 1B of chapter  
862 164 as of July 1, 2007; provided further that, any such competitive  
863 bid received shall include payment options with rates that remain  
864 uniform for a minimum period of 1 year; and provided further,  
865 that in lieu of designing and implementing a competitive bidding  
866 process as required by this section, the secretary may become a  
867 member of one or more programs organized and administered by  
868 the Massachusetts Health and Educational Facilities Authority or  
869 its subsidiary organization for the purpose of such competitive  
870 group purchasing of electricity.

871 Section 14. The governor shall have the authority to declare an  
872 energy emergency in the commonwealth due to actual or immi-  
873 nent severe energy supply interruption in the commonwealth, or  
874 resulting from the obligating of the United States under the inter-  
875 national energy program of the United States, or like obligation.  
876 The declaration of an energy emergency shall comply with the  
877 requirements of section 2 of chapter 30A with regard to emergency  
878 regulations. Upon issuance of such declaration of an energy emer-  
879 gency the governor shall implement, at his discretion, with or with-  
880 out any federal delegation, action or approval: (i) such energy  
881 supply shortage contingency plans including conservation contin-  
882 gency plans and rationing contingency plans as have been devel-  
883 oped by the secretary of the executive office of energy affairs  
884 and which conform to the substantive requirements of 42 USC  
885 Secs. 6261-6275; and (ii) any petroleum plan or other measures  
886 which comply with the substantive requirements of 15 USC  
887 Sec. 751-760H or successor federal legislation. Any such dec-  
888 laration of an energy emergency, as provided in this section,  
889 shall expire in 90 days after promulgation. In the event the gover-  
890 nor deems it necessary to extend the energy emergency beyond

891 said 90 days, he shall file with the general court legislation autho-  
892 rizing such extension. The governor shall have the authority to  
893 adopt and enforce such energy emergency measures as may be  
894 delegated by the United States and which are consistent with the  
895 General Laws.

896 Section 15. To enable retail customers to realize savings from  
897 electric utility restructuring, the secretary, in consultation with  
898 local and state-wide consumer groups, is hereby authorized and  
899 directed to undertake activities, subject to appropriation, to assist  
900 consumers in understanding and evaluating their rights and  
901 choices with respect to retail electricity supplies and related serv-  
902 ices offered as a benefit of said restructuring. Said activities shall  
903 provide consumers with information that provides a consistent and  
904 reliable basis for comparing products and services offered in the  
905 electricity market and shall develop said activities in cooperation  
906 with the director to assist in the detection and avoidance of unfair  
907 or deceptive marketing practices. Said activities may include, but  
908 shall not be limited to: (i) development of consumer education  
909 materials, including billing inserts, providing consumers with  
910 information in a clear and consistent manner empowering con-  
911 sumers to select their own electricity suppliers and products based  
912 on individual preferences, such as price, resource type, and envi-  
913 ronmental considerations and whether the generation company or  
914 supplier operates under collective bargaining agreements and  
915 whether such generation company or supplier operates with  
916 employees hired as replacements during the course of a labor dis-  
917 pute; and (ii) collection and dissemination of accurate and compa-  
918 rable information derived from the uniform disclosure labeling  
919 system which shall identify, at a minimum, the price of power  
920 generation, the length and kind of contract, the mix of fuel and  
921 power generation sources, and the level of air emissions.

922 The secretary may establish and advertise a toll-free telephone  
923 hotline that shall be capable of responding to consumer questions  
924 and complaints about their electricity service and the transition to  
925 a competitive retail electricity market. The administration of any  
926 such hotline and consumer response service so established shall  
927 be coordinated with the executive office and the office of the  
928 ratepayer advocate in order to prevent the duplication of similar  
929 services. The information made available to consumers by said

930 hotline shall be fully coordinated and consistent with the informa-  
931 tion made available to consumers by said department and the  
932 office of the ratepayer advocate. Said hotline and consumer  
933 response services, or any portions thereof, may be contracted to  
934 third parties, provided that any such contracts shall be perfor-  
935 mance-based and subject to approval by the secretary of adminis-  
936 tration and finance. Any such hotline and consumer response  
937 administered by the secretary or any contracted party is hereby  
938 prohibited from promoting, endorsing or encouraging consumers  
939 to select or purchase from a particular provider, supplier, aggrega-  
940 tor, broker or other purveyor of electricity and related services.

941 Consumer education activities proposed to be undertaken by  
942 the secretary pursuant to this section for a subsequent fiscal year  
943 shall be described in a plan to be submitted to the secretary for  
944 review and approval no later than February 1 of each year. Said  
945 plan shall include a projected budget, including revenues sources,  
946 for the activities proposed by said plan that explains the basis for  
947 all costs and cost increases over the plan then in effect. The secre-  
948 tary, in reviewing said plan for approval, shall establish that said  
949 activities of the executive office are not duplicative and that the  
950 information made available to consumers thereby is consistent  
951 with the General Laws. Said plan shall also be submitted to the  
952 house and senate committees on ways and means and the joint  
953 committee telecommunications, utilities and energy. The secretary  
954 shall recommend in the plan the termination of activities that are  
955 no longer necessary due to the status of utility restructuring or in  
956 the public interest. Said plan shall recommend the provision of  
957 services funded by the commonwealth through the executive  
958 office only to the extent that the private market cannot or does not  
959 adequately meet the information needs of retail customers as  
960 determined by said department pursuant to section 11E.

961 Section 16. The secretary shall annually submit a complete and  
962 detailed report of the executive office's activities within 90 days  
963 after the end of the fiscal year to the clerk of the house of repre-  
964 sentatives, the clerk of the senate, the chairs of the joint commit-  
965 tee on telecommunications, utilities and energy, the chairs of the  
966 joint committee on economic development and emerging tech-  
967 nologies and the chairs of the house and senate committees on  
968 ways and means.

969 Section 17. The executive office shall enforce the provisions of  
970 this chapter and may adopt such rules, regulations, procedures and  
971 standards relating to the administration and enforcement of  
972 this chapter pursuant to chapter 30A; provided, however, that  
973 except for emergency regulations adopted pursuant to section 2 of  
974 chapter 30A any regulation, as defined in section 1 of said chap-  
975 ter 30A, or any amendment or repeal of any such regulation  
976 adopted by the executive office or any administrative unit thereof  
977 pursuant to this chapter, shall, after compliance with all applicable  
978 provisions of said chapter 30A, except section 5, be submitted to  
979 the general court. Said executive office shall file the proposed reg-  
980 ulation, amendment or repeal with the clerk of the house of repre-  
981 sentatives, together with a statement that the pertinent provisions  
982 of said chapter 30A, except said section 5 have been complied  
983 with. Such regulations shall be accompanied by a summary of the  
984 regulations in layman's terms. The clerk of the house of represen-  
985 tatives, with the approval of the president of the senate and the  
986 speaker of the house of representatives, shall refer such regula-  
987 tions to the joint committee on telecommunications, utilities and  
988 energy. Within 30 days after such referral, said committee may  
989 hold a public hearing on the regulations and shall issue a report to  
990 the secretary. The secretary shall review said report and shall  
991 adopt final regulations as deemed appropriate in view of said  
992 report and shall file with the chairs of such reporting committee  
993 its final regulations. Not earlier than 30 days after the filing of  
994 such report with the said chairs, said secretary shall file the final  
995 regulations with the state secretary as provided in section 5 of said  
996 chapter 30A and said regulations shall thereupon take effect.

997 Department of Alternative and Renewable  
998 Energy Development.

999 Section 18. As used in sections 18 through 33, inclusive, the  
1000 following words, shall, unless the context clearly requires other-  
1001 wise, have the following meanings:—  
1002 “Alternative energy development”, shall include but not be lim-  
1003 ited to solar energy; wind; wood; alcohol; hydroelectric; biomass  
1004 energy systems; renewable non-depletable, and recyclable energy  
1005 sources.

1006 “Alternative energy property”, any property powered in whole  
1007 or in part by the sun, wind, water, biomass, alcohol, wood, or any  
1008 renewable, non-depletable or recyclable fuel, and property related  
1009 to the exploration, development, processing, transportation, and  
1010 distribution of the aforementioned energy resources.

1011 “Committee”, the clean energy site screening committee estab-  
1012 lished pursuant to section 20.

1013 “Department”, the department of alternative and renewable  
1014 energy development established pursuant to section 2.

1015 “End-user”, any individual, corporation, firm or subsidiary of  
1016 any firm that is an ultimate consumer of petroleum products and  
1017 which, as part of its normal business practices, purchases or  
1018 obtains petroleum products from a wholesaler or reseller and  
1019 receives delivery of that product.

1020 “Energy audit”, a determination of the energy consumption  
1021 characteristics of a building or facility which:—

1022 identifies the type, size, and rate of energy consumption of such  
1023 building or facility and the major energy using systems of such  
1024 building or facility;

1025 determines appropriate energy conservation maintenance and  
1026 operating procedures; and

1027 indicates the need, if any, for the acquisition and installation of  
1028 energy conservation measures or alternative energy property.

1029 “Energy conservation”, shall include but not be limited to the  
1030 modification of or change in operation of real or personal property  
1031 in a manner likely to improve the efficiency of energy use, and  
1032 shall include energy conservation measures, and any process to  
1033 audit or identify and specify energy and cost savings.

1034 “Energy conservation measures”, measures involving modifica-  
1035 tions of maintenance and operating procedures of a building or  
1036 facility and installations therein, which are designed to reduce  
1037 energy consumption in such building or facility, or the installa-  
1038 tion, modification of an installation in a building or facility which  
1039 is primarily intended to reduce energy consumption.

1040 “Energy conservation projects”, projects to promote energy  
1041 conservation, including but not limited to energy conserving mod-  
1042 ification to windows and doors; caulking and weatherstripping;  
1043 combined heat and power facilities; insulation, automatic energy  
1044 control systems; hot water systems; equipment required to operate

1045 variable steam, hydraulic, and ventilating systems; plant and dis-  
1046 tribution system modifications including replacement of burners,  
1047 furnaces or boilers; devices for modifying fuel openings; electri-  
1048 cal or mechanical furnace ignition systems; utility plant system  
1049 conversions; replacement or modification of lighting fixtures;  
1050 energy recovery systems; and, cogeneration systems.

1051 “Energy management services”, a program of services, includ-  
1052 ing energy audits, energy conservation measures, energy conser-  
1053 vation projects, or a combination thereof, and building maintenance  
1054 and financing services, primarily intended to reduce the cost of  
1055 energy and water in operating one or more buildings, which may  
1056 be paid for in whole or in part, by cost savings attributable to a  
1057 reduction in energy and water consumption which result from  
1058 such services.

1059 “Green Building”, buildings, including but not limited to, homes,  
1060 offices, schools, and hospitals constructed or renovated to incor-  
1061 porate design techniques, technologies, and materials that lessen  
1062 its dependence on fossil fuels and minimize its overall negative  
1063 environmental impact.

1064 “Incremental new hydroelectric generation”, the percentage  
1065 increase in average annual electricity production attributable to  
1066 efficiency improvements or additions to capacity placed in service  
1067 at a hydroelectric facility after December 31, 1997, as certified by  
1068 the department relative to the historical generation for each eligi-  
1069 ble hydroelectric facility; provided, however, that historical gener-  
1070 ation for each eligible hydroelectric facility shall be calculated by  
1071 the department based on the average electricity generated annually  
1072 by a facility during the 10 years prior to the capacity addition or  
1073 efficiency improvement, or the life of the facility, whichever is  
1074 shorter. In no event shall an energy generation which would have  
1075 existed in the absence of the efficiency improvements or additions  
1076 to capacity be considered incremental new hydroelectric genera-  
1077 tion for the purposes of this chapter.

1078 “Non-renewable energy supply and resource development”,  
1079 shall include but not be limited to gasoline, natural gas, coal,  
1080 nuclear energy, petroleum both offshore and onshore, and facili-  
1081 ties related to the exploration, development, processing, trans-  
1082 portation, and distribution of such resources and programs

1083 established for the allocation of supplies of such resources and the  
1084 development of supply shortage contingency plans.

1085 “Petroleum products”, propane, gasoline, unleaded gasoline,  
1086 kerosene, #2 heating oil, diesel fuel, kerosene base jet fuel, and  
1087 #4, 5, and 6 residual oil for utility and non-utility uses, and all  
1088 petroleum derivatives, whether in bond or not, which are commonly  
1089 burned to produce heat, power, electricity, or motion or which are  
1090 commonly processed to produce synthetic gas for burning.

1091 “Renewable energy”, either (i) resources whose common char-  
1092 acteristic is that they are nondepletable or are naturally replenish-  
1093 able but flow-limited, or (ii) existing or emerging non-fossil fuel  
1094 energy sources or technologies, which have significant potential  
1095 for commercialization in New England and New York, and shall  
1096 include the following: solar photovoltaic or solar thermal electric  
1097 energy; wind energy; ocean thermal, wave, or tidal energy; geot-  
1098 hermal; fuel cells; landfill gas; waste-to-energy which is a compo-  
1099 nent of conventional municipal solid waste plant technology in  
1100 commercial use; naturally flowing water and hydroelectric; and  
1101 low-emission, advanced biomass power conversion technologies,  
1102 such as gasification using such biomass fuels as wood, agricul-  
1103 tural, or food wastes, energy crops, biogas, biodiesel, or organic  
1104 refuse-derived fuel. The following technologies or fuels shall not  
1105 be considered renewable energy supplies: coal, oil, natural gas  
1106 except when used in fuel cells, and nuclear power.

1107 “Reseller”, any person, corporation, firm or subsidiary of any firm  
1108 that carries on the trade or business of purchasing petroleum prod-  
1109 ucts and reselling them without substantially changing their form, or  
1110 any wholesaler or retail seller of electricity or natural gas.

1111 “Undersecretary”, the undersecretary of the executive office of  
1112 energy affairs for the department of alternative and renewable  
1113 energy development.

1114 “Vintage hydro-electric generation unit”, a hydro-electric gen-  
1115 eration unit that began operation prior to January 1, 1998.

1116 “Wholesaler”, any person, corporation, firm or any part or sub-  
1117 sidiary of any firm which supplies, sells, transfers, or otherwise  
1118 furnishes petroleum products to resellers or end-users.

1119 Section 19. (a) There shall be within the executive office a  
1120 department of alternative and renewable energy development,  
1121 which shall perform such functions as the secretary may deter-

1122 mine in relation to the administration, implementation, and  
1123 enforcement of the executive office's authority over alternative  
1124 and renewable energy development, including developing a  
1125 statewide plan relative to energy development. The department  
1126 shall be under the supervision and control of the undersecretary  
1127 for alternative energy and renewable development established pur-  
1128 suant to section 2. The undersecretary shall be the executive and  
1129 administrative head of the department and shall be responsible for  
1130 administering and enforcing the provisions of law relative to the  
1131 department and to each administrative unit thereof. The duties  
1132 given to the undersecretary in this chapter and in any other  
1133 general or special law shall be exercised and discharged subject to  
1134 the direction, control and supervision of the secretary.

1135 Section 20. There shall be within the department a clean energy  
1136 site screening committee. The committee shall consist of 7 mem-  
1137 bers, 1 of whom shall be the undersecretary of the executive office  
1138 of energy affairs for alternative and renewable energy develop-  
1139 ment who shall serve as chair; 1 whom shall be the secretary of the  
1140 executive office of transportation and construction or his  
1141 designee; 1 of whom shall be the secretary of the executive office  
1142 of economic development or his designee; 1 of whom shall be the  
1143 secretary of the executive office of environmental affairs or his  
1144 designee; 1 of whom shall be the commissioner of the division  
1145 of capital asset management and maintenance or his designee; 1 of  
1146 whom shall be the director of the Massachusetts municipal associ-  
1147 ation or his designee; and 1 of whom shall be the chair of the  
1148 board of directors of the Massachusetts association of regional  
1149 planning agencies or his designee.

1150 The committee shall develop a statewide list of public and pri-  
1151 vate real property which could be utilized to site clean energy  
1152 generating facilities, clean energy research and development facil-  
1153 ities, and clean energy manufacturing facilities. In determining the  
1154 suitability of sites to be included on the statewide list the commit-  
1155 tee shall consider, without limitation, the energy capacity needs of  
1156 the electric system, development and construction costs, the prox-  
1157 imity of the site to the distribution and transmission system, the  
1158 environmental impact of a project, the impact upon the public use  
1159 and enjoyment of the potential site, the impact upon abutters to  
1160 the potential site, the economic impact upon the host municipality

1161 and the region, and such other matters as the committee shall  
1162 deem appropriate; provided, however, that notwithstanding any  
1163 local zoning bylaw or ordinance to the contrary, if a clean energy  
1164 generating facility other than a waste-to-energy facility is pro-  
1165 posed in any district zoned for industrial use or on any real prop-  
1166 erty designated and accepted pursuant to this section, the use shall  
1167 be allowed as of right, subject to the imposition of reasonable  
1168 conditions through a site plan review process.

1169 The committee shall annually submit a statewide list of any  
1170 public and privately owned real property which could be utilized  
1171 to site clean energy generating facilities, clean energy research  
1172 and development facilities, and clean energy manufacturing facili-  
1173 ties to the secretary. The secretary shall provide written notifica-  
1174 tion to the host municipality of any real property within its  
1175 jurisdiction that has been identified as real property which could  
1176 potentially be utilized to site clean energy generating facilities,  
1177 clean energy research and development facilities, and clean energy  
1178 manufacturing facilities pursuant to the provisions of this chapter.  
1179 Said notice shall be sent to the city manager in the case of a city  
1180 under a Plan E form of government, the mayor and city council in  
1181 the case of all other cities, the chairman of the board of selectmen  
1182 in the case of a town, the county commissioners, the regional  
1183 planning agency, and the representatives to the general court rep-  
1184 resenting said host municipality. The secretary shall set forth in  
1185 such notice a description of the real property, including the iden-  
1186 tity of the owners of said real property, and a declaration that the  
1187 real property is eligible for designation as a qualifying clean  
1188 energy property. The host municipality shall, within 180 days  
1189 from receipt of said notification, notify the secretary whether it  
1190 will accept the designation of the real property as a qualifying  
1191 clean energy property. A host municipality which accepts the des-  
1192 ignation of at least 1 parcel of real property identified as real  
1193 property which could potentially be utilized to site clean energy  
1194 generating facilities, clean energy research and development facil-  
1195 ities, and clean energy manufacturing facilities shall, upon satisfy-  
1196 ing the requirements of section 5, qualify as an energy efficient  
1197 green community.

1198 The committee shall, no later than December 31, annually sub-  
1199 mit a written report of its activities. Said report shall be submitted

1200 to the chair of the senate committee on ways and means, the chair  
1201 of the house committee on ways and means, the chairs of the joint  
1202 committee on telecommunications, utilities and energy, the chairs  
1203 of the joint committee on economic development and emerging  
1204 technologies, the clerk of the senate and the clerk of the house of  
1205 representatives.

1206 Section 21. (a) The department shall establish a renewable  
1207 energy portfolio standard for all retail electricity suppliers selling  
1208 electricity to end-use customers in the commonwealth. The  
1209 department shall determine the actual percentage of kilowatt-hour  
1210 sales to end-use customers in the commonwealth which is derived  
1211 from existing renewable energy generating sources. Every retail  
1212 supplier shall provide a minimum percentage of kilowatt-hour  
1213 sales to end-use customers in the commonwealth from new renew-  
1214 able energy generating sources, according to the following sched-  
1215 ule: (i) an additional 1 per cent of sales by December 31, 2003,  
1216 or 1 calendar year from the final day of the first month in which  
1217 the average cost of any renewable technology is found to be  
1218 within 10 per cent of the overall average spot-market price per  
1219 kilowatt-hour for electricity in the commonwealth, whichever is  
1220 sooner; (ii) an additional one-half of 1 per cent of sales each year  
1221 thereafter until December 31, 2009; and (iii) an additional 1 per  
1222 cent of sales every year thereafter until a date determined by the  
1223 department. For the purpose of this subsection, a new renewable  
1224 energy generating source is one that begins commercial operation  
1225 after December 31, 1997, or that represents an increase in generat-  
1226 ing capacity at an existing facility after December 31, 1997.

1227 (b) For the purposes of this section, a renewable energy generat-  
1228 ing source is one which generates electricity using any of the follow-  
1229 ing: (i) solar photovoltaic or solar thermal electric energy; (ii) wind  
1230 energy; (iii) ocean thermal, wave, or tidal energy; (iv) fuel cells uti-  
1231 lizing renewable fuels; (v) landfill gas; (vi) waste-to-energy which is  
1232 a component of conventional municipal solid waste plant technology  
1233 in commercial use; (vii) naturally flowing water and run-of-the-  
1234 river vintage hydroelectric generation units located in the com-  
1235 monwealth, operating under the jurisdiction of the Federal Energy  
1236 Regulatory Commission, with a generating capacity of not more  
1237 than 5 megawatts and not utilizing a dam constructed after Decem-  
1238 ber 31, 1997 and incremental new hydroelectric generation resulting

1239 from increased capacity or efficiency at a hydroelectric facility  
1240 which does not involve pumped storage of water or any new  
1241 impoundment or diversion of water, and where such facility meets  
1242 the requirements for classification as low impact hydropower as cer-  
1243 tified by the Low Impact Hydropower Institute or as certified by the  
1244 division in accordance with comparable environmental certification  
1245 standards; and (viii) low-emission, advanced biomass power conver-  
1246 sion technologies, such as gasification using such biomass fuels as  
1247 wood, agricultural, or food wastes, energy crops, biogas, biodiesel,  
1248 or organic refuse-derived fuel; provided, however, that after Decem-  
1249 ber 31, 1998, the calculation of a percentage of kilowatt-hour sales  
1250 to end-use customers in the commonwealth from new renewable  
1251 generating sources shall exclude clause (vi); provided further, that  
1252 notwithstanding the provisions of subsection (a) the department shall  
1253 annually determine the actual percentage of kilowatts generated in  
1254 the commonwealth by naturally flowing water and run-of-the-river  
1255 vintage hydroelectric generation units and adjust the minimum per-  
1256 centage of kilowatt hours sales to end use customers in the common-  
1257 wealth by a percentage not to exceed the percentage of kilowatts  
1258 generated in the commonwealth by naturally flowing water and run-  
1259 of-the-river vintage hydroelectric generation units. A new renewable  
1260 energy generating source is also any stoker biomass combustion  
1261 technology of 30 megawatts or less gross generating capacity and  
1262 which, after December 31, 1997, is equipped to emit equal to or less  
1263 than the emissions allowed under the low emission air quality stan-  
1264 dards used in the renewable portfolio standard regulations promul-  
1265 gated relative to this section for biomass facilities of similar  
1266 capacity. After conducting administrative proceedings, the depart-  
1267 ment may add technologies or technology categories to the above  
1268 list; provided, however, that the following technologies shall not be  
1269 considered renewable energy supplies: coal, oil, natural gas except  
1270 when used in fuel cells, and nuclear power.

1271 Section 22. (a) The department shall establish an alternative  
1272 energy portfolio standard for all retail electricity suppliers selling  
1273 electricity to end-use customers in the commonwealth. Beginning  
1274 January 1, 2008, every retail supplier shall provide a minimum  
1275 of 2 percent of kilowatt-hour sales to end-use customers in the  
1276 commonwealth from alternative energy generating sources and  
1277 the secretary shall annually thereafter determine the minimum

1278 percentage of kilowatt-hour sales to end-use customers in the  
1279 commonwealth which shall be derived from existing alternative  
1280 energy generating sources. For the purposes of this section, an  
1281 alternative energy generating source is one which generates elec-  
1282 tricity using any of the following: (i) coal gasification; (ii) plasma  
1283 gasification; (iii) combined heat and power; (iv) geothermal  
1284 (v) electricity savings achieved by energy efficiency measures;  
1285 provided, however, that at no time shall retail sellers be required  
1286 to procure electricity savings achieved by efficiency projects that  
1287 exceed, on a per kilowatt-hour basis, the cost of generation for  
1288 end-use customers in the commonwealth for the year in which the  
1289 savings are to be purchased; and (vi) any other alternative energy  
1290 technology approved by the undersecretary pursuant to an admin-  
1291 istrative proceeding conducted pursuant to chapter 30A; provided,  
1292 however, that the following technologies shall not be considered  
1293 alternative energy supplies: coal, except when used in coal gasifi-  
1294 cation, oil, and natural gas, except when used in coal gasification.

1295 Section 23. (a) There is hereby established and set up on the  
1296 books of the commonwealth a separate fund to be known as  
1297 the Massachusetts Clean Energy Trust Fund, hereinafter in this  
1298 section referred to as the fund. The undersecretary shall hold the  
1299 fund in an account separate from other funds or accounts. There  
1300 shall be credited to the fund all amounts collected pursuant to sub-  
1301 section (b) and any income derived from the investment of  
1302 amounts credited to the fund.

1303 (b) There shall be credited to the fund any revenue from appro-  
1304 priations or other monies authorized by the general court and  
1305 specifically designated to be credited to the fund, and any gifts,  
1306 grants, private contributions, repayment of loans and investment  
1307 income earned on the fund's assets and all other sources, 50 per  
1308 cent of all amounts collected pursuant to section 11, 50 per cent of  
1309 all amounts collected pursuant to section 12, all amounts collected  
1310 pursuant to section 26, all amounts held by the department,  
1311 including but not limited to, the funds authorized by section 28 of  
1312 chapter 796 of the acts of 1979, section 3 of chapter 700 of the  
1313 acts of 1982, section 1 of chapter 670 of the acts of 1987, all  
1314 amounts collected pursuant to the "alternative compliance pay-  
1315 ment" program as part of the Renewable Portfolio Standard estab-  
1316 lished by the Commissioner pursuant to 220 CMR 14.09, all

1317 amounts collected by the commonwealth pursuant to the carbon  
1318 dioxide allowance trading mechanism established pursuant to the  
1319 Regional Greenhouse Gas Initiative Memorandum of Understand-  
1320 ing, all amounts paid to the commonwealth pursuant to the ISO  
1321 New England Demand Response Program, all amounts paid to the  
1322 commonwealth pursuant to the Forward Capacity Market program  
1323 administered by ISO New England, all amounts directed to this  
1324 Fund by federal or state law enforcement authorities pursuant to  
1325 settlements of law enforcement claims against third parties. All  
1326 amounts credited to the fund shall be held in trust and used solely  
1327 for activities and expenditures consistent with the public purpose  
1328 of the fund as set forth in subsection (d) of this section and in no  
1329 case shall any money remaining in the fund at the end of a fiscal  
1330 year revert to the General Fund.

1331 (c) The undersecretary, in consultation with the advisory board  
1332 established pursuant to subsection (h), may draw upon monies in the  
1333 fund for the public purpose of generating the maximum economic  
1334 and environmental benefits over time to the ratepayers of the com-  
1335 monwealth from clean energy through a series of initiatives which  
1336 exploit the advantages of clean energy in a more competitive energy  
1337 marketplace by promoting the increased availability, use, and afford-  
1338 ability of clean energy, by making operational improvements to  
1339 existing clean energy projects and facilities which, in the determina-  
1340 tion of the undersecretary, have achieved results which would indi-  
1341 cate that future investment in said facilities would yield results in the  
1342 development of clean energy more significant if said funds were  
1343 made available for the creation of new clean energy facilities, and by  
1344 fostering the formation, growth, expansion, and retention within the  
1345 commonwealth of preeminent clusters of clean energy and related  
1346 enterprises, institutions, and projects, which serve the citizens of  
1347 the commonwealth.

1348 (d) The public purposes to be advanced through the undersecre-  
1349 tary's actions shall include, but not be limited to, the following:  
1350 (i) developing, permitting, and constructing clean energy projects,  
1351 or procuring the development, permitting or construction of clean  
1352 energy projects, thereby increasing the use and affordability of  
1353 clean energy resources in the commonwealth; (ii) protecting the  
1354 environment and the health of the citizens of the commonwealth  
1355 through the prevention, mitigation, and alleviation of the adverse

1356 pollution effects associated with certain electricity generation  
1357 facilities; (iii) ensuring delivery to all consumers of the common-  
1358 wealth of as many benefits as possible created as a result of  
1359 increased fuel and supply diversity; (iv) creating additional  
1360 employment opportunities in the commonwealth through the  
1361 development of clean energy technologies; (v) stimulating  
1362 increased public and private sector investment in, and competitive  
1363 advantage for, clean energy and related enterprises, institutions,  
1364 and projects in the commonwealth; (vi) stimulating entrepreneur-  
1365 ial activities in these and related enterprises, institutions, and pro-  
1366 jects; (vii) providing non-financial assistance for the development,  
1367 permitting, and construction of clean energy projects; (viii) enter-  
1368 ing into bulk purchasing agreements for energy, renewable energy  
1369 credits, or clean energy equipment; (ix) providing economic assis-  
1370 tance for the growth and development of a clean energy sector;  
1371 and (x) undertaking any other action consistent with provisions of  
1372 this chapter.

1373 (e) In furtherance of these and other public purposes and inter-  
1374 ests, the undersecretary may, in consultation with the advisory  
1375 board established pursuant to subsection (h), expend monies from  
1376 the fund to make grants, contracts, loans, equity investments,  
1377 energy production credits, bill credits, or rebates to customers, to  
1378 provide financial or debt service obligation assistance, or to take  
1379 any other actions, in such forms, under such terms and conditions  
1380 and pursuant to such selection procedures as the undersecretary  
1381 deems appropriate and otherwise in a manner consistent with good  
1382 business practices; provided, however, that the undersecretary  
1383 shall generally employ a preference for competitive procurements;  
1384 provided, further, that the undersecretary shall endeavor to lever-  
1385 age the full range of the resources, expertise, and participation of  
1386 other state and federal agencies and instrumentalities in the design  
1387 and implementation of programs under this section; and provided,  
1388 further, that the undersecretary has determined that such actions  
1389 are calculated to advance the public purpose and public interests  
1390 set forth in this section, including, but not limited to, the follow-  
1391 ing: (i) the growth of the clean energy-provider industry; (ii) the  
1392 use of clean energy by electricity customers in the common-  
1393 wealth; (iii) public education and training regarding clean energy;  
1394 (iv) product and market development; (v) pilot and demonstration

1395 projects and other activities designed to increase the use and  
1396 affordability of clean energy resources by and for consumers in  
1397 the commonwealth; (vi) the provision of financing in support of  
1398 the development and application of related technologies at all lev-  
1399 els, including, but not limited to, basic and applied research and  
1400 commercialization activities; (vii) the design and making of  
1401 improvements to existing clean energy projects and facilities as  
1402 defined herein which were in operation as of December 31, 1997;  
1403 and (viii) matters related to the conservation of scarce energy  
1404 resources. Provided, however, that the undersecretary shall not  
1405 authorize an expenditure or contractual commitment in excess of  
1406 \$1,000,000.00 without first obtaining the written approval of the  
1407 secretary.

1408 The undersecretary shall, in consultation with the advisory  
1409 board established pursuant to subsection (h), adopt a detailed plan  
1410 for the application of the fund in support of the design, implemen-  
1411 tation, evaluation, and assessment of a clean energy program for  
1412 the commonwealth, subject to periodic revision by the undersecre-  
1413 tary, that ensures that the fund shall be employed to provide finan-  
1414 cial and non-financial resources to overcome barriers facing clean  
1415 energy enterprises, institutions, and projects in a prudent manner  
1416 consistent with the public purposes and interests set forth in this  
1417 section. Said plan, to the extent practicable, shall consist of at  
1418 least four components: (i) “product and market development” to  
1419 establish a foundation for growth and expansion of the common-  
1420 wealth’s clean energy enterprises, institutions, and projects,  
1421 including pilot and demonstration projects, production incentives,  
1422 and other activities designed to increase the use and affordability  
1423 of clean energy in the commonwealth; (ii) “training and public  
1424 information” to allow for the development and dissemination of  
1425 complete, objective, and timely information, analysis, and policy  
1426 recommendations related to the advancement of the public pur-  
1427 poses and interests of the clean energy fund; (iii) “investment” to  
1428 support the growth and expansion of clean energy enterprises,  
1429 institutions, and projects; and (iv) “research and development”  
1430 within the commonwealth related to clean energy matters. Said  
1431 plan shall specify the expenditure of such monies from the fund to  
1432 each of these component activities; provided, however, that  
1433 monies so expended shall be used to develop such clean energy

1434 projects within the commonwealth. In developing said plan, the  
1435 undersecretary is hereby authorized and directed to consult with  
1436 and utilize the services of the executive office for such technical  
1437 assistance as the undersecretary deems necessary or appropriate to  
1438 the effective discharge of his responsibilities and duties relative to  
1439 the fund.

1440 (f) Subject to the approval of the undersecretary, investment  
1441 activity of monies from the fund may consist of the following:  
1442 (i) an equity fund, to provide risk capital to clean energy enter-  
1443 prises, institutions, and projects; (ii) a debt fund, to provide loans  
1444 to clean energy enterprises, institutions, projects, intermediaries,  
1445 and end-users; and (iii) a market growth assistance fund, to be  
1446 used to attract private capital to the equity and debt funds. To  
1447 implement these investment activities, the undersecretary is  
1448 hereby authorized to retain, through a competitive bid process, a  
1449 public or private sector investment fund manager or managers,  
1450 who shall have prior knowledge and experience in fund manage-  
1451 ment and possess related skills in clean energy and related tech-  
1452 nologies development, to direct the investment activity described  
1453 herein and to seek other fund co-sponsors to contribute public and  
1454 private capital from the commonwealth and other states; provided,  
1455 however, that such capital is appropriately segregated. Said man-  
1456 ager or managers, subject to the approval of the undersecretary,  
1457 shall be authorized to retain necessary services and consultants to  
1458 carry out the purposes of the fund. Said manager or managers  
1459 shall develop a business plan to guide investment decisions, which  
1460 shall be approved by the undersecretary prior to any expenditures  
1461 from the fund and which shall be consistent with the provisions of  
1462 the plan for the fund as adopted by the undersecretary.

1463 (g) For the purposes of expenditures from the fund, clean  
1464 energy technologies eligible for assistance shall include the  
1465 following: solar photovoltaic and solar thermal electric energy;  
1466 wind energy; ocean thermal, wave, or tidal energy; geothermal;  
1467 fuel cells; landfill gas; naturally flowing water and hydroelectric;  
1468 low emission, advanced biomass power conversion technologies,  
1469 such as gasification using such biomass fuels as wood, agricul-  
1470 tural, or food wastes, energy crops, biogas, biodiesel, or organic  
1471 refuse-derived fuel; energy efficiency measures; combined heat  
1472 and power facilities; distributed generation facilities; demand

1473 response initiatives; and storage and conversion technologies con-  
1474 nected to qualifying generation projects. Such funds may also be  
1475 used for investment by distribution companies to overcome barri-  
1476 ers to clean energy development, if consistent with the provisions  
1477 of this section. The following technologies or fuels shall not be  
1478 considered renewable energy supplies: coal, oil, natural gas,  
1479 except when used in fuel cells, and nuclear power.

1480 (h) The undersecretary is hereby authorized to transfer amounts  
1481 from the fund to, and enter into funding or subsidy agreements  
1482 with, the agency; provided, however, that the undersecretary shall  
1483 not transfer more than 50 per cent of the revenue deposited into  
1484 the fund pursuant to sections 11 and 12 to the agency in any one  
1485 fiscal year. Notwithstanding any provision of chapter 23G or any  
1486 other general or special law to the contrary, amounts transferred to  
1487 the agency shall be applied to make loans to users as defined in  
1488 said chapter 23G for the purpose of financing or refinancing costs  
1489 of clean energy projects approved by the undersecretary, or to  
1490 insure or provide loan guarantees for loans, or to provide reserves  
1491 for or otherwise secure bonds of the agency issued for such pur-  
1492 pose, or to provide for or otherwise subsidize debt service costs  
1493 on such loans or other forms of financial assistance or such bonds,  
1494 as agreed in an operating or other agreement between the agency  
1495 and the undersecretary. Any such amounts transferred to the  
1496 agency shall be held and applied by the agency separate and apart  
1497 from all other monies of the agency.

1498 (i) In addition to the powers granted pursuant to chapter 23G  
1499 and chapter 40D of the General Laws, the agency is hereby autho-  
1500 rized to borrow money and issue and secure its bonds for the pur-  
1501 pose of financing clean energy generating facilities, clean energy  
1502 research and development facilities and clean energy manufactur-  
1503 ing facilities, as provided in, and subject to, the provisions of this  
1504 act; provided further that the provisions of said chapters 23G and  
1505 40D of the General Laws shall apply to bonds issued under this  
1506 section, except that the provisions of subsection (b) of section 8 of  
1507 said chapter 23G and section 12 of said chapter 40D shall not  
1508 apply to bonds issued pursuant to this act or to the clean energy  
1509 generating facilities, clean energy research and development facil-  
1510 ities or clean energy manufacturing facilities financed thereby;  
1511 and provided further, that clean energy generating facilities, clean

1512 energy research and development facilities and clean energy man-  
1513 ufacturing facilities financed by the agency pursuant to this act  
1514 shall constitute a project within the meaning of section 1 of said  
1515 chapter 23G and section 1 of said chapter 40D, but shall not be  
1516 considered facilities to be used in a commercial enterprise.

1517 (j) Prior to financing any clean energy generating facilities,  
1518 clean energy research and development facilities and clean energy  
1519 manufacturing facilities in accordance with this section, the agency  
1520 shall find and determine that: (i) the clean energy generating facil-  
1521 ity, clean energy research and development facility or clean energy  
1522 manufacturing facility has been approved by the undersecretary  
1523 upon a finding by the undersecretary that the financing of said  
1524 facility is expected to promote the use of clean, renewable or alter-  
1525 native energy resources in the commonwealth and help to achieve  
1526 the public purposes of this chapter; (ii) the recipient is a responsi-  
1527 ble party; (iii) the agency's bonds, if any, and the financing docu-  
1528 ments therefore contain reasonable provisions and comply with the  
1529 applicable provisions of this chapter and chapter 23G and 40D; and  
1530 (iv) payments to be made under the applicable financing docu-  
1531 ments, including any moneys made available from the fund, are  
1532 adequate to pay the current expenses of the agency in connection  
1533 with the clean energy project and to make payments on the bonds,  
1534 if any, issued by the agency therefore.

1535 (k) In addition to the provisions of said chapter 23G and said  
1536 chapter 40D of the General Laws pertaining to the security of  
1537 bonds issued by the agency, bonds issued by the agency pursuant  
1538 to this act may be secured by funds received, or to be received, by  
1539 the agency as provided in this section. Bonds issued pursuant to  
1540 this act may be issued under, and secured by, a trust agreement or  
1541 other financing document with such terms and conditions as the  
1542 agency may determine in accordance with this act and the applica-  
1543 ble provisions of said chapter 23G and said chapter 40D.

1544 (l) Bonds issued by the agency pursuant to this act shall not be  
1545 deemed to be a debt or a pledge of the faith and credit of the com-  
1546 monwealth or any political subdivision thereof and shall be  
1547 payable solely from revenue received from the fund and from any  
1548 other monies and rights pledged for their payment. All bonds  
1549 issued by the agency pursuant to this act shall recite that neither  
1550 the commonwealth nor any political subdivision thereof shall be

1551 obligated to pay the same and neither the full faith and credit nor  
1552 the taxing power of the commonwealth or any political subdivi-  
1553 sion thereof is pledged to such payment.

