

HOUSE No. 4863

Text of an amendment recommended by the committee on Ways and Means to the Senate Bill relative to economic development reorganization (Senate, No. 2380), as changed by the committee on Bills in the Third Reading and as amended by the House. July 6 and 7, 2010.

The Commonwealth of Massachusetts

In the Year Two Thousand and Ten

By striking out all after the enacting clause and inserting in place thereof the following: —

“NO SECTION 1.

NO SECTION 2.

SECTION 2A. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations, and to meet certain requirements of law, the sums set forth in this section are hereby appropriated from the General Fund unless specifically designated otherwise, for the several purposes and subject to the conditions specified in this section, and subject to laws regulating the disbursement of public funds for the fiscal year ending June 30, 2010; provided, that notwithstanding any general or special law to the contrary, appropriations made herein shall not revert and shall be available for expenditure until June 30, 2011. The sums shall be in addition to any amounts previously appropriated and made available for the purposes of these items.

1100-7400 For the recapitalization of the Massachusetts Growth Capital Corporation.....
.....\$20,000,000.

7007-9031 For the recapitalization of the Massachusetts Technology Development Corporation,
established pursuant to section 3 of chapter 40G of the General
Laws.....\$5,000,000.

SECTION 2B. To provide for a program of infrastructure development and improvements, the sums set forth in section 2B for the several purposes and subject to the conditions specified in this act, are hereby made available, subject to the laws regulating the disbursement of public funds and approval thereof.

6001-0817 For the recapitalization of the grant program to provide for commercial and residential transportation and infrastructure development, improvements and various capital investment projects under the Growth Districts Initiative established by the executive office of housing and economic development; provided, that the secretary of housing and economic development, in consultation with the secretary of the Massachusetts department of transportation, shall adopt, amend or continue regulations or guidelines regarding this program; provided further, that annually not later than December 31, the secretary of housing and economic development shall issue a written report to the clerks of the senate and house of representatives, the chairs of senate and house committees on bonding, capital expenditures and state assets, the chairs of the joint committee on transportation, the chairs of the joint committee on economic development and emerging technologies, the chairs of the Joint Committee on State Administration and Regulatory Oversight and the chairs of the senate and house committees on ways and means, which shall include detailed descriptions of infrastructure improvement projects funded pursuant to this program and all funds expended for this purpose.....\$50,000,000.

SECTION 3. Section 16G of chapter 6A of the General Laws is hereby amended by striking out, in lines 2 and 3, as appearing in the 2008 Official Edition, the words ‘a department’ and inserting in place thereof the following words:- the Massachusetts office.

SECTION 4. Said section 16G of said chapter 6A, as so appearing, is hereby further amended by striking out subsections (i) and (j) and inserting in place thereof the following subsection:-

(i) During the first year of each new gubernatorial administration, there shall convene an economic development planning council consisting of 12 members: 1 of whom shall be the secretary of housing and economic development, who shall serve as chair; 1 of whom shall be the secretary of administration and finance; 1 of whom shall be the secretary of labor and workforce development; 1 of whom shall be the secretary of energy and environmental affairs; 1 of whom shall be the secretary of transportation; 1 of whom shall be appointed by Speaker of the House of Representatives; 1 of whom shall be appointed by the President of the Senate; and 5 of whom shall be appointed by the governor: 1 of whom shall be the president of the University of Massachusetts or a president from a community college, 1 of whom shall be a representative from Associated Industries of Massachusetts, 1 of whom shall be a representative from the Massachusetts municipal association, 1 of whom shall be a representative from a chamber of commerce, and 1 of whom shall be from a venture capital firm with a principal place of business in Massachusetts. Members of the council shall serve for a term of 1 year or until an economic development policy has been approved by the governor pursuant to this section.

The secretary, with the assistance of the economic development planning council established under this section, shall develop and implement during the first year of each new gubernatorial administration, a

comprehensive economic development policy for the commonwealth and a strategic plan for implementing the policy. The policy shall set forth long-term goals and actionable benchmarks that are not limited to a particular gubernatorial administration and shall give consideration to any impacts the plan may have on businesses employing 10 or fewer people. In developing the policy, the council may hold public hearings in regions throughout the commonwealth. Once a policy has been finalized, it shall be submitted to the governor for approval and made available on the official website of the commonwealth.

SECTION 5. Subsection (k) of said section 16G of said chapter 6A, as so appearing, is hereby amended by striking out the sixth sentence.

SECTION 6. Section 35J of chapter 10 of the General Laws, as so appearing, is hereby amended by striking out, in lines 16 and 17, the words ‘International Trade Council’ and inserting in place thereof the following words:- international trade office.

SECTION 7. Section 1 of chapter 23A of the General Laws, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words ‘department of business and technology in this chapter called the department, which shall be under the control of the director of business and technology’ and inserting in place thereof the following words:- Massachusetts office of business development, in this chapter referred to as MOBD, which shall be under the control of the director of business development,.

SECTION 8. Said section 1 of said chapter 23A, as so appearing, is hereby amended by striking out subsection (b).

SECTION 9. Section 3A of said chapter 23A is hereby amended by striking out the definition of ‘Enhanced expansion product’, inserted by section 2 of chapter 166 of the acts of 2009, and inserting in place thereof the following definition:-

‘Enhanced expansion project’, a facility that in its entirety and as of the project proposal date: (i) is located or will be located within the commonwealth; (ii) generates substantial sales from outside of the commonwealth; and (iii) generates a net increase of at least 100 full-time employees within 2 years before or after project certification, but not before January 1 of the year preceding the year in which the project receives certification, and which shall be maintained for a period of not less than 5 years; provided, however, that in the case of a facility that as of the project proposal date is already located in the commonwealth, ‘enhanced expansion project’ shall refer only to a facility at which the controlling business has expanded or proposed to expand the number of permanent full-time employees at such facility and the expansion shall represent: (1) an increase in the number of permanent full-time employees employed by the controlling business within the commonwealth; and (2) not a replacement or relocation of permanent full-time employees employed by the controlling business at any other facility located

within the commonwealth; and provided further, that in the case of a facility to be located within the commonwealth after the project proposal date, 'enhanced expansion project' shall refer only to a facility that is: (a) the first facility of the controlling business to be located within the commonwealth; or (b) a new facility of such business and not a replacement or relocation of an existing facility of such controlling business located within the commonwealth; or an expansion of an existing facility of the controlling business that results in an increase in permanent full-time employees.

SECTION 10. The definition of 'Facility' in said section 3A of said chapter 23A, as amended by section 3 of said chapter 166, is hereby further amended by inserting after the word 'buildings' the following words 'or locations'.

SECTION 11. The definition of 'gateway municipalities' in said section 3A of said chapter 23A, inserted by said section 3 of said chapter 166, is hereby amended by striking out the words 'educational attainment rates that are below the commonwealth's average' and inserting in place thereof the following words:-

a rate of educational attainment of a bachelor's degree or above that is below the commonwealth's average.

SECTION 11A. Said section 3A of said chapter 23A is hereby further amended by inserting after '35,000' the following:- and less than 250,000.

NO SECTION 12.

SECTION 13. Said section 3A of said chapter 23A is hereby amended by striking the definition of 'manufacturing retention project', inserted by said section 3 of said chapter 166, and inserting in place thereof the following definition:-

'Manufacturing retention and job growth project', a manufacturing facility that in its entirety and as of the project proposal date: (i) is located or will be located within a gateway municipality; (ii) retains a minimum of at least 50 permanent full-time positions or creates a minimum of 25 new full-time positions; provided, however, that if the controlling business increases the number of full-time positions at the facility, it shall be within 2 years after certification of the project and the controlling business shall make a commitment that the positions created or retained are to be maintained for at least a 5-year period; and (iii) generates substantial sales from outside of the commonwealth; provided, however, that in the case of a facility that as of the project proposal date is already located in the gateway municipality, 'manufacturing retention project' shall refer only to a facility for which there is a proposed expansion or retention of the number of permanent full-time employees at such facility by the controlling business, to occur after the project proposal date and the expansion shall represent a retention of at least 50 permanent full-time positions or creates a minimum of 25 new full-time positions employed by the controlling

business within the project and shall not represent a replacement or relocation of permanent full-time employees employed by the controlling business at any other facility located within the commonwealth; and provided further, that in the case of a facility to be located after the project proposal date, the 'manufacturing retention project' shall refer only to a facility that is: (1) the first facility of the controlling business to be located within the commonwealth; or (2) a new facility of such business and not a replacement or relocation of an existing facility of such controlling business located within the commonwealth.

SECTION 14. Said section 3A of said chapter 23A is hereby further amended by inserting after the definition of 'Manufacturing retention project proposal', inserted by said section 3 of said chapter 166, the following definition:

'Massachusetts office of business development' or 'MOBD' the office established by section 1.

SECTION 15. Section 3F of said chapter 23A, as most recently amended by section 11 of chapter 166 of the acts of 2009, is hereby amended by striking, each time it appears, the term 'manufacturing retention' and inserting in place thereof the following words:- manufacturing retention and job growth.

SECTION 16. Section 3I of said chapter 23A is hereby amended by striking out, in line 2 and line 33, as appearing in the 2008 Official Edition, the words 'the department' and inserting in place thereof, in each instance, the following words:- Massachusetts office of business development.

SECTION 17. Said chapter 23A is hereby further amended by inserting after section 3I the following sections:-

Section 3J. (a) The Massachusetts office of business development, or MOBD, shall partner with statewide and regional economic development organizations, including, but not limited to, public- private alliances promoting economic development, to establish a plan for business development to support statewide and regionally-based efforts to grow and retain existing businesses and attract new business to the commonwealth. The plan shall include the municipalities which comprise the region to be served under the plan and a contact for businesses seeking assistance, services or information from the commonwealth in that region. MOBD may contract with economic development organizations to implement the statewide and regional plan and provide services, including statewide site finding, to businesses.

(b) Eligible organizations for contract under this section shall be corporations, foundations, organizations or institutions that are exempt from federal taxation under section 501(c) of the Internal Revenue Code and have a primary focus on economic development in the commonwealth. Governmental regional entities which serve as regional or district planning commissions under chapter 40B, regional employment boards, tourism councils under section 14 of chapter 23A, or entities which are a political subdivision of a municipality or wholly owned by a municipality shall not be eligible.

(c) Each contract entered into by MOBD shall include performance criteria specific to the contracting organization developed under section 3K and uniform standards for the use of contract funds related to accounting procedures, personnel practices, purchasing procedures and conflict of interest rules. As a condition to its receipt of funds, the contracting organization shall agree to follow these standards and to perform the contracted services in conformity with conflict of interest rules which shall include provisions requiring that in any matter where a person, corporation or other business entity in which any partner is in any way interested, such interest is disclosed in advance and further, that no partner having such an interest may participate in a decision relating to such person, corporation or other business entity. The contracting organization shall also agree to a biennial audit and examination of its audited financial statements conducted by the auditor of the commonwealth.

(d) MOBD shall establish standard governance provisions to be required of regional economic development organizations that contract with the commonwealth as provided in this section.

(e) Contracts entered into under this section shall be for a term not greater than 2 years, and may provide for the renewal of the contract at the discretion of MOBD, provided that the renewal shall be for a term not longer than 2 years. Nothing in this subsection shall preclude an organization from reapplying to provide services under a new contract.

(f) Organizations entering into contracts with the commonwealth under this section may enter into additional contracts with the commonwealth to provide additional regional services which do not constitute business assistance activities.

(g) If MOBD determines, through a request for proposal process, that no organization meets the requirements set forth in this section to be a regional contact, MOBD may either rebid the contract or serve as the primary coordinator for development initiatives in that region and rebid the contract at its discretion.

(h) The contact under a regional plan for business development shall, under the terms of the contract with MOBD, be required to perform the following services on behalf of the commonwealth:

(i) act as a contact for businesses seeking assistance from state or local governments, including those seeking to locate within the region or expand existing operations;

(ii) identify public funding sources for business activity and provide assistance in accessing public tax incentive programs;

(iii) identify potential sites for business development and maintain an inventory of key development parcels;

(iv) market the identified region in coordination with the Massachusetts marketing partnership established under section 13A and in compliance with the marketing materials developed by the partnership;

(v) furnish advice and assistance to businesses and industrial prospects which may locate in the region, existing businesses and industries, and persons seeking to establish new businesses or industries, and engage in related activities;

(vi) establish and maintain a network of public and private expertise related to regional assets, industry clusters, workforce and education opportunities and public tax and regulatory incentive and capital access programs;

(vii) partner with an MOBD representative to the region and representatives of quasi-public agencies and authorities engaged in economic development activities to exchange information and jointly provide direct consultation with businesses seeking to expand or locate to the region;

(viii) act as the primary contact for the region for a business seeking state assistance and incentives in a location decision;

(ix) in partnership with the staff of MOBD, assist member municipalities with economic development efforts related to business attraction and retention and with access to state economic development programs; and

(x) submit an annual report to MOBD on the region's business development activities. The report shall include: a summary of the preceding year's program activities, objectives and accomplishments; a description of how the primary contact's programs and marketing strategy aligns with the commonwealth's overall economic development and strategies; an analysis of how the primary contact's involvement in promotion activities has generated prospective business expansion and relocation clients; and a summary of the primary contact's efforts to obtain funds from local, private, and federal sources.

(i) The MOBD shall have the authority to cancel any contract with an organization serving as a regional contact upon a showing that the regional contact has failed to provide the necessary regional services listed in subsection (h).

(j) The MOBD shall locate staff throughout the regions of the commonwealth and coordinate with staff of existing regional economic development organizations in order to establish efficient and rapid access to all state government and quasi-public business services. The Massachusetts office of business development shall provide information to the regional economic development organizations about state economic development, business assistance, capital access and incentive programs, marketing activities and programs offered by agencies, authorities and private entities.

(k) The MOBD shall work with the Massachusetts Department of Transportation to establish an economic development plan for the communities in which the construction of the South Coast Rail project is to be undertaken. Special consideration shall be given to the downtown regions of the communities which currently maintain an active commuter rail station and whose layout will be altered by said project, as

well as exploration of opportunities to site agencies or businesses in the area of the rail stations for the purpose of economic development.

Section 3K. (a) The governor shall appoint the director of the office of performance measurement within the executive office of housing and economic development. The director shall have experience with economic development in the public or private sector. The director shall establish performance measurement metrics for all public and quasi-public entities engaged in economic development and any private organizations under contract with the commonwealth to perform economic development services in order to improve the effectiveness of the economic development efforts of the commonwealth. In developing these metrics, the director shall seek out private sector advice and models that can be adapted to the needs of the commonwealth. Clear metrics shall be developed and effectuated while ensuring that no undue administrative burden is placed on agencies and organizations subject to this section.

(b) Agencies or organizations subject to the reporting requirements under this section shall work with the director to develop a yearly plan and shall agree to the performance measurements by which they will be evaluated. Each agency or organizations shall then file an annual report with the office of performance management in a form and manner prescribed by the director. Any report submitted to the office of performance management shall be made available to the public and published on the state website. An annual report shall include, but not be limited to the agency's: (i) operations and accomplishments; (ii) performance on the goals and programs or initiatives outlined in the approved plan of the agency; (iii) receipts and expenditures during the fiscal year; and (iv) assets and liabilities at the end of the fiscal year.

(c) The director shall evaluate the goals and measures established by the office and shall recommend changes to proposed goals and measures as are appropriate to align goals and measures with the statewide economic development policy plan established by section 16G of chapter 6A.

(d) The secretary shall use the performance measurements established in this section to determine the quality of service of all private entities, including regional economic development organizations that perform economic development services under contract with the office.

SECTION 18. Said chapter 23A, as so appearing, is hereby further amended by striking out sections 13A to 13E, inclusive, and inserting in place thereof the following eighteen sections:-

Section 13A. (a) For the purposes of sections 13A to 13Q, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:

‘Foreign offices’, foreign offices for international trade within the international trade office.

‘Partnership’, the Massachusetts marketing partnership established by this section.

‘Tourism’, the office of travel and tourism.

(b) There shall be within the executive office of housing and economic development, but not subject to the supervision or control of said executive office, the Massachusetts marketing partnership which shall

coordinate marketing efforts on behalf of the commonwealth and shall oversee the activities of the agencies placed within it.

(c) The partnership shall consist of 12 partners: 1 of whom shall be the secretary of housing and economic development, who shall chair the partnership; 1 of whom shall be the director of the Massachusetts office of business development or the director's designee; 1 of whom shall be the executive director of the Massachusetts Convention Center Authority or the executive director's designee; 1 of whom shall be the executive director of the Massachusetts Port Authority or the executive director's designee; 1 of whom shall be the executive director of the Massachusetts Alliance for Economic Development, or its successor organization; an individual representing the Massachusetts film industry, provided that said individual shall have significant experience in the local film, television, and digital media, and further, shall be selected from a list of 3 names submitted by the Massachusetts production Coalition or its successor organization; and 6 of whom shall be appointed by the governor for terms of 5 years: 2 of whom shall be employed by a business that has a principal place of business in the commonwealth and exports goods to other countries, 1 of whom shall be selected from a list of 3 names submitted by the Associated Industries of Massachusetts, 1 of whom has significant experience with a public relations or advertising firm doing business in the commonwealth, 1 of whom shall be on the faculty of a public or private business school in the commonwealth who is experienced in international business, and 2 of whom shall represent a regional tourism council in the commonwealth outside of Suffolk County, Middlesex County and Norfolk County. Of the initial partners appointed by the governor, 3 shall serve a term of 2 years and 3 shall serve a term of 5 years.

Of the 6 gubernatorial appointments, no more than 3 shall be from the same political party. Each partner shall serve without compensation but shall be reimbursed for actual and necessary expenses reasonably incurred in the performance of the partner's duties, including reimbursement for the reasonable costs of travel deemed necessary by the partnership. A person appointed to fill a vacancy in the office of a partner shall be appointed in a like manner and shall serve for only the unexpired term of the former partner. A partner shall be eligible for reappointment and may be removed by the governor for cause. The partnership shall annually elect 1 partner to serve as vicechair.

(d) The partnership shall biannually elect 1 of its partners as treasurer and 1 of its partners as secretary. The secretary of the partnership shall keep a record of its proceedings and shall be custodian of all books, documents and papers filed by the partnership and of its minute book and seal. The secretary of the partnership shall cause copies to be made of all minutes and other records and documents of the partnership and shall certify that such copies are true copies and all persons dealing with the partnership may rely upon such certification.

(e) Eight partners shall constitute a quorum and the affirmative vote of a majority of partners present at a duly called meeting, if a quorum is present, shall be necessary for an action to be taken by the partnership. An action required or permitted to be taken at a meeting of the partnership may be taken without a meeting if all of the partners consent, in writing, to the action and that written consent is filed with the records of the minutes of the meetings of the partnership. Such consent shall be treated for all purposes as a vote at a meeting. Each partner shall make full disclosure pursuant to subsection (f) of the partner's financial interest, if any, in matters before the partnership by notifying the state ethics commission, in writing, and the partner shall abstain from voting on a matter before the board in which the partner has a financial interest, unless otherwise permitted under chapter 268A.