1554 (m) Nothing in this act shall be construed to limit or otherwise  
1555 diminish the power of the agency to finance the costs of projects  
1556 authorized pursuant to said chapter 23G and said chapter 40D  
1557 within a certified economic development project upon compliance  
1558 with the provisions of said chapter 23G and said chapter 40D.

1559 (n) The use by the undersecretary of monies to implement the  
1560 provisions of this section shall be deemed to be an essential gov-  
1561 ernmental function.

1562 (o) The governor shall appoint an advisory committee to assist  
1563 the undersecretary in matters related to the fund and in the imple-  
1564 mentation of the provisions of this section. Said advisory commit-  
1565 tee shall include not more than 15 individuals with an interest in  
1566 matters related to the general purpose and activities of the fund  
1567 and the knowledge and experience in at least one of the following  
1568 areas: electricity distribution, generation, supply, or power mar-  
1569 keting; the concerns of commercial and industrial ratepayers; resi-  
1570 dential ratepayers, including low-income ratepayers; economics,  
1571 financial or investment consulting expertise relative to the fund;  
1572 regional environmental concerns; academic issues related to  
1573 power generation, distribution or the development or commercial-  
1574 ization of renewable energy sources; institutions of higher educa-  
1575 tion; municipal or regional aggregation matters; and renewable  
1576 and clean energy issues. The undersecretary shall consult with  
1577 said advisory committee in discharging his obligations under this  
1578 section.

1579 (p) The books and records of the executive office relative to  
1580 expenditures and investments of monies from the fund shall be  
1581 subject to a biennial audit by the auditor of the commonwealth.

1582 (q) Notwithstanding any general or special law to the contrary,  
1583 including without limitation any laws related to the procurement  
1584 of electricity, and subject to this paragraph, the undersecretary  
1585 shall, upon the written request of the governor, transfer monies in  
1586 the fund, in an amount not exceeding \$17 million in the aggregate,  
1587 to the commonwealth for deposit in the General Fund. As a condi-  
1588 tion precedent to any such transfer, the commonwealth, acting by  
1589 and through the executive office for administration and finance,

1590 shall enter into an agreement with the executive office under  
1591 which the commonwealth, at the direction of the executive office,  
1592 shall enter into 1 or more contracts with owners of facilities that  
1593 generate electricity using renewable energy technologies, or with  
1594 wholesale power marketers or other market intermediaries selling  
1595 such electricity, for the purchase by the commonwealth, for its  
1596 own use or for the use of any municipal electric department, pub-  
1597 lic instrumentality or other governmental or nongovernmental  
1598 entity in the commonwealth, of electricity produced by renewable  
1599 energy technologies. The undersecretary shall determine the par-  
1600 ticular type or types of technologies which shall be the subject of  
1601 any such contract based on such criteria as it shall deem advis-  
1602 able, including without limitation retail consumer choices of such  
1603 renewable energy technologies. The aggregate dollar amount of  
1604 the green power premium associated with electricity purchases to  
1605 be made by the commonwealth for its own use under such con-  
1606 tracts shall have a present value, determined according to such  
1607 discount rate as shall be mutually agreeable to the corporation and  
1608 the commonwealth, of such amount as shall be transferred pur-  
1609 suant to the first sentence of this paragraph. The green power pre-  
1610 mium shall be determined by subtracting from the total amount of  
1611 the purchase price the undifferentiated commodity price for elec-  
1612 tricity under then-current commonwealth contracts. No payments  
1613 shall be required from the commonwealth pursuant to any such  
1614 contract prior to the fiscal year ending June 30, 2005, and the  
1615 maximum payment in any 1 fiscal year under all such contracts  
1616 shall not exceed \$5 million. The commonwealth shall be indemni-  
1617 fied under such contracts by said owners or power marketers on  
1618 such terms as the corporation shall deem commercially reason-  
1619 able. The amounts collected under section 12 are impressed with a  
1620 trust for the benefit of the fund and, to facilitate the purchase by  
1621 the executive office of electricity produced by renewable energy  
1622 technologies or the purchase of certificates produced pursuant to  
1623 the renewable energy portfolio standard regulations of the depart-  
1624 ment representing the generation attributes of electrical energy  
1625 produced by renewable energy technologies, and in consideration  
1626 of the sale of such electricity or certificates, the commonwealth  
1627 covenants with the sellers of such electricity or certificates that  
1628 the amounts collected under said section 12 will not be diverted

1629 from the fund and that the rates of the mandatory charges pursuant  
1630 to said section 12 will not be reduced during the term, which shall  
1631 not exceed 20 years, of any contract entered into by the executive  
1632 office for the purchase of such electricity or certificates below a  
1633 level which will enable the executive office to fulfill the terms of  
1634 such contracts. In furtherance of the public purposes of the fund,  
1635 income derived from the investment of amounts collected under  
1636 section 12 shall be expended by the executive office as provided  
1637 in subsection (a) and, in the discretion of the executive office, in  
1638 furtherance of the public purposes of the executive office and for  
1639 such costs of departments and agencies of the commonwealth that  
1640 support or are otherwise consistent with the purposes of the fund.

1641 (r) The department shall, pursuant to chapter 30A, within 180  
1642 days of the effective date of this act promulgate rules and regula-  
1643 tions and establish guidelines for the administration and enforce-  
1644 ment of this section, including, but not limited to, establishing  
1645 applicant criteria, application forms and procedures, and clean  
1646 energy product requirements.

1647 (s) The undersecretary shall annually, no later than July 1, file a  
1648 report with the house and senate committees on ways and means,  
1649 the joint committee on telecommunications, utilities and energy  
1650 and the joint committee on economic development and emerging  
1651 technologies. Said report shall include: (i) a list of fund recipients;  
1652 (ii) the associated grant and loan amounts; (iii) the amounts of  
1653 non-ratepayer funding leveraged, if any, as a result of the grants  
1654 and loans, including in-kind and other non-cash contributions;  
1655 (iv) the purposes of the grants and loans; (v) an annual statement  
1656 of cash inflows and outflows detailing the sources and uses of  
1657 funds; (vii) a detailed breakdown of all investments made by the  
1658 fund pursuant to subsection (e); and (viii) a detailed breakdown of  
1659 the purposes and amounts of administrative costs, including  
1660 salaries, charged to the fund

1661 (t) Notwithstanding the provisions of subsection (1), the under-  
1662 secretary shall not authorize an expenditure or contractual com-  
1663 mitment in excess of \$1,000,000.00 without first obtaining the  
1664 written approval of the secretary.

1665 Section 24. (a) There is hereby established and set up on the  
1666 books of the commonwealth a separate fund to be known as the  
1667 Massachusetts Energy Efficiency Trust Fund, hereinafter in this

1668 section referred to as the fund. The undersecretary shall hold the  
1669 fund in an account separate from other funds or accounts. There  
1670 shall be credited to the fund any revenue from appropriations or  
1671 other monies authorized by the general court and specifically des-  
1672 ignated to be credited to the fund, and any gifts, grants, private  
1673 contributions, investment income earned on the fund's assets and  
1674 all other sources and all amounts collected pursuant to section 11  
1675 and any income derived from the investment of amounts credited  
1676 to the fund. All amounts credited to the fund shall be held in trust  
1677 and used solely for activities and expenditures consistent with the  
1678 public purpose of the fund as set forth in subsection (b) of this  
1679 section and in no case shall any money remaining in the fund at  
1680 the end of a fiscal year revert to the General Fund.

1681 (b) The public purpose of the fund shall be to provide financial  
1682 assistance in the form of grants, loans or rebates to finance the  
1683 costs of energy efficiency activities, including but not limited to,  
1684 energy conservation measures and projects, procurement of  
1685 energy management services, installation of energy management  
1686 systems, adoption of demand side reduction initiatives, adoption  
1687 of energy efficiency policies, promoting the development of green  
1688 buildings, and any other demand side reduction initiatives the  
1689 undersecretary may deem appropriate.

1690 The department shall develop a list of qualified home improve-  
1691 ment contractors registered pursuant to the provisions of chap-  
1692 ter 142A of the General Laws and qualified to construct, install  
1693 and complete energy conservation measures, energy conservation  
1694 projects and energy management systems. Only energy conserva-  
1695 tion measures, energy conservation projects and energy manage-  
1696 ment systems completed, constructed or installed by qualified  
1697 home improvement contractors on said list compiled by the under-  
1698 secretary or those energy conservation measures, energy conserva-  
1699 tion projects and energy management systems completed,  
1700 constructed or installed via the low-income weatherization and  
1701 fuel assistance program network shall qualify for funding pursuant  
1702 to this section.

1703 (c) In approving demand-side management programs autho-  
1704 rized by subsection (b) the department shall, without limitation,  
1705 ensure: (i) that energy efficiency funds are allocated equitably  
1706 among customer classes throughout the commonwealth; (ii) that

1707 there will be adequate support for “lost opportunity” efficiency  
1708 programs in areas such as new construction, remodeling, and  
1709 replacement of worn-out equipment; (iii) that due consideration is  
1710 given to statewide market transformation programs in order to  
1711 systematically eliminate market barriers to energy efficiency  
1712 goods and services; (iv) that at least 20 per cent of the amount  
1713 annually expended for residential demand-side management pro-  
1714 grams by the department in any year, and in no event less than the  
1715 amount funded by a charge of 0.25 mills per kilowatt-hour, shall  
1716 be spent on comprehensive low-income residential demand-side  
1717 management and education programs, provided said programs  
1718 shall be implemented through the low-income weatherization and  
1719 fuel assistance program network and shall be coordinated with all  
1720 gas and distribution companies in the commonwealth with the objec-  
1721 tive of standardizing implementation; (vi) that at least 20 per cent  
1722 of the amount annually deposited into the fund pursuant is dedi-  
1723 cated to funding the energy efficiency and green communities pro-  
1724 gram established pursuant to section 5; and (vi) that programs are  
1725 delivered in a cost-effective manner utilizing competitive procure-  
1726 ment processes to the fullest extent practicable.

1727 (d) The undersecretary is hereby authorized to transfer amounts  
1728 from the fund to, and enter into funding or subsidy agreements  
1729 with, the agency; provided, however, that the undersecretary shall  
1730 not transfer more than 50 per cent of the revenue deposited into  
1731 the fund pursuant to sections 11 and 12 to the agency in any one  
1732 fiscal year. Notwithstanding any provision of chapter 23G or any  
1733 other general or special law to the contrary, amounts transferred to  
1734 the agency shall be applied to make loans to users as defined in  
1735 said chapter 23G for the purpose of financing or refinancing costs  
1736 of clean energy projects approved by the undersecretary, or to  
1737 insure or provide loan guarantees for loans, or to provide reserves  
1738 for or otherwise secure bonds of the agency issued for such pur-  
1739 pose, or to provide for or otherwise subsidize debt service costs  
1740 on such loans or other forms of financial assistance or such bonds,  
1741 as agreed in an operating or other agreement between the agency  
1742 and the undersecretary. Any such amounts transferred to the  
1743 agency shall be held and applied by the agency separate and apart  
1744 from all other monies of the agency.

1745 (e) In addition to the powers granted pursuant to chapter 23G  
1746 and chapter 40D of the General Laws, the agency is hereby autho-  
1747 rized to borrow money and issue and secure its bonds for the pur-  
1748 pose of financing clean energy generating facilities, clean energy  
1749 research and development facilities and clean energy manufactur-  
1750 ing facilities, as provided in, and subject to, the provisions of this act;  
1751 provided further that the provisions of said chapters 23G and 40D  
1752 of the General Laws shall apply to bonds issued under this section,  
1753 except that the provisions of subsection (b) of section 8 of said  
1754 chapter 23G and section 12 of said chapter 40D shall not apply to  
1755 bonds issued pursuant to this act or to the clean energy generating  
1756 facilities, clean energy research and development facilities or  
1757 clean energy manufacturing facilities financed thereby; and pro-  
1758 vided further, that clean energy generating facilities, clean energy  
1759 research and development facilities and clean energy manufactur-  
1760 ing facilities financed by the agency pursuant to this act shall con-  
1761 stitute a project within the meaning of section 1 of said chapter 23G  
1762 and section 1 of said chapter 40D, but shall not be considered  
1763 facilities to be used in a commercial enterprise.

1764 (f) Prior to financing any clean energy generating facilities,  
1765 clean energy research and development facilities and clean energy  
1766 manufacturing facilities in accordance with this section, the  
1767 agency shall find and determine that: (i) the clean energy generat-  
1768 ing facility, clean energy research and development facility or  
1769 clean energy manufacturing facility has been approved by the  
1770 undersecretary upon a finding by the undersecretary that the financ-  
1771 ing of said facility is expected to promote the use of clean, renew-  
1772 able or alternative energy resources in the commonwealth and  
1773 help to achieve the public purposes of this chapter; (ii) the recipi-  
1774 ent is a responsible party; (iii) the agency's bonds, if any, and the  
1775 financing documents therefore contain reasonable provisions and  
1776 comply with the applicable provisions of this chapter and chap-  
1777 ter 23G and 40D; and (iv) payments to be made under the applica-  
1778 ble financing documents, including any moneys made available  
1779 from the fund, are adequate to pay the current expenses of the  
1780 agency in connection with the clean energy project and to make  
1781 payments on the bonds, if any, issued by the agency therefore.

1782 (g) In addition to the provisions of said chapter 23G and said  
1783 chapter 40D of the General Laws pertaining to the security of

1784 bonds issued by the agency, bonds issued by the agency pursuant  
1785 to this act may be secured by funds received, or to be received, by  
1786 the agency as provided in this section. Bonds issued pursuant to  
1787 this act may be issued under, and secured by, a trust agreement or  
1788 other financing document with such terms and conditions as the  
1789 agency may determine in accordance with this act and the applica-  
1790 ble provisions of said chapter 23G and said chapter 40D.

1791 (h) Bonds issued by the agency pursuant to this act shall not be  
1792 deemed to be a debt or a pledge of the faith and credit of the com-  
1793 monwealth or any political subdivision thereof and shall be  
1794 payable solely from revenue received from the fund and from any  
1795 other monies and rights pledged for their payment. All bonds  
1796 issued by the agency pursuant to this act shall recite that neither  
1797 the commonwealth nor any political subdivision thereof shall be  
1798 obligated to pay the same and neither the full faith and credit nor  
1799 the taxing power of the commonwealth or any political subdivi-  
1800 sion thereof is pledged to such payment.

1801 (i) Nothing in this act shall be construed to limit or otherwise  
1802 diminish the power of the agency to finance the costs of projects  
1803 authorized pursuant to said chapter 23G and said chapter 40D  
1804 within a certified economic development project upon compliance  
1805 with the provisions of said chapter 23G and said chapter 40D.

1806 (j) The department shall, pursuant to chapter 30A, within 180  
1807 days of the effective date of this act promulgate rules and regula-  
1808 tions and establish guidelines for the administration and enforce-  
1809 ment of this section, including, but not limited to, establishing  
1810 applicant criteria, application forms and procedures, and clean  
1811 energy product requirements.

1812 (k) The books and records of the executive office relative to  
1813 expenditures and investments of monies from the fund shall be  
1814 subject to a biennial audit by the auditor of the commonwealth.

1815 (l) The undersecretary shall annually, no later than July 1, report  
1816 to the house and senate committees on ways and means, the joint  
1817 committee on telecommunications, utilities and energy and the joint  
1818 committee on economic development and emerging technologies.  
1819 Said report shall include: (i) a list of grant and loan recipients;  
1820 (ii) the associated grant and loan amounts; (iii) the amounts of non-  
1821 ratepayer funding leveraged, if any, as a result of the grants and  
1822 loans, including in-kind and other non-cash contributions; (iv) the

1823 purposes of the grants and loans; (v) an annual statement of cash  
1824 inflows and outflows detailing the sources and uses of funds; and  
1825 (vii) a detailed breakdown of the purposes and amounts of adminis-  
1826 trative costs charged to the fund.

1827 Section 25. (a) There is hereby established and set up on the  
1828 books of the commonwealth a separate fund to be known as  
1829 the Massachusetts Renewable Energy Trust Fund, hereinafter in  
1830 this section referred to as the fund. The undersecretary shall hold  
1831 the fund in an account separate from other funds or accounts.  
1832 There shall be credited to the fund any revenue from appropria-  
1833 tions or other monies authorized by the general court and specifi-  
1834 cally designated to be credited to the fund, and any gifts, grants,  
1835 private contributions, investment income earned on the fund's  
1836 assets and all other sources and all amounts collected pursuant to  
1837 section 12 and any income derived from the investment of amounts  
1838 credited to the fund. All amounts credited to the fund shall be held  
1839 in trust and used solely for activities and expenditures consistent  
1840 with the public purpose of the fund as set forth in subsection (b)  
1841 of this section and in no case shall any money remaining in the  
1842 fund at the end of a fiscal year revert to the General Fund.

1843 (b) The public purpose of the fund shall be to provide financial  
1844 assistance in the form of grants or loans to finance the costs of  
1845 renewable energy activities; provided, however, that in further-  
1846 ance of the public purposes and interests set forth herein, the  
1847 undersecretary shall, on an annual basis, make the following  
1848 appropriations from the fund: (i) 40% of the amount annually  
1849 deposited in the fund shall be used to fund the energy efficiency  
1850 and green communities program established pursuant to section 5;  
1851 (ii) 40% of the amount annually deposited in the fund shall be  
1852 used to fund the residential installation of renewable energy tech-  
1853 nologies, including 10% in the form of grants to residential rate-  
1854 payers and 10% in the form of low interest loans to residential  
1855 ratepayers; and (iii) 20% of the amount annually deposited in the  
1856 fund shall be used to fund a program, to be established by  
1857 the undersecretary, to issue grants to developers of green buildings.

1858 The department shall develop a list of qualified home improve-  
1859 ment contractors registered pursuant to the provisions of chap-  
1860 ter 142A of the General Laws and qualified to construct, install  
1861 and complete renewable energy projects. Only renewable energy

1862 projects completed, constructed or installed by qualified home  
1863 improvement contractors on said list compiled by the undersecre-  
1864 tary or those renewable energy projects completed, constructed or  
1865 installed via the low-income weatherization and fuel assistance  
1866 program network shall qualify for funding pursuant to this section.

1867 (c) The undersecretary is hereby authorized to transfer amounts  
1868 from the fund to, and enter into funding or subsidy agreements  
1869 with, the agency; provided, however, that the undersecretary shall  
1870 not transfer more than 50 per cent of the revenue deposited into  
1871 the fund pursuant to sections 11 and 12 to the agency in any one  
1872 fiscal year. Notwithstanding any provision of chapter 23G or any  
1873 other general or special law to the contrary, amounts transferred to  
1874 the agency shall be applied to make loans to users as defined in  
1875 said chapter 23G for the purpose of financing or refinancing costs  
1876 of clean energy projects approved by the undersecretary, or to  
1877 insure or provide loan guarantees for loans, or to provide reserves  
1878 for or otherwise secure bonds of the agency issued for such pur-  
1879 pose, or to provide for or otherwise subsidize debt service costs  
1880 on such loans or other forms of financial assistance or such bonds,  
1881 as agreed in an operating or other agreement between the agency  
1882 and the undersecretary. Any such amounts transferred to the  
1883 agency shall be held and applied by the agency separate and apart  
1884 from all other monies of the agency.

1885 (d) In addition to the powers granted pursuant to chapter 23G  
1886 and chapter 40D of the General Laws, the agency is hereby autho-  
1887 rized to borrow money and issue and secure its bonds for the pur-  
1888 pose of financing clean energy generating facilities, clean energy  
1889 research and development facilities and clean energy manufactur-  
1890 ing facilities, as provided in, and subject to, the provisions of this  
1891 act; provided further that the provisions of said chapters 23G and  
1892 40D of the General Laws shall apply to bonds issued under this  
1893 section, except that the provisions of subsection (b) of section 8 of  
1894 said chapter 23G and section 12 of said chapter 40D shall not  
1895 apply to bonds issued pursuant to this act or to the clean energy  
1896 generating facilities, clean energy research and development facil-  
1897 ities or clean energy manufacturing facilities financed thereby;  
1898 and provided further, that clean energy generating facilities, clean  
1899 energy research and development facilities and clean energy man-  
1900 ufacturing facilities financed by the agency pursuant to this act

1901 shall constitute a project within the meaning of section 1 of said  
1902 chapter 23G and section 1 of said chapter 40D, but shall not be  
1903 considered facilities to be used in a commercial enterprise.

1904 (e) Prior to financing any clean energy generating facilities, clean  
1905 energy research and development facilities and clean energy manu-  
1906 facturing facilities in accordance with this section, the agency shall  
1907 find and determine that: (i) the clean energy generating facility, clean  
1908 energy research and development facility or clean energy manufac-  
1909 turing facility has been approved by the undersecretary upon a find-  
1910 ing by the undersecretary that the financing of said facility is  
1911 expected to promote the use of clean, renewable or alternative  
1912 energy resources in the commonwealth and help to achieve the pub-  
1913 lic purposes of this chapter; (ii) the recipient is a responsible party;  
1914 (iii) the agency's bonds, if any, and the financing documents there-  
1915 fore contain reasonable provisions and comply with the applicable  
1916 provisions of this chapter and chapter 23G and 40D; and (iv) pay-  
1917 ments to be made under the applicable financing documents, includ-  
1918 ing any moneys made available from the fund, are adequate to pay  
1919 the current expenses of the agency in connection with the clean  
1920 energy project and to make payments on the bonds, if any, issued by  
1921 the agency therefore.

1922 (f) In addition to the provisions of said chapter 23G and said  
1923 chapter 40D of the General Laws pertaining to the security of  
1924 bonds issued by the agency, bonds issued by the agency pursuant  
1925 to this act may be secured by funds received, or to be received, by  
1926 the agency as provided in this section. Bonds issued pursuant to  
1927 this act may be issued under, and secured by, a trust agreement or  
1928 other financing document with such terms and conditions as the  
1929 agency may determine in accordance with this act and the applica-  
1930 ble provisions of said chapter 23G and said chapter 40D.

1931 (g) Bonds issued by the agency pursuant to this act shall not be  
1932 deemed to be a debt or a pledge of the faith and credit of the com-  
1933 monwealth or any political subdivision thereof and shall be  
1934 payable solely from revenue received from the fund and from any  
1935 other monies and rights pledged for their payment. All bonds  
1936 issued by the agency pursuant to this act shall recite that neither  
1937 the commonwealth nor any political subdivision thereof shall be  
1938 obligated to pay the same and neither the full faith and credit nor

1939 the taxing power of the commonwealth or any political subdivi-  
1940 sion thereof is pledged to such payment.

1941 (h) Nothing in this act shall be construed to limit or otherwise  
1942 diminish the power of the agency to finance the costs of projects  
1943 authorized pursuant to said chapter 23G and said chapter 40D  
1944 within a certified economic development project upon compliance  
1945 with the provisions of said chapter 23G and said chapter 40D.

1946 (i) The department shall, pursuant to chapter 30A, within 180  
1947 days of the effective date of this act promulgate rules and regula-  
1948 tions and establish guidelines for the administration and enforce-  
1949 ment of this section, including, but not limited to, establishing  
1950 applicant criteria, application forms and procedures, and clean  
1951 energy product requirements.

1952 (j) The books and records of the executive office relative to  
1953 expenditures and investments of monies from the fund shall be  
1954 subject to a biennial audit by the auditor of the commonwealth.

1955 (k) The undersecretary shall annually, no later than July 1,  
1956 report to the house and senate committees on ways and means, the  
1957 joint committee on telecommunications, utilities and energy and  
1958 the joint committee on economic development and emerging tech-  
1959 nologies. Said report shall include: (i) a list of grant and loan  
1960 recipients; (ii) the associated grant and loan amounts; (iii) the  
1961 amounts of non-ratepayer funding leveraged, if any, as a result of  
1962 the grants and loans, including in-kind and other non-cash contri-  
1963 butions; (iv) the purposes of the grants and loans; (v) an annual  
1964 statement of cash inflows and outflows detailing the sources and  
1965 uses of funds; and (vii) a detailed breakdown of the purposes and  
1966 amounts of administrative costs charged to the fund.

1967 Section 26. The department may apply for, receive, retain,  
1968 redeem, sell or transfer any energy conservation credits, renewable  
1969 energy certificates or credits, emissions credits, or energy reduction  
1970 allowances earned or received by the commonwealth including but  
1971 not limited to allowances awarded through the public benefit set-  
1972 aside provisions of the NOx Allowance Trading Program imple-  
1973 mented by the department of environmental protection.

1974 Section 27. The department shall develop a statewide plan  
1975 relative to alternative and renewable energy development. The  
1976 department shall have the authority to collect price, inventory and

1977 product delivery data, including amounts and types of product  
1978 sold, and other information which is specifically necessary and  
1979 material regarding petroleum products, electricity, natural gas, and  
1980 other fuels available for supply within the commonwealth from  
1981 wholesalers and resellers of petroleum products, electricity, nat-  
1982 ural gas, and suppliers of other fuels, doing business in the com-  
1983 monwealth. Except as herein provided, all energy information  
1984 collected by the department under this section shall be maintained  
1985 for the sole and confidential use of the commonwealth, its agen-  
1986 cies and offices. Such information shall not be deemed to be a  
1987 public record as defined in clause 26 of section 7 of chapter 4 and  
1988 shall not be subject to demand for production under section 10 of  
1989 chapter 66; provided, however, that aggregates of such energy  
1990 information may be prepared and such aggregates shall be public  
1991 records; provided, further, that all energy information collected  
1992 under this section may be shared with the energy offices of other  
1993 states which afford such information similar protection from pub-  
1994 lic disclosure.

1995 All wholesalers, resellers, and end-users of petroleum products  
1996 doing business in the commonwealth with total storage capacity of  
1997 over 55,000 gallons shall make accurate reports to the department  
1998 in such form and at such times as the department shall require.

1999 All electric and gas companies, transmission companies, distri-  
2000 bution companies, suppliers, and aggregators, as defined in  
2001 section 1 of chapter 164, and suppliers of natural gas, including  
2002 aggregators, marketers, brokers, and marketing affiliates of gas  
2003 companies, excluding gas companies as defined in said section 1  
2004 of said chapter 164, engaged in distributing or selling electricity  
2005 or natural gas in the commonwealth shall make accurate reports to  
2006 the department in such form and at such times, which shall be at  
2007 least quarterly, as the department shall require pursuant to this  
2008 section. Each such company, supplier, and aggregator shall report  
2009 semi-annually to the department the average of all rates charged  
2010 for default, low-income and standard offer service to each cus-  
2011 tomer class and for each sub-class within the residential class,  
2012 respectively; provided, however, that all such rate information so  
2013 reported pursuant to this paragraph shall be deemed public infor-  
2014 mation, and no such rate information shall be protected as a trade  
2015 secret, confidential, competitively sensitive, or other proprietary

2016 information pursuant to section 68 (section 5D of 25). The depart-  
2017 ment shall annually develop and issue, no later than March 1, a  
2018 report which shall detail the status in the previous calendar year of  
2019 pricing disparities between customer class and separately within  
2020 the residential class, regions of the commonwealth, and distribu-  
2021 tion companies and suppliers serving ratepayers; provided, how-  
2022 ever, that said report shall also include a comparison of each  
2023 customer class in the commonwealth as compared with the same  
2024 classes in each of the 49 other states and the District of Columbia.  
2025 Said report shall analyze the effects of restructuring plans, filed  
2026 with and approved by said department pursuant to section 1A of  
2027 chapter 164, upon such price disparities. The department may  
2028 include in such report any recommendations to address any such  
2029 problems and price disparities.

2030 Any wholesaler, reseller or end-user of petroleum products, or  
2031 any supplier of electricity or natural gas covered by this section  
2032 who violates the provisions of this chapter or who knowingly sup-  
2033 plies information of a false or misleading nature shall be subject  
2034 to a civil penalty not to exceed \$5,000 per offense.

2035 Section 28. To assist the office in the discharge of its duties, the  
2036 department may request from any agency or political subdivision  
2037 of the commonwealth any information relevant to the discharge of  
2038 such duties.

2039 An information copy of each application submitted by any state  
2040 agency, including all state institutions of higher learning or any  
2041 political subdivision of any public agency, for a grant or loan with  
2042 respect to any energy development or energy conservation pro-  
2043 gram, including the acquisition of land and facilities for these pur-  
2044 poses, shall be filed with the department no later than the  
2045 twentieth day after submission of said application.

2046 Section 29. The undersecretary is hereby authorized and directed  
2047 to establish (i) an energy audit program to determine the energy  
2048 consumption levels of and appropriate energy conservation mea-  
2049 sures for buildings and facilities owned by (a) the commonwealth,  
2050 (b) its political subdivisions, (c) public authorities and other pub-  
2051 lic instrumentalities of the commonwealth and of its political sub-  
2052 divisions including, but not limited to, housing authorities and  
2053 (ii) an energy conservation improvement program to carry out and

2054 assist energy conservation projects including energy conservation  
2055 measures, for such buildings and facilities.

2056 Said undersecretary is hereby authorized and directed to estab-  
2057 lish an alternative energy property program to provide alternative  
2058 energy sources for buildings and facilities owned by the common-  
2059 wealth, its political subdivisions, public authorities and other pub-  
2060 lic instrumentalities of the commonwealth and of its political  
2061 subdivisions including, but not limited to, housing authorities and  
2062 those buildings and facilities leased by the political subdivisions  
2063 of the commonwealth for at least thirty years and which are used  
2064 for the provision of local government services; provided, however,  
2065 that the period of time remaining prior to the expiration of said  
2066 lease shall not be less than twice the payback period, so-called, for  
2067 any proposed alternative energy property program project and  
2068 technology.

2069 Prior to approving any payment under said program with  
2070 respect to premises leased by a political subdivision of the com-  
2071 monwealth, the undersecretary shall certify that the terms of such  
2072 lease are such that any benefit accruing to a private party from  
2073 such financing is incidental to the public purpose served by such  
2074 financing.

2075 The undersecretary is hereby authorized to promulgate rules and  
2076 regulations for the energy audit program, the energy conservation  
2077 improvement program and the alternative energy property pro-  
2078 gram. Said rules and regulations shall set forth (1) procedures by  
2079 which entities other than the commonwealth may request partici-  
2080 pation in the program, (2) an orderly method for selecting state  
2081 projects and for selecting among the request of other entities for  
2082 participation in the program, (3) guidelines for carrying out projects  
2083 pursuant to the program, (4) the portions to be borne by the com-  
2084 monwealth of the costs of projects of entities other than the  
2085 commonwealth, or the manner of determining the same, and  
2086 (5) the time and manner of payment. In selecting projects and in  
2087 determining the portions to be borne by the commonwealth of the  
2088 cost of projects of other entities the undersecretary shall consider  
2089 the payback period, availability of federal financial resources, the  
2090 type of project, and the public benefit likely to be derived,  
2091 whether from proven technology or from the opportunity to  
2092 demonstrate innovative technology.

2093 With respect to any grants of funds of the commonwealth made  
2094 to, or grant agreements involving funds of the commonwealth  
2095 entered into with any city, town, sewer district or regional school  
2096 district after January 1, 1984, the undersecretary shall require that  
2097 a portion of such grant be repaid to the commonwealth. The  
2098 required repayment amount shall not be less than 30 per cent of  
2099 the amount of any such grant and the time period allowed for such  
2100 repayment shall not exceed 10 years from the date of such grant.  
2101 Any city, town or regional school district which does not provide  
2102 the undersecretary with information relating to energy expenses  
2103 incurred prior to the implementation of energy conservation pro-  
2104 jects or measures, or alternative energy property program projects  
2105 or technologies for the purpose of monitoring energy savings result-  
2106 ing from such implementation shall repay not less than 50 per cent  
2107 of such grant and the time period allowed for repayment shall not  
2108 exceed 10 years from the date of such grant. To facilitate repay-  
2109 ment of any grant amount the undersecretary may require the city,  
2110 town, or regional school district to authorize the commissioner of  
2111 revenue to deduct the amount of its repayment due in each fiscal  
2112 year from any local aid distribution, grant or appropriation made  
2113 to the city, town, sewer district or regional school district. Any  
2114 amounts so deducted shall be paid into the General Fund.

2115 The undersecretary may enter into contracts to carry out state  
2116 projects pursuant to the programs established in this section and  
2117 enter into grant agreements and make grants to assist projects of  
2118 other entities as set forth in this section. The political subdivisions  
2119 of the commonwealth and the public authorities and other public  
2120 instrumentalities of the commonwealth and of its political subdivi-  
2121 sion are hereby authorized to enter into and perform grant agree-  
2122 ments with the commissioner and carry out projects pursuant to  
2123 this section.

2124 The undersecretary is hereby authorized to enter into agree-  
2125 ments with the federal government to receive grants of money for  
2126 the purpose of this section and to provide state matching funds  
2127 for such purposes when required by the federal government under  
2128 such grants.

2129 Section 30. (a) The undersecretary is hereby authorized to prepare  
2130 a state plan and to promulgate such regulations as may be necessary  
2131 to implement the Massachusetts commercial and apartment conser-

2132 vation service program, including requiring all utilities, as defined in  
2133 section 1 of chapter 465 of the acts of 1980, to offer the program  
2134 requirements to qualified customers, as determined by the undersec-  
2135 retary, subject to the approval of the secretary, in such manner and at  
2136 such times as the undersecretary, with the approval of the secretary,  
2137 may require, and to establish and regulate the fees to be charged by  
2138 utilities for such services. The undersecretary, with the approval of  
2139 the secretary, is hereby authorized to adopt such additional state pro-  
2140 gram requirements beyond the minimum federal program require-  
2141 ments, established in accordance with Title VII of the National  
2142 Energy Conservation Policy Act, Public Law 95-619, which are  
2143 found to be in the public interest.

2144 (b) The undersecretary shall have the power to enforce the pro-  
2145 visions of said program pursuant to the same remedies and proce-  
2146 dures established in section 8 of said chapter 465, including,  
2147 without limiting the foregoing, the authority to assess civil penal-  
2148 ties up to \$25,000 against any person, utility, energy auditor, sup-  
2149 plier, installer, or lender participating under the state plan who  
2150 violates any provision of the plan, or this section, or any rule or  
2151 order adopted or issued hereunder.

2152 Section 31. (a) As used in this section the following words  
2153 shall, unless the context clearly requires otherwise, have the  
2154 following meanings:

2155 “Building authority”, the University of Massachusetts Building  
2156 Authority, the Southeastern Massachusetts University Building  
2157 Authority, the University of Lowell Building Authority or any other  
2158 building authority which may be established for similar purposes.

2159 “Eligible”, able to meet all requirements for offerors or bidders  
2160 set forth in this section and section 44D of chapter 149 and not  
2161 debarred from bidding under section 44C of said chapter 149 or  
2162 any other applicable law, and who shall certify that he or she is  
2163 able to furnish labor that can work in harmony with all other ele-  
2164 ments of labor employed or to be employed on the work.

2165 “Governmental body”, a city, town, district, regional school  
2166 district, county, or agency, board, commission, authority, depart-  
2167 ment or instrumentality of a city, town, district, regional school  
2168 district or county, and all other public agencies which are not a  
2169 state agency or building authority.

2170 “Minor informalities”, minor deviations, insignificant mistakes,  
2171 and matters of form rather than substance of the proposal or con-  
2172 tract document which can be waived or corrected without preju-  
2173 dice to other offerors, potential offerors, or the public agency.

2174 “Person”, any natural person, business, partnership, corpora-  
2175 tion, union, committee, club, or other organization, entity or group  
2176 of individuals.

2177 “Public agency”, a department, agency, board, commission,  
2178 authority, or other instrumentality of the commonwealth or politi-  
2179 cal subdivision of the commonwealth or 2 or more subdivisions  
2180 thereof.

2181 “Responsible”, demonstrably possessing the skill, ability and  
2182 integrity necessary to faithfully perform the work called for by a  
2183 particular contract, based upon a determination of competent  
2184 workmanship and financial soundness in accordance with the pro-  
2185 visions of this section and section 44D of chapter 149.

2186 “Responsive offeror”, a person who has submitted a proposal  
2187 which conforms in all respects to the requests for proposals.

2188 “State agency”, a state agency, board, bureau, department, divi-  
2189 sion, section, or commission of the commonwealth.

2190 (b) A public agency may, in the manner provided by  
2191 this section, contract for the procurement of energy management  
2192 services. Such contracts may include terms of 10 years or less.  
2193 Contracts which include cogeneration projects shall have terms  
2194 of 20 years or less. The public agency shall solicit competitive  
2195 sealed proposals through a request for proposals. At least 1 week  
2196 prior to soliciting proposals for a contract pursuant to this section,  
2197 a public agency shall notify the undersecretary in writing, in such  
2198 form and including such information as the undersecretary shall  
2199 prescribe by regulation, of the agency’s intent to solicit proposals.  
2200 Such notification shall, at a minimum, include a complete copy of  
2201 the agency’s request for proposals. An acknowledgment of receipt,  
2202 in such form and by including such information as the undersecre-  
2203 tary shall prescribe by regulation, shall be issued to the public  
2204 agency upon successful compliance with the requirements of this  
2205 paragraph.

2206 Requests for proposals for an energy management services con-  
2207 tract to be entered into on behalf of a state agency or a building

2208 authority, shall be developed jointly by the division of capital  
2209 asset management and maintenance and the using agency. Such  
2210 proposals shall only be solicited by the division of capital asset  
2211 management and maintenance after the commissioner of said divi-  
2212 sion has given his prior written approval, and no contract for  
2213 energy management services shall be valid unless approved and  
2214 signed by said commissioner. Said commissioner may delegate to  
2215 state agencies and building authorities the authority to enter into  
2216 such contracts with an estimated construction cost of less than  
2217 \$200,000. Such delegation shall be in writing from the commis-  
2218 sioner to the regulating agency or building authority.

2219 The request for proposals published by a public agency under  
2220 this section shall include: (i) the time and date for receipt of pro-  
2221 posals and the address of the office to which the proposals are to  
2222 be delivered; (ii) a description of the services to be procured,  
2223 including specific requirements and all evaluation criteria that will  
2224 be utilized by the state agency or building authority; and (iii) pro-  
2225 posed contract terms and conditions and an identification of such  
2226 terms and conditions which shall be deemed mandatory and non-  
2227 negotiable. The request for proposals may incorporate documents  
2228 by reference, provided that the request for proposals specifies  
2229 where prospective offerors may obtain the documents. The public  
2230 agency shall make copies of the request for proposals available to  
2231 all persons on an equal basis. Public notice of the request for pro-  
2232 posals shall conform to the procedures set forth in subsection (1)  
2233 of section 44J of chapter 149. Proposals shall be opened publicly,  
2234 in the presence of 2 or more witnesses, at the time specified in the  
2235 request for proposals, and shall be available for public inspection.

2236 The provisions of sections 44A, 44B and 44E through 44H,  
2237 inclusive, of chapter 149 shall not apply to contracts procured pur-  
2238 suant to this section. The provisions of section 44D of chapter 149  
2239 shall apply as appropriate to proposals submitted for contracts  
2240 under this section, and every such proposal shall be accompanied  
2241 by: (i) a copy of a certificate of eligibility issued by the commis-  
2242 sioner of the division of capital asset management and mainte-  
2243 nance; and (ii) an update statement. The offeror's qualifications  
2244 shall be evaluated by the division of capital asset management and  
2245 maintenance in a manner designated by the commissioner of said  
2246 division. If the public agency determines that any offeror is not

2247 responsible or eligible, the public agency shall reject the offer and  
2248 give written notice of such action to the division of capital asset  
2249 management and maintenance.

2250 State agencies and building authorities shall award contracts  
2251 under this section to the lowest offeror demonstrably possessing  
2252 the skill, ability, and integrity necessary to perform faithfully  
2253 energy management services.

2254 Payments under a contract for energy management services  
2255 may be based in whole or in part on any cost savings attributable  
2256 to a reduction in energy and water consumption due to the con-  
2257 tractor's performance or revenues gained due to the contractor's  
2258 services which are aimed at energy and water cost savings.

2259 (c) The provisions of this subsection shall apply to a govern-  
2260 mental body, as defined in this section, procuring contracts under  
2261 this section.

2262 Unless no other manner of description suffices, and the govern-  
2263 mental body so determines in writing, setting forth the basis for  
2264 the determination, all requirements shall be written in a manner  
2265 which describes the requirements to be met without having the  
2266 effect of exclusively requiring a proprietary supply or service or a  
2267 procurement from a sole source.

2268 Subject to a governmental body's authority to reject, in whole  
2269 or in part, any and all proposals, as provided in this section, a gov-  
2270 ernmental body shall unconditionally accept a proposal without  
2271 alternation or correction, except as provided in this paragraph. An  
2272 offeror may correct, modify, or withdraw a proposal by written  
2273 notice received in the office designated in the request for propos-  
2274 als prior to the time and date set for opening the proposals. After  
2275 proposal opening, an offeror may not change any provisions of the  
2276 proposal in a manner prejudicial to the interests of the governmen-  
2277 tal body or fair competition. The governmental body shall waive  
2278 minor informalities or allow the offeror to correct them. If a mis-  
2279 take and the intended proposal are clearly evident on the face of  
2280 the proposal document, the governmental body shall correct the  
2281 mistake to reflect the intended correction and so notify the offeror  
2282 in writing, and the offeror may not withdraw the proposal. An  
2283 offeror may withdraw a proposal if a mistake is clearly evident on  
2284 the face of the proposal but the intended correction is not similarly  
2285 evident.

2286 The governmental body shall evaluate each proposal and award  
2287 each contract based solely on the criteria set forth in the request  
2288 for proposals. Such criteria shall include, but not be limited to, all  
2289 standards by which the governmental body will evaluate respon-  
2290 siveness, responsibility, qualifications of the offeror, technical  
2291 merit and cost to the governmental body. The request for propos-  
2292 als shall specify the method for comparing proposals to determine  
2293 the proposal offering the lowest overall cost to the governmental  
2294 body, taking into consideration comprehensiveness of services,  
2295 energy or water cost savings, costs to be paid by the governmental  
2296 body and revenues to be paid to the governmental body. If the  
2297 governmental body awards the contract to an offeror who did not  
2298 submit the proposal offering the lowest overall cost, the govern-  
2299 mental body shall explain the reason for the award in writing.

2300 The evaluations shall specify revision, if needed, to each pro-  
2301 posal which should be obtained by negotiation prior to awarding  
2302 the contract to the offeror of the proposal. The governmental body  
2303 may condition an award on successful negotiation of the revisions  
2304 specified in the evaluation, and shall explain in writing the rea-  
2305 sons for omitting any such revision from a plan incorporated by  
2306 reference in the contract.

2307 (d) The public agency may cancel a request for proposals, or  
2308 may reject in whole or in part any and all proposals when the pub-  
2309 lic agency determines that cancellation or rejection serves the best  
2310 interests of the public agency. The public agency shall state in  
2311 writing the reason for a cancellation or rejection.

2312 The public agency shall promptly publish in the central register  
2313 notice of the offeror awarded the contract.

2314 The public agency shall, within 30 days, file a copy thereof  
2315 with the undersecretary.

2316 The undersecretary, in consultations with the commissioner of  
2317 the division of capital asset management and maintenance, shall  
2318 promulgate regulations for the procurement of energy manage-  
2319 ment services under this section, provided however, that the com-  
2320 missioner of the division of capital asset management and  
2321 maintenance shall promulgate regulations for services to be pro-  
2322 cured for state agencies and building authorities, and provided  
2323 further, that regulations affecting the operations of housing  
2324 authorities within the jurisdiction of the department of housing

2325 and community development shall be promulgated in consultation  
2326 with the director of housing and community development. Such  
2327 regulations may limit the scope of services procured and the dura-  
2328 tion of contracts, and shall include any requirements that the  
2329 undersecretary or commissioner of the division of capital asset  
2330 management and maintenance deems necessary to promote pru-  
2331 dent management of such contracts at the appropriate facilities.  
2332 Such regulations shall require the submission, at least annually, of  
2333 such information as the undersecretary or commissioner of the  
2334 division of capital asset management and maintenance may deem  
2335 necessary in order to monitor the costs and benefits of contracts  
2336 for energy management services.

2337 (e) The undersecretary shall enforce the requirements of this  
2338 section and regulations promulgated hereunder as they relate to  
2339 public agencies except for state agencies and building authorities  
2340 and shall have all the necessary powers to require compliance  
2341 therewith. The commissioner of the division of capital asset man-  
2342 agement and maintenance shall enforce all such regulations as  
2343 they relate to state agencies and building authorities. Any order of  
2344 the undersecretary under this subsection shall be effective and  
2345 may be enforced according to its terms, and enforcement thereof  
2346 shall not be suspended or stayed by the entry of an appeal there-  
2347 from. The superior court for Suffolk County shall have jurisdic-  
2348 tion over appeals of orders of the undersecretary under this  
2349 subsection, and shall also have jurisdiction upon application of  
2350 said undersecretary to enforce all orders of said undersecretary  
2351 under this subsection. The burden of proof shall be upon the  
2352 appealing party to show that the order of said undersecretary is  
2353 invalid. An aggrieved person shall not be required to seek an order  
2354 from said undersecretary as a condition precedent to seeking any  
2355 other remedy.

2356 Section 32. (a) As used in this section, the following words  
2357 shall have the following meanings:—

2358 “Eligible”, able to meet all requirements for offerors or bidders  
2359 set forth in this section including, without limitation, being certi-  
2360 fied by the division of capital asset management and maintenance  
2361 as eligible to provide energy management systems services and  
2362 not debarred from bidding under section 44C of chapter 149 or  
2363 any other applicable law.

2364 “Energy conservation measures”, measures involving modifica-  
2365 tions or maintenance and operating procedures of a building or  
2366 facility and installations therein, which are designed to reduce  
2367 energy consumption in such building or facility, or the installation  
2368 or, modification of an installation in a building or facility which is  
2369 primarily intended to reduce energy consumption.

2370 “Energy conservation projects”, projects to promote energy  
2371 conservation, including but not limited to, energy conserving  
2372 modification to windows and doors; caulking and weather-strip-  
2373 ping; insulation, automatic energy control systems; hot water sys-  
2374 tems; equipment required to operate variable steam, hydraulic and  
2375 ventilating systems; plant and distribution system modifications  
2376 including replacement of burners, furnaces or boilers; devices for  
2377 modifying fuel openings; electrical or mechanical furnace ignition  
2378 systems; utility plant system conversions; replacement or modifi-  
2379 cation of lighting fixtures; energy recovery systems; and cogener-  
2380 ation systems.

2381 “Energy management services”, a program of services, including  
2382 energy audits, energy conservation measures, energy conservation  
2383 projects, or a combination thereof, and building maintenance and  
2384 financing services, primarily intended to reduce the cost of energy  
2385 and water in operating 1 or more buildings, which may be paid for,  
2386 in whole or in part, by cost savings attributable to a reduction in  
2387 energy and water consumption which result from the services.

2388 “Energy management systems”, the design and installation of  
2389 systems or maintenance programs to conserve energy use within a  
2390 building, including, without limitation, performance-contracting  
2391 energy saving projects; the installation or modification of new and  
2392 existing equipment which will reduce energy and water consump-  
2393 tion associated with heating, ventilation, and air conditioning sys-  
2394 tem, lighting system, building envelope, domestic hot water  
2395 system, and other energy and water using devices; and the work  
2396 associated with monitoring and verifying project savings and the  
2397 study or design of the subject work, whether performed directly or  
2398 managed through subcontractors.

2399 “Energy savings”, a measured reduction in fuel, energy, operat-  
2400 ing or maintenance costs resulting from the implementation of 1  
2401 or more energy management services when compared with an  
2402 established baseline of previous fuel, energy, operating or mainte-

2403 nance costs, including, but not limited to, future capital replacement  
2404 expenditures avoided as a result of equipment installed or services  
2405 performed pursuant to the guaranteed energy savings contract.

2406 “Guaranteed energy savings contract”, a contract for the evalu-  
2407 ation, recommendation or implementation of 1 or more energy  
2408 management services in which payments are based, in whole or in  
2409 part, on any energy savings attributable to the contract.

2410 “Person”, any natural person, business, partnership, corpora-  
2411 tion, union, committee, club or other organization, entity or group  
2412 of individuals.

2413 “Public agency”, a city, town or district, including a regional  
2414 school district, or a combination of 2 or more such cities, towns or  
2415 districts, including regional school districts, or a department,  
2416 agency, board, commission, authority or other instrumentality of  
2417 the commonwealth.

2418 “Qualified provider”, responsible and eligible person able to  
2419 meet all requirements set forth in this section, and not debarred  
2420 from bidding under section 44C of chapter 149 or any other  
2421 applicable law and experienced in the design, implementation and  
2422 installation of energy savings measures.

2423 “Request for qualifications”, a solicitation directed to qualified  
2424 providers issued by a public agency to obtain energy management  
2425 services pursuant to a guaranteed energy savings contract subject  
2426 to the provisions of this section. The request for qualifications  
2427 shall include the following: (i) the name and address of the public  
2428 agency; (ii) the name, address, title and phone number of a contact  
2429 person; (iii) The date, time and place where qualifications must be  
2430 received; (iv) a description of the services to be procured, includ-  
2431 ing a facility profile with a detailed description of each building  
2432 involved and accurate energy consumption data for the most  
2433 recent 2 year period, stated objectives for the program, a list of  
2434 building improvements to be considered or required and a state-  
2435 ment as to whether the proposed improvements will generate suf-  
2436 ficient energy savings to fund the full cost of the program; (v) The  
2437 evaluation criteria for assessing the qualifications; (vi) a statement  
2438 that the public agency may cancel the request for qualifications or  
2439 may reject in whole or in part any and all energy savings measures  
2440 when the public agency determines that cancellation or rejection  
2441 serves the best interests of the public; (vii) any other stipulations

2442 and clarifications the public agency may require, which shall be  
2443 clearly identified in the request for qualifications.

2444 “Responsible”, demonstrably possessing the skill, ability and  
2445 integrity necessary to faithfully perform the work called for by a  
2446 particular contract, based upon a determination of competent  
2447 workmanship and financial soundness in accordance with the pro-  
2448 visions of section 44D of chapter 149.

2449 (b) A public agency may choose to use this section in the pro-  
2450 curement of energy management services as an alternative to the  
2451 procedures set out in section 11C. Nothing in this section shall  
2452 preclude any such agency from choosing to proceed thereafter  
2453 under said section 11C. A public agency may enter into a guaran-  
2454 teed energy savings contract in order to achieve energy savings at  
2455 facilities in accordance with this section. All energy savings mea-  
2456 sures shall comply with current local, state and federal construc-  
2457 tion, and environmental codes and regulations. Prior to entering  
2458 into a guaranteed energy savings contract, a public agency shall  
2459 issue a request for qualifications. Public notice of the request for  
2460 qualifications shall conform to the procedures set forth in subsec-  
2461 tion (1) of section 44J of chapter 149. At least 1 week before  
2462 soliciting a request for qualifications for a guaranteed energy sav-  
2463 ings contract, a public agency shall notify the commissioner of  
2464 energy resources in writing, in a form and including information  
2465 as the commissioner of the division of capital asset management  
2466 and maintenance shall prescribe by regulation, of the agency’s  
2467 intent to solicit qualifications. The notification, at a minimum,  
2468 shall include a copy of the agency’s request for qualifications. An  
2469 acknowledgment of receipt, in a form and including information  
2470 as the commissioner of the division of capital asset management  
2471 and maintenance shall prescribe by regulation, shall be issued by  
2472 the commissioner of energy resources to the public agency upon  
2473 successful compliance with the requirements of this subsection.  
2474 Qualifications shall be opened publicly, in the presence of 2 or  
2475 more witnesses, at the time specified in the request for qualifica-  
2476 tions, and shall be available for public inspection. The provisions  
2477 of sections 44A, 44B and 44E to 44H, inclusive, of chapter 149  
2478 shall not apply to contracts procured pursuant to this section.  
2479 Section 44D of said chapter 149 shall apply as appropriate to  
2480 qualifications submitted for contracts under this section, and every

2481 such qualification shall be accompanied by (1) a copy of a certifi-  
2482 cate of eligibility issued by the commissioner of the division of  
2483 capital asset management, and (2) by an update statement.

2484 The public agency shall evaluate the qualified providers to  
2485 determine which best meets the needs of the public agency by  
2486 reviewing the following: (i) references of other energy savings  
2487 contracts performed by the qualified providers; (ii) the certificate  
2488 of eligibility and update statement provided by the qualified  
2489 providers; (iii) the quality of the products proposed; (iv) the  
2490 methodology of determining energy savings; (v) the general repu-  
2491 tation and performance capabilities of the qualified providers;  
2492 (vi) substantial conformity with the specifications and other con-  
2493 ditions set forth in the request for qualifications; (vii) the time  
2494 specified in the qualifications for the performance of the contract;  
2495 and (viii) any other factors the public agency considers reasonable  
2496 and appropriate, which factors shall be made a matter of record.

2497 Respondents shall be evaluated only on the criteria set forth in  
2498 the request for qualifications.

2499 The public agency shall conduct discussions with, and may  
2500 require public presentations by, each person who submitted quali-  
2501 fications in response to the request for qualifications regarding  
2502 their qualifications, approach to the project and ability to furnish  
2503 the required services. The public agency shall select in order of  
2504 preference 3 such persons, unless fewer persons respond, they  
2505 consider to be the most highly qualified to perform the required  
2506 services. The agency may request, accept and consider proposals  
2507 for the compensation to be paid under the contract only during  
2508 competitive negotiations conducted pursuant to subsection (f).

2509 (c) The public agency may cancel a request for qualifications,  
2510 or may reject in whole or in part any and all proposals when the  
2511 public agency determines that cancellation or rejection serves  
2512 the best interests of the public agency. The public agency shall  
2513 state in writing the reason for a cancellation or rejection.

2514 (d) The public agency shall negotiate a contract with the most  
2515 qualified person at compensation which the public agency deter-  
2516 mines is fair, competitive and reasonable. Should the public  
2517 agency be unable to negotiate a satisfactory contract with the per-  
2518 son considered to be the most qualified at a price the public  
2519 agency determines to be fair, competitive and reasonable, negotia-

2520 tions with that person shall be formally terminated. The public  
2521 agency shall then undertake negotiations with the second most  
2522 qualified person. Failing accord with the second most qualified  
2523 person, the public agency shall terminate those negotiations and  
2524 then undertake negotiations with the third most qualified person.  
2525 Should the public agency be unable to negotiate a satisfactory  
2526 contract with any of the selected persons, the public agency may  
2527 select additional qualified providers who responded to the request  
2528 for qualifications, in the order of their competence and qualifica-  
2529 tion, and continue negotiations in accordance with this subsection  
2530 until either an agreement is reached or the public agency cancels  
2531 the request for qualifications.

2532 (e) The decision of a public agency as defined by section 1,  
2533 regarding the selection of a qualified provider shall be final and  
2534 not subject to appeal except on the grounds of fraud or collusion.

2535 (f) The public agency shall provide public notice of the meeting  
2536 at which it proposes to award the guaranteed energy savings con-  
2537 tract, of the name of the parties to the proposed contract, and of  
2538 the purpose of the contract. The public notice shall be made at  
2539 least 10 days before the meeting. The public agency shall  
2540 promptly publish in the central register notice of the award and  
2541 those public agencies other than state agencies and building  
2542 authorities shall notify the commissioner of energy resources of  
2543 such award and provide a copy of the guaranteed energy savings  
2544 contract.

2545 (g) The guaranteed energy savings contract shall include a writ-  
2546 ten guarantee of the qualified provider that either the amount of  
2547 energy savings guaranteed will be achieved or the qualified  
2548 provider shall reimburse the public agency for the shortfall  
2549 amount. Methods for measurement and verification of guaranteed  
2550 savings shall conform to the most recent standards established by  
2551 the Federal Energy Management Program of the United States  
2552 Department of Energy. The undersecretary shall enforce the  
2553 requirements of this section and regulations promulgated hereun-  
2554 der as they relate to public agencies except for state agencies and  
2555 building authorities and shall have all the necessary powers to  
2556 require compliance therewith. The commissioner of the division  
2557 of capital asset management and maintenance shall enforce the  
2558 regulations as they relate to state agencies and building authori-

2559 ties. Any order of the commissioner of energy resources under this  
2560 subsection shall be effective and may be enforced according to its  
2561 terms, and enforcement thereof shall not be suspended or stayed  
2562 by the entry of an appeal therefrom. The superior court for Suffolk  
2563 County shall have jurisdiction over appeals of orders of the com-  
2564 missioner of energy resources under this subsection, and shall also  
2565 have jurisdiction upon application of the commissioner to enforce  
2566 all orders of the commissioner under this subsection. The burden  
2567 of proof shall be upon the appealing party to show that the order  
2568 of the commissioner is invalid. An aggrieved person shall not be  
2569 required to seek an order from the commission as a condition  
2570 precedent to seeking any other remedy. The value of guaranteed  
2571 savings may represent either all, or part of annual payments at the  
2572 discretion of the agency. The guaranteed energy savings contract  
2573 term for providing a guarantee, measurement and verification,  
2574 maintenance, service and installment or lease payments shall not  
2575 exceed 20 years. The division of capital asset management and  
2576 maintenance, in concurrence with the state inspector general, shall  
2577 promulgate regulations for the procurement of energy manage-  
2578 ment services, including establishing safeguards to be included in  
2579 guaranteed energy savings contracts. The regulations shall require  
2580 the submission, at least annually, of information as the commis-  
2581 sion of the division of capital asset management and maintenance  
2582 and the state inspector general consider necessary in order to mon-  
2583 itor the costs and benefits of contracts for energy management  
2584 services.

2585 (h) Payments under a contract for energy management services  
2586 may be based in whole or in part on any cost savings attributable  
2587 to a reduction in energy and water consumption due to the con-  
2588 tractor's performance or revenues gained due to the contractor's  
2589 services which are aimed at energy and water cost savings.

2590 (i) Unless no other manner of description suffices, and the pub-  
2591 lic agency so determines in writing, setting forth the basis for the  
2592 determination, all requirements shall be written in a manner which  
2593 describes the requirements to be met without having the effect of  
2594 exclusively requiring a proprietary supply or service, or a procure-  
2595 ment from a sole source.

2596 (j) Before entering into a guaranteed energy savings contract,  
2597 the public agency shall require the qualified provider to file with

2598 the public agency a payment or a performance bond relating to the  
2599 installation of energy savings measures, in an amount equal to 100  
2600 per cent of the estimated contract value from a surety company  
2601 licensed to do business in the commonwealth and whose name  
2602 appears on United States Treasury Department Circular 570.

2603 (k) Guaranteed energy savings contracts may extend beyond the  
2604 fiscal year in which they become effective.

2605 Section 33. Motor vehicles owned and operated by the com-  
2606 monwealth, as they are removed from service, shall only be  
2607 replaced with vehicles that have above-average fuel efficiency for  
2608 new vehicles within their size class as determined by the federal  
2609 government. The provisions of this section shall not apply in cases  
2610 where the purchase of an above-average fuel efficiency vehicle  
2611 within their size class as determined by the federal government  
2612 would result in an inability of the new vehicle to perform its  
2613 intended duties.

2614 Department of Broadband, Cable Television  
2615 and Telecommunications.

2616 Section 34. As used in section 34 through 58, inclusive, the  
2617 following words shall, unless the context clearly requires other-  
2618 wise, have the following meanings:—

2619 “Area or areas to be served”, may include a municipality or a  
2620 portion of a municipality in order to reflect, within municipal  
2621 boundaries, the various economic, cultural, geographic and com-  
2622 munity interests of the citizens residing therein.

2623 “Commission”, the public utility commission established pur-  
2624 suant to section 61.

2625 “Community antenna television system” or “CATV system”,  
2626 a facility as defined by 47 USC section 522 (7).

2627 “CATV operator” or “Operator”, a person operating a CATV  
2628 system.

2629 “Department”, the department of broadband, cable television  
2630 and telecommunications.

2631 “Director”, the director of the division of community antenna  
2632 television.

2633 “Division”, the division of community antenna television.

2634 “Issuing authority”, the city manager of a city have a plan D or  
2635 E charter, the mayor of any other city, or the board of selectmen of  
2636 a town.

2637 “Licensee”, a person who is issued a license pursuant to  
2638 section 39.

2639 “Undersecretary”, the undersecretary of the department of broad-  
2640 band, cable television and telecommunications.

2641 Section 35. (a) There shall be within the executive office a  
2642 department of broadband, cable television and telecommunica-  
2643 tions, which shall perform such functions as the secretary may  
2644 determine in relation to the administration, implementation, and  
2645 enforcement of the executive office’s authority over the broad-  
2646 band, cable television and telecommunications industries in the  
2647 commonwealth. The department shall be under the supervision  
2648 and control of the undersecretary for broadband, cable television  
2649 and telecommunications established pursuant to section 2. The  
2650 undersecretary shall be the executive and administrative head of  
2651 the department and shall be responsible for administering and  
2652 enforcing the provisions of law relative to the department and to  
2653 each administrative unit thereof. The duties given to the undersec-  
2654 retary in this chapter and in any other general or special law shall  
2655 be exercised and discharged subject to the direction, control and  
2656 supervision of the secretary.

2657 Section 36. The department shall perform such functions as the  
2658 secretary may determine in relation to the administration, imple-  
2659 mentation and enforcement of the department’s authority over the  
2660 broadband, cable television, telecommunications, and wireless  
2661 communication industries, including, but not limited to, the authority  
2662 granted by chapters 30A, 159, and 166. The department shall, in  
2663 consultation with the wireless broadband development council estab-  
2664 lished pursuant to section 6B of chapter 40J, develop a state  
2665 telecommunications plan to ensuring quality wireless internet, cellu-  
2666 lar and broadband access for every community within the common-  
2667 wealth. The duties and powers of the department and its  
2668 administrative units shall include, but not be limited to, the follow-  
2669 ing: (1) identifying communities that lack affordable and competi-  
2670 tive wireless internet, cellular and broadband service; (2) identifying  
2671 areas where, due to geographic remoteness, sparsity of population or

2672 other considerations, private-sector capital investment in wireless  
2673 internet, cellular and broadband facilities deployment is not suffi-  
2674 cient to meet the present and future needs of the area, and in those  
2675 areas (i) developing strategies, including but not limited to, pub-  
2676 lic-sector partnerships, including aggregation of demand, as a  
2677 means to increase the presence of affordable, state-of-the-art wire-  
2678 less internet, cellular and broadband access; and (ii) facilitating  
2679 the development of private, joint public-private or public initia-  
2680 tives which afford open, competitive, content-neutral wireless  
2681 internet, cellular and broadband services accessible via multiple  
2682 carriers; (3) examining and identifying the best practices of other  
2683 states, municipalities and foreign governments relative to achiev-  
2684 ing wireless internet, cellular and broadband connectivity in  
2685 underserved areas, including, but not limited to, the creation of  
2686 public entities to facilitate the introduction of wireless internet,  
2687 cellular and broadband services to underserved areas; (4) identify-  
2688 ing state-of-the-art technologies that are well-suited to bring wire-  
2689 less internet, cellular and broadband service into underserved  
2690 communities; (5) conducting a survey and analysis of all state  
2691 owned lands to identify specific state lands that, if made available  
2692 for the purpose, would facilitate the deployment of wireless inter-  
2693 net, cellular and broadband technologies and services to achieve  
2694 service in underserved areas; (6) working in conjunction with the  
2695 executive office of transportation and construction, the division of  
2696 capital asset management and maintenance and other appropriate  
2697 state, regional and municipal agencies, develop a plan to ensure  
2698 that each state construction project, including but not limited to,  
2699 buildings, roads and bridges shall include access for wireless  
2700 internet, cellular and broadband infrastructure or enable future  
2701 deployment of wireless internet, cellular and broadband infra-  
2702 structure, including appropriate design for placement of wires,  
2703 wireless arrays and poles and pole attachments; (7) investigating  
2704 the development of wireless internet, cellular and broadband sys-  
2705 tems for downtown areas, commencing with areas of high growth,  
2706 and working in consultation with the wireless broadband develop-  
2707 ment council, established pursuant to section 6B of chapter 40J of  
2708 the General Laws, to develop demonstration projects to facilitate  
2709 wireless access in underserved small-to-mid sized communities;  
2710 (8) investigating ways to financially support increased wireless

2711 internet, cellular and broadband connectivity, including a state  
2712 universal service fund for the purpose; (9) examining the feasibil-  
2713 ity of establishing a universal statewide right of way fee to reduce  
2714 the time from permit application to local approval, in order to pro-  
2715 mote wireless internet, cellular and broadband facilities deploy-  
2716 ment; (10) identifying any state law or regulation that hampers the  
2717 expansion of wireless internet, cellular and broadband services or  
2718 provides unreasonable competitive advantages to regulated, tele-  
2719 communications carriers or cable operators, including access to, or  
2720 use of, municipal or other facilities or rights-of-way; (11) working  
2721 with appropriate state agencies and private parties to identify the  
2722 locations of dark fiber and telecommunications tower access areas  
2723 owned by telecommunications companies in the commonwealth;  
2724 (12) identifying federal regulations and statutes that impede the  
2725 deployment of wireless internet, cellular and broadband facilities  
2726 and services and advocating before the United States Congress  
2727 and the Federal Communications Commission for appropriate  
2728 amendment of these federal policies; and (13) taking other actions  
2729 considered necessary to fulfill the goal of establishing a competi-  
2730 tive wireless internet, cellular and broadband market within the  
2731 commonwealth.

2732 Section 37. There shall be established in the department a divi-  
2733 sion of community antennae television. The undersecretary, sub-  
2734 ject to the approval of the secretary, shall appoint a director of  
2735 said division who shall have the full scope of authority of all the  
2736 provisions of this chapter, including, but not limited to, presiding  
2737 at hearings pursuant to section 38; the right to maintain or inter-  
2738 vene in an action pursuant to section 48; the authority to hear  
2739 appeals and issue enforcement orders pursuant to section 50; the  
2740 authority to regulate rates pursuant to section 51; the authority to  
2741 promulgate rules and regulations pursuant to section 52; its  
2742 enforcement powers pursuant to section 53; and all other authority  
2743 to carry out the duties and responsibilities of this chapter. Appeals  
2744 of any decision, order or ruling of the director may be brought  
2745 within 14 days of the issuance of said decision to the commission.  
2746 When so requested by any party interested, the department shall  
2747 rule upon any question of substantive law properly arising in the  
2748 course of any proceeding before the division within 14 days.  
2749 Except as otherwise provided in this chapter, appeals taken from  
2750 the orders of the department shall be governed by section 64.

2751 The department shall annually, no later than December 31,  
2752 report to the secretary, the undersecretary, and the joint committee  
2753 on telecommunications, utilities and energy concerning the  
2754 appeals that came before the division for that particular calendar  
2755 year. The report shall detail the nature of each appeal and its out-  
2756 come. The report shall be made available to the public by the  
2757 department.

2758 Section 38. The director shall preside at all hearings except as  
2759 hereinafter provided. The office of the rate payer advocate estab-  
2760 lished pursuant to section 6 shall have the authority to represent  
2761 the people of the commonwealth in all such hearings and shall be  
2762 deemed an aggrieved party for the purposes of judicial or admin-  
2763 istrative review of any decision or ruling in such proceedings.  
2764 Matters other than those of formal or administrative character may  
2765 be heard, examined and investigated by an employee of the divi-  
2766 sion designated and assigned thereto by the director. Such  
2767 employee shall make a report in writing on every such matter to  
2768 the director for the director's decision thereon. For the purposes of  
2769 hearing, examining and investigating any such matter such  
2770 employee shall have all of the powers conferred upon a director  
2771 by section 7, and all pertinent provisions of said section shall  
2772 apply to such proceedings.

2773 Section 39. No person shall construct, commence construction,  
2774 or operate a CATV system in any city or town by means of wires  
2775 and cables of its own or of any other person, without first obtain-  
2776 ing as herein provided a written license from each city or town in  
2777 which such wires or cables are installed or are to be installed, a  
2778 copy of which shall be forwarded to the division. Such license  
2779 must be non-exclusive. Each such license shall contain the follow-  
2780 ing provisions:—

- 2781 (a) The area or areas to be served;
- 2782 (b) The completion date of the installation of all equipment,  
2783 wires and cables necessary to serve the named area or areas;
- 2784 (c) The date service shall be available to the named area or  
2785 areas;
- 2786 (d) The term of the license, which shall not be more than 15  
2787 years; and
- 2788 (e) Such other terms and conditions as have been authorized by  
2789 the division.

2790 Section 40. No such license or renewal thereof shall be issued  
2791 except upon written application to the appropriate issuing author-  
2792 ity on an application form prescribed by the division. Such form  
2793 shall contain such information as the division may prescribe as to  
2794 the citizenship and character of the applicant, and the financial,  
2795 technical and other qualifications of the applicant to operate the  
2796 system; complete information as to its principals and ultimate  
2797 beneficial owners, including, in the case of corporations, all stock-  
2798 holders, both nominal and beneficial, owning 1 per cent or more  
2799 of the issued and outstanding stock, and, in the case of unincorpo-  
2800 rated associations, all members and ultimate beneficial owners,  
2801 however designated; complete information on the extent and qual-  
2802 ity of service, number of channels, hours of operation, variety of  
2803 programs, local coverage, safety measures, installation and sub-  
2804 scription fees; and such other information as the division may  
2805 deem appropriate or necessary. Such application shall be signed  
2806 by the applicant or by a duly authorized representative, evidence  
2807 of whose authority shall be submitted with the application. Each  
2808 applicant shall make full disclosure of the true ownership of the  
2809 applicant and of the equipment to be employed in rendering serv-  
2810 ice and of the source of funds for the purchase, lease, rental and  
2811 installation of such equipment. Each applicant shall set forth as  
2812 completely as possible the equipment to be employed, the routes  
2813 of the wires and cables, the area or areas to be served, the approxi-  
2814 mate starting and completion dates of construction of the system  
2815 and the date service will actually be available to the areas named.  
2816 Additional areas to be served may be added by amendment to the  
2817 license from time to time pursuant to regulations promulgated by  
2818 the division.

2819 Section 41. In the event a license is issued, each licensee shall  
2820 agree to the following:

2821 (a) in installing, operating, and maintaining equipment, cable  
2822 and wires, it shall avoid all unnecessary damage and injury to  
2823 trees, structures and improvements in and along the routes autho-  
2824 rized by the issuing authority;

2825 (b) it shall indemnify and hold the city or town harmless at all  
2826 times during the term of the license from any and all claims for  
2827 injury and damage to persons or property, both real and personal,  
2828 caused by the installation, operation or maintenance of any struc-

2829 ture, equipment, wire or cable authorized to be installed pursuant  
2830 to the license. Upon receipt of notice in writing from the issuing  
2831 authority it shall at its own expense defend any action or proceed-  
2832 ing against the city or town in which it is claimed that personal  
2833 injury or property damage was caused by activities of the licensee  
2834 in the installation, operation or maintenance of its system;

2835 (c) it shall carry insurance in companies satisfactory to the issu-  
2836 ing authority indemnifying the city or town and itself from and  
2837 against any and all claims for injury or damage to persons or prop-  
2838 erty, both real and personal, caused by the construction, installa-  
2839 tion, operation, or maintenance of any structure, equipment, wires  
2840 or cables authorized or used pursuant to the license. The amount  
2841 of such insurance against liability for damage to property shall not  
2842 be less than \$200,000 as to any one accident. The amount of such  
2843 insurance for liability for injury or death to persons shall not be  
2844 less than \$100,000 on account of injury to, or death of, any one  
2845 person and \$300,000 on account of injury to, or death of, any  
2846 number of persons in any one accident;

2847 (d) it shall not engage directly or indirectly in the business of  
2848 selling or repairing television or radio sets;

2849 (e) it shall provide a cable drop and an outlet along its cable  
2850 routes at no cost to public schools, police and fire stations, public  
2851 libraries, and other public buildings designated in writing by the  
2852 issuing authority;

2853 (f) upon termination of the period of the license or of any  
2854 renewal thereof by passage of time or otherwise, it shall remove  
2855 its supporting structures, poles, transmission and distribution sys-  
2856 tems and other appurtenances from the streets, ways, lanes, alleys,  
2857 parkways, bridges, highways and other public places in, over,  
2858 under or along which they are installed and shall restore the areas  
2859 to their original condition. If such removal is not completed  
2860 within 6 months of such termination, the issuing authority may  
2861 deem any property not removed as having been abandoned;

2862 (g) whenever it takes up or disturbs any pavement, sidewalk or  
2863 other improvement of any public way or public place, the same  
2864 shall be replaced and the surface restored in as good condition as  
2865 before entry as soon as practicable. If the licensee fails to make  
2866 such restoration within a reasonable time, the issuing authority  
2867 may fix a reasonable time for such restoration and repairs and

2868 shall notify the licensee in writing of the restoration and repairs  
2869 required and the time fixed for performance thereof. Upon failure  
2870 of the licensee to comply within the time specified, the issuing  
2871 authority may cause proper restoration and repairs to be made and  
2872 the expense of such work shall be paid by the licensee upon  
2873 demand by the issuing authority;

2874 (h) it shall not remove any television antenna of any subscriber  
2875 but shall, at cost, offer to him and maintain an adequate switching  
2876 device to allow the subscriber to choose between cable and non-  
2877 cable reception;

2878 (i) whenever it transposes any television signal from the chan-  
2879 nel on which it was originally broadcast so that it is received on a  
2880 different channel on the receiving sets of subscribers, it shall at  
2881 least 1 month prior to such transposition notify its subscribers in  
2882 writing of such transposition and provide them with a marker suit-  
2883 able for mounting on television receivers indicating the fact of  
2884 such transposition;

2885 (j) if it permits any person who is a legally qualified candidate  
2886 for any public office to employ the facilities of its system or origi-  
2887 nate and disseminate political campaign material, it shall afford  
2888 equal opportunities to all other such candidates for the same office  
2889 to use such facilities to originate and disseminate any views con-  
2890 cerning a controversial issue of public importance, and shall  
2891 afford reasonable opportunity for the presentation over its facili-  
2892 ties of contrary points of view. The division shall be guided by,  
2893 and its decisions shall be consistent with, those of the Federal  
2894 Communications Commission under similar provisions of the  
2895 Communications Act of 1934, as amended, and of policies estab-  
2896 lished by the Federal Communications Commission;

2897 (k) before commencing construction it shall submit to the issu-  
2898 ing authority a bond, with corporate surety satisfactory to such  
2899 authority. The conditions and terms of said bond shall be:

2900 (1) the satisfactory completion of installation and operation of  
2901 the system in accordance with the provisions of subsections (a),  
2902 (m) and (n);

2903 (2) the indemnity of the city or town in accordance with the  
2904 provisions of subsection (b);

2905 (3) the satisfactory removal of its system in accordance with the  
2906 provisions of subsection (f);

2907 (4) the satisfactory restoration of pavements, sidewalks, and  
2908 other improvements in accordance with the provisions of sub-  
2909 section (g).

2910 (l) in the event its service to any subscriber is interrupted for 24  
2911 or more consecutive hours, it will grant such subscriber a pro rata  
2912 credit or rebate;

2913 (m) the area or areas to be served as set out in the license  
2914 according to subsection (a) of section 37 shall annually be wired  
2915 and provided service in not less than 10 per cent of the area or  
2916 areas specified until said service is complete and available in said  
2917 area or areas in compliance with the provisions of subsection (n);

2918 (n) the completion of construction within 6 years after the  
2919 license is granted under the provisions of this chapter; and

2920 (o) the maintenance of local offices or local telephone connec-  
2921 tions in the communities served.

2922 Section 42. No license issued under section 39 shall be granted  
2923 until the issuing authority has held a public hearing thereon, first  
2924 causing notice of the time and place of such hearing and of the  
2925 subject matter sufficient for identification, to be published in a  
2926 newspaper of general circulation in the city or town once in each  
2927 of two successive weeks, the first publication being not less than  
2928 14 days before the day of such hearing, or if there is no such  
2929 newspaper in such city or town then by posting such notice in a  
2930 conspicuous place in the city or town hall for a period of not less  
2931 than 14 days before the day of such hearing. In the event more  
2932 than 1 application is filed in any city or town, the issuing author-  
2933 ity shall choose that applicant or those applicants which in its  
2934 opinion will best serve the public interest. The issuing authority  
2935 shall issue a public statement in writing containing the reasons for  
2936 its acceptance or rejection of any or all applications.

2937 Section 43. No license or control thereof shall be transferred or  
2938 assigned without the prior written consent of the issuing authority,  
2939 which consent shall not be arbitrarily or unreasonably withheld.  
2940 Such consent shall be given only after a hearing upon a written  
2941 application therefor on forms to be prescribed by the division. The  
2942 application for consent to a transfer or assignment shall be signed  
2943 by the licensee and by the proposed transferee or assignee or by  
2944 their representatives, evidence of whose authority shall be submit-  
2945 ted with the application. The consent of an issuing authority to a

2946 transfer or assignment of a license for an unconstructed CATV  
2947 system shall not be given if the consideration being paid in the  
2948 proposed transaction includes a substantial payment for the  
2949 license.

2950 Section 44. Each licensee shall install its CATV system and  
2951 maintain the quality of the signals transmitted over its system to  
2952 its subscribers in accordance with standards to be prescribed by  
2953 the Federal Communications Commission and the division. Each  
2954 licensee shall file annually with the division on forms prescribed  
2955 by the division, a statement of its revenues and expenses for offi-  
2956 cial use only. In addition, each such licensee shall file with the  
2957 division and the issuing authority on forms prescribed by the divi-  
2958 sion, a financial balance sheet and statement of ownership which  
2959 shall be open to public inspection. Such statements and balance  
2960 sheet shall be sworn to by the person preparing such forms and by  
2961 the owner, or if the owner is a corporation, by the treasurer of the  
2962 corporation.