(f) Chapters 268A and 268B shall apply to all ex officio partners or the partners' designees and employees of the agencies within the partnership. Chapters 268A and 268B shall apply to all other partners, except that the agencies within the partnership may purchase from, sell to, borrow from, loan to, contract with or otherwise deal with a person, corporation or other business entity in which any partner is in any way interested or involved; provided, however, that such interest or involvement is disclosed in advance to the partners of the partnership and recorded in its minutes; and provided further, that no partner having such an interest or involvement may participate in a decision of the partnership relating to such person, corporation or other business entity. Employment by the commonwealth or service in an agency or political subdivision of the commonwealth shall not be deemed to be such an interest or involvement.

(g) Partners and employees of the agencies within the partnership having access to its cash or negotiable securities shall give bond to the partnership at its expense in such amounts and with such surety as the partnership may prescribe. The persons required to give bond may be included in 1 or more blanket or scheduled bonds.

(h) Partners and officers who are not compensated employees of the partnership shall not be liable to the commonwealth, the executive office of housing and economic development or any other person as a result of their activities, whether ministerial or discretionary, as such partners or officers except for willful dishonesty or intentional violations of law. Neither members of the partnership nor a person executing bonds or policies of insurance shall be personally liable on those bonds or policies or be subject to any personal liability or accountability by reason of the issuance of those bonds or policies. The partnership may purchase liability insurance for partners, officers and employees and may indemnify the partners against claims of others.

(i) Upon the termination of the existence of the partnership, all right, title and interest in and to all of its assets and all of its obligations, duties, covenants, agreements and obligations shall vest in and be possessed, performed and assumed by the commonwealth.

(j) An action of the partnership may take effect immediately and need not be published or posted unless otherwise provided by law. Meetings of the partnership shall be subject to section 18 through section 25 of chapter 30A except that said section 18 shall not apply to any meeting of partners in the partnership serving ex officio in the exercise of their duties as officers of the commonwealth so long as no matter relating to the official business of the partnership is discussed and decided at the meeting. The partnership shall be subject to all other sections of said chapter 30A and records pertaining to the administration of the partnership shall be subject to section 42 of chapter 30 and section 10 of chapter 66. All moneys of the partnership shall be considered to be public funds for the purposes of chapter 12A.

(k) The partnership shall be subject to sections 3K and 56 of this chapter.

Section 13B. There shall be within the partnership the following offices: the office of travel and tourism, the Massachusetts International Trade Office, the Commonwealth Marketing Office, the Massachusetts Film Office, which shall be the Official and lead agency to facilitate motion picture production and development within the Commonwealth; and the Massachusetts Sports Partnership, which shall be the official and lead agency to facilitate and attract major sports events and championships in the Commonwealth.

- (1) adopt and amend bylaws, regulations and procedures for the governance of its affairs and the conduct of its business for the administration and enforcement of sections 13A to 13Q, inclusive; provided, however, that regulations adopted by agencies within the partnership shall be adopted under chapter 30A;
- (2) adopt an official seal and a functional name;
- (3) maintain offices at places within the commonwealth as it may determine and to conduct meetings of the partnership in accordance with the bylaws of the partnership;
- (4) enter into agreements and transactions with federal, state and municipal agencies and other public institutions and private individuals, partnerships, firms, corporations, associations and other entities on behalf of the partnership;
- (5) sue and be sued in its own name, plead and be impleaded;
- (6) act as the central entity and coordinating organization for marketing initiatives on behalf of the commonwealth and to work in collaboration with governmental entities, regional economic development organizations, bodies, centers, institutes and facilities to advance the commonwealth's interests and investments in travel and tourism, international trade and economic development;
- (7) appear in its own behalf before boards, commissions, departments or other agencies of municipal, state or federal government;
- (8) obtain insurance;

- (9) apply for and accept subventions, grants, loans, advances and contributions from any source of money, property, labor or other things of value to be held, used and applied for its corporate purposes;
- (10) review and recommend changes in laws, rules, programs and policies of the commonwealth and its agencies and subdivisions to further the marketing of the commonwealth and economic development within the commonwealth;
- (11) enter into agreements with public and private entities that deal primarily with economic development, in order to distribute and provide leveraging of funds or services to further economic development in the commonwealth and promote overall economic growth within the commonwealth by fostering collaboration and investments in tourism and international trade initiatives in the commonwealth;
- (12) provide and pay for such advisory services and technical assistance as may be necessary or desired to carry out the purposes of this chapter;
- (13) establish and collect such fees and charges as the department without further appropriation shall determine to be reasonable and consistent with this sections 13A to 13Q, inclusive; and to receive and apply revenues from fees and charges to the purposes of the department or allotment by the commonwealth or any political subdivision of the commonwealth;
- (14) disburse, appropriate, grant, loan or allocate funds for the purposes of investing in economic development initiatives as directed in sections 13A to 13Q, inclusive;
- (15) provide assistance to local entities, local authorities, public bodies, regional economic development organizations, and private corporations for the purposes of maximizing opportunities for economic development initiatives in the commonwealth;
- (16) prepare, publish and distribute, with or without charge, as the department may determine, such studies, reports and bulletins and other material as the department deems appropriate;
- (17) exercise any other powers of a corporation organized under chapter 156B;
- (18) develop a common internet portal to be used by state agencies and state authorities to promote the commonwealth's programs providing business assistance and to promote economic development in the commonwealth;
- (19) take any actions necessary or convenient to the exercise of any power or the discharge of any duty provided for by sections 13A to 13Q, inclusive;
- (20) establish an advisory council to assist and advise the partnership on matters related to the commonwealth's business marketing efforts;

(21) enter into agreements or other transactions with any person including, without limitation, a public entity or other governmental instrumentality or agency in connection with the powers and duties provided to the partnership under sections 13A to 13Q, inclusive; and

(22) delegate any of the powers under this section to a director having charge of an agency within the partnership.

Section 13D. (a) The partnership and the agencies within the partnership shall, for the purposes of compliance with state finance law, operate as a state agency as defined in section 1 of chapter 29 and shall be subject to the laws applicable to agencies under the control of the governor including, but not limited to, chapter 7, chapter 7A, chapter 10 and chapter 29; provided, however, that the comptroller may identify additional instructions or actions necessary for the partnership to manage fiscal operations in the state accounting system and meet statewide and other governmental accounting and audit standards. Unless otherwise exempted by law or the applicable central service agency, the partnership shall participate in other available commonwealth central services including, but not limited, to the state payroll system under section 31 of chapter 29, and may purchase other goods and services provided by state agencies under the direction of the comptroller. The comptroller may chargeback the partnership for the transition and ongoing costs for participation in the state accounting and payroll systems and may retain and expend such costs without further appropriation for the purposes of this section. The partnership shall be subject to section 5D of chapter 29 and subsection (f) of section 6B of chapter 29. This section shall not apply to authorities who are serving as partners of the partnership.

(b) The office of the attorney general shall appear for the partnership in all suits and other civil proceedings in which the partnership is a party or interested, or in which the official acts and doings of the partnership are called into question, to the same extent and in the same manner as provided to the commonwealth and state departments, officers and commissions under section 3 of chapter 12. The partnership shall be generally considered to be an agency of the commonwealth for purposes of chapter 12.

(c) The Massachusetts office of business development may provide staff support for the Massachusetts marketing partnership; provided, however, that the partnership shall contract with MOBD or a public authority for the performance by that authority of core administrative functions, as determined by the secretary of housing and economic development which may include but shall not be limited to, human resources, financial management, information technology, legal, procurement and asset management, to minimize the administrative costs and expenses of the partnership.

Section 13E. (a) There shall be within the partnership an office of travel and tourism which shall be under the supervision and control of an executive director. The powers and duties given to the executive director

of the office of travel and tourism in this chapter and in any other general or special law shall be exercised and discharged subject to the direction, control and supervision of the partnership.

(b) The executive director of the office of travel and tourism shall be appointed by the governor, and serve at the pleasure of the governor. The position of executive director of the office of travel and tourism shall be classified under section 45 of chapter 30 and the executive director of travel and tourism shall devote full time during business hours to the duties of the office of travel and tourism and shall give to the state treasurer a bond for the faithful performance of those duties.

(c) The executive director of travel and tourism shall be the executive and administrative head of travel and tourism and shall be responsible for administering and enforcing the laws relative to travel and tourism and to any administrative unit of that office. Powers and duties given to an administrative unit of travel and tourism by a general or special law shall be exercised subject to the direction, control and supervision of the executive director of travel and tourism.

Section 13F. The office of travel and tourism shall serve as the principal agency for promoting the recreational, cultural, historic and scenic resources of the commonwealth to increase its desirability as a location for tourism, convention, travel and recreation-related activities by providing informational, marketing and technical assistance to public and private nonprofit entities organized for similar purposes.

Section 13G. The executive director of travel and tourism may, subject to appropriation and with the approval of the partnership, appoint and may, with like approval, remove all such employees as may be necessary to carry out the work of tourism. Unless otherwise provided by law, all such appointments and removals shall be made under chapter 31. The executive director may, subject to appropriation and the laws and regulations pertaining to the employment of consultants, employ such consultants as the executive director may deem necessary.

Section 13H. (a) There shall be an advisory commission on travel and tourism to the partnership to develop budget recommendations and marketing strategies for the promotion of travel and tourism to the commonwealth. The executive director of travel and tourism shall convene the advisory commission quarterly. The advisory commission shall annually report its recommendations to the partnership not later than November 1. The advisory commission shall annually file its recommendations with the clerks of the senate and house of representatives not later than November 1. The membership of the commission shall annually elect a chairperson.

(b) The advisory commission shall have 30 members: 1 representative from each of the following organizations: the Massachusetts Restaurant Association, the Massachusetts Lodging Association, the Massachusetts Camping Ground Association, the New England Bus Association, the Massachusetts cultural council and the Massachusetts historical commission; 1 representative of a professional sports franchise located in the commonwealth, 2 representatives of the Massachusetts Visitor Industry Council;

the executive director or the executive director's designee of each of the following regional tourism councils: the Berkshire Hills Visitors Bureau, the Southeastern Massachusetts Convention and Visitors Bureau, the Cape Cod Chamber of Commerce, the Franklin County Chamber of Commerce, the Greater Boston Convention and Visitors Bureau, the Worcester County Convention and Visitors Bureau, the Martha's Vineyard Chamber of Commerce, the Greater Merrimack Valley Convention and Visitors Bureau, the Mohawk Trail Association, the North of Boston Convention and Visitors Bureau, the Greater Springfield Convention and Visitors Bureau, the Plymouth County Development Council, Inc., the Nantucket Island Chamber of Commerce, the MetroWest Tourism and Visitor's Bureau, the Johnny Appleseed Trail Association, Inc., the Hampshire County Tourism and Visitor's Bureau and the following individuals, who shall not serve as chair: the commissioner of conservation and recreation or the commissioner's designee, the administrator of the highway division or the administrator's designee, the Massachusetts state coordinator of the United States National Park Service, and the house and senate chairs of the joint committee on tourism, arts and cultural development.

(c) Members of this commission shall receive no compensation for their services, but each member shall be reimbursed the member's necessary expenses incurred while engaged in the performance of the member's duties. This commission shall annually, not later than November 1, make a report to the executive director and the secretary of housing and economic development, and may make such special reports as the commission or the executive director of tourism may deem desirable.

Section 13I. The office of travel and tourism may accept gifts or grants of money or property from any source, which shall be held in trust for the use of tourism by the treasurer of the partnership as custodian.

Section 13J. The following offices shall be within the office of travel and tourism: the Massachusetts film office, which shall be the official and lead agency to facilitate motion picture production and development within the commonwealth; and the Massachusetts sports partnership, which shall be the official and lead agency to facilitate and attract major sports events and championships in the commonwealth.

Section 13K. (a) There shall be within the partnership a Massachusetts international trade office, which shall be under the supervision and control of an executive director. The executive director shall be appointed by the governor, and serve at the pleasure of the governor. The executive director shall devote his full time during business hours to the duties of the Massachusetts international trade office. The executive director of the international trade office shall be the executive and administrative head of the office and shall be responsible for administering and enforcing the laws relative to the office and to any administrative unit of the office. The executive director shall also serve as the Massachusetts international trade representative.

(b) The purpose of the Massachusetts international trade representative shall be to: (i) serve as the commonwealth's official point of contact with the federal government on matters related to international

trade; (ii) work with the executive office of housing and economic development and other appropriate state agencies to analyze proposed and enacted international trade agreements and provide an assessment of the impact of those agreements on the commonwealth's economy; (iii) serve as the designated recipient of federal requests for the commonwealth to agree to be bound by investment, procurement, services or any other provisions of international trade agreements, including those which may infringe upon state law or regulatory authority reserved to the commonwealth; (iv) serve as a liaison to the general court on matters of international trade policy oversight including, but not limited to, reporting to members of the general court on a regular basis on the status of ongoing international trade negotiations, international trade litigation, and dispute settlement proceedings with implications for existing state laws, state regulatory authority and international trade policy on the commonwealth's economy.

(c) The international trade representative shall, within 30 days of receipt, forward any requests or communications received from the United States Trade Representative relative to any issue of international trade, including requests seeking the commonwealth's consent to be bound by international trade agreements, to the clerk of the house of representatives and the clerk of the senate, who shall promptly refer the communications or requests to the joint committee on economic development and emerging technologies. The joint committee shall, within 30 days of receipt, conduct a public hearing on any request seeking the commonwealth's consent to be bound by an international trade agreement. The joint committee may issue a report within 120 days of the public hearing including a resolution to the general court relative to the recommendations of the committee on whether the commonwealth should consent to the international trade agreement in question and memorializing the commonwealth's international trade representative and the governor to take appropriate measures within their power to advise the United States Trade Representative of the recommendations of the general court.

Section 13L. (a) There shall be within the international trade office 1 or more foreign offices for international trade. The foreign offices may be located in any country that the executive director of the international trade office determines to be best suited as the location for the furthering of foreign trade opportunities for the businesses of the commonwealth. The foreign offices shall encourage and further trade between foreign businesses and businesses in the commonwealth. The foreign offices shall also promote investment opportunities in the commonwealth for foreign businesses in order to encourage the location and establishment of such businesses within the commonwealth. For the purposes of furthering foreign trade and investment, the foreign offices, subject to appropriation and approval by the executive director of the trade international office, may contract for such advertising and other communication services as may be necessary. The foreign offices shall maintain an updated list of businesses in the commonwealth and foreign businesses which are or might become active in the import or export of their products and services. The executive director shall consult with Massachusetts office of business

development and the regional economic development designated pursuant to section 3J in order to ensure that the businesses and assets of all regions of the commonwealth are included in such lists. The foreign office may also provide additional information and assistance to businesses in the commonwealth that desire to export their goods and services. The foreign offices shall maintain and give suitable publicity to an updated list of available sites for the location of foreign based businesses in the commonwealth. The foreign offices may make available technical assistance to foreign businesses interested in the establishment of plants or facilities in the commonwealth.

(b) The foreign offices shall, on a regular basis, make all foreign trade information available to the executive director of the international trade office, who shall publish and furnish such information to regional economic development organizations designated under section 3J and to businesses and corporations in the commonwealth which might be interested in, or benefit from the utilization of such information. The executive director of the international trade office may charge a fee not to exceed the actual printing costs for such information, except that no fee shall be charged to regional economic development organizations designated under section 3J.

Section 13M. There shall be a director of each foreign office appointed by the executive director of the international trade office, who shall be a person with at least 2 years of experience in international trade, having had administrative or business experience in the country where the office is located, who shall be fluent in at least 2 languages and who may be a foreign national. The director shall not be subject to chapter 31 or section 9A of chapter 30.

Section 13N. The executive director of the international trade office may, subject to appropriation, enter into leases for office space as may be necessary and to purchase or lease equipment as may be needed for the operation of foreign offices.

Section 13O. The executive director of the international trade office may accept funds in the name of the international trade office and the foreign offices from private and public groups, agencies and persons, which shall be held in trust for use by the treasurer of the partnership as custodian.

Section 13P. The executive director of the international trade office and the director of any foreign office shall annually file a financial report with the clerks of the house and senate and the joint legislative committee on economic development and emerging technologies on the operation and activities of the office. The report shall include a complete evaluation of the results of the activities of the foreign offices and its effects on the business economy of the commonwealth, especially in the areas of the export of goods and services and in the location of foreign businesses in the commonwealth.

Section 13Q. The international trade office shall contract with the Massachusetts export center to provide technical assistance to companies operating in the commonwealth that export products to other countries.

Section 13R. The director may establish an advisory council to assist and advise the director on matters related to the administration and evaluation of the international trade programs provided through the office.

SECTION 19. Section 14 of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 17 and 18, the words ‘director of economic development’ and inserting in place thereof the following words:- executive director of tourism.

SECTION 20. Said section 14 of said chapter 23A, as so appearing, is hereby further amended by striking out, in lines 55 and 56, the words ‘, subject to approval by the director of economic development’ and inserting in place thereof the following words:- of tourism.

SECTION 21. Sections 15 to 28, inclusive, of said chapter 23A are hereby repealed.

SECTION 22. Sections 39A to 39D, inclusive, of said chapter 23A are hereby repealed.

SECTION 23. Sections 46 to 55, inclusive, of said chapter 23A are hereby repealed.

SECTION 24. Said chapter 23A is hereby further amended by striking out section 56, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 56. (a) The secretary of housing and economic development shall coordinate the quasi-public entities and public purpose agencies of the commonwealth as to their economic development projects, programs and plans.

(b) The secretary shall aggregate the data submitted under section 3K of chapter 23A and shall, not later than December 31, submit an annual report to the secretary of administration and finance, the house and senate committees on ways and means, the joint committee on economic development and emerging technologies, the joint committee on labor and workforce development, the joint committee on small business and community development and the joint committee on higher education. The report shall include an analysis of all public lending activities to businesses with an assessment of the economic impact of those activities and an analysis evaluating public lending to small businesses as defined in section 57.

(c) In order to fully utilize all appropriate measures to provide risk capital to small businesses in the commonwealth the Massachusetts Growth Capital Corporation, the Massachusetts Development Finance Agency and the Massachusetts Technology Development Corporation may establish 1 or more small business investment corporations or special small business investment corporations as provided by the federal Small Businesses Equity Enhancement Act of 1992.

(d) The books and records of the quasi-public entities and public purpose agencies of the commonwealth under this section shall be subject to an annual audit conducted by an independent auditor. The results of both audits shall be published in conjunction with the publication of audited financial statements.

(e) The secretary of housing and economic development shall from time to time convene the Massachusetts Life Sciences Center created under chapter 23I, the Massachusetts clean energy technology center created under chapter 23J, the Massachusetts Technology Development Corporation created under chapter 40G, the Massachusetts Technology Park Corporation created under chapter 40J, and the Massachusetts Technology Transfer Center created under chapter 75 , for the purpose of ensuring that: (1) the agencies' projects, programs and plans are coordinated and consistent with this section; (2) the agencies are sharing administrative functions for efficiencies and cost saving measures; (3) the agencies are sharing information that is beneficial to the growth and expansion of technology related companies in the commonwealth; and (4) the agencies are sharing best practices related to assisting technology related companies with debt and equity products and technical assistance.

SECTION 25. Subsection (a) of section 57 of said chapter 23A, as so appearing, is hereby further amended by striking out the definition of 'Small business' and inserting in place thereof the following definition:-

'Small business', shall mean any business that has less than 250 full-time equivalent employees.