2963 Section 45. No application for a license to operate a CATV sys-  
2964 tem or for renewal, transfer or assignment of such a license shall  
2965 be considered by an issuing authority unless it is accompanied by  
2966 an application fee of \$100 payable to the city or town. A licensee,  
2967 serving more than 250 subscribers shall, annually on or before  
2968 March 15, pay to the commonwealth a license fee equal to \$1.10  
2969 per subscriber served and to the issuing authority a license fee  
2970 equal to \$.85 per subscriber served. In determining a license  
2971 fee, the number of subscribers served shall be measured as of  
2972 December 31 of the preceding calendar year.

2973 Section 46. Complaints by any person as to the operation of any  
2974 CATV system may be filed in writing with the division or with the  
2975 issuing authority, each of which shall, within 10 days, forward  
2976 copies of such complaints to the other. The issuing authority and  
2977 the division shall be notified by the licensee on forms to be pre-  
2978 scribed by the division, not less than annually, of the complaints  
2979 of subscribers received during the reporting period and the man-  
2980 ner in which they have been met, including the time required to  
2981 make any necessary repairs or adjustments.

2982 Section 47. Any license issued hereunder may, after hearing, be  
2983 revoked by the issuing authority or the division for any of the  
2984 following reasons:—

2985 (a) for false or misleading statements in, or material omissions  
2986 from, any application submitted under section 40, 41 or any  
2987 annual return under section 44;

2988 (b) for failure to file and maintain a bond as required under  
2989 subsection (k) of section 41 or to maintain insurance as required  
2990 under subsection (c) of said section;

2991 (c) for repeated violations, as determined by the division, of  
2992 commitments of a licensee set forth in subsection (j) of section 41;

2993 (d) for failure to complete construction in accordance with the  
2994 provisions of subsection (n) of section 41;

2995 (e) for any transfer or assignment of a license or control thereof  
2996 without consent in violation of section 43;

2997 (f) for repeated failure, as determined by the division, to main-  
2998 tain signal quality under the standards provided for in section 52;

2999 (g) for repeated violations of other obligations of the licensee  
3000 set forth in section 41, except subsection (j), or of the terms of  
3001 its license.

3002 Section 48. The department shall have the right to institute, or  
3003 to intervene as a party in, any action in any court of competent  
3004 jurisdiction seeking mandamus, injunctive or other relief to com-  
3005 pel compliance with any provision of this chapter or any rule, reg-  
3006 ulation or order adopted thereunder, or to restrain or otherwise  
3007 prevent or prohibit any illegal or unauthorized conduct in connec-  
3008 tion therewith.

3009 Section 49. Any license issued hereunder may be renewed after  
3010 hearing by the issuing authority for additional periods each not to  
3011 exceed 10 years. An application for renewal shall be on forms to  
3012 be prescribed by the division. Such forms shall set forth such facts  
3013 as the division may prescribe as to the citizenship and character of  
3014 the applicant for renewal, and its financial, technical, and other  
3015 qualifications to operate the system, and complete information as  
3016 to its principals and ultimate beneficial owners, including in the  
3017 case of corporations, all stockholders both nominal and beneficial  
3018 owning 1 per cent or more of the issued and outstanding stock,  
3019 and in the case of unincorporated associations, all members and  
3020 ultimate beneficial owners however designated, in order that the  
3021 applicant for renewal shall make full disclosure as to its true own-  
3022 ership and as to the source of funds to be used for operation of the  
3023 system.

3024 Section 50. Any applicant for a license or renewal of a license  
3025 who is aggrieved by a denial of its application by the issuing  
3026 authority or by its failure to act within the period of 60 days, or  
3027 any licensee who is aggrieved by the action of an issuing authority  
3028 in modifying, suspending, cancelling, revoking, declaring a license  
3029 forfeited, denying consent to the transfer or assignment of a  
3030 license or control thereof, or by the issuing authority's failure to act  
3031 within the period of 60 days may appeal therefrom to the division  
3032 within 30 days following notice of such action or within 30 days  
3033 following the expiration of a 60 day period of inaction, by a peti-  
3034 tion in writing, setting forth all material facts in the case.

3035 The division shall hold a hearing upon each such appeal,  
3036 requiring due notice to be given to all interested parties.

3037 If the division approves the action of the issuing authority it  
3038 shall issue notice to them to that effect, but if the division disap-  
3039 proves of their action it shall issue a decision in writing advising  
3040 said issuing authority of the reasons for its decision and ordering  
3041 the issuing authority to conform with such decision. The division  
3042 shall not, in any event, order a license to be issued until the appli-  
3043 cation for said license has been granted by the issuing authority.

3044 Upon the petition of 10 per cent of the subscribers who are tax-  
3045 payers of the city or town in which a license has been granted by  
3046 such authority or who are registered voters in the voting precinct  
3047 or district in the area or areas to be served as set out in the license,  
3048 or the office of the ratepayer advocate, or upon its own initiative,  
3049 the division may investigate the granting, renewal, transfer or  
3050 assignment of such a license or the conduct of the business being  
3051 done thereunder, and may, after a hearing, modify, suspend,  
3052 revoke or cancel such license for cause.

3053 If the issuing authority fails to suspend, revoke, cancel or  
3054 declare forfeited a license or to perform any other disciplinary act  
3055 when lawfully ordered so to do by the division upon appeal or  
3056 otherwise, within such reasonable time as it may prescribe, the  
3057 division may itself revoke such license or perform such act, with  
3058 the same force and effect as if issued or performed by the issuing  
3059 authority, but no license shall be issued by the division except in  
3060 ratification of a prior issuance to the same party by the issuing  
3061 authority.

3062 Section 51. The division shall study the necessity and desirabil-  
3063 ity of rate regulation, and thereafter it may, upon its own motion  
3064 or upon request of any issuing authority or licensee, after due  
3065 hearing and investigation, fix and establish, for each community  
3066 antenna television system in the commonwealth, a fair and reason-  
3067 able rate of return from subscription rates charged to subscribers,  
3068 said rates to be adequate, just, reasonable and non-discriminatory.  
3069 Notwithstanding any other provision of this paragraph, the divi-  
3070 sion may, after due hearing and investigation, suspend regulation  
3071 of rates and charges in any cable television system upon a finding  
3072 that adequate competitive alternatives exist to the provision of  
3073 services offered by cable television systems. In the event of such a  
3074 suspension, the division shall, by oversight and surveillance,  
3075 review periodically any facts or standards employed in determin-  
3076 ing the presence of said competition.

3077 The division shall cause notice of the time and place of every  
3078 such hearing to be published in at least one newspaper of general  
3079 circulation in the municipality or service area affected. Such  
3080 notice and schedule shall be in such form as the division may  
3081 deem expedient.

3082 The division may make, and, at any time, alter or amend, rea-  
3083 sonable rules and regulations to facilitate the operation of this  
3084 section and enforce the application of the rates fixed and estab-  
3085 lished by them, may conduct hearings and investigations under  
3086 this section, and may at any time require any company to file with  
3087 them such data, statistics, schedules, or information as they may  
3088 deem proper or necessary to enable them to fix and establish or  
3089 secure and maintain fair and reasonable rates. They may issue  
3090 such orders as they find proper, expedient or necessary to enforce  
3091 and administer the provisions of this section, to secure compliance  
3092 with any rules or regulations made thereunder, and to enforce  
3093 adherence to the rates fixed and established by them. The superior  
3094 court for the county of Suffolk shall have jurisdiction in equity  
3095 upon the petition of the division and after a summary hearing, to  
3096 enforce all lawful orders of the division. Memoranda of all  
3097 actions, orders, findings, and decisions of the division shall be  
3098 signed by them and filed in their office as public records open to  
3099 public inspection.

3100 Any person aggrieved by any action, order, finding, or decision  
3101 of the division under this section may, within 45 days from the fil-  
3102 ing of such memorandum thereof with the division, file a petition  
3103 in the superior court for the county of Suffolk for a review of such  
3104 action, order, finding or decision. An order of notice returnable  
3105 not later than 7 days from the filing of such petition shall forth-  
3106 with issue and be served upon the division. Within 10 days after  
3107 the return of said order of notice, the petition shall be assigned for  
3108 a speedy and summary hearing on the merits. The action, order,  
3109 finding, or decision of the division shall remain in full force and  
3110 effect pending the final decision of the court unless the court or a  
3111 justice thereof, after notice to the division, shall otherwise order.  
3112 The court shall have jurisdiction in equity to modify, amend,  
3113 annul, reverse or affirm such action, order, finding or decision,  
3114 shall review all questions of fact and of law involved therein and  
3115 may make any appropriate order or decree. The decision of the  
3116 court shall be final and conclusive on the parties. The court may  
3117 make such order as to costs as it deems equitable. The court shall  
3118 make such rules or orders as it deems proper to secure prompt and  
3119 speedy hearings and to expedite final decisions thereon.

3120 Section 52. The division may after hearing issue such standards  
3121 and regulations as it deems appropriate to carry out the purpose of  
3122 this chapter for which purpose it may employ such expert assis-  
3123 tants as it deems necessary. The division shall have the authority to  
3124 mediate between cities and towns and, after appropriate notice and  
3125 hearing, to make a final decision, in the event of conflict in the  
3126 exercise of jurisdiction to authorize or regulate CATV systems.  
3127 The division shall also represent the interests of the citizens of the  
3128 commonwealth before the Federal Communications Commission  
3129 and shall certify the performance of the CATV operators under its  
3130 jurisdiction to appropriate federal, state and local authorities.

3131 Except as set forth in section 39, nothing in this chapter shall  
3132 prohibit a city or town from prohibiting the distribution on basic  
3133 service of material, which is obscene as defined in section 31 of  
3134 chapter 272, by the licensee to subscribers of said city or town.

3135 Section 53. The division or its employees may visit the places  
3136 of business and other premises and examine the records and facili-  
3137 ties of all CATV companies to ascertain if all rules and regulations

3138 and orders of the division have been complied with, and any cases  
3139 of non-compliance shall be reported by it to the issuing authority.  
3140 The division shall also have the power to issue subpoenas to com-  
3141 pel the attendance of witnesses and the production of documents,  
3142 papers, books, records, and other evidence before it in any matter  
3143 over which it has jurisdiction, control or supervision. The division  
3144 shall have the power to administer oaths and affirmations to per-  
3145 sons whose testimony is required.

3146 Section 54. Any person or the officer, agent or employee of any  
3147 organization who willfully violates any provision of this chapter  
3148 or of any rule, regulation, or order adopted thereunder, or who  
3149 willfully procures, aids, or abets any violation of such a provision  
3150 shall be punished by a fine of not less than \$100 nor more than  
3151 \$1,000 or by imprisonment in a jail or house of correction for not  
3152 more than 6 months, or by both such fine and imprisonment.

3153 Section 55. The hearing provided for in sections 47, 50, 51 and 52  
3154 shall be subject to the provisions of chapter 30A. No other hearing  
3155 provided for or required by any section of this chapter shall be sub-  
3156 ject to chapter 30A but all such hearings shall be public.

3157 Section 56. Any city or town may construct, purchase and oper-  
3158 ate a CATV system, but such operation shall be subject to this  
3159 chapter as if the system were privately owned and operated.

3160 Section 57. No operator shall enter into any agreement with  
3161 persons owning, leasing, controlling or managing buildings served  
3162 by a CATV system, or perform any act, that would directly or  
3163 indirectly diminish or interfere with existing rights of any tenant  
3164 or other occupant of such a building to the use of master or indi-  
3165 vidual antenna equipment.

3166 An operator who affixes, or causes to be affixed, CATV system  
3167 facilities to the dwelling of a tenant shall do so at no cost to the  
3168 landlord of such dwelling, shall indemnify the landlord of such  
3169 dwelling for any damage arising out of such actions, and shall not  
3170 interfere with the safety, functioning, appearance or use of such  
3171 dwelling.

3172 The consent required by section 35 of chapter 166 shall be  
3173 deemed to have been granted to an operator upon his delivery to  
3174 the owner or lawful agent of the owner of property upon which he  
3175 proposes to affix CATV system facilities of a copy of this section

3176 and a signed statement that he agrees to be bound by the terms of  
3177 this section.

3178 An owner of property, or his lawful agent, may sue in contract  
3179 to enforce the provisions of an operator's agreement under this  
3180 section.

3181 No person owning, leasing, controlling or managing a multiple  
3182 dwelling unit or units or a manufactured housing community, as  
3183 defined in section 32F of chapter 140 served by a CATV system  
3184 shall discriminate in rental or other charges between tenants or  
3185 manufactured home owners or occupants who subscribe to such  
3186 CATV services, and those who do not; provided, however, that the  
3187 owner of such real estate may require reasonable compensation in  
3188 exchange for permitting the installation of CATV system equip-  
3189 ment within and upon such real estate, to be paid by an operator,  
3190 and any such taking and compensation shall be determined in  
3191 accordance with the provisions of chapter 79.

3192 No person owning, leasing, controlling or managing a multiple  
3193 dwelling unit or units, or a manufactured housing community, as  
3194 defined in section 32F of chapter 140, shall prohibit or otherwise  
3195 prevent an operator from entering such buildings or manufactured  
3196 homes for the purpose of constructing, installing or servicing  
3197 CATV system facilities if 1 or more tenants or occupants of a mul-  
3198 tiple dwelling unit or units, or one or more owners or occupants of  
3199 a manufactured home or homes, have requested such CATV serv-  
3200 ices. A cable television operator shall not make an installation in  
3201 an individual dwelling unit or manufactured home unless permis-  
3202 sion has been given by the tenant occupying such unit or the  
3203 owner or occupant of such manufactured home.

3204 An owner whose property is injuriously affected or diminished  
3205 in value by occupation of the ground or air or otherwise by such  
3206 construction of CATV system facilities may recover damages  
3207 therefor from the operator pursuant to chapter 79. The right of an  
3208 operator to construct, install or repair CATV system facilities and  
3209 to maintain CATV services shall not be delayed or impaired by the  
3210 assertion of a specific claim, or the initiation of legal action to  
3211 enforce such claim. The superior court shall have exclusive origi-  
3212 nal jurisdiction of all actions seeking injunctive relief to permit  
3213 the construction, installation or repair of CATV system facilities.

3214 A cable television operator shall indemnify the landlord for any  
3215 damage caused by the installation, operation or removal of cable  
3216 television facilities. An owner of property may require that the  
3217 installation of cable television facilities conform to such reason-  
3218 able conditions as are necessary to protect the safety, functioning  
3219 and appearance of the premises, and the convenience and well  
3220 being of other tenants.

3221 Section 58. The department shall annually, no later than Decem-  
3222 ber 31, submit a report, of the department's activity and the condi-  
3223 tion of the broadband, cable television, wireless and  
3224 telecommunications industries within the commonwealth during the  
3225 preceding fiscal year, including any recommendations for legisla-  
3226 tion, to the secretary, the chairs of the house and senate committees  
3227 on ways and means, the chairs of the joint committee on economic  
3228 development and emerging technologies and the chairs of the joint  
3229 committee on telecommunications, utilities and energy.

3230 Department of Utility Regulation and Oversight.

3231 Section 59. As used in sections 59 through 73 the following  
3232 words shall, unless the context clearly requires otherwise, have  
3233 the following meanings:—

3234 "Chairman", the chair of the public utility commission estab-  
3235 lished pursuant to section 62.

3236 "Commission", the public utility commission established pur-  
3237 suant to section 62.

3238 "Department", the department of utility regulation and over-  
3239 sight.

3240 "Undersecretary", the undersecretary of the department of util-  
3241 ity regulation and oversight.

3242 Section 60. (a) There shall be within the executive office a  
3243 department of utility regulation and oversight, which shall per-  
3244 form such functions as the secretary may determine in relation to  
3245 the administration, implementation, and enforcement of the execu-  
3246 tive office's authority over public utilities in the commonwealth.  
3247 The department shall be under the supervision and control of the  
3248 undersecretary for utility regulation and oversight established pur-  
3249 suant to section 2. The undersecretary shall be the executive and  
3250 administrative head of the department and shall be responsible for

3251 administering and enforcing the provisions of law relative to the  
3252 department and to each administrative unit thereof. The duties  
3253 given to the undersecretary in this chapter and in any other  
3254 general or special law shall be exercised and discharged subject to  
3255 the direction, control and supervision of the secretary.

3256 Section 61. The department shall perform such functions as the  
3257 secretary may determine in relation to the administration, imple-  
3258 mentation, and enforcement of the department's authority over  
3259 public utilities, including, but not limited to, the authority granted  
3260 by chapters 30A, 164, 164A, 165 and 166.

3261 Section 62. Within the department there shall be a public utility  
3262 commission consisting of 5 members, 1 of whom shall be the  
3263 undersecretary of energy affairs for utility regulation and over-  
3264 sight who shall serve as chair, 1 of whom shall be the under-  
3265 secretary of energy affairs for alternative and renewable energy  
3266 development; 1 of whom shall be the undersecretary of energy  
3267 affairs for broadband, cable television and telecommunications;  
3268 1 of whom shall have a background and expertise in electricity  
3269 and energy issues, including issues related to natural gas; and 1 of  
3270 whom shall have a background and expertise in consumer protec-  
3271 tion and advocacy issues. Beginning July 1, 2007, the commis-  
3272 sioners, except for the 3 undersecretaries of energy affairs, shall  
3273 be appointed by the secretary with the approval of the governor  
3274 for a term of 3 years. Each member shall hold office until the  
3275 appointment and qualifications of his successor. The governor  
3276 may remove any member for cause, including, but not limited to,  
3277 any violation of the provisions of section 7, and shall fill any  
3278 vacancy for the unexpired term. The commissioners shall devote  
3279 their full time to the duties of their office. Not more than 3 mem-  
3280 bers of said commission shall be members of the same political  
3281 party. Except as otherwise provided for in section 63, any decision  
3282 made or order issued by the commission may be made by majority  
3283 vote of a quorum of 3 members.

3284 The initial base salary of the members, exclusive of the chair-  
3285 man and the undersecretaries, shall be \$90,000. Said salaries shall  
3286 be subject to step increases consistent with the provisions of sec-  
3287 tions 45 and 46C of chapter 30. The members shall receive neces-  
3288 sary expenses incurred in the discharge of their official duties.

3289 The commission shall make an annual report of its activities in  
3290 January of each year to the general court. A copy of each official  
3291 decision issued by the commission or its designee shall be  
3292 appended to the annual report and shall also be available in an  
3293 electronic format.

3294 Section 63. The chairman shall have and exercise supervision  
3295 and control over all the affairs of the commission. He shall preside  
3296 at all hearings at which he is present, and shall designate a com-  
3297 missioner to act as chairman in his absence. In order to promote  
3298 efficiency in administration he shall from time to time make such  
3299 division or redivision of the work of the commission among the  
3300 commissioners as he deems expedient and may refer matters  
3301 related to the need for, construction of, or siting of facilities, as  
3302 defined in section 69G of chapter 164, as he deems appropriate to  
3303 the energy facilities siting board in accordance with section 69H  
3304 of chapter 164. All of the commissioners shall, if so directed by  
3305 the chairman, participate in the hearing and decision of any matter  
3306 coming before the commission. In the hearing of all matters other  
3307 than those of formal or administrative character coming before the  
3308 commission, 2 or more commissioners shall participate and in the  
3309 decision of all such matters all of the commissioners shall partici-  
3310 pate; provided, that any such matter may be heard, examined and  
3311 investigated by an employee of the executive office designated  
3312 and assigned thereto by the chairman with the concurrence of one  
3313 other commissioner. Such employee shall make a report in writing  
3314 relative to every such matter to the commission for its decision  
3315 thereon. For the purposes of hearing, examining and investigating  
3316 any such matter such employee shall have all of the powers con-  
3317 ferred upon a commissioner by section 63, and all pertinent provi-  
3318 sions of said section shall apply to such proceedings. In every  
3319 such case the concurrence of a majority of the commissioners par-  
3320 ticipating in the decision shall be necessary therefor.

3321 Section 64. Upon request of a mayor of a city or the board of  
3322 selectman of a town, a member of the general court or of 20 cus-  
3323 tomers of the company affected, or the director, a public hearing  
3324 ordered by the commission, to be held in connection with any  
3325 change in rates or reduction in or discontinuance of service, shall  
3326 be held in the city or town or area wherein the company affected  
3327 does business or in which any decision of the commission would

3328 apply. The department shall, at least 14 days prior to holding any  
3329 public hearing under this section, notify in writing the mayor of  
3330 each city and the board of selectmen of each town in which the  
3331 company does business of the time and place of such hearing.

3332 Section 65. When so requested by any party interested, the  
3333 commission shall rule upon any question of substantive law prop-  
3334 erly arising in the course of any proceeding before the commis-  
3335 sion or any member or members thereof, and any party interested  
3336 aggrieved by such ruling may object thereto, and may secure a  
3337 review as hereinafter provided. Any failure or refusal of the com-  
3338 mission to rule upon such question at or prior to the entry of a  
3339 final order or decision shall be taken and recorded as a ruling  
3340 adverse to the party requesting the ruling. An appeal as to matters  
3341 of law from any final decision, order or ruling of the commission  
3342 may be taken to the supreme judicial court by an aggrieved party  
3343 in interest by the filing of a written petition praying that the order  
3344 of the commission be modified or set aside in whole or in part.

3345 Such petition for appeal shall be filed with the secretary of the  
3346 commission within 20 days after the date of service of the deci-  
3347 sion, order or ruling of the commission, or within such further  
3348 time as the commission may allow upon request filed prior to the  
3349 expiration of the 20 days after the date of service of said decision,  
3350 order or ruling. The commission shall serve such decision, order  
3351 or ruling upon all parties in interest by mailing, postpaid, within  
3352 1 day of its being entered, and service shall be presumed to have  
3353 occurred in the normal course of delivery of such mail. Within 10  
3354 days after such petition has been filed, the appealing party shall  
3355 enter the appeal in the supreme judicial court sitting in Suffolk  
3356 county by filing a copy thereof with the clerk of said court, and  
3357 shall file therewith a certificate that he is of the opinion that there  
3358 is such probable ground for the appeal as to make it a fit subject  
3359 for judicial inquiry and that it is not intended for delay; and dou-  
3360 ble costs may be assessed by the court upon any such party whose  
3361 petition shall appear to the court not to be a fit subject for judicial  
3362 inquiry or shall appear to be intended for delay.

3363 The record on appeal shall include 1 copy of the petition of the  
3364 appellant or other original papers, and of the decision, order or  
3365 ruling of the commission; and if and to the extent that either the  
3366 commission or the appellant or any other party to the proceedings

3367 so requests within 20 days from filing the petition for appeal with  
3368 the commission, it shall include 1 copy of the exhibits and docu-  
3369 ments introduced in the proceeding before the commission of the  
3370 official report of the proceedings and of the findings of fact of  
3371 the commission. The secretary of the commission shall make an  
3372 estimate of the expense of the preparation and transmission of the  
3373 necessary papers and copies of papers aforesaid, and shall give  
3374 the appellant notice in writing of the amount of such estimate. The  
3375 appellant, within 20 days after the date of such notice from the  
3376 secretary, shall pay to him the amount of such estimate and such  
3377 further amount beyond such estimate as the secretary shall find to  
3378 be then due for such preparation. The secretary then without delay  
3379 shall prepare the papers and copies of papers aforesaid for trans-  
3380 mission, and when they are ready, shall give notice in writing of  
3381 such fact to the appellant who, within 5 days after the date of such  
3382 notice, shall pay to the secretary any balance then due therefor.  
3383 The record on appeal shall then be certified to the supreme judi-  
3384 cial court by the secretary of the commission. The commission or  
3385 the supreme judicial court or any justice or judge thereof may for  
3386 cause shown extend the time for doing any of the acts required by  
3387 this paragraph. The supreme judicial court may order the trans-  
3388 mission of the original or a copy of any paper not appearing in the  
3389 record, or appearing therein in an abbreviated form, if at any time  
3390 such omitted paper or any omitted part of such abbreviated paper  
3391 becomes material.

3392 Each claim of appeal shall set forth separately and particularly  
3393 each error of law asserted to have been made by the commission.  
3394 Upon the entry of the appeal it shall be heard and determined by  
3395 the court, which shall have jurisdiction to affirm, modify or set  
3396 aside such decision, order or ruling of the commission in whole or  
3397 in part, or remand the proceeding to the commission with instruc-  
3398 tions subject to review by the full court upon appeal.

3399 Any decision, order or ruling of the commission shall be effec-  
3400 tive and may be enforced according to its terms and the operation  
3401 or enforcement thereof shall not be suspended or stayed by the  
3402 entry of an appeal therefrom. The procedure before the court,  
3403 except as otherwise set forth herein, shall be that prescribed by its  
3404 rules, which shall state upon what terms the operation or enforce-  
3405 ment of the decision, order or ruling shall be stayed. Any stock,

3406 bonds, debentures, convertible debentures, coupon notes, notes or  
3407 other evidences of indebtedness issued pursuant to and in accor-  
3408 dance with a decision, order, or ruling of the commission shall, if  
3409 issued more than 60 days after the date of service of such deci-  
3410 sion, order or ruling, be valid and binding in accordance with their  
3411 terms notwithstanding such decision, order or ruling of the com-  
3412 mission is later modified or set aside in whole or in part unless the  
3413 operation or enforcement of such decision, order or ruling has  
3414 been suspended or stayed by the court prior to such issuance.

3415 The burden of proof shall be upon the appealing party to show  
3416 that the decision, order or ruling of the commission appealed from  
3417 is invalid.

3418 No evidence beyond that contained in the record shall be intro-  
3419 duced before the court, except that in cases where issues of con-  
3420 fiscation or of constitutional right are involved the court may  
3421 order such additional evidence as it deems necessary for the deter-  
3422 mination of such issues to be taken before the commission and to  
3423 be adduced at the hearing in such manner and upon such terms  
3424 and conditions as to the court may seem proper. Whenever the  
3425 court shall order additional evidence to be taken, the commission  
3426 shall promptly hear and report such evidence to the court so that  
3427 the proof may be brought as nearly as reasonably possible down to  
3428 the date of its report thereof to the court. The commission may,  
3429 after hearing such evidence, modify its findings as to facts and its  
3430 original decision or orders by reason of the additional evidence so  
3431 taken, and it shall file with the court such amended decision or  
3432 orders and such modified or new findings. If the commission shall  
3433 modify or amend its original decision or orders, the appealing  
3434 party or any other party aggrieved by such modified or amended  
3435 decision or order may file with the court, within such time as the  
3436 court may allow, a specification of any errors of law claimed to  
3437 have been made by the commission in such modified decision or  
3438 orders, which specification of errors shall thereupon be considered  
3439 by the court in addition to the errors of law asserted in the claim  
3440 of appeal.

3441 Any proceeding in any court in the commonwealth directly  
3442 affecting an order of the commission, or to which it is a party,  
3443 shall have preference over all other civil proceedings pending in  
3444 such court, except election cases.

3445 The supreme judicial court shall also have jurisdiction upon appli-  
3446 cation of the commission to enforce all orders of the commission.

3447 Section 66. In all investigations and inquiries authorized by law  
3448 to be made by the commission and in all proceedings before it,  
3449 any commissioner of the commission may summon witnesses,  
3450 administer oaths and take testimony. The fees of such witnesses  
3451 for attendance and travel shall be the same as for witnesses before  
3452 the superior court and shall be paid by the commonwealth upon  
3453 the certificate of the commission filed with the comptroller. The  
3454 fees of such witnesses need not be paid or tendered to them prior  
3455 to their attendance and testimony. Subpoenas may be issued at the  
3456 instance of a complainant, respondent or any other party to any  
3457 proceeding before the commission under such rules as the com-  
3458 mission may establish, in which case the cost of service and the  
3459 fees of witnesses shall be borne by the party at whose instance  
3460 the witness is summoned, and such fees shall be paid to the wit-  
3461 nesses as provided in the case of witnesses before the superior  
3462 court.

3463 Section 67. Except as otherwise permitted in this section, in any  
3464 contested on-the-record proceeding, no person outside the executive  
3465 office shall make or knowingly cause to be made to any decisional  
3466 employee, and no decisional employee shall make or knowingly  
3467 cause to be made to any person outside the executive office, any off-  
3468 the-record communication. The communication prohibited by this  
3469 section shall apply to: (i) proceedings initiated by the commission  
3470 from the time an order initiating the proceeding is issued; (ii) pro-  
3471 ceedings returned to the commission on judicial remand from  
3472 the date the court issues said mandate; (iii) complaints initiated  
3473 by the filing of the complaint with the commission, or from the date  
3474 the commission initiates an investigation other than an investigation  
3475 exempted from the provisions of this section; (iv) matters that have  
3476 been assigned to an administrative law judge or hearing officer for  
3477 adjudication or other resolution; and (v) all other proceedings from  
3478 the time of the filing of an intervention disputing any material issue  
3479 that is the subject of a proceeding.

3480 The prohibitions herein prescribed shall remain in force until:  
3481 (i) a final commission decision or, other final order on the merits  
3482 of the proceeding, is issued; or, when applicable, after the time for

3483 seeking rehearing or reconsideration of a final commission deci-  
3484 sion, or other final order disposing of the merits, expires; (ii) the  
3485 commission otherwise terminates the proceeding; or (iii) the pro-  
3486 ceeding is no longer contested.

3487 Except as provided in herein, the general prohibitions of this  
3488 section shall not apply to: (i) an off-the-record communication  
3489 permitted by law and authorized by the commission; (ii) an off-  
3490 the-record communication related to any emergency concerning a  
3491 company or facility regulated by the executive office or a com-  
3492 pany or facility that provides executive office-regulated services,  
3493 involving injury or threat of injury to persons, property or the  
3494 environment, subject to disclosure provisions of this section;  
3495 (iii) an off-the-record communication provided for in a written  
3496 agreement among all parties to a proceeding that has been  
3497 approved by the commission; (iv) an off-the-record written com-  
3498 munication from a non-party elected official, subject to disclosure  
3499 under the provisions of this section; (v) an off-the-record commu-  
3500 nication to or from a Federal, state or local agency that is not a  
3501 party in the commission proceeding, subject to disclosure under  
3502 the provisions of this section, if the communication involves:  
3503 (a) an oral or written response to a request for information made  
3504 by the commission or commission staff; or (b) an off-the-record  
3505 communication involving individual landowners who are not par-  
3506 ties to the proceeding and whose property would be used or abuts  
3507 property that would be used by the project that is the subject  
3508 of the proceeding, subject to disclosure under the provisions of  
3509 this section.

3510 Except as herein provided, prohibited off-the-record communi-  
3511 cations will not be considered part of the record for decision in the  
3512 applicable proceeding. Any decisional employee who makes or  
3513 receives a prohibited off-the-record communication shall promptly  
3514 submit to the chairman that communication, if written, or a sum-  
3515 mary of the substance of that communication, if oral. The chair-  
3516 man shall place the communication or the summary in the public  
3517 file associated with, but not part of, the decisional record of the  
3518 proceeding. Any party may file a response to a prohibited off-the-  
3519 record communication placed in the public file. A party may also  
3520 file a written request to have the prohibited off-the-record commu-

3521 nication and the response included in the decisional record of the  
3522 proceeding. The communication and the response will be made a  
3523 part of the decisional record if such a request is granted by the  
3524 commission. The chairman shall instruct any person making a  
3525 prohibited written off-the- record communication to serve the  
3526 document, pursuant to regulations promulgated pursuant to this  
3527 chapter, on all parties listed on the commission's official service  
3528 list for the applicable proceeding.

3529 Any document, or a summary of the substance of any oral com-  
3530 munication, obtained through an exempt off-the-record communi-  
3531 cation promptly shall be submitted to the chairman and placed in  
3532 the decisional record of the relevant commission proceeding. Any  
3533 person may respond to an exempted off-the-record communica-  
3534 tion. The chairman shall, not less than every 30 days, issue a pub-  
3535 lic notice listing any prohibited off-the-record communications or  
3536 summaries thereof received. For each prohibited off-the-record  
3537 communication the chairman places in the non-decisional public  
3538 file the notice will identify the maker of the off-the-record com-  
3539 munication, the date the off-the-record communication was  
3540 received, and the docket number to which it relates. The chairman  
3541 shall, not less than every 30 days, issue a public notice listing any  
3542 exempt off-the-record communications or summaries of the com-  
3543 munication received by the chairman for inclusion in the deci-  
3544 sional record and required to be disclosed under this section. The  
3545 public notice required under this paragraph will be posted and dis-  
3546 seminated in the publication manner authorized by the commis-  
3547 sion for its official proceedings.

3548 If a party or its agent or representative knowingly makes, or  
3549 causes to be made, a prohibited off-the-record communication, the  
3550 commission may require the party, agent, or representative to show  
3551 cause why the party's claim or interest in the proceeding should not  
3552 be dismissed, denied, disregarded, or otherwise adversely affected  
3553 because of the prohibited off-the-record communication. If a person  
3554 knowingly makes or causes to be made a prohibited off-the-record  
3555 communication, the commission may disqualify and deny the per-  
3556 son, temporarily or permanently, the privilege of practicing or  
3557 appearing before it. The commission may, by rule or order, modify  
3558 any provision of this section as it applies to all or part of a proceed-

3559 ing, to the extent permitted by law. The provisions of this section are  
3560 not intended to limit the authority of a decisional employee to  
3561 decline to engage in permitted off-the-record communications, or  
3562 where not required by any law, statute or regulation, to make a pub-  
3563 lic disclosure of any exempted off-the-record communication.

3564 The department shall issue regulations that implement the pro-  
3565 visions of this section. Any regulations issued by the department  
3566 shall incorporate all the provisions contained herein, provided,  
3567 however, that said regulations may contain additional provisions  
3568 that are stricter than the prohibitions of this section provided that  
3569 such provisions are consistent with the intent of this section.

3570 Section 68. The commission shall issue, following public hear-  
3571 ings in accordance with chapter 30A, rules and regulations for the  
3572 enforcement of section 33A of chapter 164.

3573 Section 69. Notwithstanding the provisions of clause 26 of  
3574 section 7 of chapter 4 and section 10 of chapter 69, the department  
3575 may protect from public disclosure, trade secrets, confidential,  
3576 competitively sensitive or other proprietary information provided  
3577 in the course of proceedings conducted pursuant to this chapter.  
3578 There shall be a presumption that the information for which such  
3579 protection is sought is public information and the burden shall be  
3580 upon the proponent of such protection to prove the need for such  
3581 protection. Where such a need has been found to exist, the execu-  
3582 tive office shall protect only so much of the information as is nec-  
3583 essary to meet such need. The executive office shall promulgate  
3584 procedural rules and regulations consistent with this section as it  
3585 deems necessary to implement the provisions hereof.

3586 Section 70. Except when a fee is required by another provision  
3587 of law, and except in the case of a filing by the commonwealth or  
3588 any of its political subdivisions, the department shall, in the  
3589 following instances, charge and collect fees as determined annu-  
3590 ally by the commissioner of administration under the provision of  
3591 section 3B of chapter 7:

3592 1. For filing a tariff having intrastate application only, schedule  
3593 or amendment thereto, or a contract filed under section 7 of chap-  
3594 ter 159B, and for filing an application for a permit for special  
3595 service, under section 11A of chapter 159A.

3596 2. For filing each application by any public utility for approval  
 3597 of the issue of stocks, bonds, notes or other evidences of indebted-  
 3598 ness according to the amount thereof, as follows:

|      |   |
|------|---|
| 3599 | \$ 100 - \$ 1,000                                 |
| 3600 | 1,001 - 2,500                                     |
| 3601 | 2,501 - 5,000                                     |
| 3602 | 5,001 - 10,000                                    |
| 3603 | 10,001 - 40,000                                   |
| 3604 | 40,001 - 50,000                                   |
| 3605 | 50,001 - 75,000                                   |
| 3606 | 75,001 - 150,000                                  |
| 3607 | 150,001 - 300,000                                 |
| 3608 | 300,001 - 400,000                                 |
| 3609 | 400,000 - 500,000                                 |
| 3610 | 500,001 - 1,000,000                               |
| 3611 | For each additional \$10,000 or fraction thereof. |

3612 3. For any other approval or authority of the executive office.

3613 The undersecretary shall designate one employee to receive all  
 3614 fees collected under this section who shall give bond to the state  
 3615 treasurer in the sum of \$10,000.00.

3616 Section 71. The department or its employees may visit the places  
 3617 of business and other premises and examine the records and facilities  
 3618 of all utility companies to ascertain if all rules and regulations and  
 3619 orders of the department or the commission have been complied  
 3620 with. The department shall also have the power to issue subpoenas  
 3621 to compel the attendance of witnesses and the production of docu-  
 3622 ments, papers, books, records, and other evidence before it in any  
 3623 matter over which it has jurisdiction, control or supervision. The  
 3624 department shall have the power to administer oaths and affirma-  
 3625 tions to persons whose testimony is required.

3626 Section 72. For the performance of the department's duties  
 3627 relative to water, gas and electric companies the undersecretary  
 3628 may expend annually for necessary statistics, books, stationery  
 3629 and contingent expenses, and for clerical and other assistance,  
 3630 such sums as the general court shall annually appropriate, and  
 3631 may appoint or employ, subject to the approval of the governor  
 3632 and council, such expert assistance as it may deem advisable, on

3633 such terms of office or employment as it may deem proper, and  
3634 may expend therefor and for the performance of the duties  
3635 imposed upon it by law such sums as the general court shall annu-  
3636 ally appropriate.

3637 Section 73. The undersecretary may assign to all officers and  
3638 employees appointed or employed under the preceding section such  
3639 duties as it shall from time to time deem advisable, but all acts of  
3640 such officers and employees shall be done under the supervision and  
3641 control of, and subject to revision by, the undersecretary.

1 SECTION 13. Chapter 7 of the General Laws, as appearing in  
2 the 2004 Official Edition, is hereby amended by inserting after  
3 section 39C the following section:—

4 Section 39D. (a) The commissioner of the division of capital  
5 asset management and maintenance, shall require any state agency  
6 that initiates, after the effective date of this act, the construction of  
7 a new facility, or substantial renovation of an existing facility that  
8 includes the replacement of systems, components, and other build-  
9 ing elements which affect energy or water consumption, and  
10 which is either owned or operated by the commonwealth, to  
11 design and construct such facility to minimize the life-cycle cost  
12 of the facility by utilizing energy efficiency, water conservation,  
13 or other renewable energy technologies pursuant to the following  
14 criteria:

15 (i) State agencies shall conduct a life-cycle cost analysis of any  
16 such facility's proposed design that evaluates the short-term and  
17 long-term cost and technical feasibility of using a passive or  
18 active solar energy system, wind-powered energy system or other  
19 renewable energy system to provide lighting, heat, water heating,  
20 or electricity. State agencies shall utilize solar or wind-powered  
21 systems when the life-cycle cost analysis has determined that such  
22 systems are economically feasible;

23 (ii) Each new educational facility, including any municipal edu-  
24 cational facility financed through the school building assistance  
25 bureau, for which the projected demand for hot water exceeds  
26 1,000 gallons per day, or which operates a heated swimming pool,  
27 shall be constructed, whenever economically and physically feasi-  
28 ble, with a solar or other renewable energy system as the primary  
29 energy source for the domestic hot water system or swimming  
30 pool of the facility;

31 (iii) Each such state agency shall attempt, in the design, con-  
32 struction, equipping and operation of such facilities, to coordinate  
33 these efforts with the department of alternative and renewable  
34 energy in order to maximize reliance and benefits of renewable  
35 energy research and investment activities promoted by this act;  
36 and

37 (iv) Each such state agency shall file with said department a  
38 report detailing its compliance with the provisions of this section  
39 with respect to each such facility.

40 (b) Notwithstanding the provisions of section 28 of chapter 6C  
41 of the General Laws, the division of capital asset management and  
42 maintenance may procure energy management services jointly  
43 with a state agency or building authority that is procuring energy  
44 or related services. The provisions of said section 28 shall apply  
45 to the extent determined feasible by the undersecretary of alterna-  
46 tive and renewable energy development.

47 (c) For purposes of this section, the term “economically-feasible”  
48 shall mean providing a payback period of not more than 10 years,  
49 as determined by a life-cycle cost analysis. The division of capital  
50 asset management and maintenance shall establish, not later than  
51 January 1, 2008, a methodology for use by agencies in assessing  
52 life-cycle costs. The department of alternative and renewable  
53 energy shall issue an annual report to the general court detailing  
54 the compliance record of all state agencies with the construction  
55 and renovation provisions in this section.

1 SECTION 14. Section 43F of said chapter 7 of the General  
2 Laws, as so appearing, is hereby amended by striking out, in  
3 lines 12 and 13, the words “commissioner of Energy Resources”  
4 and inserting in place thereof the following words:— undersecre-  
5 tary of the executive office of energy affairs for alternative and  
6 renewable energy development

1 SECTION 15. Section 43F1/2 of said chapter 7, as so appear-  
2 ing, is hereby amended by striking out, in line 22, the words  
3 “commissioner of energy resources” and inserting in place thereof  
4 the following words:— undersecretary of the executive office of  
5 energy affairs for alternative and renewable energy development.

1 SECTION 16. Chapter 10 of the General Laws, as appearing in  
2 the 2004 Official Edition, is hereby amended by inserting after  
3 section 35BB the following sections:—

4 Section 35CC. There shall be established upon the books of the  
5 commonwealth a separate fund to be known as the Executive  
6 Office of Energy Affairs Trust Fund. There shall be credited to  
7 said fund all amounts collected pursuant to section 10(b) of chap-  
8 ter 6C of the General Laws and any income derived from the  
9 investment of amounts credited to the fund. All amounts credited  
10 to the fund shall be held in trust and shall be available for expen-  
11 diture, without further appropriation, by the secretary of the exec-  
12 utive office of energy affairs for activities of said executive office  
13 related to the regulation of electric companies. Any unexpended  
14 balance in the fund at the close of a fiscal year shall remain in  
15 the fund and shall be available for expenditure in the following  
16 fiscal year.

1 SECTION 17. Section 11E of chapter 12 of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby repealed.

1 SECTION 18. Section 18A of chapter 21A of the General  
2 Laws, as appearing in the 2004 Official Edition, is hereby  
3 amended by striking out, in line 50, the words “telecommunica-  
4 tions and energy” and inserting in place thereof the following  
5 words:— utility regulation and oversight.

1 SECTION 19. Said section 18A of said chapter 21A, as so  
2 appearing, is hereby further amended by striking out, in line 69,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— utility regulation and oversight.

1 SECTION 20. Said section 18A of said chapter 21A, as so  
2 appearing, is hereby further amended by striking out, in lines 71  
3 and 72, the words “telecommunications and energy” and inserting  
4 in place thereof the following words:— utility regulation and  
5 oversight.

1 SECTION 21. Said section 18A of said chapter 21A, as so  
2 appearing, is hereby further amended by striking out, in lines 76

3 and 77, the words “telecommunications and energy” and inserting  
4 in place thereof the following words:— utility regulation and  
5 oversight.

1 SECTION 22. Said section 18A of said chapter 21A, as so  
2 appearing, is hereby further amended by striking out, in lines 78  
3 and 79, the words “telecommunications and energy” and inserting  
4 in place thereof the following words:— utility regulation and  
5 oversight.

1 SECTION 23. Section 7 of chapter 21C of the General Laws, as  
2 appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in line 57, the words “telecommunications and  
4 energy” and inserting in place thereof the following words:—  
5 transportation oversight.

1 SECTION 24. Said section 7 of said chapter 21C, as so appear-  
2 ing, is hereby further amended by striking out, in lines 67 and 68,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— transportation oversight.

1 SECTION 25. Section 8 of said chapter 21C, as so appearing, is  
2 hereby amended by striking out, in line 12, the words “telecom-  
3 munications and energy appointed under section twelve F of chap-  
4 ter twenty five” and inserting in place thereof the following  
5 words:— transportation oversight.

1 SECTION 26. Section 5 of chapter 21E of the General Laws, as  
2 appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in lines 240 and 241, the words “department of  
4 telecommunications and energy” and inserting in place thereof the  
5 following words:— executive office of energy affairs.

1 SECTION 27. Section 19 of chapter 21G of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in lines 1 and 2, the words “telecommunications and  
4 energy” and inserting in place thereof the following words:— util-  
5 ity regulation and oversight.

1 SECTION 28. Said section 19 of said chapter 21G, as so  
2 appearing, is hereby further amended by striking out, in lines 4  
3 and 5, the words “telecommunications and energy” and inserting  
4 in place thereof the following words:— utility regulation and  
5 oversight.

1 SECTION 29. Said section 19 of said chapter 21G, as so  
2 appearing, is hereby further amended by striking out, in lines 10  
3 and 11, the words “telecommunications and energy” and inserting  
4 in place thereof the following words:— utility regulation and  
5 oversight.

1 SECTION 30. Section 3 of chapter 23G of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out in line 99 the words “department of telecommunica-  
4 tions and energy” and inserting in place thereof the following  
5 words:— executive office of energy affairs.

1 SECTION 31. Section 1 of chapter 24A of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out in lines 17 through 18, inclusive, the words:— “the  
4 department of telecommunications and energy and all other state  
5 agencies within said department.”

1 SECTION 32. Said section 1 of said chapter 24A, as so appear-  
2 ing, is hereby further amended by striking out in lines 22 through  
3 23, inclusive, the words:— “and the community antenna televi-  
4 sion commission;”.

1 SECTION 33. Said section 1 of said chapter 24A, as so appear-  
2 ing, is hereby further amended by striking out in lines 26 through 28,  
3 inclusive, the words:— five; and (4) the division of energy resources  
4 established under the provisions of section 1 of chapter 25A.” and  
5 inserting in place thereof the following:— 5.

1 SECTION 34. Section 3 of said Chapter 24A is hereby repealed.

1 SECTION 35. Section 4 of said Chapter 24A is hereby repealed.

1 SECTION 36. Chapter 25 is hereby repealed.

1 SECTION 37. Chapter 25A is hereby repealed.

1 SECTION 38. Section 2 of chapter 25B of the General Laws, as  
2 appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in line 3, the words “Commissioner”, the commis-  
4 sioner of the division of energy resources.

1 SECTION 39. Said section 2 of said chapter 25B, as so appear-  
2 ing, is hereby further amended by inserting after the definition of  
3 “State plumbing code” the following definition:—  
4 “Undersecretary”, the undersecretary of alternative and renew-  
5 able energy development.

1 SECTION 40. Section 4 of said chapter 25B, as so appearing, is  
2 hereby amended by striking out in line 9, the word “commis-  
3 sioner” and inserting in place thereof the following word:—  
4 undersecretary.

1 SECTION 41. Said section 4 of said chapter 25B, as so appear-  
2 ing, is hereby further amended by striking out, in line 10, the word  
3 “commissioner” and inserting in place thereof the following  
4 word:— undersecretary.

1 SECTION 42. Section 5 of said chapter 25B, as so appearing, is  
2 hereby amended by striking out, in line 1, the word “commis-  
3 sioner” and inserting in place thereof the following word:—  
4 undersecretary.

1 SECTION 43. Said section 5 of said chapter 25B, as so appear-  
2 ing, is hereby further amended by striking out, in lines 4 and 5,  
3 the word “commissioner” and inserting in place thereof the  
4 following word:— undersecretary.

1 SECTION 44. Said section 5 of said chapter 25B, as so appear-  
2 ing, is hereby further amended by striking out, in line 6, the word  
3 “commissioner” and inserting in place thereof the following  
4 word:— undersecretary.

1 SECTION 45. Said section 5 of said chapter 25B, as so appear-  
2 ing, is hereby further amended by striking out, in lines 8 and 9,  
3 the word “commissioner” and inserting in place thereof the  
4 following word:— undersecretary.

1 SECTION 46. Said section 5 of said chapter 25B, as so appear-  
2 ing, is hereby further amended by striking out, in line 13, the word  
3 “commissioner” and inserting in place thereof the following  
4 word:— undersecretary.

1 SECTION 47. Section 6 of said chapter 25B, as so appearing, is  
2 hereby amended by striking out, in line 1, the word “commis-  
3 sioner” and inserting in place thereof the following word:—  
4 undersecretary.

1 SECTION 48. Said section 6 of said chapter 25B, as so appear-  
2 ing, is hereby further amended by striking out, in line 4, the word  
3 “commissioner” and inserting in place thereof the following  
4 word:— undersecretary.

1 SECTION 49. Section 7 of said chapter 25B, as so appearing, is  
2 hereby amended by striking out, in line 2, the word “commis-  
3 sioner” and inserting in place thereof the following word:—  
4 undersecretary.

1 SECTION 50. Said section 7 of said chapter 25B, as so appear-  
2 ing, is hereby further amended by striking out, in line 3, the word  
3 “commissioner” and inserting in place thereof the following  
4 word:— undersecretary.

1 SECTION 51. Section 8 of said chapter 25B, as so appearing, is  
2 hereby amended by striking out, in line 1, the word “commis-  
3 sioner” and inserting in place thereof the following word:—  
4 undersecretary.

1 SECTION 52. Said section 8 of said chapter 25B, as so appear-  
2 ing, is hereby further amended by striking out, in line 3, the word  
3 “commissioner” and inserting in place thereof the following  
4 word:— undersecretary.

1 SECTION 53. Section 9 of said chapter 25B, as so appearing, is  
2 hereby amended by striking out, in line 1, the word “commis-  
3 sioner” and inserting in place thereof the following word:—  
4 undersecretary.

1 SECTION 54. Said section 9 of chapter 25B of the General  
2 Laws, as so appearing, is hereby further amended by striking out,  
3 in line 3, the word “commissioner” and inserting in place thereof  
4 the following word:— undersecretary.

1 SECTION 55. Said section 9 of said chapter 25B, as so appear-  
2 ing, is hereby further amended by striking out, in line 5, the word  
3 “commissioner” and inserting in place thereof the following  
4 word:— undersecretary.

1 SECTION 56. Said section 9 of said chapter 25B, as so appear-  
2 ing, is hereby further amended by striking out, in line 10, the word  
3 “commissioner” and inserting in place thereof the following  
4 word:— undersecretary.

1 SECTION 57. Said section 9 of said chapter 25B, as so appear-  
2 ing, is hereby further amended by striking out, in line 11, the word  
3 “commissioner” and inserting in place thereof the following  
4 word:— undersecretary.

1 SECTION 58. Section 10 of said chapter 25B, as so appearing,  
2 is hereby amended by striking out, in line 1, the word “commis-  
3 sioner” and inserting in place thereof the following word:—  
4 undersecretary.

1 SECTION 59. Said section 10 of said chapter 25B, as so appear-  
2 ing, is hereby further amended by striking out, in line 2, the word  
3 “commissioner” and inserting in place thereof the following  
4 word:— undersecretary.

1 SECTION 60. Said section 10 of said chapter 25B, as so appear-  
2 ing, is hereby further amended by striking out, in line 5, the word  
3 “energy” and inserting in place thereof the following words:—  
4 telecommunications, utilities, and energy.

1 SECTION 61. Section 39B of chapter 30 of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in line 9, the words “telecommunications and energy”  
4 and inserting in place thereof the following words:— transporta-  
5 tion oversight.

1 SECTION 62. Said section 39B of said chapter 30, as so appear-  
2 ing, is hereby further amended by striking out, in lines 13 and 14,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— transportation oversight.

1 SECTION 63. Said section 39B of said chapter 30, as so appear-  
2 ing, is hereby further amended by striking out, in line 18, the  
3 words “telecommunications and energy” and inserting in place  
4 thereof the following words:— transportation oversight.

1 SECTION 64. Said section 39B of said chapter 30, as so appear-  
2 ing, is hereby further amended by striking out, in line 33, the  
3 words “telecommunications and energy” and inserting in place  
4 thereof the following words:— transportation oversight.

1 SECTION 65. Section 39C of said chapter 30, as so appearing,  
2 is hereby amended by striking out, in line 5, the words “telecom-  
3 munications and energy” and inserting in place thereof the follow-  
4 ing words:— transportation oversight.

1 SECTION 66. Section 39E of said chapter 30, as so appearing,  
2 is hereby amended by striking out, in line 8, the words “telecom-  
3 munications and energy” and inserting in place thereof the follow-  
4 ing words:— transportation oversight.

1 SECTION 67. Section 1 of chapter 30B of the General Laws, as  
2 appearing in the 2004 Official Edition, is hereby amended in para-  
3 graph (1) of subsection (b), by striking the words “section 11I of  
4 chapter 25A” and inserting in place thereof the following words:-  
5 section 29 of chapter 6C.

1 SECTION 68. Said section 1 of said chapter 30B, as so appear-  
2 ing, is hereby further amended by striking out in lines 96 and 97

3 the words “department of telecommunications and energy, the  
4 division of energy resources,” and inserting in place thereof the  
5 following words:— the executive office of energy affairs.

1 SECTION 69. Section 48 of chapter 31 of the General Laws, as  
2 appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in line 10, the words “department of telecommunica-  
4 tions and energy” and inserting in place thereof the following  
5 words:— executive office of energy affairs.

1 SECTION 70. Section 8 of chapter 38 of the General Laws, as  
2 appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in line 9, the words “department of telecommunica-  
4 tions and energy” and inserting in place thereof the following  
5 words:— executive office of energy affairs.

1 SECTION 71. Section 9 of said chapter 38, as so appearing, is  
2 hereby amended by striking out, in lines 2 and 3, the words  
3 “department of telecommunications and energy” and inserting in  
4 place thereof the following words:— executive office of energy  
5 affairs.

1 SECTION 72. Said section 9 of said chapter 38, as so appear-  
2 ing, is hereby further amended by striking out, in line5, the word  
3 “department” and inserting in place thereof the following words:—  
4 executive office.

1 SECTION 73. Section 22D of chapter 40 of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in line 36, the words “telecommunications and  
4 energy” and inserting in place thereof the following words:—  
5 transportation oversight.

1 SECTION 74. Section 39C of said chapter 40, as so appearing,  
2 is hereby amended by striking out, in line 26, the words “telecom-  
3 munications and energy” and inserting in place thereof the follow-  
4 ing words:— utility regulation and oversight.

1 SECTION 75. Section 3 of chapter 40A of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by

3 striking out, in line 37, the words “telecommunications and  
4 energy” and inserting in place thereof the following words:— util-  
5 ity regulation and oversight.

1 SECTION 76. Said section 3 of said chapter 40A, as so appear-  
2 ing, is hereby further amended by striking out, in lines 45 and 46,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— utility regulation and oversight.

1 SECTION 77. Section 4E of chapter 40J is hereby repealed.

1 SECTION 78. Section 2A of chapter 59 of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in line 55, the words “department of telecommunica-  
4 tions and energy” and inserting in place thereof the following  
5 words:— executive office of energy affairs.

1 SECTION 79. Section 38H of said chapter 59, as so appearing,  
2 is hereby further amended by striking out, in line 2 the words  
3 “telecommunications and energy” and inserting in place thereof  
4 the following words:— utility regulation and oversight.

1 SECTION 80. Said section 38H of chapter 59, as so appearing,  
2 is hereby further amended by striking out, in lines 139 and 140 the  
3 words “telecommunications and energy” and inserting in place  
4 thereof the following words:— utility regulation and oversight.

1 SECTION 81. Section 1 of chapter 62 of the General Laws, as  
2 appearing in the 2004 Official Edition, is hereby amended by  
3 inserting at the end thereof the following paragraphs:—

4 (p) “Alternative fuel vehicle”, a vehicle powered by alternative  
5 fuel and having the following attributes: the capability of operat-  
6 ing only on an alternative fuel; original use commencing with the  
7 taxpayer; and acquisition by the taxpayer for use or lease, but not  
8 for resale.

9 (q) “Hybrid vehicle”, (i) a vehicle which draws propulsion  
10 energy from onboard sources of stored energy which are both:  
11 (a) an internal combustion or heat engine using combustible fuel;  
12 and (b) a rechargeable energy storage system; (ii) a vehicle which,

13 in the case of a passenger automobile, medium duty passenger  
14 vehicle or light truck: (a) for 2002 and later model vehicles, has  
15 received a certificate of conformity under the Clean Air Act and  
16 meets or exceeds the equivalent qualifying California low emis-  
17 sion vehicle standard under section 243(e)(2) of the Clean Air Act  
18 for that make and model year; (b) for 2004 and later model vehi-  
19 cles, has received a certificate that the vehicle meets or exceeds  
20 the Bin 5 Tier II emission level established in regulations pre-  
21 scribed by the administrator of the Environmental Protection  
22 Agency under section 202(i) of the Clean Air Act for that make  
23 and model year vehicle; and (c) and achieves an increase of 10 per  
24 cent fuel efficiency as compared to the average vehicle of its class  
25 as defined by the federal Environmental Protection Agency.

1 SECTION 82. Section 2 of said chapter 62 of the General  
2 Laws, as so appearing, is hereby amended by striking out, in line  
3 65, the words “commissioner of energy resources” and inserting in  
4 place thereof the following words:— undersecretary of the execu-  
5 tive office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 83. Said section 2 of said chapter 62, as so appear-  
2 ing, is hereby further amended by striking out, in line 73, the  
3 words “commissioner of energy resources” and inserting in place  
4 thereof the following words:— undersecretary of the executive  
5 office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 84. Said section 2 of said chapter 62, as so appear-  
2 ing, is hereby further amended by striking out, in lines 78 and 79,  
3 the words “commissioner of energy resources” and inserting in  
4 place thereof the following words:— undersecretary of the execu-  
5 tive office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 85. Subpart B of section 3 of said chapter 62, as so  
2 appearing, is hereby amended by inserting after paragraph 9 the  
3 following paragraph:—

4 (9½). For taxable years beginning on January 1, 2007, in the  
5 case of an individual who purchases a hybrid or alternative fuel  
6 vehicle there shall be a deduction in the amount of \$2,000 for a  
7 single person, for a person who qualifies as a head of household  
8 under section 2(b) of the Code or a married couple in the taxable  
9 year in which the purchase is made. The department of revenue  
10 may require a proof of purchase to be submitted with a return in  
11 order to be eligible for the deduction.

1 SECTION 86. Section 30 of chapter 63 of the General Laws, as  
2 appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in lines 69 and 70, the words “commissioner of  
4 energy resources” and inserting in place thereof the following  
5 words:— undersecretary of the executive office of energy affairs  
6 for alternative and renewable energy develop.

1 SECTION 87. Said section 30 of said chapter 63, as so appear-  
2 ing, is hereby amended by striking out, in lines 81 and 82, the  
3 words “commissioner of energy resources” and inserting in place  
4 thereof the following words:— undersecretary of the executive  
5 office of energy affairs for alternative and renewable energy  
6 develop.

1 SECTION 88. Said chapter 63, as so appearing, is hereby  
2 amended by inserting after section 38S following section:—

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

9 (b) The commissioner of revenue shall promulgate rules and  
10 regulations necessary for the implementation of this section. The  
11 rules and regulations shall include provisions to prevent the gener-  
12 ation of multiple credits with respect to the same property.

13 (c) A credit allowed under this section for the purchase and  
14 installation of a solar water heating system in a commercial build-  
15 ing between November 1, 2007 and March 31, 2008 may be

16 applied for the taxable year 2007. The taxpayer may carry over  
17 and apply to the tax, in taxable year 2008, the portion of those  
18 credits which exceed the tax for taxable year 2007 subject to regu-  
19 lations by the commissioner of revenue.

20 (d) The provisions of this section shall be effective until  
21 March 31, 2008.

1 SECTION 89. Section 6 of chapter 64H of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in lines 328 and 329, the words “ telecommunications  
4 and energy” and inserting in place thereof the following words:—  
5 transportation oversight.

1 SECTION 90. Said section 6 of said chapter 64H, as so appear-  
2 ing, is hereby further amended by striking out, in lines 332-333,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— transportation oversight.

1 SECTION 91. Section 3 of chapter 79 of the General Laws, as  
2 appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in line 10, the words “, or by the department of  
4 telecommunications and energy”.

1 SECTION 92. Section 5B of said chapter 79, as so appearing, is  
2 hereby amended by striking out, in lines 12 and 13, the words  
3 “department of telecommunications and energy” and inserting in  
4 place thereof the following words:— executive office of energy  
5 affairs.

1 SECTION 93. Section 5C of said chapter 79, as so appearing, is  
2 hereby amended by striking out, in lines 7 and 8, the words  
3 “department of telecommunications and energy” and inserting in  
4 place thereof the following words:— executive office of energy  
5 affairs.

1 SECTION 94. Section 13 of chapter 81A of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out in line 31 the words “telecommunications and energy”  
4 and inserting in place thereof the following words:— utility regu-  
5 lation and oversight.

1 SECTION 95. Section 40B of chapter 82 of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 inserting at the end thereof the following paragraph:—

4 The designation markings required by this section shall be per-  
5 formed by trained permanent employees of the utility unless oth-  
6 erwise authorized by a collective bargaining agreement. If no such  
7 trained permanent employees are available, the department of util-  
8 ity regulation and oversight may certify and license outside com-  
9 panies to perform such designation markings. Moreover, to  
10 receive a building permit from any municipality, or political sub-  
11 division thereof, for any work requiring excavation, an individual  
12 shall provide certification of compliance with this section. Any  
13 utility that violates any provision of this section shall forfeit a  
14 penalty as determined by the department utility regulation and  
15 oversight. Penalties incurred under this section shall not be  
16 included as expenses in connection with the establishment of rates  
17 by said company.

1 SECTION 96. Section 40E of said chapter 82, as so appearing,  
2 is hereby amended by striking out, in line 2, the words “telecom-  
3 munications and energy” and inserting in place thereof the follow-  
4 ing words:— utility regulation and oversight.

1 SECTION 97. Section 1 of chapter 83 of the General Laws, as  
2 appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in line 43, the words “telecommunications and  
4 energy” and inserting in place thereof the following words:—  
5 transportation oversight.

1 SECTION 98. Section 4 of said chapter 83, as so appearing, is  
2 hereby amended by striking out, in line 16, the words “telecom-  
3 munications and energy” and inserting in place thereof the follow-  
4 ing words:— transportation oversight.

1 SECTION 99. Section 1 of chapter 90 of the General Laws, as  
2 appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in line 317, the words “telecommunications and  
4 energy” and inserting in place thereof the following words:—  
5 transportation oversight.

1 SECTION 100. Section 1A of said chapter 90, as so appearing,  
2 is hereby amended by striking out, in line 5, the words “telecom-  
3 munications and energy” and inserting in place thereof the follow-  
4 ing words:— transportation oversight.

1 SECTION 101. Section 7B of said chapter 90, as so appearing,  
2 is hereby amended by striking out, in lines 26 and 27, the words  
3 “the commissioner of the department of telecommunications and  
4 energy” and inserting in place thereof the following words:—  
5 the director of the department of transportation oversight, or his  
6 designee.

1 SECTION 102. Said section 7B of said chapter 90, as so appear-  
2 ing, is hereby further amended by striking out, in line 124, the  
3 words “commissioner of the department of telecommunications  
4 and energy” and inserting in place thereof the following words:—  
5 director of the department of transportation oversight.

1 SECTION 103. Section 8A of said chapter 90, as so appearing,  
2 is hereby amended by striking out, in line 36, the words “telecom-  
3 munications and energy” and inserting in place thereof the follow-  
4 ing words:— transportation oversight.

1 SECTION 104. Said section 8A of said chapter 90, as so appear-  
2 ing, is hereby further amended by striking out, in lines 40 and 41,  
3 the words “commissioner of the department of telecommunica-  
4 tions and energy” and inserting in place thereof the following  
5 words:— director of the department of transportation oversight.

1 SECTION 105. Said section 8A of said chapter 90, as so appear-  
2 ing, is hereby further amended by striking out, in lines 42 and 43,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— transportation oversight.

1 SECTION 106. Said section 8A of said chapter 90, as so appear-  
2 ing, is hereby further amended by striking out, in lines 46 and 47,  
3 the words “commissioner of the department of telecommunica-  
4 tions and energy” and inserting in place thereof the following  
5 words:— director of the department of transportation oversight.

1 SECTION 107. Section 8A1/2 of said chapter 90, as so appear-  
2 ing, is hereby amended by striking out, in lines 40 and 41, the  
3 words “or the department of telecommunications and energy”.

1 SECTION 108. Section 9 of said chapter 90, as so appearing, is  
2 hereby amended by striking out, in lines 13 and 14, the words  
3 “department of telecommunications and energy” and inserting in  
4 place thereof the following words:— executive office of trans-  
5 portation and construction.

1 SECTION 109. Section 33 of said chapter 90, as so appearing,  
2 is hereby amended by striking out, in line 39, the words “depart-  
3 ment of telecommunications and energy” and inserting in place  
4 thereof the following words:— executive office of transportation  
5 and construction.

1 SECTION 110. Section 40H of said chapter 90, as so appear-  
2 ing, is hereby amended by striking out, in lines 1 and 2, the words  
3 “department of telecommunications and energy” and inserting in  
4 place thereof the following words:— executive office of energy  
5 affairs.

1 SECTION 111. Section 1 of chapter 90C of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in lines 69 and 70, the words “transportation division  
4 of the department of telecommunications and energy” and insert-  
5 ing in place thereof the following words:— executive office of  
6 transportation and construction.

1 SECTION 112. Section 43 of chapter 92 of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in lines 1 and 2, the words “department of telecom-  
4 munications and energy” and inserting in place thereof the follow-  
5 ing words:— executive office of transportation and construction.

1 SECTION 113. Section 44 of said chapter 92, as so appearing,  
2 is hereby amended by striking out, in lines 17 and 18, the words  
3 “department of telecommunications and energy” and inserting in  
4 place thereof the following words:— executive office of trans-  
5 portation and construction.

1 SECTION 114. Section 50 of said chapter 92, as so appearing,  
2 is hereby amended by striking out, in lines 6 and 7, the words  
3 “department of telecommunications and energy” and inserting in  
4 place thereof the following words:— executive office of trans-  
5 portation and construction.

1 SECTION 115. Section 51 of said chapter 92, as so appearing,  
2 is hereby amended by striking out, in line 1, the words “telecom-  
3 munications and energy” and inserting in place thereof the follow-  
4 ing words:— utility regulation and oversight.

1 SECTION 116. Section 67 of said chapter 92, as so appearing,  
2 is hereby amended by striking out, in lines 11 and 12, the words  
3 “department of telecommunications and energy” and inserting in  
4 place thereof the following words:— executive office of trans-  
5 portation and construction.

1 SECTION 117. Section 68 of said chapter 92, as so appearing,  
2 is hereby amended by striking out, in line 6, the words “telecom-  
3 munications and energy” and inserting in place thereof the follow-  
4 ing words:— utility regulation and oversight.

1 SECTION 118. Section 24 of chapter 93 of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in line 54, the words “department of telecommunica-  
4 tions and energy” and inserting in place thereof the following  
5 words:— executive office of energy affairs.

1 SECTION 119. Section 108 of said chapter 93, as so appearing,  
2 is hereby amended by striking out in line 6 the words “telecom-  
3 munications and energy” and inserting in place thereof the follow-  
4 ing words:— broadband, cable television and telecommunications.

1 SECTION 120. Section 8 of chapter 110C of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in line 4, the words “department of telecommunica-  
4 tions and energy” and inserting in place thereof the following  
5 words:— executive office of energy affairs.

1 SECTION 121. Section 142N of chapter 111 of the General  
2 Laws, as appearing in the 2004 Edition, is hereby amended by  
3 striking out, in line 6, the words “department of telecommunica-  
4 tions and energy” and inserting in place thereof the following  
5 words:— executive office of energy affairs.

1 SECTION 122. Section 81R of chapter 112 of the General  
2 Laws, as appearing in the 2004 Official Edition, is hereby  
3 amended by striking out, in lines 81 and 82, the words “depart-  
4 ment of telecommunications and energy” and inserting in place  
5 thereof the following words:— executive office of energy affairs.

1 SECTION 123. Section 34A of chapter 132 of the General  
2 Laws, as appearing in the 2004 Official Edition, is hereby  
3 amended by striking out, in lines 12 and 13, the words “telecom-  
4 munications and energy” and inserting in place thereof the follow-  
5 ing words:— utility regulation and oversight.

1 SECTION 124. Said section 34A of said chapter 132, as so  
2 appearing, is hereby further amended by striking out, in line 25,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— utility regulation and oversight.

1 SECTION 125. Said section 34A of said chapter 132, as so  
2 appearing, is hereby further amended by striking out, in line 35,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— utility regulation and oversight.

1 SECTION 126. Said section 34A of said chapter 132, as so  
2 appearing, is hereby further amended by striking out, in line 38,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— utility regulation and oversight.

1 SECTION 127. Section 16 of chapter 132A of the General  
2 Laws, as appearing in the 2004 Official Edition, is hereby  
3 amended by striking out, in lines 14 and 15, the words “telecom-  
4 munications and energy” and inserting in place thereof the follow-  
5 ing words:— utility regulation and oversight.

1 SECTION 128. Section 7 of chapter 141 of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in lines 17 and 18, the words “department of telecom-  
4 munications and energy” and inserting in place thereof the follow-  
5 ing words:— executive office of energy affairs.

1 SECTION 129. Section 14 of chapter 142A of the General  
2 Laws, as so appearing, is hereby amended by striking out, in  
3 line 37, the words “telecommunications and energy” and inserting  
4 in place thereof the following words:— utility regulation and  
5 oversight.

1 SECTION 130. Section 71S of chapter 143 of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in lines 4 and 5, the words “department of telecommu-  
4 nications and energy” and inserting in place thereof the following  
5 words:— executive office of transportation and construction.

1 SECTION 131. Section 94 of said chapter 143, as so appearing,  
2 is hereby amended by inserting after the word “in” in line 61 the  
3 following words: subsection (m) and.

1 SECTION 132. Said section 94 of said chapter 143, as so appear-  
2 ing, is hereby further amended by inserting at the end thereof the  
3 following:—

4 (m) To revise and amend the energy conservation code and to  
5 send a copy of such revisions or amendments to each inspector of  
6 buildings or building commissioner in every city or town and to  
7 each state inspector; provided, further, that the board shall revise  
8 or amend said code every 5 years.

1 SECTION 133. Section 57 of chapter 147 of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in line 18, the words “department of telecommunica-  
4 tions and energy” and inserting in place thereof the following  
5 words:— executive office of energy affairs.

1 SECTION 134. Section 26E of chapter 148 of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by

3 striking out, in line 30, the words “department of telecommunica-  
4 tions and energy” and inserting in place thereof the following  
5 words:— executive office of energy affairs.

1 SECTION 135. Section 44A of chapter 149 of the General  
2 Laws, as appearing in the 2004 Official Edition, is hereby  
3 amended, in line 106, by striking the words “section 11C of chap-  
4 ter 25A” and inserting in place thereof the following words:—  
5 section 28 of chapter 6C.

1 SECTION 136. Section 148 of said chapter 149, as so appear-  
2 ing, is hereby amended by striking out, in lines 25 and 26, the  
3 words “department of telecommunications and energy” and insert-  
4 ing in place thereof the following words:— executive office of  
5 transportation and construction.

1 SECTION 137. Section 4 of chapter 155 of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in lines 3 and 4, the words “department of telecom-  
4 munications and energy” and inserting in place thereof the follow-  
5 ing words:— executive office of energy affairs.

1 SECTION 138. Section 5 of said chapter 155, as so appearing,  
2 is hereby amended by striking out, in line 1, the words “depart-  
3 ment of telecommunications and energy” and inserting in place  
4 thereof the following words:— executive office of energy affairs.

1 SECTION 139. Section 5A of said chapter 155, as so appear-  
2 ing, is hereby amended by striking out, in lines 1 and 2, the words  
3 “department of telecommunications and energy” and inserting in  
4 place thereof the following words:— executive office of energy  
5 affairs.

1 SECTION 140. Section 16 of chapter 158 of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in lines 7 and 8, the words “telecommunications and  
4 energy” and inserting in place thereof the following words:— util-  
5 ity regulation and oversight.

1 SECTION 141. Section 39 of said chapter 158, as so appearing,  
2 is hereby amended by striking out, in line 8, the words “telecom-  
3 munications and energy” and inserting in place thereof the follow-  
4 ing words:— utility regulation and oversight.

1 SECTION 142. Section 40 of said chapter 158, as so appearing,  
2 is hereby amended by striking out, in line 4, the words “telecom-  
3 munications and energy” and inserting in place thereof the follow-  
4 ing words:— utility regulation and oversight.

1 SECTION 143. Section 10 of chapter 159 of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in line 1, the words “telecommunications and  
4 energy,” and inserting in place thereof the following words:—  
5 transportation oversight.

1 SECTION 144. Section 59 of said chapter 159, as so appearing,  
2 is hereby amended by striking out, in lines 11 and 12, the words  
3 “of telecommunications and energy”.

1 SECTION 145. Said section 59 of said chapter 159, as so  
2 appearing, is hereby further amended by striking out, in lines 15  
3 and 16, the words “of telecommunications and energy”.

1 SECTION 146. Said section 59 of said chapter 159, as so  
2 appearing, is hereby further amended by striking out, in line 26,  
3 the words “of telecommunications and energy”.

1 SECTION 147. Said section 59 of said chapter 159, as so  
2 appearing, is hereby further amended by striking out, in line 28,  
3 the words “of telecommunications and energy”.

1 SECTION 148. Section 65 of said chapter 159, as so appearing,  
2 is hereby amended by striking out, in lines 5 and 6, the words  
3 “telecommunications and energy” and inserting in place thereof  
4 the following:— transportation oversight.

1 SECTION 149. Said section 65 of said chapter 159, as so  
2 appearing, is hereby further amended by striking out, in line 18,  
3 the words “of telecommunications and energy”.

1 SECTION 150. Said section 65 of said chapter 159, as so  
2 appearing, is hereby further amended by striking out, in line 24,  
3 the words “of telecommunications and energy”.

1 SECTION 151. Said section 65 of said chapter 159, as so  
2 appearing, is hereby further amended by striking out, in line 27,  
3 the words “of telecommunications and energy”.

1 SECTION 152. Said section 65 of said chapter 159, as so  
2 appearing, is hereby further amended by striking out, in line 29,  
3 the words “of telecommunications and energy”.

1 SECTION 153. Said section 65 of said chapter 159, as so  
2 appearing, is hereby further amended by striking out, in lines 37  
3 and 38, the words “of telecommunications and energy”.

1 SECTION 154. Section 70 of said chapter 159, as so appearing,  
2 is hereby amended by striking out, in lines 20 and 21, the words  
3 “of telecommunications and energy”.

1 SECTION 155. Said section 70 of said chapter 159, as so appear-  
2 ing, is hereby further amended by striking out, in lines 49 through  
3 52, the words “the chairman of the commission having supervision  
4 and control of the department of telecommunications and energy and  
5 any other member of said commission designated by said chairman”  
6 and inserting in place thereof the following words:— the director of  
7 the department of transportation oversight.

1 SECTION 156. Said section 70 of said chapter 159, as so  
2 appearing, is hereby further amended by striking out, in line 63,  
3 the words “of telecommunications and energy”.

1 SECTION 157. Said section 70 of said chapter 159, as so  
2 appearing, is hereby further amended by striking out, in line 65,  
3 the words “of telecommunications and energy”.

1 SECTION 158. Section 73 of said chapter 159, as so appearing,  
2 is hereby amended by striking out, in lines 5 and 6, the words “of  
3 telecommunications and energy”.

1 SECTION 159. Section 74 of said chapter 159, as so appearing,  
2 is hereby amended by striking out, in line 4, the words “of  
3 telecommunications and energy”.

1 SECTION 160. Said section 74 of said chapter 159, as so  
2 appearing, is hereby further amended by striking out, in line 17,  
3 the words “of telecommunications and energy”.

1 SECTION 161. Said section 74 of said chapter 159, as so  
2 appearing, is hereby further amended by striking out, in line 21,  
3 the words “of telecommunications and energy”.

1 SECTION 162. Said section 74 of said chapter 159, as so  
2 appearing, is hereby further amended by striking out, in lines 46  
3 and 47, the words “of telecommunications and energy”.

1 SECTION 163. Section 78 of said chapter 159, as so appearing,  
2 is hereby amended by striking out, in lines 18 and 19, the words  
3 “of telecommunications and energy”.

1 SECTION 164. Section 79 of said chapter 159, as so appearing,  
2 is hereby amended by striking out, in lines 5 and 6, the words “of  
3 telecommunications and energy”.

1 SECTION 165. Section 80 of said chapter 159, as so appearing,  
2 is hereby amended by striking out, in lines 22 and 23, the words  
3 “of telecommunications and energy”.

1 SECTION 166. Said section 80 of said chapter 159, as so  
2 appearing, is hereby further amended by striking out, in lines 34  
3 and 35, the words “of telecommunications and energy”.

1 SECTION 167. Said section 80 of said chapter 159, as so  
2 appearing, is hereby further amended by striking out, in line 36,  
3 the words “of telecommunications and energy”.

1 SECTION 168. Said section 80 of said chapter 159, as so  
2 appearing, is hereby further amended by striking out, in lines 40  
3 and 41, the words “of telecommunications and energy”.

1 SECTION 169. Section 1 of chapter 159A of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out the second paragraph and inserting in place thereof  
4 the following:—

5 If any application for a license under this section is not favor-  
6 ably acted upon within a period of 60 days after the filing thereof,  
7 the applicant may appeal to the executive office of transportation  
8 and construction within 5 days following the expiration of said  
9 period or, if notice of unfavorable action is sooner given, within  
10 5 days of said notice, upon a petition in writing setting forth all  
11 the material facts in the case. The executive office of transporta-  
12 tion and construction shall hold a hearing on each such appeal,  
13 requiring due notice to be given to all interested parties. If the  
14 executive office of transportation and construction approves the  
15 action of the licensing authority, it shall issue notice to that effect,  
16 but if the executive office of transportation and construction dis-  
17 approves of said action, it shall act as a licensing authority and  
18 may issue a license which shall specify the route or routes on  
19 which a motor vehicle subject to this section may be operated and  
20 the number of vehicles which may be operated under such license.