SECTION 26. Section 8 of chapter 23D of the General Laws is hereby amended by striking out the first sentence, as amended by section 17 of chapter 27 of the acts of 2009, and inserting in place thereof the following sentence:-

There shall be within the Massachusetts growth capital corporation established by chapter 40F an economic stabilization trust.

SECTION 27. Said chapter 23D is hereby further amended by striking out section 9, as amended by section 18 of said chapter 27, and inserting in place thereof the following section:-

Section 9. The trust shall be governed by the directors of the Massachusetts growth capital corporation established by section 2 of chapter 40F.

SECTION 28. Section 10 of said chapter 23D, as amended by section 19 of said chapter 27, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:-

The chair of the Massachusetts Growth Capital Corporation shall appoint a director of the trust.

SECTION 29. Sections 11 to 15, inclusive of said chapter 23D are hereby repealed.

SECTION 30. Said chapter 23D is hereby further amended by striking out section 16, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 16. There shall be established within the Massachusetts growth capital corporation established by chapter 40F a separate fund to be known as the employee ownership revolving loan fund, the proceeds of which shall be used to provide low interest long term loans to individuals for the purchase of such individual's ownership interest in an employee owned business. The fund shall consist of all monies designated for that fund by the board of directors of the Massachusetts growth capital corporation in consultation with the director of the industrial services program. Said board shall administer the employee ownership revolving loan fund program. The application process, and the terms and conditions of approving such loans shall be determined by the board in consultation with the director. Said fund shall be subject to the reporting and auditing requirements of section 56 of chapter 23A.

SECTION 31. Section 20 of said chapter 23D, as so appearing, is hereby amended by striking out, in lines 10 and 11, the words 'trustees of the economic stabilization trust' and inserting in place thereof the following words:- directors of the Massachusetts Growth Capital Corporation.

SECTION 32. Chapter 23F of the General Laws is hereby repealed.

SECTION 33. The definition of 'Costs of the project' in section 1 of chapter 23G of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word 'bonds', in line 38, the following words:-

; provided that, notwithstanding anything in this chapter to the contrary, 'cost of the project' and 'costs' may also include any capital or operating expenditure which may legally be made by any person to which the agency is authorized to provide financing, whether through the issuance of bonds by the agency or otherwise, or any other type of financial assistance, or with respect to any property, whether tangible or intangible, which may be developed or redeveloped by the agency, and may also include any capital or operating expenditure which may legally be made with respect to any property, whether tangible or intangible, for which the agency is authorized to provide financing, whether through the issuance of bonds by the agency or otherwise, or any other type of financial assistance, or which may be developed or redeveloped by the agency.

SECTION 34. Said section 1 of said chapter 23G, as so appearing, is hereby further amended by inserting after the definition of 'Governing body' the following two definitions:-

'Massachusetts Health and Educational Facilities Authority', and 'HEFA,' an authority established pursuant to chapter 614 of the acts of 1968.

‘Hospital’, a nonprofit hospital within the commonwealth licensed by the department of public health; or a nonprofit health maintenance organization within the commonwealth licensed by the commissioner of insurance; or an affiliated nonprofit person, which is organized and operated for the benefit of, to perform 1 or more of the functions of, or to carry out 1 or more of the purposes of 1 or more licensed nonprofit hospitals or health maintenance organizations, including operation of a nursing home, comprehensive gerontology facility or congregate care facility; or any other nonprofit charitable person in the commonwealth not otherwise eligible to participate under this chapter; provided, however, that such other nonprofit charitable person may only undertake the financing and construction or acquisition of a project or undertake the financing and construction or acquisition of a project or undertake the refunding or refinancing of obligations or of a mortgage or of advances to the extent that such projects, obligations, mortgages, or advances consist of or result from the purchase of energy or from energy conservation or related projects of such other nonprofit charitable person; and provided further, that such other nonprofit charitable person participates in or is a member of a group power purchasing program organized and administered by or on behalf of the agency.

SECTION 35. The definition of ‘Industrial enterprise’ in said section 1 of said chapter 23G, as so appearing, is hereby further amended by striking out the last four sentences and inserting in place thereof the following sentences:-

Industrial enterprise shall also include commercial enterprise, which shall mean the conduct of a trade or business. Facilities for the use of governmental and nonprofit entities shall be considered facilities to be used in a commercial enterprise, and bonds may be issued under this chapter to finance costs of such facilities, including such costs paid prior to the authorization of such bonds as the board shall approve in connection with the provision of such facilities; and for this purpose the term commercial enterprise shall be read to include the operating of such facilities, but the requirements of clause (e) of subsection (2) of section 12 of chapter 40D, and the requirement in clause (k) of subsection (2) of said section 12 that in the case of a project including a commercial enterprise or incidental thereto for use by a governmental or nonprofit entity, the project is located in a predominantly commercial area for which a commercial area revitalization plan has been adopted by the governing body of the municipality and approved by the director of housing and community development and the project is consistent with the plan, shall not apply if the board determines that the issuance of the bonds will result in a public benefit. The words ‘industrial enterprise’ shall also include an institution. For the purposes of this chapter and of chapter 40D, as applied to the Agency, an institution shall not be deemed to constitute a commercial enterprise. The board shall not be required with respect to an institution to make the findings set forth in

clauses (e) and (k) of subsection (2) of section 12 of chapter 40D if the board finds that the issuance of the bonds will result in a public benefit.

SECTION 36. Said section 1 of said chapter 23G, as so appearing, is hereby further amended by striking out the definition of ‘Institution’ and inserting in place thereof the following definition:-

‘Institution’, a hospital or a nonprofit person organized to operate a facility or facilities that provide cultural or educational services; provided, however, that nothing in this definition shall be construed to limit the power or authority of the Agency to provide financing to a person, as defined in this section, to which the Agency is otherwise authorized to provide financing.

SECTION 37. The definition of ‘Project’ in said section 1 of said chapter 23G, as so appearing, is hereby amended by inserting after the word ‘financing’, in line 188, the following words:-

; provided that, notwithstanding anything in this chapter to the contrary, ‘project’ may also include any capital or operating expenditure which may legally be made by any person to which the agency is authorized to provide financing, whether through the issuance of bonds by the agency or otherwise, or any other type of financial assistance, or with respect to any property, whether tangible or intangible, which may be developed or redeveloped by the agency, and the property, whether tangible or intangible, produced or acquired by such expenditure, and may also include any property, whether tangible or intangible, which may legally be the subject of financing by the agency, whether through the issuance of bonds by the agency or otherwise, or of any other type of assistance provided by the Agency, or which may be developed or redeveloped by the agency.

SECTION 38. Subsection (b) of section 2 of said chapter 23G, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following two sentences:-The agency shall be governed and its corporate powers exercised by a board of directors consisting of the secretary of administration and finance and the secretary of housing and economic development, or their respective designees, and 9 members to be appointed by the governor, one of whom shall be experienced in real estate development, one of whom shall be experienced in commercial or industrial credit, one of whom shall be experienced in mortgage lending, one of whom shall be experienced in banking or investment banking, one of whom shall be experienced in planning and the redevelopment of environmentally contaminated lands, one of whom shall be experienced in health care facility financing, and one of whom shall be a representative of organized labor. The secretary of housing and economic development shall serve as chairperson of the board.

SECTION 39. Subsection (k) of section 8 of said chapter 23G, as so appearing, is hereby amended by adding the following sentence:- Notwithstanding any provision of this chapter to the contrary, any indebtedness of the Massachusetts Health and Educational Facilities Authority may be refunded under this subsection (k) if said indebtedness was subject to being refunded under chapter 614 of the acts of 1968, as amended.

SECTION 40. Said chapter 23G is hereby further amended by striking out sections 27 and 28, as so appearing, and inserting in place thereof the following two sections:-

Section 27. (a) There is hereby established and placed within the agency the Emerging Technology Fund, referred to in this section and section 28 as the fund, to which shall be credited appropriations, bond proceeds or other monies authorized by the general court and specifically designated to be credited to the fund, such additional funds as are subject to the direction and control of the agency, pension funds, federal grants or loans or private investment capital which may properly be applied in furtherance of the objectives of the fund, proceeds from the sale of qualified investments secured or held by the fund, fees and charges imposed relative to the making of qualified investments, as the same shall be defined and approved under rules approved by the advisory committee created under section 28 for the fund, secured or held by the fund, and other monies which may be available to the agency or the advisory committee for the purposes of the fund from another source or sources. The agency shall hold the fund in an account or accounts separate from other funds or accounts and shall manage the fund on behalf of the advisory committee, under rules and policies established by the advisory committee.

(b) The agency, on behalf of the advisory committee, shall invest and reinvest the fund and the income of the fund, except as provided in this section, as follows: (i) in the making of qualified investments, under rules approved by the advisory committee; (ii) in defraying the ordinary and necessary expenses of administration and operation associated with the fund; (iii) in the investment of funds not required for immediate disbursement in the purchase of such securities as may be lawful investments for fiduciaries in the commonwealth; (iv) for the payment of binding obligations associated with such qualified investments which are secured by the fund as the obligations become payable; and (v) for the payment of principal or interest on qualified investments secured by the fund or the payment of a redemption premium required to be paid when such qualified investments are redeemed prior to maturity; provided, however, that monies in the fund shall not be withdrawn at any time in such an amount as would reduce the amount of the fund to less than the minimum requirement established jointly by the agency and advisory committee, except for the purpose of paying binding obligations associated with qualified investments which are secured by the fund as the obligations become payable.

(c) The fund shall be held and applied by the agency, on behalf of the advisory committee, to make qualified investments designed to advance the following public purposes: (i) to stimulate increased financing for new, renovated or improved manufacturing, research and development and related facilities and financing for the operations of emerging technology companies in the commonwealth by leveraging private financing for highly, productive state of the art facilities or for the operations of emerging technology companies, which will lead to increased and more rewarding employment opportunities in the commonwealth by providing financing related to such facilities including, without limitation, financing of the construction or expansion of such facilities, including specialized real estate improvements and specialized equipment for those facilities; and financing for the operations of emerging technology companies; (ii) to make matching grants to universities, colleges, public instrumentalities, companies and other entities to induce the federal government, industry and other grant funding sources to fund advanced research and development activities in new and emerging technologies and new application of existing technologies in the commonwealth, so as to serve to increase and strengthen the commercial and industrial base of the commonwealth and the economic development and employment opportunities related to the commercial and industrial base; (iii) to provide bridge financing to universities, colleges, public instrumentalities, companies and other entities in anticipation of the receipt of grants of the type described in clause (ii) awarded or to be awarded by the federal government, industry or other sources; (iv) to provide low or no interest equipment loans targeted to companies within the defense technology and homeland security sector particularly those that are seeking to become more competitive against out of state companies; (v) to make grants to the Massachusetts Technology Transfer Center, established by section 45 of chapter 75, to fund activities that facilitate the transfer of technology from the commonwealth's research institutions to the commonwealth's emerging technology industries, for productive use by such industries and to make targeted investments in proof of concept funding for emerging technologies; and (vi) to provide matching grants in the field of marine science technology for companies in the commonwealth that receive small business innovation research or small business technology transfer grants from the small business administration.

The matching award amount shall be the lesser of \$20,000 or 15 per cent of the small business innovation research or small business technology transfer grant. There shall be a maximum of \$60,000 available per company, including affiliates, per calendar year allocated on a competitive basis, contingent upon the availability of funds. The matching funds shall be used for product development and commercialization. The agency shall make no such qualified investment under clause (i) of subsection (b) unless the advisory committee finds that, to the extent possible, said qualified investment is such that a definite benefit to the economy of the commonwealth may reasonably be expected as a result. In addition, the agency shall make no such qualified investment under said clause (i) of said subsection (b) unless such qualified

investment is in conformity with rules approved by the advisory committee. Said rules shall define which industries within the commonwealth shall be considered emerging technology industries for purposes of this section, provided that 'emerging technology industries' shall include industries employing new or state of the art technology in biotechnology, marine science technology, pharmaceuticals, clean and renewable energy technology; vehicles powered by clean and renewable energy, defense and homeland security related technologies, advanced materials, electronics, nanotechnology, environmental, medical device, information technology, plastics and polymers, telecommunications industries involved in the research and development of state of the art medication delivery devices or any other technological field or industry which the advisory committee has classified or shall classify as an emerging technology. Said rules shall also set the terms and conditions for investments which are to constitute qualified investments, which may include, without limitation, loans, working capital and contract based loans, guarantees, loan insurance or reinsurance, equity investments, grants made only under clauses (ii) and (v) of subsection (c), or other financing or credit enhancing devices, as made by the agency directly or on its own behalf or in conjunction with other public instrumentalities, or private institutions, or the federal government; provided, however, that said rules shall provide that each such qualified investment made under clause (i) of said subsection (c) shall involve a transaction with the participation of at least 2 at risk private parties. Said rules shall, in addition, set forth the terms, procedures, standards and conditions which the agency shall employ to identify qualified applications, process applications, make investment determinations, safeguard the fund, advance the objective of increasing employment opportunities, oversee the progress of qualified investments and secure the participation of other public instrumentalities, private institutions, or the federal government in such qualified investments; provided, however, that said rules shall provide that each recipient of a qualified investment shall be required to pay a fee as a condition of such receipt, which fee may take the form of points, an interest rate premium or a contribution of warrants or other form of equity or consideration to the fund as prescribed by the advisory committee; and provided, further, that said rules shall provide for negotiated agreements between the agency and each recipient of a qualified investment regarding the terms and conditions by which the fund's support of a recipient could be reduced or withdrawn.

(d) The agency may solicit investments by private institutions or investors in the activities of the fund and may reach agreements with such private institutions or investors regarding the terms of such investments including, without limitation, the rights of such investors to participate in the income or appropriation of the fund. To help secure investments by private institutions or investors in the activities of the fund, the advisory committee may develop a proposal relative to the creation of a separate investment entity which would allow for the commingling of the resources of the fund with the maximum participation by such private institutions or investors in a manner which is consistent with the public purpose of the fund and

under terms and conditions calculated to protect and preserve the assets of the fund; provided, however, that if the creation or operation of such a separate entity as proposed by the advisory committee would require additional or clarifying amendments to the enabling act of the agency, said proposal shall include proposed statutory language.

(e) Copies of the approved rules, and modifications to the rules, shall be submitted to the chairs of the house and senate committees on ways and means and the joint committee on economic development and emerging technologies and the clerks of the house of representatives and senate.

(f) Qualified investment transactions undertaken by the agency on behalf of the advisory committee under this section shall not, except as specified in this section, be subject to chapter 175, and shall be payable solely from the Emerging Technology Fund, established by this section and shall not constitute a debt or pledge of the faith and credit of the commonwealth, the agency or any subdivision of the commonwealth.

(g) The agency, on behalf of the advisory committee, shall not make an expenditure from or commitment of the assets of the fund, including, without limitation, the making of qualified investments secured by the fund, if making such a qualified investment would reduce the amount of the fund below the minimum requirement established by law, unless the agency, at the time of making of such qualified investment, deposits in the fund from the proceeds of that qualified investment or from any fees and charges imposed relative to the making of qualified investments, or otherwise, an amount which, together with the amount in the fund, shall not be less than the minimum requirement; provided, however, that at no time shall the minimum requirement of the fund be less than the maximum amount of principal and interest becoming due in the current and succeeding fiscal year of the agency on all outstanding bonds and other obligations which are secured by the fund or such greater amount as may be set forth in the rules governing the fund.

Section 28. (a) There is hereby established an advisory committee relative to the fund consisting of the director of the Massachusetts office of business development, the director of the John Adams Innovation Institute, the president of the Massachusetts Technology Development Corporation, and 6 other persons, 3 of whom shall be appointed by the governor and 3 of whom shall be appointed by the board of the agency; provided, however, that the director of the John Adams Innovation Institute, and the president of the Massachusetts Technology Development Corporation may designate another person to act in such member's place for a particular purpose, including the right to attend and vote at a meeting of the advisory committee; provided, further, that at least 1 member appointed by the governor shall be a representative of an emerging technology industry, at least 1 member appointed by the governor shall have knowledge of financing of emerging technology companies, and at least 1 member shall have knowledge of technology transfer and commercialization activities at research institutions; and provided, further, that at least 1 member appointed by the board of the agency shall be a representative of an emerging technology industry, and at least 1 member appointed by the board of the agency shall have

knowledge of financing of emerging technology companies and 1 member appointed by the board of the agency shall be a member of the agency's board of directors. The executive director or his designee of the Massachusetts Technology Transfer Center shall serve as an ex officio member of the advisory committee. Each appointed member of the advisory committee shall serve for a term of 3 years or until such member's successor is appointed; provided, however, that of those initially appointed, of each the governor's appointees and the board of the agency's appointees shall serve for a term of 1 year, 1 of each of the governor's appointees and the board of the agency's appointees shall serve for a term of 2 years, and 1 of each the governor's appointees and the board of the agency's appointees shall serve for a term of 3 years. A person appointed to fill a vacancy on the advisory committee shall be appointed in a like manner and shall be eligible for reappointment. A member of the advisory committee appointed by the governor may be removed by the governor for cause. A member of the advisory committee appointed by the board of the agency may be removed by the board of the agency for cause.

(b) The members shall annually elect a chairman and vice chairman and shall adopt bylaws governing the affairs of the advisory committee. Five members of the advisory committee shall constitute a quorum and the affirmative vote of a majority of the members present and eligible to vote at a meeting shall be necessary for an action to be taken by the advisory committee; provided, however, that no vacancy in the membership of the advisory committee shall impair the right of a quorum to exercise the powers of the advisory committee.

(c) The members shall serve without compensation, but each member shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties.

(d) The advisory committee may meet as often as the members shall decide; provided, however, that it shall meet at least once in each calendar quarter and its approval shall be necessary for an expenditure from or commitment of the assets of the fund or entry into contracts of the type specified in subsection (g).

(e) The advisory committee may, by majority vote, elect, in its discretion, to delegate some or all of the committee's approval rights to the board or the staff of the agency; provided, that, any such delegation may be revoked at any time by majority vote of the advisory committee.

(f) The agency shall manage the qualified investments made from the fund on behalf of the advisory committee including, without limitation, the closing, servicing, monitoring, underwriting, and where appropriate, the enforcement of rights with respect to such management and shall provide such staff and supporting assistance as deemed appropriate by the board of directors of the agency to enable the advisory committee to discharge its duties in a manner consistent with its public purpose. Subsection (d), subsections (f) to (i), inclusive, and subsection (l) of section 2 of this chapter shall also apply to the members and affairs of the advisory committee created under this section.

(g) The advisory committee and the agency are encouraged to award 1 or more contracts with regard to the management of the fund, which may provide performance based incentives, with regard to such management.

SECTION 41. Said chapter 23G is hereby further amended by adding the following section:

Section 44. The agency shall be subject to sections 3K and 56 of chapter 23A.

SECTION 42. Clause (7) of subsection (a) of section 4 of chapter 23I of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word ‘document’, in line 35, the following words:-

; provided, however, that the center shall contract with another public authority for the performance by that authority of core administrative functions, as determined by the secretary of housing and economic development which may include but shall not be limited to, human resources, financial management, information technology, legal, procurement and asset management, to minimize the administrative costs and expenses of the center.

SECTION 43. Section 6 of said chapter 23I, as so appearing, is hereby amended by inserting after the figure ‘75’, in line 82, the following words:- to fund activities that facilitate the transfer of technology from the commonwealth’s research institutions to the commonwealth’s life science industries, for productive use by such industries and to make targeted investments in proof of concept funding for emerging technologies.

SECTION 44. Said chapter 23I is hereby further amended by adding the following section:-

Section 18. The center shall be subject to sections 3K and 56 of chapter 23A.**SECTION 46.** Said chapter 23J is hereby further amended by adding the following section:-

Section 9. The center shall be subject to sections 3K and section 56 of chapter 23A.

NO SECTION 45.

SECTION 46. Said chapter 23J is hereby further amended by adding the following section:-

Section 9. The center shall be subject to sections 3K and section 56 of chapter 23A.

SECTION 47. Section 1 of chapter 29 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the definition of ‘State authority’ and inserting in place thereof the following definition:-

‘State authority’ a body politic and corporate constituted as a public instrumentality of the commonwealth and established by an act of the General Court to serve an essential governmental function; provided, however that ‘state authority’ shall not include: (1) a state agency; (2) a city or town; (3) a body controlled by a city or town; or (4) a separate body politic where the governing body is elected, in whole or in part, by the general public or by representatives of member cities or towns.

SECTION 48. Said chapter 29 is hereby further amended by inserting after section 30 the following section:-

Section 30A. Notwithstanding section 50 of chapter 3, a state agency or state authority shall not use state funds to pay for an executive or legislative agent, as defined in section 39 of chapter 3, unless the executive or legislative agent is a fulltime employee of the state agency or state authority.

SECTION 49. Section 2 of chapter 30A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the third paragraph the following paragraph:-

The notice shall also include an estimate of the proposed regulation's fiscal effect including that on the public and private sector, for its first and second year, and a projection over the first 5-year period, or a statement of no fiscal effect. Unless the proposed regulation has the purpose of setting rates within the commonwealth, the notice shall also include a statement considering the impact of the proposed regulation on small business. This statement of consideration shall include, but not be limited, to a description of the projected reporting, record keeping and other compliance requirements of the proposed regulations, the appropriateness of performance standards versus design standards and an identification of all relevant regulations of the adopting agency that may duplicate or conflict with the proposed regulation. The requirements of this paragraph to prepare or publish statements shall be enforceable by a civil action for mandamus relief, but the sufficiency of the statement shall not be grounds for invalidating or staying the regulation. This statement of consideration must be completed 30 days before the proposed regulation is to take effect.

SECTION 50. Section 3 of said chapter 30A, as so appearing, is hereby amended by inserting after the third paragraph the following paragraph:-

The notice shall also include an estimate of the proposed regulation's fiscal effect including that on the public and private sector, for its first and second year, and a projection over the first 5-year period, or a statement of no fiscal effect. Unless the proposed regulation has the purpose of setting rates within the commonwealth, the notice shall also include a statement considering the impact of the proposed regulation on small business. This statement of consideration shall include, but not be limited, to a description of the projected reporting, record keeping and other compliance requirements of the proposed regulations, the appropriateness of performance standards versus design standards and an identification of all relevant regulations of the adopting agency that may duplicate or conflict with the proposed regulation. The requirements of this paragraph to prepare or publish statements shall be enforceable by a civil action for mandamus relief, but the sufficiency of the statement shall not be grounds for invalidating or staying the regulation. This statement of consideration must be completed 30 days before the proposed regulation is to take effect.

SECTION 51. Section 5 of said chapter 30A, as so appearing, is hereby amended by striking out the second paragraph.

SECTION 52. The first paragraph of section 59 of chapter 40 of the General Laws, as so appearing, is hereby amended by striking out clause (iii) and inserting in place thereof the following clause:-

(iii) authorizes tax increment exemptions from property taxes, under clause Fifty-first of section 5 of chapter 59, for a specified term not to exceed 20 years, for any parcel of real property which is located in the TIF zone and for which an agreement has been executed with the owner of the real property under clause (v); provided, however, that the TIF plan shall specify the level of the exemptions expressed as exemption percentages, not to exceed 100 per cent to be used in calculating the exemptions for the parcel, and for personal property situated on that parcel, as provided under said clause Fifty-first of said section 5 of said chapter 59; provided, further, that the exemption for each parcel of real property shall be calculated using an adjustment factor for each fiscal year of the specified term equal to the product of the inflation factors for each fiscal year since the parcel first became eligible for an exemption under this clause; provided, further that the inflation factor for each fiscal year shall be a ratio; (a) the numerator of which shall be the total assessed value of all parcels of commercial and industrial real estate that are assessed at full and fair cash value for the current fiscal year minus the new growth adjustment for the current fiscal year attributable to the commercial and industrial real estate as determined by the commissioner of revenue under subsection (f) of section 21C of chapter 59; and (b) the denominator of which shall be the total assessed value for the preceding fiscal year of all the parcels included in the numerator; provided, however, that the ratio shall not be less than 1;.

SECTION 53. Clause (iii) of subsection (a) of section 60 of said chapter 40, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-
authorize tax increment exemptions from property taxes, under clause Fifty-first of section 5 of chapter 59, for a specified term not to exceed 20 years, for any parcel of real property which is located in the UCHTIF zone and for which an agreement has been executed under clause (v); provided, however, that the UCHTIF plan shall specify the level of exemptions expressed as exemption percentages, not to exceed 100 per cent to be used in calculating the exemptions for the parcel, and for personal property situated on that parcel, as provided under said clause Fifty-first of said section 5 of said chapter 59; provided, further, that the exemption for each parcel of real property shall be calculated using an adjustment factor for each fiscal year of the specified term equal to the product of the inflation factors for each fiscal year since the parcel first became eligible for such exemption under this clause; provided, further, that the inflation factor for each fiscal year shall be a ratio:—

SECTION 54. Clause (iii) of section 60A of said chapter 40, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

authorize tax increment exemptions from property taxes, under clause Fifty-first of section 5 of chapter 59, for a specified term not to exceed 20 years, for any parcel of real property which is located in the MWTTF zone and for which an agreement has been executed with the owner of the parcel under clause (iv); provided, however, that the MWTTF plan shall specify the level of exemptions expressed as exemption percentages, not to exceed 100 per cent, to be used in calculating the exemptions for the parcel, and for personal property situated on that parcel, as provided under said clause Fifty-first of said section 5 of said chapter 59; provided, further, that the exemption for each parcel of real property shall be calculated using an adjustment factor for each fiscal year of the specified term equal to the product of the inflation factors for each fiscal year since the parcel first became eligible for such exemption pursuant to this clause; provided, further, that the inflation factor for each fiscal year shall be a ratio:

NO SECTION 55.

SECTION 56. Section 24 of chapter 40B of the General Laws, is hereby amended by striking out, in line 17, as so appearing, the words ‘director of economic development’ and inserting in place thereof the following words:- secretary of housing and economic development.

SECTION 57. Chapter 40E of the General Laws is hereby repealed.

SECTION 58. The General Laws are hereby amended by striking out chapter 40F and inserting in place thereof the following chapter:-

Chapter 40F.

Massachusetts Growth Capital Corporation

Section 1. For the purposes of this chapter the following words shall, except where the context clearly indicates otherwise, have the following meanings:-

‘Capital participation instruments’, purchase of stock, both common and preferred, convertible securities, warrants, subscriptions, options to acquire, capital loans, and working capital or inventory loans, royalties, and other lawful derivations of the foregoing.

‘Community Development Corporation’ or ‘CDC’, a nonprofit corporation organized under chapter 180, and exempt from taxation under section 501(c) of the Internal Revenue Code and which: (i) focuses a substantial majority of the corporation’s efforts on serving 1 or more specific neighborhoods or municipalities, a region of the commonwealth, or a constituency that is economically disadvantaged; (ii) has as the corporation’s purpose to engage local residents and businesses to work together to undertake community development programs, projects and activities which develop and improve urban, rural and suburban communities in sustainable ways that create and expand economic opportunities for low and moderate income people; (iii) demonstrates to the department of housing and community development that the corporation’s constituency, including low and moderate income people, is meaningfully represented on the board of directors of the corporation; provided, however, that in making this

determination, the department shall consider the following criteria (1) the percentage, if any, of the board that is elected by the general membership; (2) the percentage of the board members that are residents of the service area; (3) the percentage of board members that are people of low or moderate income; (4) the racial and ethnic composition of the board in comparison to the racial and ethnic composition of the community being served; (5) other mechanisms, including committees, membership meetings, that the organization uses to ensure that their constituency has a meaningful role in the governance and direction of the organization; and (6) other criteria as determined by the department.

‘Corporation’ or ‘GCC’, the Massachusetts Growth Capital Corporation created by section 2.

‘Equity investment’, any of the following types of investment activity: (a) a purchase of stock; (b) a purchase of a partnership interest; (c) a purchase of a limited liability company membership interest; or (d) a loan made on such terms that it has sufficient characteristics of equity.

‘Financial products’, loans, equity investments and other similar financing activities including, but not limited to, the purchase of loans originated by a certified community development financial institution, the provision of loan guarantees, or the provision of surety bond guarantees.

‘Project’, (a) the act of making available financial products to small businesses and nonprofit corporations; (b) manufacturing, wholesale, retail, service, or other business activity; (c) economic development activity involving the financing of commercial, industrial or other real estate activity; or (d) other activity from which a community will derive economic benefit.

‘Small business’, a business entity, including its affiliates, that (a) is independently owned and operated; (b) has a principal place of business in the commonwealth; and (c) would be defined as a ‘small business’ under applicable federal law.

Section 2. (a) There is hereby created a body politic and corporate to be known as the Massachusetts Growth Capital Corporation. The GCC is hereby constituted a public instrumentality and the exercise by the GCC of the powers conferred by this chapter shall be deemed to be the performance of an essential governmental function.

The GCC shall be placed within the executive office of housing and economic development but shall not be subject to the supervision and control of an executive office, department, division, commission, board, bureau or agency except to the extent and in the manner provided by law.

(b) The corporation shall consist of 13 directors; 1 of whom shall be the secretary of housing and economic development, who shall serve as chair; 1 of whom shall be the undersecretary of housing and community development; 1 of whom shall be the secretary of administration and finance, or the secretary’s designee; and 10 of whom shall be appointed by the governor. Of the 10 directors appointed by the governor; 3 shall be persons who together shall be experienced in small business financing, other financial instruments, turnarounds of troubled businesses, and the organization and operation of employee

owned businesses; provided, however, that each such director shall be experienced and knowledgeable in at least 1 such area; 1 shall be a representative of an organization of small businesses or manufacturing companies in the commonwealth; 1 shall be a representative of a community bank in the commonwealth and nominated by the Massachusetts Bankers Association; 1 shall be experienced in community economic development and employed by a CDC or a representative of the Massachusetts Association of Community Development Corporations; 1 shall be a current or retired certified public accountant or chief financial officer; 1 shall be a practicing or retired attorney with a business financing experience; 1 shall be a small business owner; and 1 shall be a representative of organized labor. Each member appointed by the governor shall serve a term of 5 years, except that in making the governor's initial appointments the governor shall appoint 2 members to serve for a term of 1 year, 2 members to serve for a term of 2 years, 2 members to serve for a term of 3 years, 2 members to serve for a term of 4 years, and 2 members to serve for a term of 5 years.

(c) A person appointed to fill a vacancy in the office of a director shall be appointed in a like manner and shall serve for only the unexpired term. A director shall be eligible for reappointment. A director may only be removed from the director's appointment by the governor for good cause. The directors shall annually elect 1 director as vicechair and designate a secretary treasurer who need not be a director. The secretary treasurer shall keep a record of the proceedings of the corporation and shall be the custodian of all books, documents, and papers filed with the corporation, the minute books of the corporation and of its official seal.

(d) Seven of the directors of the corporation shall constitute a quorum and 7 affirmative votes shall be necessary for the transaction of business or the exercise of a power or function of the corporation. Each director shall be entitled to reimbursement for the director's actual and necessary expenses incurred in the performance of the director's official duties.

(e) The corporation, its directors, officers and employees shall be subject to sections 1 to 4, inclusive, of chapter 268A except that the corporation may purchase from, sell to, borrow from, loan to, contract with or otherwise deal with a person in which a director of the corporation is interested or involved; provided, however, that such interest or involvement is disclosed in advance to the directors and recorded in the minutes of the corporation; provided, further, that no director having such an interest or involvement may participate in a decision of the directors relating to such person. Employment by the commonwealth or service in an agency of the commonwealth shall not be deemed to be such an interest or involvement.

(f) The president of the corporation shall be appointed and the president's salary established by the directors. The president shall be the chief administrative and operational officer of the corporation and shall direct and supervise administrative affairs and the general management of the corporation. The president may employ such other employees as shall be designated by the directors, shall attend meetings

of the directors, shall cause copies to be made of all minutes and other records and documents of the corporation and shall certify that such copies are true copies and all persons dealing with the corporation may rely upon such certification.

(g) All officers and employees of the corporation having access to its cash and negotiable securities shall give bond to the corporation at its expense in such amounts and with such surety as the directors may prescribe. The persons required to give bond may be included in 1 or more blanket or scheduled bonds.

(h) Directors shall not be liable to the commonwealth, to the agency or to any other person as a result of the director's activities, whether ministerial or discretionary, as such directors, except for willful dishonesty or intentional violations of the law. The corporation may purchase liability insurance for directors, officers, and employees and may indemnify said persons against claims of others.

(i) Documentary materials, data or conversations made or received by a director or employee of the corporation and consisting of, or to the extent that such materials, data or conversations consist of, trade secrets or commercial or financial information regarding the operation of a business conducted by an applicant for assistance which the corporation is empowered to render or regarding the competitive position of such applicant in a particular field of endeavor, shall not be public records of the corporation and shall not be subject to section 10 of chapter 66. A discussion or consideration of such trade secrets or commercial or financial information may be held by the directors in executive session closed to the public notwithstanding chapter 30A, but the purpose of such an executive session shall be set forth in the official minutes of the corporation and no business which is directly related to such purpose shall be transacted nor shall a vote be taken in such an executive session.

Section 3. The GCC shall have the power to:

- (1) adopt bylaws for the regulation of its affairs and the conduct of its business;
- (2) adopt an official seal;
- (3) sue and be sued in its own name;
- (4) make and execute contracts and all other instruments necessary or convenient for the exercise of its power and functions;
- (5) acquire, hold and dispose of personal property for its corporate purposes;
- (6) enter into agreements or other transactions with federal and state agencies;
- (7) acquire real property, or an interest in real property, by purchase or foreclosure, if such acquisition is necessary or appropriate to protect or secure an investment or loan in which the agency has an interest; to sell, transfer and convey such property to a buyer and in the event such sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease such property to a tenant;

- (8) invest funds held in reserves or sinking funds, or funds not required for immediate disbursement, in such investments as may be lawful for fiduciaries in the commonwealth;
- (9) borrow money by the issuance of debt obligations whether tax exempt or taxable and secure such obligations by the pledge of its revenues or of the revenues, mortgages and notes of others; provided, however, that the corporation shall not issue debt obligations if the principal amount of those debt obligations, when added to the principal amount of existing debt obligations issued by the corporation, excluding debt obligations previously refunded or to be refunded by the corporation, would exceed 30 million dollars;
- (10) employ and fix the compensation of a president, who shall be the chief executive officer of the corporation and such other agents, employees, professional and business advisers as may be necessary in the judgment of the directors; provided, however, that the president, professional advisers and business advisers shall not be subject to chapter 31 or section 9A of chapter 30.
- (11) appear in its own behalf before boards, commissions, departments or other agencies of municipal, state or federal government;
- (12) procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable;
- (13) consent, subject to any contract with noteholders or bondholders, whenever it deems it necessary or desirable in the fulfillment of the purposes of this chapter, to the modification, with respect to rate of interest, time of payment of an installment of principal or interest, or other terms, of a mortgage, mortgage loan, mortgage loan commitment, contract or other agreement to which the GCC is a party;
- (14) do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this chapter;
- (15) receive and accept from federal and state agencies and public or private entities grants, loans or advances for or in aid of the purposes of this chapter and to receive and accept contributions from a source of either money, property, labor or other things of value, to be held, used and applied for the purposes of this chapter;
- (16) create, issue, buy and sell stock and other capital participation instruments; to hold such stock and capital participation instruments and to underwrite the creation of a capital market for these securities;
- (17) provide advisory services, technical assistance and training programs to small businesses as may be necessary or desirable to carry out the purposes of this chapter;
- (18) exercise other powers, rights or responsibilities of a corporation organized under chapter 156B.

(19) create and issue shares which a person, firm or corporation may purchase; provided, however, that each share issued shall be in the form of nonvoting common stock with each share having a par value of \$10; provided, further, that the total value of the shares issued shall not exceed \$25,000,000;

(20) make loans or grants to, or otherwise finance or invest in, a business to further the purposes of this chapter; provided, further, that such loans or grants may be made to certified community development corporations or other community based nonprofit entities for the purpose of such corporations or entities providing financing to businesses;

(21) provide loan guarantees to public or private entities for the purpose of causing such entities to provide financing to a business;

(22) establish and collect such fees, charges and interest rates as the corporation determines to be reasonable; and

(23) require, by contract in a financing agreement, or otherwise, specific operational activities, financial actions or management changes, as conditions for the receipt of a loan, financing or investment by the corporation.

No debt obligation issued under paragraph (i), stock or capital participation instrument created under paragraph (p) or share issued under paragraph (s) shall be or become an indebtedness or obligation of the commonwealth, and it shall be plainly stated on the face of each bond, capital participation instrument, share or other evidence of indebtedness that it does not constitute an indebtedness or obligation of the commonwealth but is payable solely from the revenues or income of the Massachusetts Growth Capital Corporation.

Section 4. The corporation shall contract with another public authority for the performance by that authority of core administrative functions, as determined by the secretary of housing and economic development which may include but shall not be limited to, human resources, financial management, information technology, legal, procurement and asset management, to minimize the administrative costs and expenses of the corporation.

Section 5. (a) The corporation may participate in a project; provided that, the corporation shall find and incorporate in the official records of the corporation that the project will be of a public benefit such that the project is reasonably expected to: (i) support or promote economic development, revitalization or stability; (ii) promote employment opportunities for residents of the commonwealth; (iii) promote the creation or retention of jobs; or, (iv) support the creation or expansion of a business sector whose success would enhance the economic development of the commonwealth, enhance the quality of life of residents of the commonwealth or enhance the employment opportunities for residents of the commonwealth.

(b) The corporation shall not participate in a project unless it determines, in writing, that its participation is necessary because funding for the project is not available in the traditional capital markets or that credit has been offered on terms that would preclude the success of the project.

(c) The corporation shall endeavor to participate in projects each year that provide financial products, which in the aggregate total not less than 30 percent of the total capital committed by the corporation over a 3 year period, to projects which enhance the economic development of a target area, as defined in section 2 of chapter 40H, or enhance the quality of life and promote employment opportunities for low and moderate income residents of the commonwealth. If a certified CDC requests that the corporation participate in a project, the corporation shall make a determination of the likelihood that the project: (i) will provide employment opportunities to low and moderate income residents of the commonwealth; (ii) is likely to enhance the quality of life of low and moderate income residents of the commonwealth; or (iii) supports the creation or expansion of the business sector in the region served by the CDC. If the corporation enters into an agreement to participate in such a project, the terms of the financial products made available shall favorably reflect the economic and social benefits which inures to the commonwealth from the project.