1 SECTION 170. Section 2 of said chapter 159A, as so appear-  
2 ing, is hereby amended by striking out, in lines 3 and 4, the words  
3 “telecommunications and energy” and inserting in place thereof  
4 the following words:— transportation oversight.

1 SECTION 171. Section 3 of said chapter 159A, as so appear-  
2 ing, is hereby amended by striking out, in line 6, the words “  
3 telecommunications and energy” and inserting in place thereof the  
4 following words:— transportation oversight.

1 SECTION 172. Section 2 of chapter 159B of the General Laws,  
2 as so appearing, is hereby amended by striking out, in lines 21 and  
3 22, the words “Commissioners, the commissioners of the depart-  
4 ment of telecommunications and energy”.

1 SECTION 173. Said section 2 of said chapter 159B, as so  
2 appearing, is hereby further amended by striking out, in line 38,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— transportation oversight.

1 SECTION 174. Said section 2 of said chapter 159B, as so  
2 appearing, is hereby further amended by striking out, in line 88,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— broadband, cable television and  
5 telecommunications.

1 SECTION 175. Section 5 of chapter 159C of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out in line 13 the words “telecommunications and energy”  
4 and inserting in place thereof the following words:— broadband,  
5 cable television and telecommunications.

1 SECTION 176. Section 1 of chapter 160 of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in line 7, the words “telecommunications and energy”  
4 and inserting in place thereof the following words:— transporta-  
5 tion oversight.

1 SECTION 177 Section 104 of said chapter 160, as so appear-  
2 ing, is hereby amended by striking out, in lines 14 and 15, the  
3 words “of telecommunications and energy”.

1 SECTION 178. Said section 104 of said chapter 160, as so  
2 appearing, is hereby further amended by striking out, in lines 20  
3 and 21, the words “of telecommunications and energy”.

1 SECTION 179. Section 127A of said chapter 160, as so appear-  
2 ing, is hereby amended by striking out, in line 1, the words “of  
3 telecommunications and energy”.

1 SECTION 180. Section 134A of said chapter 160, as so appear-  
2 ing, is hereby amended by striking out, in lines 29 and 30, the  
3 words “of telecommunications and energy”.

1 SECTION 181. Said section 134A of chapter 160, as so appear-  
2 ing, is hereby further amended by striking out, in line 34, the  
3 words “of telecommunications and energy”.

1 SECTION 182. Section 145 of said chapter 160, as so appear-  
2 ing, is hereby amended by striking out, in lines 3 and 4, the words  
3 “of telecommunications and energy”.

1 SECTION 183. Section 147A of said chapter 160, as so appear-  
2 ing, is hereby amended by striking out, in lines 3 and 4, the words  
3 “of telecommunications and energy”.

1 SECTION 184. Section 1 of chapter 161 of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in line 7, the words “telecommunications and energy”  
4 and inserting in place thereof the following words:— transporta-  
5 tion oversight.

1 SECTION 185. Section 82 of said chapter 161, as so appearing,  
2 is hereby amended by striking out, in line 9, the words “of  
3 telecommunications and energy”.

1 SECTION 186. Section 85 of said chapter 161, as so appearing,  
2 is hereby amended by striking out, in lines 15 and 16, the words  
3 “of telecommunications and energy”.

1 SECTION 187. Said section 85 of chapter 161, as so appearing,  
2 is hereby further amended by striking out, in lines 18 and 19, the  
3 words “of telecommunications and energy”.

1 SECTION 188. Said section 85 of chapter 161, as so appearing,  
2 is hereby further amended by striking out, in lines 20 and 21, the  
3 words “of telecommunications and energy”.

1 SECTION 189. Said section 85 of chapter 161, as so appearing,  
2 is hereby further amended by striking out, in lines 25 and 26, the  
3 words “of telecommunications and energy”.

1 SECTION 190. Section 3 of chapter 161A of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in line 71, the words “telecommunications and  
4 energy” and inserting in place thereof the following words:—  
5 transportation oversight.

1 SECTION 191. Section 5 of said chapter 161A, as so appear-  
2 ing, is hereby amended by striking out, in lines 169 and 170, the  
3 words “telecommunications and energy” and inserting in place  
4 thereof the following words:— transportation oversight.

1 SECTION 192. Section 39 of said chapter 161A, as so appear-  
2 ing, is hereby amended by striking out in line 2 the words  
3 “telecommunications and energy” and inserting in place thereof  
4 the following words:— transportation oversight.

1 SECTION 193. Said section 39 of said chapter 161A, as so  
2 appearing, is hereby further amended by striking out in lines 3 and  
3 4 the words “telecommunications and energy” and inserting in  
4 place thereof the following words:— transportation oversight.

1 SECTION 194. Section 47 of said chapter 161A, as so appear-  
2 ing, is hereby amended by striking out, in lines 6 and 7, the words  
3 “telecommunications and energy” and inserting in place thereof  
4 the following words:— transportation oversight.

1 SECTION 195. Section 6 of chapter 161B of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in line 60, the words “department of telecommunica-  
4 tions and energy”.

1 SECTION 196. Section 8 of said chapter 161B, as so appear-  
2 ing, is hereby amended by striking out, in line 82, the words  
3 “telecommunications and energy” and inserting in place thereof  
4 the following words:— transportation oversight.

1 SECTION 197. Section 16 of said chapter 161B, as so appear-  
2 ing, is hereby amended by striking out, in line 2, the words  
3 “telecommunications and energy” and inserting in place thereof  
4 the following words:— transportation oversight.

1 SECTION 198. Said section 16 of said chapter 161B, as so  
2 appearing, is hereby further amended by striking out, in lines 3  
3 and 4, the words “department of telecommunications and energy”  
4 and inserting in place thereof the following words:— executive  
5 office of transportation and construction.

1 SECTION 199. Section 1 of chapter 162 of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in line 2, the words “telecommunications and energy”  
4 and inserting in place thereof the following words:— transporta-  
5 tion oversight.

1 SECTION 200. Section 1 of chapter 163 of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in line 2, the words “telecommunications and energy”  
4 and inserting in place thereof the following words:— transporta-  
5 tion oversight.

1 SECTION 201. Section 1 of chapter 164 of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 inserting after the definition of “Articles of organization”, the  
4 following definition:—  
5 “Basic service”, the electricity services provided to a retail cus-  
6 tomer upon either (i) the inability of a customer to receive com-  
7 petitive supply from a supplier pursuant to subsection (d) of  
8 section 1B, (ii) the failure of the retail customer to elect competi-  
9 tive supply from a supplier pursuant to said subsection (d) of said  
10 section 1B, or (iii) upon the expiration and the retail customers  
11 failure to renew a competitive supply contract pursuant to said  
12 subsection (d) of said section 1B or other means.

1 SECTION 202. Said section 1 of chapter 164, as so appearing  
2 in the, is hereby amended by striking in 71 the words “telecom-  
3 munications and energy” and inserting in place thereof the follow-  
4 ing:-utility regulation and oversight.

1 SECTION 203. Said section 1 of said chapter 164, as so  
2 appearing, is hereby further amended by striking out, in lines 72  
3 through 78, inclusive, the words ““Default Service”, the electric-  
4 ity services provided to a retail customer upon either the (i) failure  
5 of a distribution company or supplier to provide such electricity  
6 services as required by law or as contracted for under the standard  
7 service offer, (ii) the completion of the term of the standard serv-  
8 ice offer, or (iii) upon the inability of a customer to receive stan-  
9 dard service transition rates during the term of the standard  
10 service offer pursuant to section 1B.”

1 SECTION 204. Said section 1 of said chapter 164, as so  
2 appearing, is hereby further amended by inserting after the defini-  
3 tion of “Energy efficiency” the following definition:—  
4 “Executive office”, the executive office of energy affairs estab-  
5 lished pursuant to section 2 of chapter 6C of the General Laws.

1 SECTION 205. Section 1B of said chapter 164, as so appear-  
2 ing, is hereby amended by striking out, in lines 50 and 51, the  
3 words “default service provided pursuant to the provisions of sub-  
4 section (d)” and inserting in place thereof the following words:—  
5 basic service provided pursuant to the provisions of subsection (e).

1 SECTION 206. Said chapter 164, as so appearing, is hereby  
2 further amended by striking out subsections (d) through (f) of said  
3 section 1B and inserting in place thereof the following:—  
4 (d) On or before January 1, 2008 the department shall, through  
5 a contested case proceeding in compliance with chapter 30A,  
6 design a competitive bidding process for the competitive procure-  
7 ment of electric generation by distribution companies on behalf of  
8 consumers. Any order of the department shall be consistent with  
9 the provisions of section 1F and shall require each distribution  
10 company: (i) at the expiration of each basic service contract  
11 entered into pursuant to subsection (e), provide its customers with  
12 a choice of suppliers or the option to remain on basic service pur-  
13 suant to subsection (e); and (ii) to solicit bids from non-utility  
14 affiliated generation companies or suppliers licensed pursuant to  
15 section 1F which shall include payment options with rates that  
16 remain uniform for a minimum period of 1 year. Any department-  
17 approved supplier of service, excluding an affiliate of a distribu-  
18 tion company, shall be eligible to participate in the competitive  
19 bidding process. Notwithstanding the actual issuer of a ratepayer’s  
20 bill, the competitive retail service supplier shall be entitled to fur-  
21 nish a one-page insert accompanying the ratepayer’s bill. The  
22 department may authorize an alternate generation company or  
23 supplier to provide such competitive service, as described herein,  
24 if such alternate service is in the public interest.  
25 (e) Each distribution company shall provide its customers with  
26 basic service and shall offer a basic service rate to its customers  
27 who have chosen retail electricity service from a non-utility affili-

28 ated generation company or supplier but who require electric serv-  
29 ice because of a failure of such company or the supplier to provide  
30 contracted service or who, for any reason, have stopped receiving  
31 such service. The distribution company shall procure such service  
32 through competitive bidding; provided, however, that the basic  
33 service rate so procured shall not exceed the average monthly  
34 market price of electricity; and provided, further, that all bids  
35 shall include payment options with rates that remain uniform for  
36 periods of up to 6 months. Any department-approved provider of  
37 service, including an affiliate of a distribution company, shall be  
38 eligible to participate in the competitive bidding process. Notwith-  
39 standing the actual issuer of a ratepayer's bill, the basic service  
40 provider shall be entitled to furnish a one-page insert accompany-  
41 ing the ratepayer's bill. The department may authorize an alternate  
42 generation company or supplier to provide basic service, as  
43 described herein, if such alternate service is in the public interest.  
44 In implementing the provisions of this section, the department  
45 shall ensure universal service for all ratepayers and sufficient  
46 funding to meet the need therefor.

47 (f) The department is hereby authorized and directed to promul-  
48 gate rules and regulations necessary to carry out the provisions of  
49 this section, including the procedure for a competitive bidding  
50 process pursuant to subsection (d), the procedure for basic service  
51 procurement pursuant to subsection (e) and governing a cus-  
52 tomer's ability to return to the basic service after choosing retail  
53 access from a non-utility affiliated generation company.

1 SECTION 207. Said chapter 164, as so appearing, is hereby  
2 further amended by striking out section 1C and inserting in placed  
3 thereof the following:—

4 Section 1C. Any marketing company or other competitive or  
5 unregulated operation or entity of an electric or gas company shall  
6 be in the form of an affiliate of said company and shall be sepa-  
7 rate from any generation, transmission, or distribution company  
8 affiliate of the electric or gas company. The department shall pro-  
9 mulgate standards of conduct which shall ensure the separation of  
10 such affiliates and which shall be consistent with the following  
11 provisions: (i) a distribution or gas company, or an affiliate  
12 thereof, shall not directly or indirectly use proceeds obtained from

13 providing regulated services, or assets obtained with such pro-  
14 ceeds, to subsidize non-regulated services; said prohibition shall  
15 extend to the use of vehicles, service tools, instruments, and  
16 employees, and the costs, salaries and benefits related thereto;  
17 (ii) a distribution or gas company shall not give any affiliates any  
18 preference over non-affiliated suppliers or customers thereof in  
19 matters relating to any product or service; (iii) all products, serv-  
20 ices, discounts, rebates, and fee waivers offered by a distribution  
21 or gas company shall be available to all customers and suppliers  
22 simultaneously, to the extent technically possible, on a compara-  
23 ble basis; (iv) a distribution or gas company shall process all same  
24 or similar requests for any product, service, or information in the  
25 same manner and within the same period of time; (v) a distribu-  
26 tion or gas company shall not condition the provision of any prod-  
27 uct, service, or rate agreement by the distribution or gas company  
28 to the provision of any product or service to which an affiliate is  
29 involved; (vi) a distribution or gas company shall not share with  
30 any affiliate any market information acquired or developed by the  
31 distribution or gas company in the course of responding to  
32 requests for distribution or gas service or any proprietary cus-  
33 tomer information including, but not limited to, mailing lists, mar-  
34 keting information, and other customer related information, unless  
35 the use of such information is available to all commercial busi-  
36 nesses on a non-discriminatory basis; (vii) a distribution or gas  
37 company shall refrain from presenting that any advantage accrues  
38 to customers or others in the use of its services as a result of that  
39 customer or others dealing with any such affiliate; (viii) a distrib-  
40 ution or gas company shall not engage in joint advertising or mar-  
41 keting programs with any affiliate; and (ix) employees of a  
42 distribution or gas company shall not be shared with, and shall be  
43 physically separated from those of, any generating or marketing  
44 affiliate.

45 Upon the filing of a written complaint with the department  
46 requesting determination of compliance by a distribution or gas  
47 company, or an affiliate of a distribution or gas company, with the  
48 provisions of this section or any rule, order, or other action pro-  
49 mulgated pursuant thereto, the department shall investigate the  
50 complaint, and upon the determination that there are reasonable  
51 grounds to proceed, the department shall promptly initiate formal

52 complaint proceedings. If the department determines that there is  
53 no reasonable basis for initiating a formal complaint proceeding,  
54 it shall so advise, in writing, the person filing such written com-  
55 plaint within 90 days. The department shall establish such penal-  
56 ties as necessary to assure compliance; provided, however, that  
57 any penalty incurred under this section shall not be included as  
58 expenses in connection with the establishment of rates by said dis-  
59 tribution or gas company. Any final judgment or determination  
60 issued by the department, as a result of an investigation or other-  
61 wise, that an electric or gas company or an affiliate thereof has  
62 violated either (1) the provisions of this section; or (2) any rule,  
63 order, or settlement promulgated pursuant thereto, shall be prima  
64 facie evidence in any civil action against the distribution or gas  
65 company or its affiliate to recover damages or obtain injunctive  
66 relief.

67 A violation of this section shall constitute an unfair or decep-  
68 tive act or practice under the provisions of chapter 93A, notwith-  
69 standing any contrary provision of any other law of the  
70 commonwealth or any exemption provided by said chapter 93A.

71 It shall be the duty of the Attorney General of the Common-  
72 wealth to institute proceedings in the Superior Court to prevent  
73 and restrain violations of this section. When the Attorney General  
74 has reason to believe an electric or gas company or its affiliate is  
75 engaging in a violation of this section, the Attorney General shall  
76 bring an action to enjoin the electric or gas company, the affiliate,  
77 or both, from engaging in a violation of this section.

1 SECTION 208. Section 1D of said chapter 164, as so appear-  
2 ing, is hereby amended by striking out, in line 1, the words  
3 “Beginning January 1, 1998, all” and inserting in place thereof the  
4 following word:— All.

1 SECTION 209. Said section 1D of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in line 6, the words  
3 “on bills as of March 1, 1998” and inserting in place thereof the  
4 following words:— on said bills.

1 SECTION 210. Said section 1D of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in lines 10 and 11,

3 the words “Not later than six months after said March 1, in” and  
4 inserting in place thereof the following word:— In.

1 SECTION 211. Said chapter 164, as so appearing, is hereby  
2 amended by striking section 1E and inserting in place thereof the  
3 following:—

4 Section 1E. (a) The department is hereby authorized and  
5 required to promulgate rules and regulations to establish and  
6 require performance based rates for each distribution, transmis-  
7 sion, and gas company organized and doing business in the com-  
8 monwealth pursuant to the provisions of this chapter. In  
9 promulgating such performance based rate schemes, the depart-  
10 ment shall establish service quality standards and a service quality  
11 rating mechanism for each distribution, transmission, and gas  
12 company, including, but not limited to, standards for customer sat-  
13 isfaction, education and outreach, service outages, distribution  
14 facility upgrades, repairs and maintenance, telephone service,  
15 billing service, and public safety provided, however, that such  
16 service quality standards shall include benchmarks for employee  
17 staff levels and employee training programs for each such distrib-  
18 ution, transmission, and gas company. A distribution company  
19 shall receive an annual service quality rating according to the  
20 following scale: Excellent, Good, Fair, Poor. The department shall  
21 annually order distribution companies to publish on customer’s  
22 bills, the service quality rating of each distribution company and  
23 the categories used to measure the service quality standards.

24 (b) In complying with the service quality standards and  
25 employee benchmarks established pursuant to this section, a dis-  
26 tribution, transmission, or gas company that makes a performance  
27 based rating filing after November 1, 1997 shall not be allowed to  
28 engage in labor displacement or reductions below staffing levels  
29 in existence on November 1, 1997, unless such are part of a col-  
30 lective bargaining agreement or agreements between such com-  
31 pany and the applicable organization or organizations representing  
32 such workers, or with the approval of the department following an  
33 evidentiary hearing at which the burden shall be upon the com-  
34 pany to demonstrate that such staffing reductions shall not  
35 adversely disrupt service quality standards as established by the  
36 department herein. At the time of any filings made pursuant to this

37 section, if staffing levels have decreased below those in effect on  
38 November 1, 1997, the department shall hold evidentiary hearings  
39 to determine if staffing levels in said company are adequate; pro-  
40 vided further, that unless the company establishes, by clear and  
41 convincing evidence, that said staffing levels are adequate, the  
42 department shall hold that staffing levels within any function,  
43 department, or work unit, below those in existence on November  
44 1, 1997 are unsafe and therefore not in compliance with this  
45 section. The results of the hearings shall be binding on both par-  
46 ties and the civil penalty for non-compliance shall be no less than  
47 \$10,000.00 per day; provided, however, that the maximum civil  
48 penalty shall not exceed \$500,000 for any related series of viola-  
49 tions. Nothing in this paragraph shall prevent reduction of forces  
50 below the November 1, 1997 level through early retirement and  
51 severances negotiated with labor organizations before said date.  
52 The preceding provisions of this paragraph notwithstanding, in no  
53 event shall the department fail to establish benchmarks for  
54 employee staffing levels for each distribution, transmission and  
55 gas company by September 1, 2005, regardless of whether any  
56 company has at any time used, implemented or discontinued the  
57 use of any set of performance based rates.

58 (c) Each distribution, transmission, and gas company shall file a  
59 report with the department by March first of each year comparing its  
60 performance during the previous calendar year to the department's  
61 service quality standards and any applicable national standards as  
62 may be adopted by the department. Such report shall include, but not  
63 be limited to, all available information on customer satisfaction, edu-  
64 cation and outreach, service outages, distribution facility upgrades,  
65 repairs and maintenance, telephone service, billing service, public  
66 safety, employee staff levels, and any other service quality measure-  
67 ment standards the department may adopt. Upon receipt of such fil-  
68 ing, the department shall, after public notice, hold a public hearing to  
69 review the report. The department shall be authorized to levy a  
70 penalty against any distribution, transmission, or gas company  
71 which fails to meet the service quality standards in an amount up to  
72 and including the equivalent of 5 per cent of such company's trans-  
73 mission and distribution service revenues for the previous calendar  
74 year. The department shall review and investigate upon its own  
75 motion or upon motion of the attorney general or the office of the

76 ratepayer advocate, the maintenance practices and procedures of any  
77 distribution, transmission, and gas company to determine whether  
78 such practices and procedures are in the best interest of the retail  
79 customers of such company. The department shall after public  
80 notice, hold a public hearing to review and investigate any distribu-  
81 tion outage and shall issue a finding as to whether the company  
82 made all reasonable or prudent efforts, consistent with best practices,  
83 safety and reliability of electric and gas service, to provide cus-  
84 tomers reliable service at the least possible overall cost reasonably  
85 calculated to achieve the highest possible service quality rating.  
86 If the department finds, based on facts that were known or should  
87 reasonably have been known by the company at the time of the  
88 actions in question, that the company is or has been unreasonable or  
89 imprudent in providing reliable service, it shall levy a penalty  
90 against the company and deny recovery of any costs directly or indi-  
91 rectly attributable to such unreasonable or imprudent performance.

92 (d) The department is authorized and directed to promulgate regu-  
93 lations relative to an alternative dispute resolution process for the  
94 handling of damage claims by customers in an amount under \$100.  
95 The department shall establish a 60 day timeline for the resolution of  
96 all mediation claims. The department shall issue a biannual report to  
97 the house and senate clerks and the joint committee on telecommuni-  
98 cations, utilities and energy which shall include, but not be limited  
99 to, the following information: nature of consumer claims, number of  
100 consumer claims and resolutions of consumer claims reviewed by  
101 the department during the previous six months. Said report shall be  
102 available for public review at the department.

1 SECTION 212. Section 1F of said chapter 164, as so appearing,  
2 is hereby amended by striking out, in line 90, the words “division  
3 of energy resources” and inserting in place thereof the follow-  
4 ing words:— department of alternative and renewable energy  
5 development.

1 SECTION 213. Said section 1F of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in line 94, the word  
3 “division” and inserting in place thereof the following word:—  
4 department.

1 SECTION 214. Said section 1F of said chapter 164, as so  
2 appearing, is hereby further amended by striking out, in lines 104  
3 through 121, inclusive, the words “Not later than March 1, 1999  
4 the department shall conduct an investigation and report to the  
5 joint committee on government regulations regarding the cost and  
6 benefits of expanding eligibility for the discount rates established  
7 in clause (i) of subparagraph (4) of the first paragraph of section  
8 1F to any low-income customer who is eligible for any means  
9 tested public benefit for which eligibility does not exceed 175 per  
10 cent of the federal poverty level based on gross household  
11 income. The department shall further provide to said committee  
12 any legislative recommendations necessary to implement this  
13 section.

14 (ii) Prior to the termination of the seven year period of the stan-  
15 dard service transition rate, the department shall, in consultation  
16 with said division, evaluate the effects of electricity restructuring  
17 on the affordability of electric power for low-income customers.  
18 The department shall make recommendations to the general court  
19 relative to the continuation of the low-income discount rate autho-  
20 rized pursuant to this subsection or to make modifications thereto.  
21 The department shall, in its recommendations, consider whether  
22 or not to modify said discount by establishing a sliding scale low-  
23 income discount program.”

1 SECTION 215. Said section 1F of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in lines 123 and  
3 124, the words “and may return to standard offer service anytime  
4 including from default service”.

1 SECTION 216. Said section 1F of said chapter 164, as so  
2 appearing, is hereby further amended by striking out, in line 126,  
3 the words “and standard offer service”.

1 SECTION 217. Said section 1F of said chapter 164 of the  
2 General Laws, as so appearing, is hereby further amended by  
3 striking out, in line 129, the words “standard offer” and inserting  
4 in place thereof the following word:— basic.

1 SECTION 218. Said section 1F of said chapter 164 of the General  
2 Laws, as so appearing, is hereby further amended by striking out, in  
3 lines 130 through 133, inclusive, the words “A residential customer  
4 eligible for low-income discount receiving standard offer service  
5 shall be allowed to retain standard offer service upon moving within  
6 the service territory of a distribution company.”

1 SECTION 219. Said section 1F of said chapter 164 of the  
2 General Laws, as so appearing, is hereby further amended by  
3 striking out, in lines 135 and 136, the word “rates, default service,  
4 or standard offer” and inserting in place thereof the following  
5 words:— rates or basic.

1 SECTION 220. Said section 1F of said chapter 164 of the  
2 General Laws, as so appearing, is hereby further amended by  
3 striking out, in line 140, the words “rates, default service, or stan-  
4 dard offer” and inserting in place thereof the following word:—  
5 rates or basic.

1 SECTION 221. Said section 1F of said chapter 164 of the  
2 General Laws, as so appearing, is hereby further amended by  
3 striking out, in line 168, the word “default” and inserting in place  
4 thereof the following word:— basic.

1 SECTION 222. Said section 1F of said chapter 164, as so  
2 appearing, is hereby amended by inserting after the phrase “1997”  
3 in line 225 the following:— and, in accordance with Section 1E,  
4 shall establish benchmark staffing levels adequate to ensure that  
5 service quality and reliability do not decline below levels that  
6 existed on November 1, 1997.

1 SECTION 223. Said section 1F of said chapter 164, as so  
2 appearing, is hereby further amended by striking out, in lines 380  
3 through 382, inclusive, the words “Beginning with calendar year  
4 1999, the department shall, by March 31 of each year, file an  
5 annual report with the joint committee on government regula-  
6 tions” and inserting in place thereof the following:— The depart-  
7 ment shall annually, by March 31 of each year, file a report with  
8 the joint committee on telecommunications, utilities and energy.

1 SECTION 224. Section 1G of said chapter 164 of the General  
2 Laws, as so appearing, is hereby amended by striking out, in  
3 lines 178 through 183, inclusive, the words “section, including,  
4 but not limited to, the department may authorize an alternate gen-  
5 eration company or supplier to provide the standard offer service  
6 package as set forth in subsection (b) of section 1B if said alter-  
7 nate service is determined by the department to be in the public  
8 interest and necessary to achieve said required rate reductions  
9 for its consumers” and inserting in place thereof the following  
10 word:— section.

1 SECTION 225. Section 1G of said chapter 164 of the General  
2 Laws, as so appearing, is hereby amended by striking out, in lines  
3 190 through 195, inclusive, the words “section, including, but not  
4 limited to, the department may authorize an alternate generation  
5 company or supplier to provide the standard offer service package  
6 as set forth in subsection (b) of section 1B if said alternate service  
7 is determined by the department to be in the public interest and  
8 necessary to achieve said required rate reductions for its con-  
9 sumers” and inserting in place thereof the following word:—  
10 section.

1 SECTION 226. Said section 1G of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in lines 366 and  
3 367, the words “government regulations” and inserting in place  
4 thereof the following:— telecommunications, utilities and energy.

1 SECTION 227. Said section 1G of said chapter 164, as so  
2 appearing, is hereby further amended by striking out, in line 436,  
3 the words “25, 25A” and inserting in place thereof the following  
4 word:— 6C.

1 SECTION 228. Section 1H of said chapter 164, as so appear-  
2 ing, is hereby amended by striking out, in line 7, the words  
3 “telecommunications and energy” and inserting in place thereof  
4 the following words:— utility regulation and oversight.

1 SECTION 229. Said section 1H of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in lines 1 and 2, the

3 words “may, by January 1, 1999, and from time to time thereafter”  
4 and inserting in place thereof the following words:— may, from  
5 time to time,.

1 SECTION 230. Section 69G of said chapter 164, as so appear-  
2 ing, is hereby amended by inserting after the definition of “Board”  
3 the following definition:—

4 “Clean energy generating unit”, any bulk electric generating  
5 unit, including associated buildings and structures and electric  
6 transmission lines, operating at a gross capacity of 1 megawatt or  
7 more, which generates all of its electricity from one or more of the  
8 following sources: solar photovoltaic and solar thermal energy;  
9 wind energy; ocean thermal, wave, or tidal energy; fuel cells;  
10 landfill gas; naturally flowing water and hydroelectric; low emis-  
11 sion advanced biomass power conversion technologies using such  
12 biomass fuels as wood, agricultural, or food wastes, energy crops,  
13 biogas, biodiesel, or organic refuse-derived fuel storage and con-  
14 version technologies connected to qualifying generation projects,  
15 as well as combined heat and power facilities which burn only  
16 natural gas, coal gasification facilities, plasma gasification facili-  
17 ties, and such other types of facilities as the secretary of the exec-  
18 utive office of energy affairs may from time to time designate.

1 SECTION 231. Said section 69G of said chapter 164, as so  
2 appearing, is hereby amended by striking, in lines 18 and 19 the  
3 words “telecommunications and energy as established under the  
4 provisions of section two of chapter twenty-five.” and inserting in  
5 place thereof the following:— executive office of energy affairs  
6 established pursuant to the provisions of chapter 6C.

1 SECTION 232. Said section 69G of said chapter 164, as so  
2 appearing, is hereby amended by striking, in lines 56 through 59,  
3 inclusive, the words “any generating unit designed for or capable  
4 of operating at a gross capacity of 100 megawatts or more, includ-  
5 ing associated buildings, ancillary structures, transmission and  
6 pipeline interconnections that are not otherwise facilities, and fuel  
7 storage facilities.” and inserting in place thereof the following:—  
8 a clean energy generating unit located in a municipality which has  
9 transferred its authority to permit the siting of clean energy gener-

10 ating units within the municipality to the board pursuant to section  
11 5 of chapter 6C and any generating unit designed for or capable of  
12 operating at a gross capacity of 100 megawatts or more, including  
13 associated buildings, ancillary structures, transmission and  
14 pipeline interconnections that are not otherwise facilities, and fuel  
15 storage facilities.”

1 SECTION 233. Said section 69G of said chapter 164, as so  
2 appearing, is hereby further amended by inserting after the defini-  
3 tion of “Propane air” the following definitions:—

4 “Public Utility Commission”, the public utility commission  
5 established pursuant to section 59 of chapter 6C.

6 “Secretary”, the secretary of the executive office of energy  
7 affairs.

1 SECTION 234. Section 69G of said chapter 164, as so appear-  
2 ing, is hereby further amended by inserting after the definition of  
3 “Synthetic natural gas” the following definition:—

4 “Undersecretary”, the undersecretary of the executive office of  
5 energy affairs for utility regulation and oversight.

1 SECTION 235. Section 69H of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in lines 15 and 16, the words  
3 “chairman and two additional commissioners of the department,”  
4 and inserting in place thereof the following:— secretary, the  
5 undersecretary and two additional members of the public utility  
6 commission,.

1 SECTION 236. Said section 69H of said chapter 164, as so  
2 appearing, is hereby amended by striking, in lines 15 and 16, the  
3 words “the director of economic development or his designee, the  
4 commissioner of energy resources or his designee” and inserting  
5 in place thereof the following words:— the secretary of the execu-  
6 tive office of housing and economic development or his designee.

1 SECTION 237. Section 69H of said chapter 164, as so appear-  
2 ing, is hereby amended by striking out, in line 25, the words  
3 “section two of chapter twenty-five” and inserting in place thereof  
4 the following words:— section 59 of chapter 6C.

1 SECTION 238. Said section 69H of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in line 30, the  
3 words “section 2 of said chapter 25” and inserting in place thereof  
4 the following words:— section 59 of chapter 6C.

1 SECTION 239. Section 69H of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in line 43, the words “chair-  
3 man of the department” and inserting in place thereof the  
4 following:— secretary.

1 SECTION 240. Said section 69H of said chapter 164, as so  
2 appearing, is hereby amended by striking, in line 45, the words  
3 “chairman, the director of consumer affairs and business regula-  
4 tion” and inserting in place thereof the following:— secretary,  
5 undersecretary.

1 SECTION 241. Said section 69H of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in lines 77 and 78, the  
3 words “the chairman of the department pursuant to section four of  
4 chapter twenty-five” and inserting in place thereof the following  
5 words:— the secretary pursuant to section 60 of chapter 6C.

1 SECTION 242. Section 69H1/2 of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in line 20, the  
3 words “department of telecommunications and energy” and insert-  
4 ing in place thereof the following words:— executive office of  
5 energy affairs.

1 SECTION 243. Section 69I of said chapter 164, as so appear-  
2 ing, is hereby amended by striking out, in line 1, the word “depart-  
3 ment” and inserting in place thereof the following words:—  
4 executive office.

1 SECTION 244. Said section 69I of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in line 7, the word  
3 “department” and inserting in place thereof the following  
4 words:— executive office.

1 SECTION 245. Said section 69I of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in line 15, the word  
3 “department” and inserting in place thereof the following  
4 words:— executive office.

1 SECTION 246. Said section 69I of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in line 24, the  
3 words “the department. Neither said department” and inserting in  
4 place thereof the following words:— the executive office. Neither  
5 said executive office.

1 SECTION 247. Said section 69I of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in line 28, the word  
3 “department” and inserting in place thereof the following  
4 words:— executive office.

1 SECTION 248. Said section 69I of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in line 51, the word  
3 “department” and inserting in place thereof the following  
4 words:— executive office.

1 SECTION 249. Said section 69I of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in line 56, the word  
3 “department” and inserting in place thereof the following  
4 words:— executive office.

1 SECTION 250. Said section 69I of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in line 59, the word  
3 “department” and inserting in place thereof the following  
4 words:— executive office.

1 SECTION 247. Said section 69I of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in line 68, the word  
3 “department” and inserting in place thereof the following  
4 words:— executive office.

1 SECTION 248. Said section 69I of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in line 81, the word  
3 “department” and inserting in place thereof the following  
4 words:— executive office.

1 SECTION 249. Said section 69I of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in line 89, the word  
3 “department” and inserting in place thereof the following  
4 words:— executive office.

1 SECTION 250. Said section 69I of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in line 91, the  
3 words “the department. Pursuant to the rules of the department”  
4 and inserting in place thereof the following words:— the execu-  
5 tive office. Pursuant to the rules of the executive office.

1 SECTION 251. Said section 69I of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in lines 92 and 93,  
3 the words “employees of the department shall report back to the  
4 department” and inserting in place thereof the following words:—  
5 employees of the executive office shall report back to the execu-  
6 tive office.

1 SECTION 252. Said section 69I of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in line 94, the word  
3 “department” and inserting in place thereof the following  
4 words:— executive office.

1 SECTION 253. Said section 69I of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in line 97, the word  
3 “department” and inserting in place thereof the following  
4 words:— executive office.

1 SECTION 254. Said section 69I of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in line 100, the  
3 word “department” and inserting in place thereof the following  
4 words:— executive office.

1 SECTION 255. Said section 69I of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in line 101, the  
3 word “department” and inserting in place thereof the following  
4 words:— executive office.

1 SECTION 256. Said section 69I of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in line 102, the  
3 word “department” and inserting in place thereof the following  
4 words:— executive office.

1 SECTION 257. Said section 69I of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in lines 104 and  
3 104, the word “department” and inserting in place thereof the  
4 following words:— executive office.

1 SECTION 258. Section 69P of said chapter 164, as so appear-  
2 ing, is hereby amended by striking out, in line 3, the words “judi-  
3 cial review in the manner provided by section five of chapter  
4 twenty-five” and inserting in place thereof the following words:—  
5 direct right of judicial review by the supreme judicial court.

1 SECTION 259. Section 75A of said chapter 164, as so appear-  
2 ing, is hereby amended by inserting at the end thereof the follow-  
3 ing paragraph:—

4 “Upon installation of a meter measuring gas supplied to any  
5 premises, only the authorized permanent employees of the gas  
6 company completing said installation shall be authorized to turn  
7 on the gas supply; provided further, that the newly installed meter  
8 shall remain locked on the service side by the gas company until  
9 the local gas inspector inspects the installation of piping to the  
10 new gas appliance(s). Upon the successful completion of the  
11 inspection, the lock shall only be removed by an authorized per-  
12 manent employee of the gas company; provided further, that said  
13 permanent employee of the gas company shall then light all gas  
14 appliances and check all gas related equipment. Any gas company  
15 that violates any provision of this section shall forfeit a penalty as  
16 determined by the department. Penalties incurred under this  
17 section shall not be included as expenses in connection with the  
18 establishment of rates by said company.

1 SECTION 260. Section 75F of said chapter 164, as so appear-  
2 ing, is hereby amended by striking out in lines 8 through 9 the  
3 words “one hundred” and inserting in place thereof the following  
4 new word:— 1,000.

1 SECTION 261. Section 76 of said chapter 164, as so appearing,  
2 is hereby amended inserting at the end thereof the following para-  
3 graph:—

4 The department shall require gas companies to instruct their  
5 authorized permanent employees to annually survey their gas pip-  
6 ing system for leak detection. Upon discovery of a natural gas  
7 leak, said leak shall be investigated, graded, logged and monitored  
8 by authorized permanent employees of the gas company and  
9 reported to the department; provided further, that officers and  
10 employees of the department shall randomly inspect reported  
11 leaks on a regular basis. For said regular inspections the depart-  
12 ment shall collect from the gas company such reasonable fees as it  
13 may from time to time prescribe. Any gas company which violates  
14 any provision of this section shall forfeit a penalty as determined  
15 by the department. Penalties and fees incurred under this section  
16 shall not be included as expenses in connection with the establish-  
17 ment of rates by said company.

1 SECTION 262. Section 76B of said chapter 164, as so appear-  
2 ing, is hereby amended by striking out, in line 5, the words  
3 “ telecommunications and energy “ and inserting in place thereof  
4 the following words:— utility regulation and oversight.

1 SECTION 263. Section 76D of said chapter 164, as so appear-  
2 ing, is hereby amended by striking out, in lines 2 and 3, the words  
3 “section three of chapter twenty-five” and inserting in place  
4 thereof the following words:— section 7 of chapter 6C.

1 SECTION 264. Said chapter 164 of the General Laws, as so  
2 appearing, is hereby amended by inserting after section 76D the  
3 following section:—

4 Section 76E. The department shall adopt inspection, mainte-  
5 nance, repair, and replacement standards for the distribution sys-  
6 tems of investor-owned electric and gas utilities doing business in  
7 the commonwealth no later than January 1, 2008. Said standards,  
8 which shall be performance or prescriptive standards, or both, as  
9 appropriate, for each substantial type of distribution equipment or  
10 facility, shall provide for inspection cycles for all overhead and  
11 underground facilities and shall establish a criteria for mainte-

12 nance and replacement of said facilities to minimize or prevent  
13 service interruptions and to ensure high quality, safe and reliable  
14 service. In establishing the standards required by this section, the  
15 department shall consider cost, local geography and weather,  
16 applicable codes, national electric industry practices, sound engi-  
17 neering judgment, and experience. The department shall require  
18 each utility to maintain detailed records on its inspection and  
19 maintenance activities and to submit annual compliance reports to  
20 the department.

21 The department shall conduct an annual review to determine  
22 whether the standards established pursuant to this section have  
23 been satisfied. If the department finds that the standards have not  
24 been satisfied, the department may order appropriate sanctions,  
25 including penalties in the form of rate reductions or monetary  
26 fines.

1 SECTION 265. Said chapter 164, as so appearing, is hereby  
2 further amended by striking out section 96 and inserting in place  
3 thereof the following:—

4 Section 96. Companies subject to this chapter and their holding  
5 companies may, notwithstanding any other provisions of this  
6 chapter or of any general or special law, consolidate or merge with  
7 one another, or may sell and convey their properties to another of  
8 such companies or to a wholesale generation company and such  
9 other company may purchase such properties, provided that such  
10 purchase, sale, consolidation or merger, and the terms thereof,  
11 have been approved, at meetings called therefor, by vote of the  
12 holders of at least two thirds of each class of stock outstanding  
13 and entitled to vote on the question of each of the contracting  
14 companies, and that the department, after notice and a public hear-  
15 ing, has determined that such purchase and sale or consolidation  
16 or merger, and the terms thereof, are consistent with the public  
17 interest; provided, however, that in making such a determination  
18 the department shall at a minimum consider: proposed rate  
19 changes, if any; the long term strategies that will assure a reliable,  
20 cost effective energy delivery system; any anticipated interrup-  
21 tions in service; or other factors which may negatively impact cus-  
22 tomer service; and provided, further, that the purchase or sale of  
23 properties by, or the consolidation or merger of, wholesale genera-  
24 tion companies shall not require departmental approval.