(d) Each contract shall include a requirement for adequate reporting of financial and other data to the corporation. The contract shall require that a business receiving financial products shall participate in financial and managerial consulting services and the contract shall include a requirement for an annual or other periodic audit of the project books.

Section 6. The corporation shall endeavor to participate in projects each year that provide financial products, which in the aggregate total not less than 20 percent of the total capital committed by the corporation in that year, to minority owned or women owned contractors notwithstanding the conditions described in section 5, except that the corporation shall have determined, in writing: (i) that the project plans conform to applicable environmental, zoning, building, planning and sanitation laws; (ii) that there is a reasonable expectation that the project will be successful; and (iii) that the participation of the corporation is necessary for the successful completion of the proposed project because funding for the project is unavailable in the traditional capital markets, or that credit has been offered on terms that would preclude the success of the project.

Section 7. (a) The GCC may establish or invest in the capital stock of 1 or more corporations organized for the purposes of increasing capital available to small businesses or to engage local residents and businesses to work together to undertake programs, projects and activities which develop and improve urban, rural and suburban communities by creating and expanding economic opportunities for low and moderate income people. Without limitation, such a corporation may:

- (1) serve as a financial intermediary between entities undertaking projects and small businesses and public or private sources of capital including, without limitation, direct lenders, guarantors or grant makers. Any corporation so organized may accomplish its purposes by means of (i) investing in the equity capital of, (ii) making direct loans to, or (iii) issuing loan guarantees to entities undertaking projects or to small businesses; and
- (2) provide financial and managerial consulting services to entities undertaking projects, small businesses and minority owned or women owned contractors.

(b) The GCC may have a controlling or a minority interest in such a corporation, as the directors of the GCC shall determine in the board's discretion; provided, however, that at least 1 director of the GCC shall sit on the board of directors of the corporation.

(c) a corporation established under this section or in which the GCC has invested under this section shall, prior to making an investment in the capital stock of, or loans or loan guarantees to entities undertaking projects or to small businesses, make the following findings:

- (1) That such action is consistent with the objectives of this section and may reasonably be expected to contribute to the redevelopment and economic wellbeing of the commonwealth, will create or retain jobs or will assist minority or women owned businesses.
- (2) That the funds provided by the GCC will be used solely in connection with the costs of the project or the operation of the small business.
- (3) That the contract for participation in a project requires adequate reporting of financial data from the small business or project to such corporation. The contract shall require that a business receiving financial products shall participate in financial and managerial consulting services and the contract shall include a requirement for an annual or other periodic audit of the books of the project or the small business.
- (4) That its participation is necessary to the successful completion of the proposed project or to the success of the small business because funding for the project or small business is unavailable in the traditional capital markets, or that credit has been offered on terms that would preclude the success of the project or the small business.
- (5) That should the GCC desire to sell or otherwise dispose of stock received under such a contract, the small business or entity undertaking a project, or the small business or entity's nominee, shall within 120 days have the right of first refusal upon the sale and the right to meet a subsequent bona fide offer by a third party.

(d) The GCC shall not, nor shall the GCC in combination with such a corporation, own more than 49 percent of the voting stock in a small business.

(e) Upon the request of the GCC, the commissioner of banks shall examine the books of a corporation established or invested in by the GCC under this section if such examination is a condition of the particular investment, lending, loan guaranty or grant program administered by such corporation.

Section 8. (a) The corporation shall establish a program to support the provision of financial and managerial consulting and technical assistance to eligible companies which receive financial assistance from the commonwealth or any of the commonwealth's public authorities. Services supported may include, but are not limited to, procurement of investment capital, management, administration, production, product marketing, assisting business in securing federal contracts and business expansion, renovation and diversification. The program shall include: (i) referrals to technical assistance provided without charge to eligible companies by public and private small business support organizations; (ii) financial support to engage private consultants; and (iii) a directory of organizations, experts and consultants available to be engaged to offer financial or managerial consulting services.

(b) The corporation shall coordinate the program with the United State Small Business Administration, the Massachusetts Small Business Development Center Network and other private for profit and nonprofit providers of consulting and technical assistance to small businesses. The corporation shall consult with the commonwealth's public authorities, private business associations and regional economic development organizations in administering the program.

(c) The corporation may provide matching grants to fund consulting and technical assistance to small businesses who receive financial assistance from the commonwealth or any of the commonwealth's public authorities. The grants shall be used by the recipient businesses to pay for mandated small business consulting and technical assistance services. Prior to awarding a grant, the corporation shall have determined that the financial or managerial consulting services mandated as a condition of financial support of the small business are not available without charge from an entity participating in the program and that procuring such services creates a hardship and impedes the likelihood of success of a project. Grants awarded shall require a 100 percent match by the recipient.

Section 9. (a) The GCC may establish an economic stabilization program for the following purposes:

(1) To provide flexible high risk financing necessary to implement a change of ownership, a corporate restructuring or a turnaround plan for an economically viable, but troubled business which faces the likelihood of a large employment loss, plant closure or failure without such a change of ownership, corporate restructuring or turnaround plan. The program shall provide assistance to firms in specific mature industries for the purpose of technological investment or upgrading of management operations in order for the business to maintain future economic stability. The financial participation of the GCC shall aim to supplement private financial institutions and public economic development agencies when such institutions are unable to

provide all the financing or bear all of the risk necessary to transfer ownership, restructure or turnaround a business in a situation where the business might otherwise fail or greatly reduce its employment.

(2) To provide flexible high risk financing in connection with the startup of employee owned businesses or the implementation of employee ownership projects. The financial participation of the GCC shall aim to supplement private financial institutions and public economic development agencies when such institutions are unable to provide all the financing or bear all of the risk necessary to startup an employee owned business or implement an employee ownership project.

(b) The GCC shall endeavor to direct at least 10 percent of the financing provided by the economic stabilization program to businesses that are employee owned businesses in order to fulfill the purposes of this section.

(c) The GCC may participate in projects under this section, provided that, the corporation shall find and incorporate in the official records of the corporation that the project will be of a public benefit and:

(1) when providing assistance in connection with the purchase of a troubled business, the directors shall determine and incorporate in the minutes of a meeting of the directors that:

(i) the business is likely to experience a large loss of employment, plant closure, or failure without the loan financing or investment by corporation;

(ii) the business within a specific mature industry requires assistance for the purpose of technological investment or upgrading of management operations in order for the business to maintain future economic stability;

(iii) the business or person seeking to purchase the business has taken or will take such actions as the directors deem necessary to ensure the business has a reasonable chance to continue as a successful business, including, but not limited to, changes in its operations, financing, or management and that said actions are included as a condition for financing by the corporation in the financing agreement; and

(iv) the business or person seeking to purchase the business has made diligent efforts to obtain the financing necessary to continue its operations or transfer ownership of the business from private financial institutions and public economic development agencies and such financing is unavailable or has been offered on terms that would prevent the successful continuation or change in ownership of the business; or

(2) when providing assistance in connection with an employee owned business or an employee ownership project, the directors shall determine and incorporate in the minutes of a meeting of the directors that:

- (i) the business or person seeking assistance has taken or will take such actions as the directors deem necessary to ensure that the employee ownership project has a reasonable chance to succeed; and
- (ii) except with respect to assistance for prefeasibility and feasibility studies, that such business or person has made diligent efforts to obtain the financing necessary to institute or implement the employee ownership project from private financial institutions and public economic development agencies, and such financing is unavailable or has been offered on terms that would prevent the successful institution or implementation of the project.

Section 10. The GCC shall be subject to sections 3K and 56 of chapter 23A.

SECTION 59. Section 2 of chapter 40G of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 19 and 20, the words ‘eleven directors: the director of economic development, the secretary of administration, one’ and inserting in place thereof the following words:- 11 directors: the secretary of housing and economic development, who shall serve as chair, the secretary of administration and finance, 1.

SECTION 60. The fifth paragraph of said section 2 of said chapter 40G, as so appearing, is hereby amended by striking out the fourth sentence.

SECTION 61. Clause (d) of section 3 of said chapter 40G, as so appearing, is hereby amended by inserting after the word ‘business’, in line 8, the following words:- ; provided, however, that the MTDC shall contract with another public authority for the performance by that authority of core administrative functions, as determined by the secretary of housing and economic development, which may include, but not be limited to, human resources, financial management, information technology, legal, procurement and asset management, to minimize the administrative costs and expenses of the MTDC.

NO SECTION 62.

SECTION 63. Said chapter 40G is hereby further amended by adding the following section:-

Section 11. The MTDC shall be subject to sections 3K and 56 of chapter 23A.

SECTION 64. The definition of ‘eligible organization’ in section 2 of chapter 40H of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the second sentence.

SECTION 65. Said section 2 of said chapter 40H, as so appearing, is hereby amended by striking out the definition of ‘Target area’ and inserting in place thereof the following definition:-

‘Target area’, a contiguous geographic area in which the project is located and is: (i) an economic target area designated under section 3D of chapter 23A; (ii) the service area of community development corporation; or (iii) a zip code whose current unemployment rate exceeds the state unemployment rate by at least 25 per cent or whose mean household income is at or below 80 per cent of the state mean household income as of the most recent decennial census.

SECTION 66. Said chapter 40H is hereby further amended by inserting after section 2 the following section:-

Section 2A. (a) The director of housing and community development shall establish and maintain a list of organizations that have been certified as CDCs consistent with this chapter and develop a process for certifying said organizations; provided, however, that the organizations must be recertified at least once every 4 years. The process shall include an analysis of the organization's governance and a determination of whether the organization's constituency, including low and moderate income persons, is meaningfully represented on the board of directors of the organization. In making such determination, the director shall consider the following criteria: (a) the percentage, if any, of the board that is elected by the general membership; (b) the percentage of the board members who are residents of the service area; (c) the percentage of board members that are persons of low or moderate income; (d) the racial and ethnic composition of the board in comparison to the racial and ethnic composition of the community that the organization serves; (e) other mechanisms, including committees, membership meetings and others that the organization uses to ensure that the organization's constituency has a meaningful role in the governance and direction of the organization; and (f) other criteria as determined by the director of housing and community development.

(b) The director of housing and community development shall file an annual report on December 15 with the speaker of the house of representatives, the president of the senate, the chairs of the house and senate committees on ways and means, the chairs of the joint committee on housing, and the chairs of the joint committee on community development and small business providing: (i) a list of certified CDCs in the commonwealth and (ii) a summary of programs, initiatives or partnerships operated by the executive office of housing and economic development, its agencies and quasi-public agencies organized under the executive office, that are designed to build the capacity of CDCs, provide training or technical assistance to CDC employees or board members, provide funding to support CDCs and their programs, projects and initiatives and otherwise help CDCs to engage local residents and businesses to work together to undertake programs, projects and activities which develop and improve urban, rural and suburban communities by creating and expanding economic opportunities for low and moderate income persons together with recommendations for action to enhance the ability of CDCs to advance those activities.

SECTION 67. Section 3 of said chapter 40H, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 13, the words 'nine directors, four' and inserting in place thereof the following words:- 9 directors, 1 of whom shall be the secretary of the housing and economic development, who shall serve as chair, 3.

SECTION 68. Subsection (b) of said section 3 of said chapter 40H, as so appearing, is hereby amended by striking out the sixth sentence.

SECTION 69. Said chapter 40H is hereby further amended by adding the following section:-

Section 9. CEDAC shall be subject to sections 3K and 56 of chapter 23A.

SECTION 70. The third paragraph of section 3 of chapter 40J of the General Laws, as amended by section 15 of chapter 158 of the acts of 2009, is hereby further amended by striking out the first sentence and inserting in place thereof the following two sentences:-

The secretary of housing and economic development or the secretary's designee shall serve as chairperson. The board shall annually elect from among its members a vicechair and may designate a treasurer and a secretary, who need not be members of the board.

SECTION 71. Section 6A of said chapter 40J, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 16, the words 'undersecretary of business' and inserting in place thereof the following words:-

Secretary of housing and economic.

SECTION 72. Said section 6B of said chapter 40J, as so appearing, is hereby further amended by striking out, in line 32, the words 'or his designee' and inserting in place thereof the following words:- , who shall serve as chair.

SECTION 73. Subsection (c) of said section 6B of said chapter 40J, as so appearing, is hereby further amended by striking out the second sentence.

SECTION 74. The second paragraph of subsection (b) of section 6D of said chapter 40J, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:-

The council shall consist of 9 members; 1 of whom shall be the secretary of health and human services, who shall serve as the chair; 1 of whom shall be the secretary of administration and finance, or the secretary's designee; 1 of whom shall be the executive director of the health care quality and cost council; 1 of whom shall be the director of the office of Medicaid; 1 of whom shall be the secretary of housing and economic development or the secretary's designee; 4 of whom shall be appointed by the governor, of whom at least 1 shall be an expert in health information technology, 1 shall be an expert in law and health policy and 1 shall be an expert in health information privacy and security.

SECTION 75. Said chapter 40J is hereby further amended by adding the following section:-

Section 13. The corporation shall be subject to sections 3K and 56 of chapter 23A.

SECTION 76. Section 1 of chapter 40Q of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting before the definition of 'Base date' and inserting in place thereof the following definitions:-

'Adjustment factor', for each fiscal year of the term of a given development program, the product of the inflation factors for each fiscal year subsequent to the first fiscal year immediately following the base date.

SECTION 77. Section 1 of said chapter 40Q, as so appearing, is hereby amended, in lines 31 and 32, by striking out clause (8) and inserting in place thereof the following clause:- (8) the duration of the program which shall not exceed the longer of (i) 30 years from the date of designation of the district or (ii) 30 years from project stabilization, as defined in the development program.

SECTION 78. Said section 1 of said chapter 40Q, as so appearing, is hereby further amended by striking out the definition of 'Inflation factor' and inserting in place thereof the following definition:-

'Inflation factor", a ratio: (1) the numerator of which shall be the total assessed value of all parcels of residential, commercial and industrial real estate that are assessed at full and fair cash value for the current fiscal year minus the new growth adjustment factor for the current fiscal year attributable to the residential, commercial and industrial real estate as determined by the commissioner of revenue under paragraph (f) of section 21C of chapter 59; and (2) the denominator of which shall be the total assessed value for the preceding fiscal year of all the parcels included in the numerator; provided, however, the ratio shall not be less than 1; provided, further, that if the proposed Invested Revenue District does not include residential property, the assessed value attributable to residential property shall not be included in either the numerator or the denominator in calculating the inflation factor.

SECTION 79. Said section 1 of said chapter 40Q, as so appearing, is hereby further amended by striking out, in line 59, the word 'and'.

SECTION 80. Said section 1 of said chapter 40Q, as so appearing, is hereby further amended by inserting after the word 'located', in line 61, the following clause:- and (8) if applicable, a statement of the city or town electing that the original assessed value not be increased by the adjustment factor.

SECTION 81. Said section 1 of said chapter 40Q, as so appearing, is hereby further amended by striking out the definition of 'Original assessed value' and inserting in place thereof the following definition:- 'Original assessed value", the aggregate assessed value of the invested revenue district as of the base date; provided, however, that if the city or town has not included an election statement in its investment district development program, the original assessed value in any year shall be equal to the original assessed value as of the base date multiplied by the adjustment factor for that fiscal year.

SECTION 82. The General Laws are hereby amended by inserting after chapter 40U the following chapter:-

CHAPTER 40V.

Housing Development Incentive Program.

Section 1. As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

‘Certified housing development project’, a housing development project that has been approved by the department for participation in the housing development incentive program.

‘Department’, the department of housing and community development as established by chapter 23B.

‘Gateway municipality’, shall have the same meaning as in section 3A of chapter 23A.

‘Housing development incentive program’ or ‘HDIP’, a program designed to promote increased residential growth, expanded diversity of housing supply, neighborhood stabilization, and economic development within housing development zones in gateway municipalities.

‘Housing development zone,’ or ‘HD zone’, a zone designated by a gateway municipality which shall be characterized by a need for multi-unit market rate residential properties.

‘Housing development project,’ a multi-unit residential rehabilitation project that is located in a gateway municipality and once rehabilitated, shall contain at least 80% market rate units.

‘Market rate residential unit’, a residential unit priced for households above 110% of the area’s household median income.

‘Sponsors’, shall have the same definition as in section 25 of chapter 23B.

‘Qualified substantial rehabilitation expenditure,’ the cost of substantial rehabilitation meeting the following criteria: (i) an initial certification by department that the structure meets the definition of certified housing development project; (ii) a second certification by the department, to be issued prior to construction, certifying that if completed as proposed, the rehabilitation work will meet the standards required for a certified rehabilitation; and (iii) a final certification by the department, issued when the property is leased or sold by the taxpayer.

‘Substantial rehabilitation’ and ‘substantially rehabilitated’, the needed major redevelopment, repair and renovation of a property, excluding the purchase of the property, as determined by the department of housing and community development.

Section 2. The department may from time to time designate one or more areas of a gateway municipality as an HD Zone, and take any and all actions necessary or appropriate thereto, upon receipt of a municipal application requesting such designation and representing therein that the municipality, based on its own independent investigation, has determined that the area proposed for designation has a need for multi-unit

residential properties. The application shall include a plan which shall include a detailed description of the construction, reconstruction, rehabilitation and related activities, public and private, contemplated for such zone as of the date of the adoption of the zone plan; and

Section 3. Pursuant to section 5M of chapter 59, the department may approve a municipality's application for a tax exemption for a housing development project located within an approved housing development zone.

Section 4. (a) A project may be eligible to be a certified housing development project under this program provided the project proposed:

- (i) contains two or more residential units; provided, however, the project may be a mixed-use development that includes commercial uses in addition to residential units;
- (ii) contains no more than 50 market rate residential units;
- (iii) is located in a designated or proposed HD zone;
- (iv) will contain at least 80% market rate units upon completion of the rehabilitation, to be sold or leased;
- (v) has received from the municipality a property tax exemption pursuant to section 5M of chapter 59; and
- (vi) is a substantial rehabilitation of an existing property.

(b) The department may from time to time approve one or more housing development projects, located in HD zones designated under section 2 of this chapter, as certified projects, and take any and all actions necessary or appropriate thereto, upon compliance with the following:

- (i) receipt of a project proposal therefor requesting such designation from the municipality, submitted in a timely manner, in such form and with such information as is prescribed by the department, supported by independently verifiable information and signed under the penalties of perjury by a person authorized to bind the sponsors;
- (ii) receipt of an executed agreement by the municipality which contains a tax exemption pursuant to section 5M of chapter 59 and section 4 of this chapter, said municipality having found, based on

the information submitted with said project proposal and such additional investigation as the municipality shall make, and incorporate in a formal written determination, that the project as described in the proposal and all documentation submitted therewith:

- (1) is consistent with and can reasonably be expected to benefit significantly from the gateway municipality's plans relative to the project property tax exemption;
- (2) together with all other projects previously certified and located in the same project HDIP zone, will not overburden the municipality's supporting resources; and
- (3) together with the municipal resources committed thereto, will, if certified, have a reasonable chance of increasing residential growth, diversity of housing supply, and supporting economic development, and promoting neighborhood stabilization in one of the municipality's housing development zones of the municipality as advanced in said proposal;

(iii) receipt with such written approval by the municipality of a request for a designation of the project as a certified project for a specified number of years, which shall be not less than five years and not more than twenty years.