1 SECTION 266. Said chapter 164 of the General Laws, as so  
2 appearing, is hereby further amended by inserting after section  
3 105A the following new section:—

4 Section 105B. Every gas corporation or municipal gas depart-  
5 ment engaged in the distribution of gas within the commonwealth  
6 shall annually conduct a survey of all schools, student quarters,  
7 day care centers, kindergartens, pre-schools, churches, hospitals,  
8 elder centers, nursing homes, rehabilitation centers, libraries, fire  
9 stations, police stations, theatres, arenas, and all public buildings  
10 within their service territories by authorized permanent employees  
11 of said gas company. Said survey shall include tests for gas leak-  
12 age and the visual inspection of all accessible gas facilities and  
13 gas appliances in the structure. Any gas company which violates  
14 any provision of this section shall forfeit a penalty as determined  
15 by the department. Penalties incurred under this section shall not  
16 be included as expenses in connection with the establishment of  
17 rates by said company.

1 SECTION 267. Said chapter 164, as so appearing, is hereby  
2 further amended by striking section 115A and inserting in place  
3 thereof the following section:—

4 Section 115A. Each meter for measuring gas or electricity pro-  
5 vided to a consumer by a gas company, an electric company or  
6 municipal lighting plant shall, not later than 7 years from the date  
7 of installation or replacement, be removed by said company or  
8 municipal lighting plant from the premises of the consumer and  
9 replaced with such a meter which has been newly tested, sealed  
10 and stamped in accordance with law. Effective January 1, 2010,  
11 each meter removed by a gas or electric company or municipal  
12 lighting plant from the premises of a consumer pursuant to this  
13 section shall be replaced with an advanced meter that, without  
14 limitation, identifies consumption in more detail than a conven-  
15 tional meter through automated real-time or near real-time meter  
16 reads that tracks on the meter in a format that is understandable to  
17 a consumer, energy usage hour-by-hour thereby allowing rates  
18 charged by utility companies to reflect different prices for power  
19 consumed at different times of the day if appropriate.

20 Any gas or electric company or municipal lighting plant which  
21 violates any provision of this section, unless in the opinion of the

22 department such violation is due to unavoidable cause, accident or  
23 lack of materials, shall forfeit 50 dollars for each meter which is  
24 not removed and replaced as provided herein. Forfeitures incurred  
25 under this section shall not be included as expenses in connection  
26 with the establishment of rates by said companies.

27 The department may promulgate rules and regulations for the  
28 administration and enforcement of this section.

1 SECTION 268. Section 116B of said chapter 164, as so appear-  
2 ing, is hereby amended by inserting at the end thereof the follow-  
3 ing paragraph:—

4 Any gas company found by the department to have knowingly  
5 violated this section shall be subject to a minimum fine of \$500.00  
6 and a maximum fine of \$1,000.00 for each violation. Penalties and  
7 fees incurred under this section shall not be included as expenses  
8 in connection with the establishment of rates by said company.

1 SECTION 269. Said chapter 164, as so appearing, is hereby  
2 amended by striking out section 124I and inserting in place  
3 thereof the following new sections:—

4 124I. Each gas company shall upon the termination of service  
5 by a customer shut off said service within 30 days after receiving  
6 notice of the termination of service by said customer. Said com-  
7 pany shall use only authorized permanent employees in complying  
8 with this section.

9 124J. Any company found by the department to have willfully  
10 violated sections 124A to 124I, inclusive, shall be assessed a  
11 penalty after a hearing by the department, in an amount not to  
12 exceed 1,000 dollars. Penalties and fees incurred under said sec-  
13 tions 124A through 124I shall not be included as expenses in con-  
14 nection with the establishment of rates by said company.

1 SECTION 270. Section 134 of chapter 164, as so appearing, is  
2 hereby amended by striking out, in line 31, the words “energy  
3 resources, pursuant to section 6 of chapter 25A” and inserting in  
4 place thereof the following words:— municipal services, pursuant  
5 to section 5 of chapter 6C.

1 SECTION 271. Said section 134 of said chapter 164, as so  
2 appearing, is hereby amended by striking out, in line 45, the  
3 words “standard offer” and inserting in place thereof the following  
4 words:— basic service.

1 SECTION 272. Said section 134 of said chapter 164, as so  
2 appearing, is hereby further amended by striking out, in line 49,  
3 the words “the standard offer” and inserting in place thereof the  
4 following words:— basic service.

1 SECTION 273. Said section 134 of said chapter 164, as so  
2 appearing, is hereby further amended by striking out, in lines 51  
3 and 52, the words “division of energy resources pursuant to chap-  
4 ter 25A” and inserting in place thereof the following words:—  
5 department of alternative and renewable energy development pur-  
6 suant to chapter 6C.

1 SECTION 274. Said section 134 of said chapter 164, as so  
2 appearing, is hereby further amended by striking out, in line 56,  
3 the words “standard offer” and inserting in place thereof the  
4 following words:— basic.

1 SECTION 275. Said section 134 of said chapter 164 of the  
2 General Laws, as so appearing, is hereby further amended by  
3 striking out, in line 64, the words “standard offer” and inserting in  
4 place thereof the following words:— basic.

1 SECTION 276. Said section 134 of said chapter 164 of the  
2 General Laws, as so appearing, is hereby further amended by  
3 striking out, in line 74, the words “standard offer” and inserting in  
4 place thereof the following words:— basic.

1 SECTION 277. Said section 134 of said chapter 164, as so  
2 appearing, is hereby further amended by striking out, in line 75,  
3 the words “division of energy resources” and inserting in place  
4 thereof the following words:— department of alternative and  
5 renewable energy development.

1 SECTION 278. Said section 134 of said chapter 164, as so  
2 appearing, is hereby amended, in line 85, by striking out the words  
3 “25A” and inserting in place thereof the following words:— 6C.

1 SECTION 279. Said chapter 164, as so appearing, is hereby  
2 further amended by inserting after section 137 the following  
3 section:—

4 Section 138. (a) As used in this section, the following words  
5 shall, unless the context clearly requires otherwise, have the  
6 following meanings:—

7 “Large Renewable Generation Facility,” a solar-net-metering or  
8 wind net-metering facility with a generating capacity of more than  
9 1 megawatt but less than or equal to 2 megawatts.

10 “Large Renewable Generation Credit”, credit equal to the  
11 excess kilowatt hours by time of use billing period, if applicable,  
12 multiplied by the distribution company’s default service kilowatt  
13 hour charge in the load zone where the customer is located.

14 “Net metering,” the process of measuring the difference  
15 between electricity delivered by an electric distribution company  
16 and electricity generated by a solar net-metering or wind net-  
17 metering facility and fed back to the distribution company.

18 “Small renewable Generation Facility,” a solar net-metering or  
19 wind net-metering facility that has a generating capacity of  
20 1 megawatt or less.

21 “Small Renewable Generation Credit”, credit equal to the  
22 excess kilowatt hours by time of use billing period, if applicable,  
23 multiplied by the sum of the distribution company’s (i) default  
24 service kilowatt hour charge in the load zone where the customer  
25 is located; (ii) distribution kilowatt hour charge; (iii) transmission  
26 kilowatt hours charge; and (iv) transition kilowatt hour charge.

27 “Solar-net-metering facility,” a facility for the generation of  
28 electricity that relies on sunlight, is located on, or in the vicinity  
29 of, a customer’s property, and that is intended to offset part or all  
30 of that customer’s requirements for electric supply from the distri-  
31 bution company.

32 “Wind-net-metering facility,” a facility for the generation of  
33 electricity that relies on wind, is located on, or in the vicinity of, a  
34 customer’s property, and that is intended to offset part or all of

35 that customer's requirements for electric supply from the distribu-  
36 tion company.

37 (b) A customer of a distribution company who generates elec-  
38 tricity from a small renewable energy generation facility may elect  
39 net metering and if the electricity generated by the small renew-  
40 able energy generation facility during a billing period exceeds the  
41 customer's kilowatt-hour usage during the billing period, the cus-  
42 tomer shall be billed for zero kilowatt-hour usage and the excess  
43 small renewable generation credits shall be credited to the cus-  
44 tomer's account for the following billing period, provided that the  
45 customer may elect to apply any such credits earned at an account  
46 to other electric service accounts with the written consent of the  
47 other account owners. If the customer's kilowatt-hour usage  
48 exceeds the electricity generated by the small renewable energy  
49 generation facility during the billing period, the customer shall be  
50 billed for the net kilowatt-hour usage at the applicable rate.

51 (c) A customer of a distribution company who generates elec-  
52 tricity from a large renewable energy generation facility may elect  
53 net metering and if the electricity generated by the large renew-  
54 able energy generation facility during a billing period exceeds the  
55 customer's kilowatt-hour usage during the billing period the cus-  
56 tomer shall be billed for zero kilowatt-hour usage and the excess  
57 large renewable energy generation credits shall be credited to the  
58 customer's account. The customer can elect to apply any such  
59 credits earned on an account to other electric service accounts  
60 with the written consent of the other account owners. If the cus-  
61 tomer's kilowatt-hour usage exceeds the electricity generated by  
62 the large renewable energy generation facility during the billing  
63 period, the customer shall be billed for the net kilowatt-hour usage  
64 at the applicable rate.

65 (d) The distribution portion of any small or large renewable  
66 energy credits and the distribution portion of any distribution  
67 company delivery charges displaced by the small or large genera-  
68 tion facility shall be aggregated by the distribution company and  
69 billed to all customers on an annual basis through a uniform per  
70 kilowatt-hour surcharge or surcharges.

71 (e) Net metering shall be implemented using a bi-directional  
72 meter that registers both the imported and exported electricity  
73 flow on an hourly basis.

74 (f) The aggregate amount of net metering shall not exceed 1%  
75 of the distribution company's peak load.

1 SECTION 280. Section 1 of chapter 164A of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in line 3, the words "department of telecommunica-  
4 tions and energy" and inserting in place thereof the following  
5 words:— executive office of energy affairs.

1 SECTION 281. Section 8 of said chapter 164A, as so appear-  
2 ing, is hereby amended by striking out, in lines 72 and 73, the  
3 words "telecommunications and energy" and inserting in place  
4 thereof the following words:— utility regulation and oversight.

1 SECTION 282. Section 1 of chapter 165 of the General Laws,  
2 as appearing in the 2004 Official Edition,, is hereby amended by  
3 striking out, in line 7, the words "telecommunications and energy"  
4 and inserting in place thereof the following words:— utility regu-  
5 lation and oversight.

1 SECTION 283. Section 28 of said chapter 165, as so appearing,  
2 is hereby amended by striking out, in lines 3 and 4, the words  
3 "telecommunications and energy" and inserting in place thereof  
4 the following words:— utility regulation and oversight.

1 SECTION 284. Section 4 of chapter 166 of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in line 3 and 4, the words "telecommunications and  
4 energy" and inserting in place thereof the following words:—  
5 broadband, cable television and telecommunications.

1 SECTION 285. Section 7 of said chapter 166, as so appearing,  
2 is hereby amended by striking out, in lines 5 and 6, the words  
3 "telecommunications and energy" and inserting in place thereof  
4 the following words:— broadband, cable television and telecom-  
5 munications.

1 SECTION 286. Section 8 of said chapter 166, as so appearing,  
2 is hereby amended by striking out, in line 9, the words "telecom-

3 munications and energy” and inserting in place thereof the follow-  
4 ing words:— broadband, cable television and telecommunications.

1 SECTION 287. Section 11 of said chapter 166, as so appearing,  
2 is hereby amended by striking out, in line 3, the words “telecom-  
3 munications and energy” and inserting in place thereof the follow-  
4 ing words:— broadband, cable television and telecommunications.

1 SECTION 288. Said section 15E of said chapter 166, as so  
2 appearing, is hereby further amended by striking out, in line 64,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— broadband, cable television and  
5 telecommunications.

1 SECTION 289. Said section 15E of said chapter 166, as so  
2 appearing, is hereby further amended by striking out, in line 67  
3 and 68, the words “telecommunications and energy” and inserting  
4 in place thereof the following words:— broadband, cable televi-  
5 sion and telecommunications.

1 SECTION 290. Said section 15E of said chapter 166, as so  
2 appearing, is hereby further amended by striking out, in line 74,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— broadband, cable television and  
5 telecommunications.

1 SECTION 291. Said section 15E of said chapter 166, as so  
2 appearing, is hereby further amended by striking out, in line 128,  
3 the words “telecommunications and energy “ and inserting in  
4 place thereof the following words:— broadband, cable television  
5 and telecommunications.

1 SECTION 292. Said section 15E of said chapter 166, as so  
2 appearing, is hereby further amended by striking out, in line 134,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— broadband, cable television and  
5 telecommunications.

1 SECTION 293. Section 22A of said chapter 166, as so appear-  
2 ing, is hereby amended by striking out, in line 5, the words

3 “telecommunications and energy” and inserting in place thereof  
4 the following words:— broadband, cable television and telecom-  
5 munications.

1 SECTION 294. Section 22L of said chapter 166, as so appear-  
2 ing, is hereby amended by striking out, in lines 4 and 5, the words  
3 “telecommunications and energy” and inserting in place thereof  
4 the following words:— broadband, cable television and telecom-  
5 munications.

1 SECTION 295. Section 25A of said chapter 166, as so appear-  
2 ing, is hereby amended by striking out, in line 28, the words  
3 “telecommunications and energy” and inserting in place thereof  
4 the following words:— broadband, cable television and telecom-  
5 munications.

1 SECTION 296. Section 27 of said chapter 166, as so appearing,  
2 is hereby amended by striking out, in lines 6 and 7, the words  
3 “telecommunications and energy” and inserting in place thereof  
4 the following words:— broadband, cable television and telecom-  
5 munications.

1 SECTION 297. Section 44 of said chapter 166, as so appearing,  
2 is hereby amended by striking out, in line 11, the words “  
3 telecommunications and energy” and inserting in place thereof the  
4 following words:— utility regulation and oversight.

1 SECTION 298. Said section 44 of said chapter 166, as so  
2 appearing, is hereby further amended by striking out, in line 25,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— broadband, cable television and  
5 telecommunications.

1 SECTION 299. Chapter 166A of the General Laws is hereby  
2 repealed.

1 SECTION 300. Section 5 of chapter 167B of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in lines 76 and 77, the words “telecommunications

4 and energy” and inserting in place thereof the following words:—  
5 broadband, cable television and telecommunications.

1 SECTION 301. Section 20 of said chapter 167B, as so appear-  
2 ing, is hereby further amended by striking out, in lines 54 and 55,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— broadband, cable television and  
5 telecommunications.

1 SECTION 302. Section 1 of chapter 182 of the General Laws,  
2 as appearing in the 2004 Official Edition,, is hereby amended by  
3 striking out, in lines 6 and 7, the words “telecommunications and  
4 energy” and inserting in place thereof the following words:— util-  
5 ity regulation and oversight.

1 SECTION 303. Section 32 of chapter 184 of the General Laws,  
2 as appearing in the 2004 Official Edition,, is hereby amended by  
3 striking out, in lines 95 and 96, the words “telecommunications  
4 and energy” and inserting in place thereof the following words:—  
5 utility regulation and oversight.

1 SECTION 304. Section 5 of chapter 187 of the General Laws,  
2 as appearing in the 2004 Official Edition,, is hereby amended by  
3 striking out, in line 17, the words “telecommunications and  
4 energy” and inserting in place thereof the following words:— util-  
5 ity regulation and oversight.

1 SECTION 305. Said section 5 of said chapter 187, as so  
2 appearing, is hereby further amended by striking out, in line 23,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— utility regulation and oversight.

1 SECTION 306. Section 76 of chapter 233 of the General Laws,  
2 as appearing in the 2004 Official Edition,, is hereby amended by  
3 striking out, in line 6, the words “telecommunications and energy”  
4 and inserting in place thereof the following words:— utility regu-  
5 lation and oversight.

1 SECTION 307. Section 34 of chapter 262 of the General Laws,  
2 as appearing in the 2004 Official Edition,, is hereby amended by

3 striking out, in line 55, the words “telecommunications and  
4 energy” and inserting in place thereof the following words:— util-  
5 ity regulation and oversight.

1 SECTION 308. Said section 34 of said chapter 262, as so  
2 appearing, is hereby further amended by striking out, in line 59,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— utility regulation and oversight.

1 SECTION 309. Said section 34 of said chapter 262, as so  
2 appearing, is hereby further amended by striking out, in line 66,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— utility regulation and oversight.

1 SECTION 310. Said section 34 of said chapter 262, as so  
2 appearing, is hereby further amended by striking out, in line 70,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— utility regulation and oversight.

1 SECTION 311. Section 44 of said chapter 262, as so appearing,  
2 is hereby amended by striking out, in line 1, the words “telecom-  
3 munications and energy” and inserting in place thereof the follow-  
4 ing words:— utility regulation and oversight.

1 SECTION 312. Section 120D of chapter 266 of the General  
2 Laws, as appearing in the 2004 Official Edition, is hereby  
3 amended by striking out, in line 41, the words “telecommunica-  
4 tions and energy” and inserting in place thereof the following  
5 words:— transportation oversight.

1 SECTION 313. Section 6 of chapter 268 of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in line 3, the words “telecommunications and  
4 energy,” and inserting in place thereof the following words:—  
5 alternative and renewable energy development, the department of  
6 broadband, cable television and telecommunications, the depart-  
7 ment of utility regulation and oversight,.

1 SECTION 314. Section 33 of said chapter 268, as so appearing,  
2 is hereby amended by striking out, in lines 5 and 6, the words

3 “department of telecommunications and energy” and inserting in  
4 place thereof the following words:— executive office of energy  
5 affairs.

1 SECTION 315. Chapter 268A of the General Laws is hereby  
2 amended by striking section 8B and inserting thereof the follow-  
3 ing section:—

4 Section 8B. No member or employee of the executive office of  
5 energy affairs established pursuant to chapter 6C shall, within one  
6 year after his service has ceased or terminated, be employed by, or  
7 lobby said office on behalf of, any company or regulated industry  
8 over which said office had jurisdiction during the tenure of such  
9 member of the office.

1 SECTION 316. Section 17B of chapter 271 of the General  
2 Laws, as appearing in the 2004 Official Edition, is hereby  
3 amended by striking out, in lines 3 and 4, the words “telecommu-  
4 nications and energy” and inserting in place thereof the following  
5 words:— broadband, cable television and telecommunications.

1 SECTION 317. Section 25 of chapter 796 of the Acts of 1979 is  
2 hereby amended by striking out, in line 3, the words “executive  
3 office of energy resources” and inserting in place thereof the  
4 following words:— department of alternative and renewable  
5 energy.

1 SECTION 318. Said section 25 of said chapter 796, as so  
2 appearing, is hereby further amended by striking out, in line 10,  
3 the words “executive office” and inserting in place thereof the  
4 following word:— department.

1 SECTION 319. Said section 25 of said chapter 796, as so  
2 appearing, is hereby further amended by striking out, in line 23,  
3 the words “executive office” and inserting in place thereof the  
4 following word:— department.

1 SECTION 320. Section 28 of said chapter 796, as so appearing,  
2 is hereby amended by striking out, in line 2, the word “secretary”  
3 and inserting in place thereof the following word:— undersecre-

4 tary of the executive office of energy affairs for alternative and  
5 renewable energy development.

1 SECTION 321. Said section 28 of said chapter 796, as so  
2 appearing, is hereby amended by striking out, in line 8, the words  
3 “secretary of energy resources” and inserting in place thereof the  
4 following words:— undersecretary of the executive office of  
5 energy affairs for alternative and renewable energy development.

1 SECTION 322. Said section 28 of said chapter 796, as so  
2 appearing, is hereby amended by striking out, in line 12, the word  
3 “secretary” and inserting in place thereof the following word:—  
4 undersecretary of the executive office of energy affairs for alterna-  
5 tive and renewable energy development.

1 SECTION 323. Section 29 of said chapter 796, as so appearing,  
2 is hereby amended by striking out, in lines 4-5, the words “secre-  
3 tary of energy resources” and inserting in place thereof the follow-  
4 ing words:— undersecretary of the executive office of energy  
5 affairs for alternative and renewable energy development.

1 SECTION 324. Section 32 of said chapter 796, as so appearing,  
2 is hereby amended by striking out, in line 3, the words “executive  
3 office of energy resources” and inserting in place thereof the  
4 following words:— department of alternative and renewable  
5 energy development.

1 SECTION 325. Section 33 of said chapter 796, as so appearing,  
2 is hereby amended by striking out, in line 1, the words “depart-  
3 ment of energy resources” and inserting in place thereof the  
4 following words:— department of alternative and renewable  
5 energy development.

1 SECTION 326. Said section 33 of said chapter 796, as so  
2 appearing, is hereby amended by striking out, in line 6, the words  
3 “department of energy resources” and inserting in place thereof  
4 the following words:— department of alternative and renewable  
5 energy development.

1 SECTION 327. Section 1 of chapter 465 of the Acts of 1980, as  
2 most recently amended by section 44 of chapter 730 of the Acts of  
3 1989, is hereby amended by striking out, in its entirety, the defini-  
4 tion of “Commissioner”.

1 SECTION 328. Said section 1 of said chapter 465, as so  
2 appearing, is hereby further amended by inserting after the defini-  
3 tion of “State plan” the following definition:—  
4 “Undersecretary”, the undersecretary of alternative and renew-  
5 able energy development.

1 SECTION 329. Said section 1 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in lines 50  
3 and 51, the words “executive office of energy resources” and  
4 inserting in place thereof the following words:— department of  
5 alternative and renewable energy development.

1 SECTION 330. Section 3 of said chapter 465, as so appearing,  
2 is hereby amended by striking out, in line 1, the words “secretary  
3 of energy resources” and inserting in place thereof the following  
4 words:— undersecretary of the executive office of energy affairs  
5 for alternative and renewable energy development.

1 SECTION 331. Said section 3 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in line 41,  
3 the words “secretary of energy resources” and inserting in place  
4 thereof the following words:— undersecretary of the executive  
5 office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 332. Said section 3 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in lines 54  
3 and 55, the words “secretary of energy resources” and inserting in  
4 place thereof the following words:— undersecretary of the execu-  
5 tive office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 333. Said section 3 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in lines 57

3 and 58, the words “secretary of energy resources” and inserting in  
4 place thereof the following words:— undersecretary of the execu-  
5 tive office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 334. Said section 3 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in line 64,  
3 the words “secretary of energy resources” and inserting in place  
4 thereof the following words:— undersecretary of the executive  
5 office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 335. Said section 3 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in line 89,  
3 the words “secretary of energy resources” and inserting in place  
4 thereof the following words:— undersecretary of the executive  
5 office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 336. Section 4 of said chapter 465, as so appearing,  
2 is hereby amended by striking out, in line 2, the words “secretary  
3 of energy resources” and inserting in place thereof the following  
4 words:— undersecretary of the executive office of energy affairs  
5 for alternative and renewable energy development.

1 SECTION 337. Section 6 of said chapter 465, as so appearing,  
2 is hereby amended by striking out, in lines 2 and 3, the words  
3 “secretary of energy resources” and inserting in place thereof the  
4 following words:— undersecretary of the executive office of  
5 energy affairs for alternative and renewable energy development.

1 SECTION 338. Said section 6 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in line 5, the  
3 words “secretary of energy resources” and inserting in place  
4 thereof the following words:— undersecretary of the executive  
5 office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 339. Said section 6 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in line 13,  
3 the word “secretary” and inserting in place thereof the following  
4 word:— undersecretary of the executive office of energy affairs  
5 for alternative and renewable energy development.

1 SECTION 340. Said section 6 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in lines 16  
3 and 17, the words “secretary of energy resources” and inserting in  
4 place thereof the following words:— undersecretary of the execu-  
5 tive office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 341. Said section 6 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in line 17,  
3 the word “secretary” and inserting in place thereof the following  
4 word:— undersecretary of the executive office of energy affairs  
5 for alternative and renewable energy development.

1 SECTION 342. Said section 6 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in line 21,  
3 the words “secretary of energy resources” and inserting in place  
4 thereof the following words:— undersecretary of the executive  
5 office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 343. Said section 6 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in line 25,  
3 the words “secretary of energy resources” and inserting in place  
4 thereof the following words:— undersecretary of the executive  
5 office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 344. Said section 6 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in line 26,  
3 the words “secretary of energy resources” and inserting in place  
4 thereof the following words:— undersecretary of the executive  
5 office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 345. Said section 6 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in line 31,  
3 the words “secretary of energy resources” and inserting in place  
4 thereof the following words:— undersecretary of the executive  
5 office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 346. Section 7 of said chapter 465, as so appearing,  
2 is hereby further amended by striking out, in lines 31 and 32, the  
3 words “secretary of energy resources” and inserting in place  
4 thereof the following words:— undersecretary of the executive  
5 office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 347. Said section 7 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in lines 32  
3 and 33, the words “secretary of energy resources” and inserting in  
4 place thereof the following words:— undersecretary of the execu-  
5 tive office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 348. Said section 7 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in line 50,  
3 the words “executive office of energy resources” and inserting in  
4 place thereof the following words:— department of alternative  
5 and renewable energy development.

1 SECTION 349. Said section 7 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in line 66,  
3 the words “secretary of energy resources” and inserting in place  
4 thereof the following words:— undersecretary of the executive  
5 office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 350. Said section 7 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in line 69,  
3 the words “secretary of energy resources” and inserting in place  
4 thereof the following words:— undersecretary of the executive  
5 office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 351. Said section 7 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in line 118,  
3 the words “executive office of energy resources” and inserting in  
4 place thereof the following words:— department of alternative  
5 and renewable energy development.

1 SECTION 352. Said section 7 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in line 125,  
3 the words “secretary of energy resources” and inserting in place  
4 thereof the following words:— undersecretary of the executive  
5 office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 353. Said section 7 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in line 132,  
3 the words “secretary of energy resources” and inserting in place  
4 thereof the following words:— undersecretary of the executive  
5 office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 354. Section 8 of said chapter 465, as so appearing,  
2 is hereby amended by striking out, in line 11, the words “secretary  
3 of energy resources” and inserting in place thereof the following  
4 words:— undersecretary of the executive office of energy affairs  
5 for alternative and renewable energy development.

1 SECTION 355. Said section 8 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in line 28,  
3 the words “executive office of energy resources” and inserting in  
4 place thereof the following words:— department of alternative  
5 and renewable energy development.

1 SECTION 356. Said section 8 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in lines 29  
3 and 30, the words “secretary of energy resources” and inserting in  
4 place thereof the following words:— undersecretary of the execu-  
5 tive office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 357. Said section 8 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in lines 31  
3 and 32, the words “secretary of energy resources” and inserting in  
4 place thereof the following words:— undersecretary of the execu-  
5 tive office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 358. Said section 8 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in line 41,  
3 the words “secretary of energy resources” and inserting in place  
4 thereof the following words:— undersecretary of the executive  
5 office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 359. Said section 8 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in line 44,  
3 the words “executive office of energy resources” and inserting in  
4 place thereof the following words:— department of alternative  
5 and renewable energy development.

1 SECTION 360. Said section 8 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in line 48,  
3 the words “executive office of energy resources” and inserting in  
4 place thereof the following words:— department of alternative  
5 and renewable energy development.

1 SECTION 361. Said section 8 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in lines 55  
3 and 56, the words “secretary of energy resources” and inserting in  
4 place thereof the following words:— undersecretary of the execu-  
5 tive office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 362. Said section 8 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in lines 59  
3 and 60, the words “secretary of energy resources” and inserting in  
4 place thereof the following words:— undersecretary of the execu-  
5 tive office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 363. Said section 8 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in line 63,  
3 the words “secretary of energy resources” and inserting in place  
4 thereof the following words:— undersecretary of the executive  
5 office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 364. Said section 8 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in line 68,  
3 the words “secretary of energy resources” and inserting in place  
4 thereof the following words:— undersecretary of the executive  
5 office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 365. Said section 8 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in line 70,  
3 the words “secretary of energy resources” and inserting in place  
4 thereof the following words:— undersecretary of the executive  
5 office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 366. Said section 8 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in line 71,  
3 the word “secretary” and inserting in place thereof the following  
4 words:— undersecretary of the executive office of energy affairs  
5 for alternative and renewable energy development.

1 SECTION 367. Said section 8 of said chapter 465, as so  
2 appearing, is hereby further amended by striking out, in lines 72  
3 and 73, the words “secretary of energy resources” and inserting in  
4 place thereof the following words:— undersecretary of the execu-  
5 tive office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 368. Section 9 of said chapter 465, as so appearing,  
2 is hereby amended by striking out, in line 1, the words “executive  
3 office of energy resources” and inserting in place thereof the  
4 following words:— department of alternative and renewable  
5 energy development.

1 SECTION 369. Section 12 of chapter 637 of the Acts of 1985 is  
2 hereby amended by striking out, in line 1, the words “executive  
3 office of energy resources” and inserting in place thereof the  
4 following words:— department of alternative and renewable  
5 energy development.

1 SECTION 370. Section 2 of chapter 489 of the Acts of 1986, as  
2 amended by section 64 of chapter 730 of the Acts of 1989, is  
3 hereby amended by striking out, in lines 1 and 2, the words “exec-  
4 utive office of energy resources” and inserting in place thereof the  
5 following words:— department of alternative and renewable  
6 energy development.

1 SECTION 371. Section 3 of said chapter 489, as amended by  
2 section 65 of chapter 730 of the Acts of 1989, is hereby amended  
3 by striking out, in its entirety, the definition of “Commissioner”.

1 SECTION 372. Said section 3 of said chapter 489, as so  
2 appearing, is hereby further amended by inserting after the defini-  
3 tion of “State plumbing code” the following definition:—  
4 “Undersecretary”, the undersecretary of alternative and renew-  
5 able energy development.

1 SECTION 373. Said section 3 of said chapter 489, as amended  
2 by section 67 of chapter 730 of the Acts of 1989, is hereby further  
3 amended by striking out, in line 74, the word “secretary” and  
4 inserting in place thereof the following word:— undersecretary of  
5 the executive office of energy affairs for alternative and renewable  
6 energy development.

1 SECTION 374. Said section 3 of said chapter 489, as so  
2 appearing, is hereby further amended by striking out, in line 77,  
3 the word “secretary” and inserting in place thereof the following  
4 word:— undersecretary of the executive office of energy affairs  
5 for alternative and renewable energy development.

1 SECTION 375. Section 1 of Chapter 670 of the Acts of 1987,  
2 as amended by section 68 of chapter 730 of the Acts of 1989, is  
3 hereby amended by striking out, in line 6, the words “secretary of

4 energy resources” and inserting in place thereof the following  
5 words:— undersecretary of the executive office of energy affairs  
6 for alternative and renewable energy development.

1 SECTION 376. Said section 1 of said chapter 670, as so  
2 appearing, is hereby further amended by striking out, in lines 11  
3 and 12, the words “secretary of energy resources” and inserting in  
4 place thereof the following words:— undersecretary of the execu-  
5 tive office of energy affairs for alternative and renewable energy  
6 development.

1 SECTION 377. Said section 1 of said chapter 670, as so  
2 appearing, is hereby further amended by striking out, in line 14,  
3 the word “secretary” and inserting in place thereof the following  
4 word:— undersecretary of the executive office of energy affairs  
5 for alternative and renewable energy development.

1 SECTION 378. Section 68 of chapter 164 of the Acts of 1997 is  
2 hereby amended by striking out, in lines 8 and 9, the words  
3 “section 20 of chapter 25” and inserting in place thereof the  
4 following words: section 12 of chapter 6C.

1 SECTION 379. Section 291 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking out, in line 4, the words  
3 “section 2 of chapter 25” and inserting in place thereof the follow-  
4 ing words: section 59 of chapter 6C.

1 SECTION 380. Section 305 of said chapter 164 is hereby  
2 amended by striking, in line 2, the words “department of telecom-  
3 munications and energy” and inserting in place thereof the follow-  
4 ing words:— executive office of energy affairs.

1 SECTION 381. Section 307 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in lines 4 and 5, the words  
3 “department of telecommunications and energy” and inserting in  
4 place thereof the following words:— executive office of energy  
5 affairs.

1 SECTION 382. Section 308 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in line 5, the words “telecom-

3 munications and energy” and inserting in place thereof the follow-  
4 ing words:— utility regulation and oversight.

1 SECTION 383. Section 309 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in lines 2 and 3, the words  
3 “department of telecommunications and energy, the division of  
4 energy resources,” and inserting in place thereof the following  
5 words:— executive office of energy affairs.

1 SECTION 384. Section 311 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in lines 31 and 32, the words  
3 “chairman of the department of telecommunications and energy”  
4 and inserting in place thereof the following words:— secretary of  
5 the executive office of energy affairs.

1 SECTION 385. Said section 311 of said chapter 164, as so  
2 appearing, is hereby further amended by striking, in line 35, the  
3 words “chairman of the department of telecommunications and  
4 energy” and inserting in place thereof the following words:— sec-  
5 retary of the executive office of energy affairs.

1 SECTION 386. Section 312 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in lines 2 and 3, the words  
3 “department of telecommunications and energy, in conjunction  
4 with the division of energy resources” and inserting in place  
5 thereof the following words:— the executive office of energy  
6 affairs.

1 SECTION 387. Said section 312 of said chapter 164, as so  
2 appearing, is hereby further amended by striking, in line 3 of the  
3 first paragraph, the words “division of energy resources” and  
4 inserting in place thereof the following words:— department of  
5 alternative and renewable energy development.

1 SECTION 388. Section 314 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in line 2 of the first paragraph,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— utility regulation and oversight.

1 SECTION 389. Section 314 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking out, in line 5, the words  
3 “section 5D of chapter 25” and inserting in place thereof the  
4 following words: section 66 of chapter 6C.

1 SECTION 390. Section 314 of said chapter 164, as so appear-  
2 ing, is hereby further amended by striking out, in lines 7 and 8,  
3 the words “section 5D of said chapter 25” and inserting in place  
4 thereof the following words: section 66 of said chapter 6C.

1 SECTION 391. Section 316 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in lines 2 through 4, inclusive,  
3 the words “the chairman of the department of telecommunications  
4 and energy is hereby authorized and directed, in conjunction with  
5 the commissioner of the community antenna television commis-  
6 sion established pursuant to chapter 166A of the General Laws,  
7 and inserting in place thereof the following words:— the secretary  
8 of the executive office of energy affairs is hereby authorized and  
9 directed.

1 SECTION 392. Section 318 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in line 16, the words “division  
3 of energy resources” and inserting in place thereof the following  
4 words:— department of alternative and renewable energy devel-  
5 opment.

1 SECTION 393. Said section 318 of said chapter 164, as so  
2 appearing, is hereby further amended by striking, in line 37, the  
3 words “division of energy resources” and inserting in place  
4 thereof the following words:— department of alternative and  
5 renewable energy development.

1 SECTION 394. Section 319 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in lines 2 and 3, the words  
3 “department of telecommunications and energy and the division of  
4 energy resources” and inserting in place thereof the following  
5 words:— executive office of energy affairs.

1 SECTION 395. Section 320 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking out, in line 1, the words  
3 “166A” and inserting in place thereof the following words:— 6C.

1 SECTION 396. Said section 320 of said chapter 164, as so  
2 appearing, is hereby further amended by striking, in lines 4 and 5,  
3 the words “department of telecommunications and energy” and  
4 inserting in place thereof the following words:— executive office  
5 of energy affairs.

1 SECTION 397. Section 321 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in line 3, the words “telecom-  
3 munications and energy” and inserting in place thereof the  
4 following words:— broadband, cable television and telecommuni-  
5 cations.

1 SECTION 398. Said section 321 of said chapter 164, as so  
2 appearing, is hereby further amended by striking, in line 6, the  
3 words “telecommunications and energy” and inserting in place  
4 thereof the following words:— broadband, cable television and  
5 telecommunications.

1 SECTION 399. Section 321 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking out, in line 13, the words  
3 “section 2 of said chapter 166A” and inserting in place thereof the  
4 following words:— section 34 of chapter 6C.

1 SECTION 400. Said section 321 of said chapter 164, as so  
2 appearing, is hereby further amended by striking, in line 19, the  
3 words “telecommunications and energy” and inserting in place  
4 thereof the following words:— broadband, cable television and  
5 telecommunications.

1 SECTION 401. Section 322 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in line 6 of the first paragraph,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— broadband, cable television and  
5 telecommunications.

1 SECTION 402. Section 323 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in line 5, the words “telecom-  
3 munications and energy” and inserting in place thereof the  
4 following words:— broadband, cable television and telecommuni-  
5 cations.

1 SECTION 403. Section 324 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in line 4 of the first paragraph,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— broadband, cable television and  
5 telecommunications.

1 SECTION 404. Section 325 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in line 4 of the first paragraph,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— broadband, cable television and  
5 telecommunications.

1 SECTION 405. Section 326 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in lines 4 and 5 of the first  
3 paragraph, the words “telecommunications and energy” and  
4 inserting in place thereof the following words:— broadband, cable  
5 television and telecommunications.

1 SECTION 406. Section 327 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in line 4 of the first paragraph,  
3 the words “telecommunications and energy” and inserting in place  
4 thereof the following words:— broadband, cable television and  
5 telecommunications.

1 SECTION 407. Section 328 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in line 4, the words “commis-  
3 sioners of the department of telecommunications and energy” and  
4 inserting in place thereof the following words:— public utility  
5 commission established pursuant to section 59 of chapter 6C.

1 SECTION 408. Section 329 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in line 5 of the first paragraph,  
3 the words “telecommunications and energy” and inserting in place

4 thereof the following words:— broadband, cable television and  
5 telecommunications.

1 SECTION 409. Section 330 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in line 3 of the first paragraph,  
3 the words “division of energy resources” and inserting in place  
4 thereof the following words:— executive office of energy affairs.

1 SECTION 410. Section 331 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking out, in line 28, the words  
3 “section 11C of chapter 25A” and inserting in place thereof the  
4 following words:— section 28 of chapter 6C.

1 SECTION 411. Section 331 of said chapter 164, as so appear-  
2 ing, is hereby further amended by striking out, in line 31, the  
3 words “11C” and inserting in place thereof the following words:—  
4 28.

1 SECTION 412. Section 332 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in line 1 of the first paragraph,  
3 the words “division of energy resources” and inserting in place  
4 thereof the following words:— department of alternative and  
5 renewable energy development.

1 SECTION 413. Section 332 of said chapter 164, as so appear-  
2 ing, is hereby further amended by striking out, in line 3, the words  
3 “11F of chapter 25A” and inserting in place thereof the following  
4 words: 20 of chapter 6C.