(c) The department shall evaluate and either grant or deny any project proposal within ninety days from the date of its receipt of a complete project proposal and failure to do so by the department will result in approval of such project for a term of twenty years. Approval of a project because of the department's failure to act within ninety days shall not constitute approval by the department of any tax incentives provided under chapter 62 or 63.

(d) The department may impose a fee for the processing of applications for the certification of any project under the provisions of this section.

(e) A certified project shall retain its certification for the period specified by the department in its certification decision unless such certification is revoked prior to the expiration of the specified period. The certification of a project may be revoked only by the department and only upon: (i) the petition of the municipality that approved the project proposal, if the petition satisfies the authorization requirements for a municipal application, or the petition of the director of the department; and (ii) the independent investigation and determination of the department that representations made by the sponsors in its project proposal are materially at variance with the conduct of the sponsors subsequent to the certification and such variance is found to frustrate the public purposes that such certification was intended to advance.

The department shall review such certified project at least once every 2 years. Upon such a revocation, the commonwealth, and the municipality, shall have causes of action against the sponsors for the value of any economic benefit received by the sponsors prior to or subsequent to such revocation.

Under this section, revocation shall take effect on the first day of the tax year in which the department determines that a material variance commenced. The commissioner of revenue may, as of the effective date of the revocation, disallow any credits, exemptions or other tax benefits allowed by the original certification under this section. The commissioner shall issue regulations to recapture the value of any credits, exemptions or other tax benefits allowed by the certification under this section.

Annually, on or before the first Wednesday in December, the department shall file a report detailing its findings of the review of all certified projects that it evaluated in the prior fiscal year to the commissioner of revenue and to the joint committee on taxation and the joint committee on housing and community development.

Section 5. (a) The department may award to a sponsor of a certified project tax credits available under section 6(q) of chapter 62 and section 38BB of chapter 63 not to exceed ten per cent of the cost of qualified substantial rehabilitation expenditures of the market rate units in the project. The amount and duration of the credit awarded shall be based on the following factors:

- (i) the need for residential development and diversity of housing supply in the gateway municipality;
- (ii) the extent to which the project will encourage residential development, expansion of diversity of housing supply, support neighborhood stabilization, and promote economic development in the zone; and
- (iii) the percentage of market rate units contained in the project.

(b) The department may, limit any incentive or credit available to a project pursuant to section 6(q) of chapter 62 and section 38BB of chapter 63 to a dollar amount or in any other manner deemed appropriate by the department.

SECTION 83. Section 92 of chapter 41 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 13, and in lines 14 and 15, the words ‘two thousand five hundred dollars’ and inserting in place thereof, in each instance, the following figure:- \$7,000.

NO SECTION 84.

SECTION 85. The General Laws are hereby amended by inserting after chapter 43D the following chapter:-

CHAPTER 43E.

EXPEDITED STATE PERMITTING

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:—

‘Growth district’, a district designated from time to time by the secretary of housing and economic development, with the approval of the secretary of energy and environmental affairs, to participate in the growth district initiative.

‘Growth district initiative’, a program established by the executive office of housing and economic development and section 2C of chapter 303 of the acts of 2008 to provide for commercial and residential transportation and infrastructure development, improvements and various capital investment projects.

‘Issuing authority’, a state agency, commission, department or other state entity that is responsible for issuing permits, granting approvals or otherwise involved in land use development including redevelopment of existing buildings and structures.

‘Permit’, a permit, formal determination, order of conditions, license, certificate, authorization, registration, or other approval or determination with respect to the use or development of land, buildings, or structures required by any issuing authority. ‘Permit’ shall not include the decision of an agency to dispose of property under its management or control or permits granted by the Massachusetts Water Resources Authority, or permits or approvals issued by the department of public utilities or the Energy Facilities Siting Board pursuant to chapter 40A and chapter 164, or requests for variances or waivers from state laws or regulations.

‘Priority development site’, shall have the same meaning as in chapter 43D.

‘Project’, shall have the same meaning as in section 62 of chapter 30.

‘Site’, a privately or publicly owned property that is commercially or industrially zoned.

Section 2. (a) Issuing authorities shall complete permit reviews and final decisions within 180 days, or 210 days for permit processes requiring a public comment period, subject to the extension herein, for projects that are in: (i) priority development sites designated pursuant to chapter 43D; (ii) located within

a growth district as defined in this chapter; (iii) provided the applicant has received a certificate indicating the completion of the process under sections 61 to 62H, inclusive, of chapter 30; and (iv) provided the project or any portion thereof is not in a wetland as defined by section 40 of chapter 131, tidelands as defined by section 1 of chapter 91, priority habitat as delineated by the division of fisheries and wildlife pursuant to chapter 131A, or an area of critical environmental concern as designated by the secretary of energy and environmental affairs.

(b) The time period to complete reviews and issue permit decisions shall begin the day after the issuance of the notice that the application materials necessary for the permit are complete. The issuing authority shall notify the applicant in writing within 20 business days from receipt of the completed form of additional information needed or requirements that it may have. The issuing authority may provide for pre-application conferences to facilitate this process.

(c) The resubmission of the application or the submission of such additional information required by the issuing authority shall commence a new 30-day period for review of the additional information.

Section 3. Failure by any issuing authority to take final action on a permit or approval within the 180-day or 210-day period or extended time, if applicable, shall be considered a grant of the permit requested of that authority. In that event, within 3 days after the date of expiration of the time period, the applicant shall file a notice with the issuing authority, attaching the application, setting forth the facts giving rise to the grant and stating that notice of the grant has been mailed, by certified mail, to all parties to the proceedings and all persons entitled to notice of hearing in connection with the application.

Section 4. The grant shall not occur where: (1) the issuing authority has made a timely determination that the application is not complete in accordance with its requirements and notified the applicant as set forth herein and the applicant has not made a timely response to complete the application; (2) the issuing authority has determined that the final application contained false or misleading information; or (3) the issuing authority has determined that substantial changes to the project affect the information required to process the permit application have occurred since the filing of the application.

Section 5. The 180 or 210 day time period may be waived or extended for good cause upon written request of the applicant with the consent of the issuing authority or upon written request of the issuing authority with the consent of the applicant. The 180 or 210 day time period shall be extended without consent of the applicant when the issuing authority determines either: (1) that action by another federal, state or municipal government agency is required before the issuing authority may act; (2) that judicial

proceedings affect the ability of the issuing authority or applicant to proceed with the application; or (3) that enforcement proceedings that could result in revocation of an existing permit for that facility or activity and denial of the application have been commenced. In those circumstances, the issuing authority shall provide written notification to the applicant and send a copy to the secretary. When the reason for the extension is no longer applicable, the issuing authority shall immediately notify the applicant, and shall complete its decision within the time period specified in this section, beginning the day after the notice is issued. An issuing authority may not use lack of time for review as a basis for denial of a permit if the applicant has provided a complete application and met all other obligations in accordance with this chapter.

Section 6. In instances where there is grant pursuant to section 3 and an administrative or judicial appeal of such grant, the commencement of the time period for such appeal shall be the date in which the applicant files notice of the grant in accordance with section 3. The 180 or 210 day timeline does not apply to an administrative appeal following the issuance of a permit.

Section 7. Nothing in this chapter shall be construed to alter the substantive jurisdictional authority of issuing authorities. Nothing in this chapter shall be construed to in any way modify any requirement of the State Implementation Plan or other requirement of law that is necessary to retain federal delegation to, or assumption by, the commonwealth of the authority to implement a federal law or program.

Section 8. The secretary of housing and economic development shall promulgate rules and regulations to implement this chapter with the approval of the secretary of energy and environmental affairs. Any agency issuing permits under this chapter is also authorized to issue rules and regulations to tailor this chapter to the specific permits issued by such agency.

SECTION 86. Clause Sixteenth of section 5 of chapter 59 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out paragraph (3) and inserting in place thereof the following paragraph:-

(3) In the case of (i) a manufacturing corporation or a research and development corporation, as defined in section 42B of chapter 63, or (ii) a limited liability company that; (a) has its usual place of business in the commonwealth; (b) is engaged in manufacturing in the commonwealth and whose sole member is a manufacturing corporation as defined in section 42B of chapter 63 or is engaged in research and development in the commonwealth and whose sole member is a research and development corporation as defined in said section 42B; and (c) is a disregarded entity, as defined in paragraph 2 of section 30 of chapter 63, all property owned by the corporation or the limited liability company other than real estate,

poles and underground conduits, wires and pipes; provided, however, that no property, except property entitled to a pollution control abatement under clause forty-fourth or a cogeneration facility, shall be exempt from taxation if it is used in the manufacture or generation of electricity and it has not received a manufacturing classification effective on or before January 1, 1996. For the purposes of this section, a cogeneration facility shall be an electrical generating unit having power production capacity which, together with any other power generation facilities located at the same site, is not greater than 30 megawatts and which produces electric energy and steam or other form of useful energy utilized for industrial, commercial, heating or cooling purposes. For purposes of this paragraph, in determining whether the sole member of a limited liability company treated as a disregarded entity is a manufacturing corporation or a research and development corporation, the attributes and activities of the limited liability company shall be taken into account by the member along with the member's other attributes and activities. This clause as it applies to a research and development corporation, as defined in section 42B of said chapter 63, and as it applies to a limited liability company that is a disregarded entity and whose sole member is a manufacturing corporation or a research and development corporation shall take effect only upon its acceptance by the city or town in which the real estate, poles and underground conduits, wires and pipes are located.

SECTION 87. Said section 5 of said chapter 59, as so appearing, is hereby amended by striking out clause Fifty-first and inserting in place thereof the following clause:

Fifty-first, the value of a parcel of real property which is included within an executed agreement under clause (v) of section 59, clause (v) of subsection (a) of section 60 or clause (iv) of subsection (a) of section 60A of chapter 40, and the value of 2981 personal property situated on that parcel, but taxes on real and personal property eligible for exemption under this clause shall be assessed only on that portion of the value of the property that is not exempt under section 59, section 60 or section 60A of chapter 40, and this exemption shall be for a term not longer than the period specified for the exemption in the agreement. The amount of the exemption under this clause for a parcel of real property shall be the exemption percentage adopted under clause (iii) of section 59, subsection (a) of section 60 or of section 60A of said chapter 40 multiplied by the amount by which the parcel's value exceeds the product of its assessed value for the last fiscal year before it became eligible for exemption under this clause multiplied by the adjustment factor determined under said section 59, section 60 or section 60A of said chapter 40. The amount of the exemption under this clause for personal property shall be the exemption percentage adopted under clause (iii) of section 59, subsection (a) of section 60 or of section 60A of said chapter 40 multiplied by the fair cash valuation of the personal property. Taxes on property eligible for exemption under this clause shall be assessed only on that portion of the value of the property that is not exempt under this clause.

SECTION 88. Said chapter 59 is hereby further amended by inserting after section 5L the following section:-

Section 5M. A gateway municipality, as defined in section 1 of chapter 40U, may, by vote of its legislative body, subject to the charter of the municipality, establish an exemption in an amount not less than between 10 and not more than 100 per cent of the incremental value of the market rate units contained in a certified housing development project within a housing development zone pursuant to chapter 40U, for a period of not less than 5 years and not more than 20 years. For the purposes of this section, market rate is defined as in section 1 of chapter 40U. Such exemption shall be approved by the department of housing and community development, established in chapter 23B. The department shall promulgate applicable rules and regulations to carry out the provisions of this section.

SECTION 89. Section 4 of chapter 62 of the General Laws, as so appearing, is hereby amended by inserting after the word 'paragraph b', in line 32, the following words:- '- ; excepting Part C taxable income derived from the sale of investments which (1) are in a corporation which is domiciled in the commonwealth with a date of incorporation on or after January 1, 2011 which has less than \$50 million in assets at the time of investment and complies with subsections (e)(1), (e)(2), (e)(5), and (e)(6) of Section 1202 of the Internal Revenue Service Code and (2) are held for 3 years or more, which shall be taxed at a rate of 3 per cent. In order to qualify for the 3 per cent rate, such investments shall be made within 5 years of the date of incorporation and, to the extent consistent with the provisions of this subsection, shall be in stock in a corporation that satisfies the requirements for treatment as "qualified small business stock" under section 1202(c) of the federal Internal Revenue Code (without regard to the requirement that the corporation be a 'C corporation').

SECTION 90. Paragraph (1) of subsection (g) of section 6 of chapter 62 , as amended by section 21 of chapter 166 of the acts of 2009, is hereby further amended by striking out the third sentence and inserting in place thereof the following three sentences:- If such property is disposed of or ceases to be in qualified use within the meaning of section 31A or ceases to be used exclusively in a certified project before the end of the certified project's certification period, or if a certified project's certification is revoked, the recapture provisions of subsection (e) of section 31A shall apply. If such property is disposed of after the certified project's certification period but before the end of such property's useful life, the recapture provisions of subsection (e) of section 31A shall apply. The expiration of a certified project's certification shall not require the application of the recapture provisions of subsection (e) of section 31A.

SECTION 91. The second paragraph of said paragraph (1) of said subsection (g) of said section 6 of said chapter 62 , as appearing in said section 21 of said chapter 166, is hereby further amended by striking out the words ‘and not more than \$5,000,000 for certified manufacturing retention’ and inserting in place thereof the following words:- and not more than \$10,000,000 for certified manufacturing retention and job growth.

SECTION 92□ Said subsection (g) of said section 6 of said chapter 62, inserted by section 21 of chapter 166 of the acts of 2009, is hereby amended by striking out paragraph (1) inserting the following paragraph: (1) A credit shall be allowed against the tax liability imposed by this chapter, to the extent authorized by the economic assistance coordinating council established in section 3B of chapter 23A, up to an amount equal to 50 per cent of such liability in any taxable year; provided, however, that the 50 per cent limitation shall not apply where the credit is refundable under paragraph (5): (i) for certified expansion projects and certified enhanced expansion projects, as defined in sections 3A and 3F of said chapter 23A, an amount up to 10 per cent, and (ii) for certified manufacturing retention projects, as defined in said sections 3A and 3F of said chapter 23A, an amount up to 40 per cent of the cost of property that would qualify for the credit allowed by section 31A of chapter 63 if the property were purchased by a manufacturing corporation or a business corporation engaged primarily in research and development and used exclusively in a certified project as defined in said sections 3A and 3F of said chapter 23A□ A lessee may be eligible for a credit pursuant to this subsection for real property leased pursuant to an operating lease□ If such property is disposed of or ceases to be in qualified use within the meaning of said section 31A of said chapter 63 or if such property ceases to be used exclusively in a certified project, as defined in said sections 3A and 3F of said chapter 23A, before the end of its useful life, the recapture provisions of subsection (e) of said section 31A of said chapter 63 shall apply and an amount determined thereunder shall be added to the tax imposed by this chapter.

The total amount of credits that may be authorized by the economic assistance coordinating council in a calendar year pursuant to this section and section 38N of chapter 63 shall not exceed an annual cap equal to \$25,000,000 minus the credits granted and carryforwards of credits from prior years pursuant to subsection (q)(5) of section of 6 of this chapter and section 38BB(5) of said chapter 63, and shall include: (1) refundable credits granted during the year pursuant to this section or said section 38N of said chapter 63; (2) nonrefundable credits granted during the year pursuant to this section or said section 38N of said chapter 63, to the extent that such nonrefundable credits are estimated by the commissioner to offset tax liabilities during the year; and (3) carryforwards of credits from prior years pursuant to this section or said section 38N of said chapter 63, to the extent that such credit carryforwards are estimated by the commissioner to offset tax liabilities during the year. Of these allowable credits, the economic assistance coordinating council may award not more than \$5,000,000 in a calendar year to certified enhanced expansion projects as defined in sections 3A and 3F of chapter 23A, and not more than \$5,000,000 for certified manufacturing retention projects as defined in said sections 3A and 3F of said chapter 23A□ Any portion of the annual cap not awarded by the economic assistance coordinating council in a calendar year shall not be applied to awards in a subsequent year□ The economic assistance coordinating council shall provide the commissioner of revenue with any documentation that the commissioner deems necessary to confirm compliance with the annual cap and the commissioner shall provide a report confirming

compliance with the annual cap to the secretary of administration and finance and the secretary of housing and economic development.

SECTION 93. Section 6 of chapter 62 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after subsection (p) the following subsection: -

(q) (1) A credit shall be allowed against the tax liability imposed by this chapter, to the extent awarded by the department of housing and community development established in chapter 23B, for a certified housing development project, as defined in chapter 40U, in an amount up to 25 per cent of the cost of qualified substantial rehabilitation expenditures of the market rate units within the projects, as defined in section 1 of chapter 40U. The credit under this subsection shall be allowed for the taxable year in which department of housing and community development gives the commissioner written notification of completion of the certified housing development project.

(2) Taxpayers eligible for the this credit may, with prior notice to and in accordance with regulations adopted by the commissioner of revenue, transfer the credits, in whole or in part, to any individual or entity, and the transferee shall be entitled to apply the credits against the tax with the same effect as if the transferee had incurred the qualified rehabilitation expenditures itself. If the sponsor of the certified housing development project is a partnership or a limited liability company taxed as a partnership, the credit, if transferred must be transferred by the partnership or the limited liability company. If the credits allowed to a partnership, a limited liability company taxed as a partnership or multiple owners of property are not transferred they shall be passed through to the persons designated as partners, members or owners, respectively, pro rata or pursuant to an executed agreement among the persons designated as partners, members or owners documenting an alternative distribution method without regard to their sharing of other tax or economic attributes of the entity. Credits passed through to individual partners and members are not transferable.

(3) If the credit allowable for any taxable year exceeds the taxpayer's tax liability for that tax year, the taxpayer may carry forward and apply in any subsequent taxable year, the portion, as reduced from year to year, of those credits which exceed the tax for the taxable year; provided, however, that in no event shall the taxpayer apply the credit to the tax for any taxable year beginning more than 5 years after the taxable year in which department of housing and community development gives the commissioner written notification of completion of the certified housing development project. If the credit is transferred by the taxpayer, the carry over provisions applicable to the transferee apply.

A transferee shall use the credit in the year it is transferred. If the credit allowable for any taxable year exceeds the transferee's tax liability for that tax year, the transferee may carry forward and apply in any subsequent taxable year, the portion, as reduced from year to year, of those credits which exceed the tax for the taxable year; provided, however, that in no event shall the transferee apply the credit to the tax for any taxable year beginning more than five years after the taxable year in which DHCD gives the commissioner written notification of completion of the certified housing development project.

(4) For any certified housing development project, qualified rehabilitation expenditures applicable to this credit shall be treated for purposes of this subsection as made on the date that DHCD gives the Commissioner written notification of completion of the certified housing development project.

(5) The total amount of credits that may be authorized by DHCD in a calendar year pursuant to this subsection and section 38BB of chapter 63 shall not exceed \$5,000,000 and shall include: (1) credits granted during the year pursuant to this subsection or said section 38BB of said chapter 63; (2) carry forwards of credits from prior years pursuant to this subsection or said section 38BB of said chapter 63, to the extent that such credit carry forwards are estimated by the commissioner to offset tax liabilities during the year. Any portion of the \$5,000,000 annual cap not awarded by the DHCD in a calendar year shall not be applied to awards in a subsequent year. The DHDC shall provide the commissioner of revenue with any documentation that the commissioner deems necessary to confirm compliance with the annual cap and the commissioner shall provide a report confirming compliance with the annual cap to the secretary of administration and finance and the secretary of housing and economic development. (6) The commissioner, in consultation with the DHDC, shall prescribe regulations necessary to carry out this subsection.

SECTION 94. Subsection (b) of section 6J of said chapter 62, as so appearing, is hereby amended by striking out, in lines 36 and 37, the words ' , for the 6 year period beginning January 1, 2006, and ending December 31, 2011 ' and inserting in place thereof the following words:- 'through December 31, 2015.

SECTION 94A Section 1 of said chapter 62C, as so appearing in the 2008 General Laws of Massachusetts, is hereby amended by adding the following definition:-

'Tax credit program', (i) the tax credit in subsection (j) of section 6 of chapter 62 and section 38Q of chapter 63; (ii) the dairy farmer tax credit in subsection (o) of said section 6 of said chapter 62 and the dairy farm tax credit in section 38Z of said chapter 63; (iii) the U.S.F.D.A. user fees credit in section 31M of said chapter 63 and subsection (n) of said section 6 of said chapter 62; (iv) the film tax credit in subsection (b) of section 38X of said chapter 63 and subsection (l) of said section 6 of said chapter 62; (v) the historic rehabilitation tax credit in section 38R of said chapter 63 and section 6J of said chapter 62; (vi) the life sciences investment tax credit in section 38U of said chapter 63 and subsection (m) of said

section 6 of said chapter 62; (vii) the low-income housing tax credit in section 31H of said chapter 63 and section 6I of said chapter 62; (viii) the medical device tax credit in section 31L of said chapter 63 and section 6 1/2 of said chapter 62; (ix) the refundable research credit in subsection (j) of section 38M of said chapter 63; (x) the economic development incentive program in subsection (g) of said section 6 of said chapter 62 and section 38N of said chapter 63; and (xi) any transferrable or refundable credits under chapter 62 and 63 established on or after July 1, 2010.

SECTION 95. Section 30 of chapter 63 of the General Laws, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

Losses sustained in any taxable year prior to January 1, 2008, may be carried forward for not more than 5 years and may not be carried back. Losses sustained in any taxable year beginning on or after January 1, 2008 may be carried forward for not more than 20 years and may not be carried back. Said net operating loss carry-forward shall be applicable to any company subject to Massachusetts corporate excise taxation, excepting losses sustained prior to January 1, 2012, by utility corporations subject to tax under section 52A of chapter 63, and financial institutions subject to tax under sections 1, 2, and 2a of chapter 63.

SECTION 96 Section 38N of chapter 63, inserted by section 23 of chapter 166 of the acts of 2009, is hereby amended by striking out subsection (a) and inserting in place thereof the following: (a) A corporation subject to tax under this chapter that participates in a certified project as defined in sections 3A and 3F of chapter 23A, may take a credit against the excise imposed by this chapter to the extent authorized by the economic assistance coordinating council established by section 3B of said chapter 23A, in an amount not to exceed 50 per cent of such liability in a taxable year; provided, however, that the 50 per cent limitation shall not apply if the credit is refundable under subsection (b): (i) for certified expansion projects and certified enhanced expansion projects, as defined in said sections 3A and 3F of said chapter 23A, an amount up to 10 per cent; and (ii) for certified manufacturing retention projects, as defined in said sections 3A and 3F of said chapter 23A, an amount up to 40 per cent of the cost of any property that would qualify for the credit allowed by section 31A if the property were purchased by a manufacturing corporation or a business corporation engaged primarily in research and development and is used exclusively in a certified project as defined in said sections 3A and 3F of said chapter 23A. A lessee may be eligible for a credit pursuant to this subsection for real property leased pursuant to an operating lease.

The total amount of credits that may be authorized by the economic assistance coordinating council in a calendar year pursuant to subsection (g) of section 6 of chapter 62 and this section shall not exceed an annual cap equal to \$25,000,000 minus the credits granted and carryforwards of credits from prior years pursuant to section 38BB(5) of this chapter and subsection (q)(5) of section 6 of chapter 62, and shall include: (1) refundable credits granted during the year pursuant to said subsection (g) of said section 6 of

said chapter 62 or this section; (2) nonrefundable credits granted during the year pursuant to said subsection (g) of said section 6 of said chapter 62 or this section, to the extent that such nonrefundable credits are estimated by the commissioner to offset tax liabilities during the year; and (3) carryforwards of credits from prior years pursuant to said subsection (g) of said section 6 of said chapter 62 or this section, to the extent that such credit carryforwards are estimated by the commissioner to offset tax liabilities during the year. Of these allowable credits, the economic assistance coordinating council may award not more than \$5,000,000 in a calendar year to certified enhanced expansion projects as defined in sections 3A and 3F of chapter 23A and not more than \$5,000,000 for certified manufacturing retention projects as defined in said sections 3A and 3F of said chapter 23A. Any portion of the annual cap not awarded by the economic assistance coordinating council in a calendar year shall not be applied to awards in a subsequent year. The economic assistance coordinating council shall provide the commissioner with any documentation that the commissioner deems necessary to confirm compliance with the annual cap and the commissioner shall provide a report confirming compliance with the annual cap to the secretary of administration and finance and the secretary of housing and economic development.

The credit allowed under this section may be taken by an eligible corporation; provided, however, that the credit allowed by section 31A or section 31H shall not be taken by such corporation. For purposes of this paragraph, the corporation need not be a manufacturing corporation or a business corporation engaged primarily in research and development. If such property is disposed of or ceases to be in qualified use within the meaning of said section 31A or if such property ceases to be used exclusively in a certified project before the end of its useful life, the recapture provisions of subsection (e) of said section 31A shall apply.

As used in this paragraph, 'EACC' shall mean the economic assistance coordinating council established in section 3B of chapter 23A. A credit allowed under this section may be taken only after the taxpayer completes a report signed by an authorized representative of the corporation and files the report with the EACC within 2 years after the initial project certification by the EACC and annually thereafter. The report shall contain pertinent employment data needed to determine whether the taxpayer has reasonably satisfied the employment projections set forth in its original project proposal granted pursuant to section 3F of said chapter 23A. Paragraph (3) of section 3F of said chapter 23A shall apply to tax benefits awarded under this section. Nothing in this section shall limit the authority of the commissioner to make adjustments to a corporation's liability upon audit.

SECTION 97. Said second paragraph of paragraph (a) of said section 38N of said chapter 63, as so appearing, is hereby amended by striking out words 'and not more than \$5,000,000 for certified

manufacturing retention' and inserting in place thereof the following words:- and not more than \$10,000,000 for certified manufacturing retention and job growth.

SECTION 98. The third paragraph of said subsection (a) of said section 38N of said chapter 63, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentences:-

If such property is disposed of or ceases to be in qualified use within the meaning of section 31A or ceases to be used exclusively in a certified project before the end of the certified project's certification period, or if a certified project's certification is revoked, the recapture provisions of subsection (e) of section 31A shall apply. If such property is disposed of after the certified project's certification period but before the end of such property's useful life, the recapture provisions of subsection (e) of section 31A shall apply. The expiration of a certified project's certification shall not require the application of the recapture provisions of subsection (e) of section 31A.

SECTION 99. Subsection (b) of section 38R of said chapter 63, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 35 and 36, the words ', for the 6 year period beginning January 1, 2006, and ending December 31, 2011' and inserting in place thereof the following words:- through December 31, 2015,.

SECTION 100. Said chapter 63 is hereby further amended by inserting after section 38AA the following section: -

Section 38BB. (1) A credit shall be allowed against the tax liability imposed by this chapter, to the extent awarded by the department of housing and community development (DHCD) established in chapter 23B, for a certified housing development project, as defined in chapter 40U, in an amount up to 25 per cent of the cost of qualified substantial rehabilitation expenditures of the market rate units within the project, as defined in section (1) of chapter 40U. The credit under this section shall be allowed for the taxable year in which DHCD gives the commissioner written notification of completion of the certified housing development project.

(2) Taxpayers eligible for the this credit may, with prior notice to and in accordance with regulations adopted by the commissioner, transfer the credits, in whole or in part, to any individual or entity, and the transferee shall be entitled to apply the credits against the tax with the same effect as if the transferee had incurred the qualified rehabilitation expenditures itself.

(3) If the credit allowable for any taxable year exceeds the taxpayer's tax liability for that tax year, the taxpayer may carry forward and apply in any subsequent taxable year, the portion of the, as reduced from year to year, of those credits which exceed the tax for the taxable year; provided, however, that in no

event shall the taxpayer apply the credit to the tax for any taxable year beginning more than five years after the taxable year in which DHCD gives the commissioner written notification of completion of the certified housing development project. If the credit is transferred by the taxpayer, the carry over provisions applicable to the transferee apply.

A transferee shall use the credit in the year it is transferred. If the credit allowable for any taxable year exceeds the transferee's tax liability for that tax year, the transferee may carry forward and apply in any subsequent taxable year, the portion, as reduced from year to year, of those credits which exceed the tax for the taxable year; provided, however, that in no event shall the transferee apply the credit to the tax for any taxable year beginning more than five years after the taxable year in which DHCD gives the commissioner written notification of completion of the certified housing development project.

(4) For any certified housing development project, qualified rehabilitation expenditures applicable to this credit shall be treated for purposes of this section as made on the date that DHCD gives the Commissioner written notification of completion of the certified housing development project.

(5) The total amount of credits that may be authorized by the DHCD in a calendar year pursuant to this section and subsection (q) of section (6) of chapter 62 shall not exceed \$5,000,000 and shall include: (1) credits granted during the year pursuant to this section or said subsection (q) of section (6) of chapter 62; (2) carry forwards of credits from prior years pursuant to this section or said subsection (q) of section (6) of chapter 62, to the extent that such credit carry forwards are estimated by the commissioner to offset tax liabilities during the year. Any portion of the \$5,000,000 annual cap not awarded by the DHCD in a calendar year shall not be applied to awards in a subsequent year. The DHCD shall provide the commissioner of revenue with any documentation that the commissioner deems necessary to confirm compliance with the annual cap and the commissioner shall provide a report confirming compliance with the annual cap to the secretary of administration and finance and the secretary of housing and economic development.

(6) The commissioner, in consultation with the DHCD, shall prescribe regulations necessary to carry out this section.

SECTION 101. Section 45 of chapter 75 of the General Laws, as so appearing, is hereby amended by striking out, in line 15, the words, 'director of business and technology' and inserting in place thereof the following words:- secretary of housing and economic development.

SECTION 102. Said section 45 of said chapter 75, as so appearing, is hereby further amended by striking out, in line 19, the words, ‘department of business technology’ and inserting in place thereof the following words:- Massachusetts office of business development.

SECTION 103. Said section 45 of said chapter 75, as so appearing, is hereby amended by striking out, in lines 25 to 27, inclusive, the words ‘director of business and technology, or his designee, the director of science and technology within the department of business and technology and 7’ and inserting in place thereof the following words:- secretary of housing and economic development, who shall serve as chair, the executive director of the Massachusetts development finance agency, the president of the Massachusetts life sciences center, the executive director of the Massachusetts clean energy center, the director of the John Adams Innovation Institute, the president of the Massachusetts Technology development corporation and 8.

SECTION 104. Said chapter 75 is hereby further amended by inserting after section 45 the following section:-

Section 45A. The center shall be subject to sections 3K and 56 of chapter 23A.

SECTION 105. Chapter 111N of the General Laws is hereby repealed.

SECTION 106. Section 14 of chapter 167 of the General Laws, as so appearing, is hereby amended by striking out, in line 22, the word ‘and 30’ and inserting in place thereof the following words:- 30 and 30A.

SECTION 107. Section 2 of chapter 167F of the General Laws, as so appearing, is hereby amended by inserting after paragraph 30 the following paragraph:

30A. To participate in the activities of the Massachusetts Growth Capital Corporation created under chapter 40F by making capital available to the corporation by making an investment or deposit in or grant to said corporation, an affiliate or subsidiary of said corporation or any fund managed by said corporation.

SECTION 108. Paragraph 13 of said section 2 of said chapter 167F, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:

To act as trustee for the holders of a bond issued by the Massachusetts Industrial Finance Agency, under chapter 23A or by any industrial development authority of a city or town under chapter 40D or by the Massachusetts Health and Educational 3050 Facilities Authority, under chapter 23K.

SECTION 109. The first paragraph of section 168 of chapter 175 of the General Laws, as so appearing, is hereby amended by inserting after the sixth sentence the following sentence:- Any insurance policy procured under this section shall contain the following disclosure notice to the policyholder: This policy is insured by a company which is not admitted to transact insurance in the commonwealth, is not supervised by the commissioner of insurance and, in the event of an insolvency of such company, a loss shall not be paid by the Massachusetts Insurers Insolvency Fund under chapter 175D. The commissioner may by regulation amend the foregoing disclosure notice.

SECTION 110. Said section 168 of said chapter 175, as so appearing, is hereby further amended by striking out, in line 61, the word 'or'.

SECTION 111. Said section 168 of said chapter 175, as so appearing, is hereby further amended by inserting after the figure '20A', in line 65, the following words:- or (c) such company is an eligible alien unauthorized insurer as defined in section 168A.

SECTION 112. Said chapter 175 is hereby further amended by inserting after section 168 the following section:

Section 168A. (a) As used in this section 'eligible alien unauthorized insurer' shall mean a company formed under the laws of any government or state other than the United States or 1 of its states or its territories that has filed an application with the commissioner pursuant to subsection (c)(4) of this section, which application has been approved by the commissioner.

(b) Notwithstanding any general or specific law to the contrary, a special broker licensed by the commissioner pursuant to section 168 of this chapter may procure insurance from any company formed under the laws of any government or state other than the United States or one of its states or its territories that is not authorized to transact business in the commonwealth if: (1) such company has been determined by the commissioner to be an eligible alien unauthorized insurer pursuant to clause (4) of subsection (c); (2) the special broker has executed and filed an affidavit with the commissioner within 20 days after procuring such insurance stating that the full amount or type of insurance cannot be obtained from among companies admitted to transact insurance in the commonwealth after a diligent effort has been made to do so and that the amount of insurance procured in such company is only the excess over the amount so procurable from admitted companies; (3) the procured policy contains the disclosure notice required by section 168; and (4) all other requirements of this section and section 168 that are not inconsistent with this subsection have been met. Insurance procured under this section shall be valid and enforceable as to all parties. Nothing in this section shall be deemed to amend or modify any of the provisions of, or any of the exemptions specified in, section 168 that are inconsistent with this section.

(c) No company shall be determined to be an eligible alien unauthorized insurer unless it: (1) has provided satisfactory evidence to the commissioner of its good reputation and financial integrity; (2) has capital and surplus or its equivalent under the laws of its domiciliary jurisdiction in an amount not less than \$20,000,000; (3) has in force a United States trust fund of not less than the greater of: (i) \$5,400,000; or (ii) a percentage of its United States surplus lines gross liabilities arising from business written on or after January 1, 1998, excluding aviation, wet marine, transportation insurance and direct procurement placements, such percentage to equal to the percentage and subject to any cap employed by the International Insurers Department of the National Association of Insurance Commissioners, as of December 31 next preceding the date of determination, where: (A) the liabilities are maintained in an

irrevocable trust account in the United States in a qualified financial institution, on behalf of United States policyholders consisting of cash, securities, letters of credit or other investments of substantially the same character and quality as those which are eligible investments pursuant to this chapter for the capital and statutory reserves of admitted insurers to write like kinds of insurance in the commonwealth; provided, however, that the trust fund, which shall be included in any calculation of capital and surplus or its equivalent, shall satisfy the requirements of the Standard Form Trust Agreement required for listing with the International Insurers Department of the National Association of Insurance Commissioners; (B) the company may request approval from the commissioner to use the trust fund to pay valid surplus lines claims; provided, however, that the balance of the trust fund shall never be less than the minimum amount required by this subsection; and (C) in calculating the trust fund amount required by this subsection, credit shall be given for surplus lines deposits separately required and maintained for a particular state or territory of the United States, not to exceed the amount of the company's loss and loss adjustment reserves in that particular state or territory; and (4) has submitted to the commissioner an application evidencing the company's compliance with the requirements of this section that has been approved by the commissioner.

(d) The application required by clause (4) subsection (c) shall be on forms issued or approved by the commissioner and shall include the following information regarding the alien unauthorized insurer applicant: (1) evidence that the unauthorized alien insurer has been listed by the International Insurers Department of the National Association of Insurance Commissioners; (2) a certified audited financial statement of the eligible a lien unauthorized insurer reflecting information as of a date not more than 12 months prior to the submission of the application evidencing compliance with the capital and surplus requirements of clause (2) of subsection (c) and an actuarial opinion as to the adequacy of and methodology used to determine the insurer's loss reserves; (3) a copy, certified by the trustee, of the United States trust agreement required by clause (3) of subsection (c) prepared in accordance with the National Association of Insurance Commissioner's Standard Form Trust Agreement for Alien Excess or Surplus Lines Insurers; (4) a copy, certified by the trustee, of the most recent quarterly statement of account or list of assets in the trust account required by clause (3) of subsection (c) evidencing that the alien unauthorized insurer has in force, as of the end of the most recent quarter, assets in the amounts required by said (clause (3) of said subsection (c)); (5) a certified copy of the eligible alien unauthorized insurer's current license or certificate of authority issued by its domiciliary jurisdiction indicating that the company is authorized to insure the types of risks in its domiciliary jurisdiction that it proposes to insure in the commonwealth; (6) a Certificate of Good Standing or substantially similar documentation issued by the eligible alien unauthorized insurer's domiciliary jurisdiction; (7) biographical affidavits, on forms promulgated by the National Association of Insurance Commissioners or approved by the commissioner

for all executive officers, directors and senior management personnel of the eligible alien unauthorized insurer, prepared not more than 12 months prior to the submission date of the application required by clause (4) of subsection (c); and (8) such additional information as the commissioner may require in order to determine that the eligible alien unauthorized insurer complies with the requirements of this section.

(e) The commissioner may refuse to approve an application pursuant to this section if the commissioner is of the opinion that such refusal will be in the public interest. In reviewing an application, the commissioner may consider such factors as: (1) the length of time the insurer has been authorized in its domiciliary jurisdiction and elsewhere; (2) the unavailability of the particular coverages from authorized insurers or unauthorized insurers meeting the requirements of this section and section; (3) the size of the company as measured by its assets, capital and surplus, reserves, premium writings, insurance in force or other appropriate criteria; (4) the kinds of business the company writes, its net exposure and the extent to which the company's business is diversified among several lines of insurance and geographic locations; and (5) the past and projected trend in the size of the company's capital and surplus considering such factors as premium growth, operating history, loss and expense ratios or other appropriate criteria.

(f) The commissioner may revoke a company's status as an eligible alien unauthorized insurer in accordance with the terms and conditions of section 5 the commissioner has determined that the insurer: (1) is in unsound financial condition or has acted in an untrustworthy manner; (2) no longer meets the standards set forth in subsection (c); (3) has willfully violated the laws of the commonwealth; or (4) does not conduct a proper claims practice.