1 SECTION 414. Section 333 of said chapter 164, as so appear-  
2 ing, is hereby further amended by striking, in line 1, the words  
3 “division of energy resources” and inserting in place thereof the  
4 following words:— department of alternative and renewable  
5 energy development.

1 SECTION 415. Section 333 of said chapter 164, as so appear-  
2 ing, is hereby further amended by striking, in lines 7 and 8, the  
3 words “commissioner, or unless the building has a heat pump that  
4 meets energy-efficiency standards established by the commis-

5 sioner,” and inserting in place thereof the following words:—  
6 undersecretary, or unless the building has a heat pump that meets  
7 energy-efficiency standards established by the undersecretary,.

1 SECTION 416. Section 333 of said chapter 164, as so appear-  
2 ing, is hereby further amended by striking, in lines 10 and 11 of  
3 the first paragraph, the words “commissioner of energy resources”  
4 and inserting in place thereof the following words:— undersecre-  
5 tary for alternative and renewable energy development.

1 SECTION 417. Section 333 of said chapter 164, as so appear-  
2 ing, is hereby further amended by striking, in lines 18 and 19 of  
3 the first paragraph, the words “division of energy resources” and  
4 inserting in place thereof the following words:— department of  
5 alternative and renewable energy development.

1 SECTION 418. Section 334 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in lines 15 and 16, the words  
3 “; a member of the commission of the department of telecommu-  
4 nications and energy to be appointed by the commission; the com-  
5 missioner of the division of energy resources;” and inserting in  
6 place thereof the following words:— the secretary of the execu-  
7 tive office of energy affairs; the undersecretary of energy  
8 resources for alternative and renewable energy development;.

1 SECTION 419. Said section 334 of said chapter 164, as so  
2 appearing, is hereby further amended by striking, in line 17 of the  
3 first paragraph, the words “the commissioner of the division of  
4 energy resources;”.

1 SECTION 420. Section 335 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in line 6, the words “depart-  
3 ment of telecommunications and energy” and inserting in place  
4 thereof the following words:— executive office of energy affairs.

1 SECTION 421. Section 337 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking out, in lines 4 and 5, the words  
3 “2 of chapter 25” and inserting in place thereof the following  
4 words: 59 of chapter 6C.

1 SECTION 422. Section 337 of said chapter 164, as so appear-  
2 ing, is hereby further amended by striking out, in line 5, the word  
3 “2” and inserting in place thereof the following words:— 59.

1 SECTION 423. Section 339 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in lines 2 and 3, the words  
3 “department of telecommunications and energy and the division of  
4 energy resources” and inserting in place thereof the following  
5 words:— executive office of energy affairs.

1 SECTION 424. Section 340 of said chapter 164, as so appear-  
2 ing, is hereby amended by striking, in line 11 of the first para-  
3 graph, the words “a commissioner of the department of  
4 telecommunications and energy” and inserting in place thereof the  
5 following words:— the secretary of the executive office of energy  
6 affairs.

1 SECTION 425. Section 194 of chapter 463 of the Acts of 1998  
2 is hereby amended by striking out, in lines 3 and 4, the words “the  
3 chairman of the department of telecommunications and energy”  
4 and inserting in place thereof the following words:— the secretary  
5 of the executive office of energy affairs.

1 SECTION 426. Section 194 of chapter 463 of the Acts of 1998  
2 is hereby further amended by striking out, in line 6, the word  
3 “166A” and inserting in place thereof the following words:— 6C.

1 SECTION 427. Section 183 of chapter 26 of the Acts of 2003 is  
2 hereby amended by striking out, in line 30, the words “20 of chap-  
3 ter 25” and inserting in place thereof the following words:— 12 of  
4 chapter 6C.

1 SECTION 428. Section 183 of said chapter 26, as so appearing,  
2 is hereby further amended by striking out, in line 36, the words  
3 “20” and inserting in place thereof the following words:— 12.

1 SECTION 429. Section 183 of chapter 26, as so appearing, is  
2 hereby further amended by striking out, in line 38, the words “20”  
3 and inserting in place thereof the following words:— 12.

1 SECTION 430. Section 183 of chapter 26, as so appearing, is  
2 hereby further amended by striking out, in line 42, the words “20”  
3 and inserting in place thereof the following words:— 12.

1 SECTION 431. Section 11 of chapter 193 of the Acts of 2004 is  
2 hereby amended by striking out, in lines 53 and 54, the words  
3 “11C of chapter 25A” and inserting in place thereof the following  
4 words:— 28 of chapter 6C.

1 SECTION 432. Section 17 of chapter 140 of the Acts of 2005 is  
2 hereby amended by striking out, in lines 1 and 2, the words  
3 “telecommunications and energy” and inserting in place thereof  
4 the following words:— utility regulation and oversight.

1 SECTION 433. Section 18 of chapter 140 of the Acts of 2005 is  
2 hereby amended by striking out, in line 2, the words “division of  
3 energy resources” and inserting in place thereof the following  
4 words:— department of alternative and renewable energy.

1 SECTION 434. Section 22 of said chapter 140 is hereby  
2 amended by striking out, in lines 2 and 3, the words “11C of chap-  
3 ter 25” and inserting in place thereof the following words:— 28 of  
4 chapter 6C.

1 SECTION 435. Section 23 of said chapter 140 is hereby  
2 amended by striking out, in line 3, the words “subsection (a) of  
3 section 11C of chapter 25” and inserting in place thereof the  
4 following words:— section 28 of chapter 6C.

1 SECTION 436. Said chapter 140 is hereby amended by striking  
2 out section 23A and inserting in place thereof the following  
3 section:—  
4 Section 23A. The undersecretary of alternative and renewable  
5 energy shall establish a pilot program, hereinafter referred to as  
6 the HEAT Loan Program, to assist consumers with the purchase of  
7 energy efficient items for residential home modifications. For the  
8 purposes of this program, energy efficient items shall include  
9 home insulation, new window installation, advanced programma-  
10 ble thermostats, fuel efficient furnaces, boilers, oil, gas, propane,

11 or electric heating systems, solar domestic or fuel efficient hot  
12 water systems, materials for insulation or sealing of a duct, attic,  
13 basement, rim joint or wall and pipe insulation for heating sys-  
14 tems or other retail items for use in a residential dwelling that  
15 increase the energy efficiency of said dwelling.

16 In establishing the program, the undersecretary shall develop a  
17 list of qualified state or federally chartered banking institutions or  
18 credit unions that do business in the commonwealth and that are  
19 governed by chapter 167 or 171 of the General Laws as participa-  
20 tory lending institutions. For the purposes of this section, a quali-  
21 fied lending institution shall include a lending institution, as  
22 described herein that is certified by the executive office and which  
23 shall offer zero and low interest loans for the purpose of enhanc-  
24 ing the energy efficiency of a residential dwelling. The program  
25 shall be funded from that portion of the mandatory charge that is  
26 authorized by this section and allocated to residential customers  
27 consistent with section 11 of chapter 6C of the General Laws, pro-  
28 vided, however, that not less than \$5,000,000 shall be made avail-  
29 able to assist participating financial institutions in offering said  
30 loan products by or through interest rate write downs or other  
31 credit enhancement features, and provided further, that loans  
32 offered pursuant to the program shall be offered to residential  
33 homeowners in the commonwealth solely for the purposes stated  
34 herein. The department shall make such loans available for pur-  
35 chases made on or after January 1, 2006, but not later than  
36 December 31, 2006. The department shall establish the rules and  
37 guidelines to carry out the purposes of this section, including, but  
38 not limited to, establishing applicant criteria, application forms  
39 and procedures, and energy efficiency product requirements and  
40 lending institution tracking and reporting requirements. The  
41 department shall submit a report detailing the rules and guidelines  
42 to the joint committee on telecommunications, utilities and energy  
43 no later than January 1, 2006. The department shall submit a  
44 report detailing the program results no later than February 1, 2007  
45 to the joint committee on telecommunications, utilities and energy  
46 and the house and senate committees on ways and means.

1 SECTION 437. Section 115 of chapter 123 of the Acts of 2006  
2 is hereby amended by striking out the definition of “department”

3 and inserting in place thereof the following words:— “Depart-  
4 ment”, the department of broadband, cable television and telecom-  
5 munications established pursuant to section 32 of chapter 6C.

1 SECTION 438. Notwithstanding any general or special law to  
2 the contrary, the functions, rights, powers, duties, obligations and  
3 properties of the department of telecommunications and energy,  
4 exclusive of the transportation division of said department, the  
5 division of energy resources, the Massachusetts Renewable  
6 Energy Trust, and the division of community antenna television  
7 abolished by sections 35, 36, 76 and 299 of this act, respectively,  
8 are hereby transferred to and shall be exercised, performed and  
9 held by the executive office of energy affairs established pursuant  
10 to chapter 6C of the General Laws.

1 SECTION 439. Notwithstanding any general or special law to  
2 the contrary, the functions, rights, powers, duties, obligations and  
3 properties of the of the transportation division of the department  
4 of telecommunications and energy abolished by section 35 of this  
5 act are hereby transferred to and shall be exercised, performed and  
6 held by the department of transportation oversight within the  
7 executive office of transportation and construction established  
8 pursuant to chapter 6A of the General Laws.

1 SECTION 440. Notwithstanding any general or special law to  
2 the contrary, all employees of any department, office, commis-  
3 sion, committee, council, board, division, bureau, section, admin-  
4 istrative unit or other agency transferred by this act to the  
5 executive office of executive office of energy affairs who immedi-  
6 ately prior to the effective date of this act, either hold permanent  
7 appointment in positions classified under chapter 31 of the  
8 General Laws or have tenure in their positions by reason of  
9 section 9A of chapter 30 of the General Laws, are hereby trans-  
10 ferred to the executive office of energy affairs, or any such agency  
11 thereof, every such transfer to be without impairment of civil  
12 service status, seniority, retirement or other rights of the employee  
13 and without interruption of service within the meaning of chapter  
14 31 or said section 9A and without reduction in compensation or  
15 salary grade notwithstanding any change in title or duties resulting

16 from such transfer, subject to the provisions of chapter 31 and the  
17 rules and regulations adopted thereunder.

18 All employees of any such department, office, commission,  
19 committee, council, board, division, bureau, section, administra-  
20 tive unit or other agency who, immediately prior to said effective  
21 date, neither hold permanent appointment in such positions nor  
22 have such tenure, are hereby transferred to the executive office of  
23 energy affairs or to any such agency thereof, every such transfer  
24 to be without impairment of seniority, retirement or other rights of  
25 such employees, and without interruption of service within the  
26 meaning of section 9A of chapter 30 and without reduction in  
27 compensation or salary grade, notwithstanding any change in title  
28 or duties resulting from such transfer.

29 Nothing in this section shall be construed to confer upon any  
30 employee any rights not held immediately prior to the effective  
31 date of this act or to prohibit any reduction of salary or grade,  
32 transfer, reassignment, suspension, discharge, layoff or abolition  
33 of position not prohibited prior to said effective date.

1 SECTION 441. Notwithstanding any general or special law to  
2 the contrary, all employees of any department, office, commis-  
3 sion, committee, council, board, division, bureau, section, admin-  
4 istrative unit or other agency transferred by this act to the  
5 department of transportation oversight within the executive office  
6 of transportation and construction who immediately prior to the  
7 effective date of this act, either hold permanent appointment in  
8 positions classified under chapter 31 of the General Laws or have  
9 tenure in their positions by reason of section 9A of chapter 30 of  
10 the General Laws, are hereby transferred to the department of  
11 transportation oversight within the executive office of transporta-  
12 tion and construction, or any such agency thereof, every such  
13 transfer to be without impairment of civil service status, seniority,  
14 retirement or other rights of the employee and without interrup-  
15 tion of service within the meaning of chapter 31 or said section  
16 9A and without reduction in compensation or salary grade  
17 notwithstanding any change in title or duties resulting from such  
18 transfer, subject to the provisions of chapter 31 and the rules and  
19 regulations adopted thereunder.

20 All employees of any such department, office, commission,  
21 committee, council, board, division, bureau, section, administra-  
22 tive unit or other agency who, immediately prior to said effective  
23 date, neither hold permanent appointment in such positions nor  
24 have such tenure, are hereby transferred to the executive office of  
25 transportation and construction or to any such agency thereof,  
26 every such transfer to be without impairment of seniority, retire-  
27 ment or other rights of such employees, and without interruption  
28 of service within the meaning of section 9A of chapter 30 and  
29 without reduction in compensation or salary grade, notwithstand-  
30 ing any change in title or duties resulting from such transfer.

31 Nothing in this section shall be construed to confer upon any  
32 employee any rights not held immediately prior to the effective  
33 date of this act or to prohibit any reduction of salary or grade,  
34 transfer, reassignment, suspension, discharge, layoff or abolition  
35 of position not prohibited prior to said effective date.

1 SECTION 442. Notwithstanding any general or special law to  
2 the contrary, all petitions, hearings and other proceedings duly  
3 brought before, and all prosecutions and legal and other proceed-  
4 ings duly begun by any department, office, commission, commit-  
5 tee, council, board, division, bureau, section, officer,  
6 administrative unit, trust or other agency transferred by this act to  
7 the executive office of energy affairs, or any such agency thereof,  
8 which are pending immediately prior to the effective date of this  
9 act, shall continue unabated and remain in force notwithstanding  
10 the passage of this act, and shall thereafter be completed before or  
11 by said executive office or the appropriate agency thereof, as the  
12 case may be.

13 All orders, rules and regulations duly made, and all licenses,  
14 permits, certificates and approvals duly granted, by any depart-  
15 ment, office, commission, committee, council, board, division,  
16 bureau, section, officer, administrative unit, trust or other agency  
17 transferred by this act to the executive office of energy affairs, or  
18 any such agency thereof, which are pending immediately prior to  
19 the effective date of this act, shall continue in force and the provi-  
20 sions thereof shall thereafter be enforced, until superseded,  
21 revised, rescinded or cancelled in accordance with law, by the  
22 department, division or other appropriate agency within said exec-  
23 utive office or said executive office, as the case may be.

24 All questions regarding the identification of such petitions,  
25 hearings, prosecutions, proceedings, orders, rules, regulations,  
26 licenses, permits, certificates and approvals, and of the agencies to  
27 which the completion of enforcement thereof is so transferred,  
28 shall be determined by the secretary of the executive office of  
29 energy affairs.

1 SECTION 443. Notwithstanding any general or special law to  
2 the contrary, all petitions, hearings and other proceedings duly  
3 brought before, and all prosecutions and legal and other proceed-  
4 ings duly begun by any department, office, commission, commit-  
5 tee, council, board, division, bureau, section, officer,  
6 administrative unit or other agency transferred by this act to the  
7 department of transportation oversight within the executive office  
8 of transportation and construction, or any such agency thereof,  
9 which are pending immediately prior to the effective date of this  
10 act, shall continue unabated and remain in force notwithstanding  
11 the passage of this act, and shall thereafter be completed before or  
12 by said executive office or the appropriate agency thereof, as the  
13 case may be.

14 All orders, rules and regulations duly made, and all licenses,  
15 permits, certificates and approvals duly granted, by any depart-  
16 ment, office, commission, committee, council, board, division,  
17 bureau, section, officer, administrative unit or other agency trans-  
18 ferred by this act to the department of transportation oversight  
19 within the executive office of transportation and construction, or  
20 any such agency thereof, which are pending immediately prior to  
21 the effective date of this act, shall continue in force and the provi-  
22 sions thereof shall thereafter be enforced, until superseded,  
23 revised, rescinded or cancelled in accordance with law, by the  
24 department, division or other appropriate agency within said  
25 department of transportation oversight, as the case may be.

26 All questions regarding the identification of such petitions,  
27 hearings, prosecutions, proceedings, orders, rules, regulations,  
28 licenses, permits, certificates and approvals, and of the agencies to  
29 which the completion of enforcement thereof is so transferred,  
30 shall be determined by the director of the department of trans-  
31 portation oversight.

1 SECTION 444. Notwithstanding any general or special law to  
2 the contrary, all books, papers, records, property, documents,  
3 equipment, lands, interests in land, buildings, facilities and other  
4 property, both personal and real, which immediately prior to the  
5 effective date of this act, are in custody of any department, office,  
6 commission, committee, council, board, division, bureau, section,  
7 administrative unit, trust or other agency transferred by this act to  
8 the executive office of energy affairs, or any such agency thereof,  
9 are hereby transferred to the appropriate agency, that all such  
10 property held in trust shall continue to be held in trust by the  
11 appropriate agency, or if such agency shall decline such trust, by  
12 the trustee appointed by the secretary of energy affairs.

13 All questions regarding the identification of such property and  
14 of the agencies to which custody thereof is transferred shall be  
15 determined by the secretary of energy affairs.

1 SECTION 445. Notwithstanding any general or special law to  
2 the contrary, all books, papers, records, property, documents,  
3 equipment, lands, interests in land, buildings, facilities and other  
4 property, both personal and real, which immediately prior to the  
5 effective date of this act, are in custody of any department, office,  
6 commission, committee, council, board, division, bureau, section,  
7 administrative unit, trust or other agency transferred by this act to  
8 the department of transportation oversight within the executive  
9 office of transportation and construction, or any such agency  
10 thereof, are hereby transferred to the appropriate agency, that all  
11 such property held in trust shall continue to be held in trust by the  
12 appropriate agency, or if such agency shall continue to be held in  
13 trust by the appropriate agency, or if such agency shall decline  
14 such trust, by the trustee appointed by the secretary of transporta-  
15 tion and construction.

16 All questions regarding the identification of such property and  
17 of the agencies to which custody thereof is transferred shall be  
18 determined by the director of the department of transportation  
19 oversight.

1 SECTION 446. Notwithstanding any general or special law to  
2 the contrary, all duly existing contracts, leases and obligations of  
3 any department, office, commission, committee, council, board,

4 division, bureau, officer, section, administrative unit, trust or other  
5 agency transferred by this act to the executive office of energy  
6 affairs, or any such agency thereof, which are in force immedi-  
7 ately prior to the effective date of this act, shall thereafter be per-  
8 formed by the department, the appropriate agency within the  
9 executive office, or the executive office as the case may be. No  
10 existing right or remedy of any character shall be lost, impaired or  
11 affected by the provisions of this act.

1 SECTION 447. Notwithstanding any general or special law to  
2 the contrary, all duly existing contracts, leases and obligations of  
3 any department, office, commission, committee, council, board,  
4 division, bureau, officer, section, administrative unit or other  
5 agency transferred by this act to the department of transportation  
6 oversight within the executive office of transportation and con-  
7 struction, or any such agency thereof, which are in force immedi-  
8 ately prior to the effective date of this act, shall thereafter be  
9 performed by the department. No existing right or remedy of any  
10 character shall be lost, impaired or affected by the provisions of  
11 this act.

1 SECTION 448. Notwithstanding any general or special law to  
2 the contrary, all monies heretofore appropriated or collected for  
3 any department, office, commission, committee, council, board,  
4 division, bureau, section, administrative unit, trust, officer or  
5 other agency transferred by this act to the executive office of  
6 energy affairs, or any such agency thereof, remaining unexpended  
7 on the effective date of this act, are hereby transferred to said  
8 executive office and shall be available for expenditure by execu-  
9 tive office or the appropriate agency thereof for the purposes for  
10 which such funds were originally appropriated.

11 All questions regarding the identification of such monies and of  
12 the agencies to which they are so transferred shall be determined  
13 by the secretary of administration and finance.

1 SECTION 449. Notwithstanding any general or special law to  
2 the contrary, all monies heretofore appropriated for any depart-  
3 ment, office, commission, committee, council, board, division,  
4 bureau, section, administrative unit, officer or other agency trans-

5 ferred by this act to the department of transportation oversight  
6 within the executive office of transportation and construction, or  
7 any such agency thereof, remaining unexpended on the effective  
8 date of this act, are hereby transferred to said department of trans-  
9 portation oversight and shall be available for expenditure by  
10 department or the appropriate agency thereof for the purposes for  
11 which such funds were originally appropriated.

12 All questions regarding the identification of such monies and of  
13 the agencies to which they are so transferred shall be determined  
14 by the secretary of administration and finance.

1 SECTION 450. Notwithstanding any general or special law to  
2 the contrary, wherever in any special or general law or in any rule  
3 or regulation there is provided a right of appeal to any department,  
4 office, commission, committee, council, board, division, bureau,  
5 section, administrative unit, or officer of other agency transferred  
6 by this act to the executive office of energy affairs, or any such  
7 agency thereof, a right of appeal to the appropriate agency within  
8 the executive office, or to the executive office as the case may be,  
9 shall exist and such appeal shall be made pursuant to the provi-  
10 sions of any applicable law, rule or regulation or amendments  
11 thereto or, in the absence of such applicable law, rule or regula-  
12 tion, pursuant to chapter 30A of the General Laws.

1 SECTION 451. Notwithstanding any general or special law to  
2 the contrary, wherever in any special or general law or in any rule  
3 or regulation there is provided a right of appeal to any department,  
4 office, commission, committee, council, board, division, bureau,  
5 section, administrative unit, trust, officer or other agency trans-  
6 ferred by this act to the department of transportation oversight  
7 within the executive office of transportation and construction, or  
8 any such agency thereof, a right of appeal to the appropriate  
9 agency within the executive office, or to the executive office as  
10 the case may be, shall exist and such appeal shall be made pur-  
11 suant to the provisions of any applicable law, rule or regulation or  
12 amendments thereto or, in the absence of such applicable law, rule  
13 or regulation, pursuant to chapter 30A of the General Laws.

1 SECTION 452. Notwithstanding any general or special law to  
2 the contrary, wherever the name of any department, office, com-

3 mittee, commission, council, board, division, bureau, section,  
4 administrative unit or agency transferred by this act or the name  
5 of any agency which is abolished by this act the functions of  
6 which are transferred to the executive office of energy affairs, or  
7 any such agency thereof, appears in any general or special law, or  
8 in any order, rule, regulation or other document, such name shall  
9 mean and shall be construed as referring to the executive office or  
10 the appropriate agency thereof, as the case may be.

1 SECTION 453. Notwithstanding any general or special law to  
2 the contrary, wherever the name of any department, office, com-  
3 mittee, commission, council, board, division, bureau, section,  
4 administrative unit or agency transferred by this act or the name  
5 of any agency which is abolished by this act the functions of  
6 which are transferred to the department of transportation oversight  
7 within the executive office of transportation and construction, or  
8 any such agency thereof, appears in any general or special law, or  
9 in any order, rule, regulation or other document, such name shall  
10 mean and shall be construed as referring to the executive office or  
11 the appropriate agency thereof, as the case may be.

1 SECTION 454. Notwithstanding any general or special law to  
2 the contrary, all powers, duties and other statutory provisions  
3 which, prior to the effective date of this act, were assigned to, or  
4 exercised by, any department, office, commission, committee,  
5 council, board, division, bureau, section, administrative unit, offi-  
6 cer, trust or other agency transferred by this act to the executive  
7 office of energy affairs, or any such agency thereof, shall continue  
8 to be exercised and performed by, and to be assigned to the appro-  
9 priate agency or officer within the executive office or any such  
10 agency thereof except as such powers, duties or other statutory  
11 provisions are modified by this act.

1 SECTION 455. Notwithstanding any general or special law to  
2 the contrary, all powers, duties and other statutory provisions  
3 which, prior to the effective date of this act, were assigned to, or  
4 exercised by, any department, office, commission, committee,  
5 council, board, division, bureau, section, administrative unit, offi-  
6 cer, or other agency transferred by this act to the department of  
7 transportation oversight within the executive office of transporta-

8 tion and construction, or any such agency thereof, shall continue  
9 to be exercised and performed by, and to be assigned to the appro-  
10 priate agency or officer within the department or any such agency  
11 thereof except as such powers, duties or other statutory provisions  
12 are modified by this act.

1 SECTION 456. Notwithstanding any general or special law to  
2 the contrary, the secretary of the executive office of energy affairs  
3 shall make recommendations regarding what supplemental state  
4 funds, if any, shall be expended for the federal Low Income Home  
5 Energy Assistance Program, pursuant to 42 U.S.C. Section 8621  
6 et seq., for the purpose of assisting low-income elders, working  
7 families and other households with the purchase of heating oil,  
8 propane, natural gas and electricity and other primary or sec-  
9 ondary heating sources; provided, however, that any recom-  
10 mended expenditures of these supplemental funds shall be made  
11 in accordance with the state plan submitted by the department of  
12 housing and community development in accordance with said fed-  
13 eral program. The recommendations shall include recommended  
14 funding levels and funding sources. The secretary of the executive  
15 office of energy affairs shall submit the plan to the joint commit-  
16 tee on telecommunications, utilities and energy not later than  
17 October 1, 2007.

1 SECTION 457. Notwithstanding any general or special law to  
2 the contrary, there is hereby established a commission which shall  
3 study the siting of energy facilities in the commonwealth. Said  
4 study shall include, but not be limited to, the following: (i) the  
5 development of a procedure for coordinating and consolidating  
6 applications to construct generating facilities between and among  
7 the energy facilities siting board, the department of environmental  
8 protection, and other appropriate agencies, to enable one-stop  
9 shopping, so-called, for necessary permits or certificates or other  
10 appropriate streamlining of the permitting system; (ii) the expan-  
11 sion of such coordinated procedures to other energy facilities, if  
12 appropriate; (iii) possible changes to the energy facilities siting  
13 board's procedures for reviewing electric and gas transmission  
14 lines in light of recent and proposed changes in the structure and  
15 regulation of the electric and gas industries, including regional

16 approaches to the siting of such facilities; (iv) clarification of the  
17 energy facilities siting board's jurisdiction over the repowering of  
18 existing generating facilities at existing sites and the appropriate  
19 standards for reviewing such repowerings; (v) the development of  
20 coordinated procedures to encourage the reuse of existing indus-  
21 trial sites for the development of generating facilities; (vi) the  
22 issue of application fees paid by developers to the energy facilities  
23 siting board and the correlation of such fees to the board's proce-  
24 dures, as statutorily revised pursuant to this act, in reviewing such  
25 applications; provided, that said study shall include, but not be  
26 limited to, recommendations, if any, on reducing the application  
27 fee paid by developers to the board in light of the board's statuto-  
28 rily revised standards of review of such applications pursuant to  
29 the provisions of this act; (vii) the establishment of a site charac-  
30 terization and suitability commission within the department of  
31 environmental protection, which would promulgate criteria to be  
32 applied to sites included in an application before the energy facili-  
33 ties siting board and rule on suitability of a proposed site as before  
34 said application is approved; and (viii) the possibility of requiring  
35 applicants to provide either (a) evidence that the proposed facility  
36 would employ the best available and most efficient technology to  
37 control and reduce water withdrawals, or (b) a description of the  
38 environmental impacts, costs, and reliability of the water with-  
39 drawal method chosen and an explanation of why the proposed  
40 technology was chosen.

41 Said study commission shall consist of the following members:  
42 the secretary of the executive office of energy affairs, or his  
43 designee, who shall serve as the chairman of said study commis-  
44 sion; the commissioner of the department of environmental pro-  
45 tection, or his designee; a member of the energy facilities siting  
46 board other than the secretary of energy affairs, who shall be  
47 selected to serve on said commission by the governor; the house  
48 and senate chairmen of the joint committee on telecommunica-  
49 tions, utilities and energy; the house and senate chairmen of the  
50 joint committee economic development and emerging technolo-  
51 gies; and 10 members to be appointed by the governor, 1 of whom  
52 shall be a representative of the Massachusetts municipal associa-  
53 tion, 1 of whom shall be a representative of the Massachusetts  
54 association of health boards, 2 of whom shall be a representative

55 of an environmental protection organization, 2 of whom shall be  
56 representatives of the electric industry, including one member of  
57 the electric generation industry and one member representing an  
58 electric utility, 1 of whom shall be a representative of the gas  
59 industry, 1 of whom shall represent residential ratepayers, and 2 of  
60 whom shall be recommended by the Massachusetts AFL-CIO.  
61 Said study commission shall issue a final report, which shall  
62 include the results of its review and analysis, to the joint commit-  
63 tees on telecommunications, utilities and energy, the joint commit-  
64 tee on economic development and emerging technologies,  
65 respectively, and the house and senate committees on ways and  
66 means on or before July 1, 2008.

1 SECTION 458. (a) Notwithstanding any general or special law  
2 to the contrary, each electric and gas company in the common-  
3 wealth shall provide to the secretary of the executive office of  
4 energy affairs, a progress report detailing the status of the arrear-  
5 age management programs for eligible low-income customers,  
6 pursuant to chapter 164 of the General Laws. Each electric and  
7 gas company shall provide said progress report to the secretary no  
8 later than April 1, 2007. The secretary shall review and approve  
9 each progress report with such modifications as the secretary  
10 deems appropriate, no later than September 1, 2007. The secretary  
11 shall continue to conduct an annual review of such programs and  
12 may at any time order such revisions or modifications as the sec-  
13 retary deems appropriate. For purposes of this section, an arrear-  
14 age management program shall include a plan under which  
15 companies work with eligible low-income customers to establish  
16 affordable payment plans and provide credits to those customers  
17 toward the accumulated arrears where such customers comply  
18 with the terms of the program.

19 (b) The secretary shall require a company that initially offers a  
20 low income customer who has an arrearage, but whose utility  
21 service has not yet been terminated, a payment plan of not less  
22 than 4 months including the initial down payment of 25 per cent  
23 of the balance owed, and the remaining repayment balance  
24 amounts shall be divided equally; provided, however, that the sec-  
25 retary may authorize a repayment period of less than 4 months for  
26 good cause. A company making such a request shall notify the

27 customer that the request has been made. This paragraph shall not  
28 limit the right of a customer to request a payment plan of more  
29 than 4 months or limit the authority of the secretary to order a  
30 payment plan of more than 4 months either on an individual basis  
31 or through revisions to its billing and termination regulations.

1 SECTION 459. Notwithstanding any general or special law to  
2 the contrary, the secretary of executive office of energy affairs  
3 shall, in conjunction with the public utilities commission imple-  
4 ment a “pay as you save” pilot program, allowing electric utility  
5 customers to purchase and install renewable energy products in  
6 their residences or commercial facilities, by paying the cost of the  
7 system over time through an additional charge on the customer’s  
8 electricity bill. The cost of the products purchased under the pilot  
9 program shall be added to the electric utility customer’s utility  
10 bills, as a monthly PAYS tariff, and shall be paid until the cost of  
11 purchase and installation of the products is paid off. The payment  
12 structure shall be implemented so that the charge on the electric  
13 utility customer’s utility bill shall be less than the energy savings  
14 of that customer over the course of each given year. Non-payment  
15 by the owner of the PAYS tariff shall result in disconnection, and  
16 a utility shall be entitled to recover the debt.

17 The pilot program shall be established with a minimum of 50  
18 participants and a maximum of 200 participants. The maximum  
19 project size for the program shall be \$1,000 for commercial utility  
20 customers and \$500 for residential utility customers. Portable  
21 electrical cost measures shall not be funded. “Quick pay” options  
22 shall be explored, allowing customers to have the option to pay  
23 off the entire balance of the amount financed on the first billing  
24 cycle. The program shall be funded from a percentage of the sys-  
25 tems-benefit-charge funded energy efficiency budget as deter-  
26 mined by the secretary that shall be used to offset the cost of the  
27 program for the utilities, and as such payments for the purchases  
28 are paid to said utilities.

29 The pilot program shall be implemented no later than July 1,  
30 2007 and shall expire on December 31, 2007.

1 SECTION 460. Notwithstanding any general or special law to  
2 the contrary, the secretary of the executive office of energy affairs

3 shall establish a 2 year pilot program providing smart meters to resi-  
4 dential and commercial industrial customers along with implementa-  
5 tion of phone and e-mail notification systems to warn those  
6 customers of high prices so they can reduce their usage accordingly.

7 The secretary of the executive office of energy affairs shall  
8 establish a demand-response pilot program providing commercial  
9 and residential consumers with the necessary equipment to partici-  
10 pate in such a program.

11 The program shall provide 5,000 smart meters to residential  
12 and commercial participants. This shall be a 2 year pilot program  
13 beginning in November 1, 2007 and ending on November 1, 2009.  
14 The secretary of energy shall direct electric utilities located in the  
15 commonwealth to install meters capable of recording hourly  
16 energy use at the service location of each customer that elects  
17 real-time pricing. In addition to providing 5,000 meters, the secre-  
18 tary of energy shall direct the electric utilities to implement phone  
19 and e-mail notification systems to participants necessary for partici-  
20 pation in the pilot program. This pilot program is intended to  
21 help consumers lower their monthly utility bills and reduce elec-  
22 tricity demand.

23 Following the completion of the pilot program, the secretary of  
24 energy shall submit a report to the house and senate no later than  
25 February 1, 2010 detailing the operation and results of the pro-  
26 gram, including information concerning changes in customers'  
27 energy use patterns, an assessment of the value of the program to  
28 both participants and non-participants, and recommendations con-  
29 cerning modification of the program.

1 SECTION 461. Notwithstanding any general or special law to  
2 the contrary, the department of utility regulation and oversight  
3 shall open an investigation into the efficiency of the existing elec-  
4 tric and gas utility rate structure including, but not limited to, the  
5 practice of coupling utility profits with the volume of commodity  
6 sales and into standby rates and other rates and charges levied by  
7 electric utilities to determine if said rates and charges constitute a  
8 barrier to the increased development, construction or use of  
9 renewable or alternative energy technologies in the common-  
10 wealth. The department shall report its findings together with rec-  
11 ommendations for legislation, if any, no later than March 1, 2008.

12 Said report shall be filed with the clerk of the house of representa-  
13 tives, the clerk of the senate and the chairs of the joint committee  
14 on telecommunications, utilities and energy.

1 SECTION 462. (a) Notwithstanding any general or special law  
2 to the contrary, there shall be established an integrated bio-fuels  
3 research and development consortium within the University of  
4 Massachusetts. The consortium shall consist of the President of  
5 the University of Massachusetts, or his designee, the secretary of  
6 the executive office of energy affairs established pursuant to chap-  
7 ter 6C of the General Laws, or his designee, the undersecretary of  
8 the executive office of energy affairs for alternative and renewable  
9 energy development established pursuant to said chapter 6C, inter-  
10 ested representatives of the bio-fuel industry and members of the  
11 faculty and staff from institutions of higher education seeking to  
12 promote research and development in the Commonwealth related  
13 to the bio-fuels industry.

14 The purpose of the consortium shall be to enable state govern-  
15 ment, academic and industry collaboration in research to accelerate  
16 the development of bio-fuels, specifically an increased understand-  
17 ing of fundamentals of bio-fuels production and optimized methods  
18 of production of premium bio-fuels from regionally available feed  
19 stocks. The consortium shall develop a strategic framework to accel-  
20 erate the development and deployment of commercially viable bio-  
21 fuels, and facilitate expansive bio-fuel research throughout the  
22 Commonwealth. Said strategic framework shall include, but shall  
23 not be limited to, the following: (i) promoting infrastructure for cel-  
24 lulosic feedstock delivery to processing plants and for the distribu-  
25 tion of ethanol to motor fuel distributors; (ii) assisting in the  
26 expedited siting and permitting of ethanol or bio-diesel manufactur-  
27 ing or distribution facilities within the Commonwealth; (iii) provid-  
28 ing a repository for information relevant to prospective bio-fuel  
29 related developers; (iv) identifying public lands available for energy  
30 crop cultivation; (v) conducting outreach to owners of private farm  
31 land for cultivation of energy crops; (vi) fostering the development  
32 of a market for energy crops; (vii) identifying potential matching  
33 grants from the private sector to supplement the grants provided to  
34 the consortium

35 (b) The consortium shall qualify, and may apply, for a grant  
36 from the Massachusetts Clean Energy Trust Fund established pur-  
37 suant to section xx of chapter 6C of the General Laws.

38 (c) The consortium shall annually, no later than December 31,  
39 submit a report on the activities of the consortium to the clerk of  
40 the house of representatives, the clerk of the senate, the chairs of  
41 the house and senate committees on ways and means, the chairs of  
42 the joint committee on economic development and emerging tech-  
43 nologies and the chairs of the joint committee on telecommunica-  
44 tions, utilities and energy. The annual report shall include: (i) a  
45 list of grant or loan recipients from the fund; (ii) the associated  
46 amounts received by each recipient; (iii) the amount of non-state  
47 funding leveraged by the consortium; (iv) the purpose of the  
48 grants or loans from the by the consortium; (v) an annual state-  
49 ment of cash inflows and outflows detailing the sources and uses  
50 of revenue generated by the consortium; (vi) a detailed breakdown  
51 of the purposes and amounts of administrative costs charged to the  
52 consortium and (vii) recommendations on whether the Common-  
53 wealth should explore additional incentives to promote bio-fuel  
54 development, including but not limited to, whether the Common-  
55 wealth should explore tax deductions, tax credits, additional grant  
56 programs or state mandates.

1 SECTION 463. Notwithstanding any general or special law to  
2 the contrary, there shall be established a special commission to  
3 study the siting and commercialization of bio-fuel manufacturing  
4 facilities and the environmental, transportation and other legal and  
5 regulatory changes necessary to promote the expansion of service  
6 stations to provide bio-fuels for vehicles and energy generation  
7 facilities in the commonwealth. Said commission shall consist of  
8 the following members: the secretary of the executive office  
9 of energy affairs or his designee, who shall serve as the chairman  
10 of the commission; the secretary of the executive office of trans-  
11 portation and construction or his designee; the secretary of the  
12 executive office of environmental affairs or his designee; the sec-  
13 retary of the executive office of economic development or his  
14 designee; the commissioner of the department of environmental  
15 protection; the house and senate chairmen of the joint committee  
16 on telecommunications, utilities and energy; the house and senate

17 chairmen of the joint committee on economic development and  
18 emerging technologies; and 10 members to be appointed by the  
19 governor, 1 of whom shall be a representative of the automotive  
20 industry, 1 of whom shall be a representative of the service station  
21 industry, 1 of whom shall be a member of the associated industries  
22 of Massachusetts, 2 of whom shall be representatives of an envi-  
23 ronmental protection organization, 2 of whom shall be representa-  
24 tives of a bio-fuels organization or business, 1 of whom shall be a  
25 representative of the Massachusetts technology collaborative, 1 of  
26 whom shall be a representative of the Massachusetts development  
27 finance agency and 1 of whom shall be a representative of the  
28 Massachusetts alliance for economic development.

29 The commission shall annually, no later than December 31,  
30 submit a report on the activities of the commission to the clerk of  
31 the house of representatives, the clerk of the senate, the chairs of  
32 the house and senate committees on ways and means, the chairs  
33 of the joint committee on economic development and emerging  
34 technologies and the chairs of the joint committee on telecommu-  
35 nications, utilities and energy.

1 SECTION 464. The secretary shall develop a plan to reduce  
2 total energy consumption in the commonwealth by at least 10 per  
3 cent by 2017 through the development and implementation of the  
4 energy efficiency and green communities program that utilize  
5 renewable energy, demand reduction, conservation and energy  
6 efficiency. The secretary shall annually, no later than September  
7 1st, establish an annual reduction target for the commonwealth for  
8 the following calendar year.