SECTION 113. Section 21 of chapter 218 of the General Laws, as so appearing, is hereby amended by striking out, in lines 6 and 35, the words 'two thousand dollars' and inserting in place thereof, in each instance, the following figure:- \$7,000.

SECTION 114. Section 22 of said chapter 218, as so appearing, is hereby amended by adding the following paragraph:-

The procedure shall include the beginning of actions with an entry fee of \$30 for claims of \$500 or less, \$40 for claims of greater than \$500 but less than or equal to \$2000, \$90 for claims of greater than \$2000 but less than or equal to \$5000, and \$140 for claims greater than \$5000, plus the surcharge required by section four C of chapter two hundred and sixty-two, but without summons and complaint and without requirement, except by special order of court, of any pleading other than a concise written statement of the claim.

SECTION 115. The Massachusetts Port Authority shall cooperate with the office of performance management and oversight established by the secretary of housing and economic development.

Section 21A. The authority shall be subject to sections 3K and 56 of chapter 23A of the General Laws.

SECTION 116. Section 3 of chapter 614 of the acts of 1968 is hereby amended by inserting before the definition of 'Authority', the following definition:-

‘Agency’, the Massachusetts Development Finance Agency established by chapter 23G, as amended.

SECTION 117. Subsection (a) of section 4 of chapter 614 of the acts of 1968, as amended, is hereby further amended by striking out all after the second sentence and inserting in place thereof the following sentence:- Said authority shall be governed by the board of the Massachusetts Development Finance Agency as established by section 2 of chapter 23G and the board members of the agency shall serve as trustees for any existing authority trust.

SECTION 118. Section 4 of chapter 614 of the acts of 1968 is hereby repealed.

SECTION 119. Subsection (b) of section 4 of chapter of chapter 614 of the acts of 1968, as amended is hereby further amended by inserting after the last sentence the following sentence:

The executive director, assistant executive director, and any other employees of the Authority who act as trustees for any trust established under the authority granted by this chapter shall not approve matters in their capacity as trustees without first receiving approval from the board.

SECTION 120. Chapter 614 of the acts of 1968, as amended, is hereby further amended by striking out, in each time it appears, the word ‘authority’ and inserting in place thereof the following word ‘Agency’.

SECTION 121. Section 33 of chapter 190 of the acts of 1982 is hereby amended by striking out the second paragraph, as appearing in chapter 23 of the acts of 1998, and inserting in place thereof the following paragraph:-

The authority shall consist of 13 members, 9 of whom shall be appointed by the governor, 1 of whom shall be the secretary of housing and economic development or the secretary’s designee, who shall serve as chair, 1 of whom shall be appointed from a list of 3 nominees recommended by the Massachusetts Visitors Industry Council, 1 of whom shall be appointed from a list of 3 nominees recommended by the Massachusetts Lodging Association, 1 of whom shall be a resident of the city of Cambridge and 1 of whom shall be a resident of Hampden county. Two persons shall be appointed by the mayor of the city of Boston, 1 of whom shall be a resident of South Boston. The remaining 2 persons shall be the secretary of administration and finance or the secretary’s designee and the collector treasurer of the city of Boston or the collector treasurer’s designee, both of whom shall serve ex officio and shall have the right to exercise or vote on matters before the authority. Three of the members of the authority first appointed by the governor shall continue in office for a term expiring December 31, 2000 and 3 members of the authority first appointed by the governor shall continue in office for a term expiring December 31, 2001 and 3 members of the authority first appointed by the governor shall continue in office for a term expiring December 31, 2003. The term of each such member shall be designated by the governor and shall

continue until the member's successor is duly appointed and qualified. The members appointed by the mayor shall continue in office for a term expiring December 31, 1999, and shall continue until their successors are duly appointed and qualified. The successor of each such member shall be appointed for a term of 6 years and until his successor is duly appointed and qualified, except that a person appointed to fill a vacancy shall serve only for the unexpired term and until the appointee's successor is duly appointed and qualified. Each member of the authority shall be eligible for reappointment. Each member of the authority shall serve at the pleasure of the governor, if appointed by the governor, and each member of the authority may be removed by the governor, if appointed by the governor, or by the mayor, if appointed by the mayor. Each member of the authority before entering upon such member's duties shall take an oath before the governor to administer the duties of the member's office faithfully and impartially, and a record of such oaths shall be filed in the office of the secretary of the commonwealth. Members of the authority shall serve without compensation, but service as a member of the authority shall be credited to such member's years in service for pension and retirement purposes.

SECTION 122. Section 6 of chapter 528 of the acts of 1990, as amended by section 302 of chapter 159 of the acts of 2000, is hereby further amended by striking out 'July 1, 2010' and inserting in place thereof the following words:- July 1, 2020.

SECTION 123. Sections 3A, 20A and 25 of chapter 175 of the acts of 1998 are hereby repealed.

SECTION 124. Notwithstanding any general or special law to the contrary, the term the 'Massachusetts Health and Educational Facilities Authority' or 'HEFA', wherever either appears in a general or special law, except as they appear in this act, shall mean the 'Massachusetts Development Finance Agency'; provided, however, that such change of reference shall not restrict or limit in any manner the exercise by the Massachusetts Development Finance Agency of its rights, powers, duties or purposes, or to its ownership and holding of properties and assets under chapter 23G or any other provision of law applicable to the Massachusetts Development Finance Agency, including without limitation the power of the Massachusetts Development Finance Agency to issue bonds under said chapter 23G or under any such other provision.

SECTION 125. (a) On October 1, 2010, the Massachusetts Health and Educational Facilities Authority, as established by section 4 of chapter 614 of the acts of 1968, shall be dissolved, without any further action, and the rights, powers and duties, and properties of the Authority shall on and after such date be exercised, performed, owned and held by the Massachusetts Development Finance Agency as established by chapter 23G, as amended. All real estate, property rights, personal property, funds, moneys, revenues, receipts, contract rights, trust agreements, any rights or interests of the Authority in any trusts or trust property, or other intangible assets, equipment or other ownership, possessory, or security interests or

mortgages of any kind whatsoever, or any portion thereof held by the Authority, including, without limitation, funds previously appropriated by the commonwealth for the Authority, shall be deemed for record notice and otherwise, as applicable, to belong to the Agency on the same basis and with the same interest as previously held by the Authority, as applicable. Any and all obligations and liabilities of said Authority shall become obligations and liabilities of the Agency. Any resolution taken by or commitment made by the Authority with respect to any financing, including loans, bond issuances, guarantees and insurance and any other action made by the Authority shall become resolutions of the Agency.

(b) All duly existing contracts, leases, trusts, or obligations of the Authority that are in force immediately before the effective date of the dissolution of the Authority shall be deemed to be the obligations of the Agency. No existing right or remedy under this section shall be lost, impaired or affected by this act. The Agency shall have authority to exercise all rights and enjoy all interests conferred upon the Authority by the contracts, leases or obligations. In the case of collective bargaining agreements, any obligations under the agreements shall expire on the stated date of expiration of such agreements.

(c) The transfer of the assets, liabilities, obligations and debt of the Authority to the Agency under this act shall be effective upon dissolution of the Authority and shall bind all persons with or without notice and without any further action or documentation. Without derogating from the foregoing, the Agency may, from time to time, execute and record and file for registration with any registry of deeds or the land court or with the secretary of the commonwealth, as appropriate, a certificate confirming the Agency's ownership of any interest in real or personal property formerly held by the Authority and transferred pursuant to the provisions of this act and establishing and confirming the limits of property so transferred.

(d) This act shall not limit or impair the rights, remedies, or defenses of the commonwealth, the Agency, or the Authority in or to any action or proceeding, including, without limitation, any brought under chapter 258 of the General Laws. Actions and proceedings against or on behalf of the Authority shall continue unabated and, from and after the date of dissolution of the Authority, may be completed against or by the Agency.

(e) Notwithstanding the foregoing, no existing rights of the holders of the bonds issued by the Authority shall be impaired, and the Agency as successor in interest to the Authority shall maintain the covenants of the trust indentures pertaining to such bonds so long as such bonds shall remain outstanding.

(f) All orders, rules and regulations duly made and all approvals duly granted by the Authority, which are in force immediately before the effective date of this act, shall continue in force and the provisions

thereof shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the Agency.

(g) All books, papers, records, documents, equipment, buildings, facilities, cash and other property and assets, both personal and real, including all such property and assets held in trust, which on October first, two thousand and ten are in the custody of the Authority shall be transferred to the Agency.

SECTION 126. Notwithstanding any general or special law to the contrary, as of the effective date of this act, the Massachusetts Development Finance Agency shall develop and implement a transfer plan, subject to the approval of the secretary of administration and finance, providing for the orderly transfer of personnel, all assets, liabilities, obligations, debts listed, including but not limited to those listed in section 125 of this act, from the Authority to the Agency, consistent with the provisions contained in section 125 of this act. The transfer shall be complete by October 1, 2010. □

NO SECTION 127.

SECTION 128. Notwithstanding any general or special law to the contrary, the executive office of energy and environmental affairs, in consultation with the executive office of housing and economic development, shall conduct a study on the costs and benefits of recent electricity market reforms. The study shall include, but not be limited to: (i) an analysis of the economic and reliability implications of administrative, regulatory and legislative mandates as they pertain to electricity; (ii) the extent to which these mandates impact the rates paid by residential, commercial and industrial customers in the commonwealth and contribute to the bill savings realized by these customers; (iii) the extent to which these mandates contribute to economic development in the state.

The study shall be completed with stakeholder input, including representatives from the energy and economic sectors in the commonwealth.

The study shall be completed and submitted to the joint committee on telecommunications, utilities and energy and the joint committee on economic development and emerging technologies no later than December 31, 2010.

SECTION 128A. Notwithstanding any general or special law to the contrary, the Massachusetts Development Finance Agency shall promptly transfer \$15,000,000 of the Emerging Technology Fund, established pursuant to chapter 141 of the acts of 2003, to the Growth Capital Corporation, established pursuant to chapter 40F of the General Laws.

SECTION 128B. Notwithstanding any general or special law to the contrary, subsection (b) of section 39 of chapter 7 of the General Laws, as appearing in the 2008 Official Edition, is hereby suspended, beginning January 1, 2010, and ending December 31, 2012.

SECTION 129. Sections 1 to 32, inclusive, sections 38 to 75, inclusive, sections 82, 85, sections 87 to 88 inclusive, 90, 91, 94, 95, 98, 99, 101 to 112, 115 to 117, 119, 121 to 123, and 125 to 128 shall take effect upon their passage. Sections 82, 93, and 100 shall be effective through December 31, 2015.

SECTION 130. Sections 33 to 37, inclusive, 118, 120 and 124 shall take effect October 1, 2010.

SECTION 131. Sections 76 to 81, inclusive, shall apply only to districts created on or after the effective date of this act.

SECTION 132. Sections 83, 84, 113 and 114 of this act shall take effect not later than December 31, 2010; provided, however, that said sections shall take effect earlier upon certification and 30 day notice from the chief justice for administration and management that the trial courts have the capacity to track the number of statements of claim filed by any party during a calendar year in a small claims session of the court, in either the district court or the Boston municipal court; and provided further that if the capacity does not exist as of October 31, 2010, the chief justice for administration and management shall file a report with the president of the senate and the speaker of the house of representative detailing the status of such efforts and estimating when such capacity will exist.

SECTION 133. Section 86 and section 89 shall be effective for tax years beginning on or after January 1, 2011.

SECTION 134. Section 100 shall take effect upon the effective date of this act and shall apply to qualified substantial rehabilitation expenditures incurred on or after its effective date, provided however, that sections 3 and 5 of the act shall take effect on January 1, 2011.”; and by striking out the title and inserting in place thereof the following title: “An Act relative to business and job growth in the Commonwealth.”.

SECTION 135. There is hereby established a Special Commission to develop an Index of Creative and Innovative Education in the Commonwealth’s Public Schools. The commission membership shall include: 5 members to be appointed by the governor and who shall reside in different geographic regions of the Commonwealth, 1 of whom shall be a representative of the Massachusetts Advocates for the Arts, Sciences and Humanities, 1 of whom shall be a representative of the Associated Industries of Massachusetts, 1 of whom shall be a representative of the Massachusetts Business Roundtable; the secretary of education, or a designee; the secretary of housing and economic development, or a designee; the secretary of labor and workforce development, or a designee; 3 members to be appointed by the president of the senate and who shall reside in different geographic regions of the Commonwealth; 3 members to be appointed by the speaker of the house of representatives and who shall reside in different geographic regions of the Commonwealth; and the executive director of the Massachusetts Cultural Council. Each of the members of the commission shall be an expert or have experience in the fields of

education, public policy, artistic development, workforce development or cultural development. The members of the commission shall be appointed no later than 30 days after the effective date of this resolve.

In the course of its deliberations, the commission shall develop recommendations on how to produce and implement an Index of Creative and Innovative Education in the Commonwealth's Public Schools, what funding or finance measures the Commonwealth would need to implement such an index, and any recommendation for inter-agency agreements, inter-municipal agreements, or other cooperative agreements that would be required to foster creative and innovative education programs in the Commonwealth's public schools. The index shall rate every public school in the Commonwealth on teaching, encouraging, and fostering creativity in students. The index would be based in part on the creative opportunities in each school as measured by the availability of classes and before and after-school programs offered by and through school districts in the Commonwealth that provide creative opportunities for students in the public schools of the Commonwealth, including, but not limited to, arts education, debate clubs, science fairs, theatre performances, concerts, film-making, and independent research. The commission may hold public hearings to assist in the collection and evaluation of data and testimony.

The commission shall complete a written report detailing any factors to be considered in an Index of Creative and Innovative Education in the Commonwealth's Public Schools and any financial measures that would be needed for implementation. The commission shall submit its report to the governor, the clerks of the house of representatives and the senate, the joint committee on tourism, arts and cultural development, and the joint committee on education no later than December 31, 2010. Any research, analysis or other staff support that the commission reasonably requires shall be provided by the department of elementary and secondary education, the executive office of housing and economic development, and the executive office of labor and workforce development, in cooperation with the Massachusetts Cultural Council.

SECTION 136. Chapter 3 of the General Laws is hereby amended by adding the following section:--

Section 70. A permanent commission is hereby established for the purpose of evaluating the continuing impacts on state laws and regulations by international trade policy and international trade agreements, examining proposed international trade agreements, maintaining active communications with any individual or entity, as the commission determines appropriate, regarding ongoing developments in international trade agreements and policy; and examining any aspects of international trade, international economic integration and international trade agreements that the members of the commission consider appropriate. An "international trade agreement" is defined as any international trade or investment agreement or treaty, including but not limited to, the North American Free Trade Agreement (NAFTA),

the Central American Free Trade Agreement (CAFTA), and agreements concluded by the World Trade Organization (WTO).

Said Commission shall engage in at least one public hearing annually and shall report on the economic and sovereignty impacts of international trade agreements on the Commonwealth of Massachusetts. Such report may include recommendations of support or opposition of revisions in United States trade policy or commitments, including but not limited to proposed international trade agreements. This annual report shall be transmitted to the General Court, the Governor, the Attorney General of the Commonwealth of Massachusetts; the United States Trade Representative and members of the Massachusetts Congressional delegation.

Said commission shall consist of 3 members of the Senate of the General Court, 2 of whom shall be appointed by the president of the Senate and 1 of whom shall be appointed by the minority leader of the Senate; 3 members of the House of Representatives of the General Court, 2 of whom shall be appointed by the speaker of the House and 1 of whom shall be appointed by the minority leader of the House; the Governor or his designee; the Attorney General or her designee; the Treasurer or his designee; a representative from the Office of International Trade & Investment; and 9 persons appointed by the Governor, one of whom shall be a representative of organized labor, one of whom shall represent small business, one of whom shall be a representative from a human rights organization, one of whom shall represent farmers, one of whom shall be a representative from an environmental group, one of whom shall be a representative of the Massachusetts Municipal Association, one of whom shall be engaged in the business of exporting goods internationally, one of whom shall be a member of a graduate faculty of law, with expertise in issues of constitutional federalism, of a private university in the commonwealth, and one of whom shall be a member of a graduate faculty of economics or labor studies of the University of Massachusetts.

SECTION 137. Chapter 10 of the General Laws is hereby amended by inserting after section 53 the following section:-

Section 53A. The Massachusetts Cultural Council ('the Council'), shall establish criteria and guidelines for state designated cultural and creative districts. A cultural and creative district shall be a well recognized, labeled, mixed-use, compact area of a city or town in which a high concentration of cultural and creative facilities serves as an anchor. The goals of a cultural and creative district shall include attracting artists and creative enterprises to a community, encouraging business and job development, establishing tourist destinations, preserving and reusing historic buildings, enhancing property values and fostering local cultural and economic development. A city or town may create and designate a cultural and creative district subject to certification by the Council. The Council shall develop a certification program to prepare a city or town to become home to a state designated cultural and creative district by

creating an application process and developing qualifying criteria and guidelines. A cultural and creative district certification shall remain in effect for 10 years following the date of certification. Two or more cities or counties may apply jointly for certification of a district that extends across a common boundary. Agencies of the executive branch, constitutional offices and quasi governmental agencies shall identify programs and services that support and enhance the development of cultural and creative districts and assures that they are accessible to such districts.

The Council shall in cooperation with the executive branch, constitutional offices, quasi governmental agencies and the Joint Committee on Tourism, Arts and Cultural development identify additional and existing state incentives and resources that will enhance state designated cultural and creative districts and shall report their findings together with drafts of legislation as may be necessary to carry its recommendations into effect by filing same with the clerk of the house of representatives , the clerk of the senate, and the co-chairs of the Joint Committee on Tourism, Arts and Cultural Development no later than December 1, 2010.

SECTION 138. The fourth paragraph of section 15 of chapter 701 of the acts of 1960, as most recently amended by chapter 167 of the acts of 1990 is hereby amended by striking out in line 4 the word ‘ten’ and inserting in place thereof the word:- twenty five.

SECTION 139. Notwithstanding any general or special law to the contrary. The Commonwealth hereby directs the Department of Housing and Community Development to require the development of the Qualified Allocation Plan (QAP) for 2011, in which the Department shall work toward a set-aside of 10% of its allocated tax credits for projects sponsored by nonprofits that will provide permanent housing for formerly homeless veterans in a service-based multifamily property and projects of no fewer than 20 units.

SECTION 140. Section 12 of said chapter 138, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

The local licensing authority of any city or town wherein the granting of licenses under this section is authorized, irrespective of any limitation of number of licenses contained in section seventeen, may issue a license to the holder of a farmer-winery license under section 19B or in any other state for service to travelers, strangers, and other patrons and customers not under twenty-one (21) years of age, such wine to be served and drunk on the premises of the winery at such locations on the premises of the farm as the local licensing authority may deem reasonable and proper. For purposes of this section, a farm is defined by Chapter 128, Section 1A.

SECTION 141. Section 15 of said chapter 138, as so appearing, is hereby amended by inserting after the words ‘and 19C’, in the first paragraph, the following words:- , or to an applicant licensed to operate as a farmer-winery under section 19B or in any other state.

SECTION 142. Section 15 of said chapter 138, as so appearing, is hereby amended by inserting after the 'licensing fee', in the second paragraph, the following words:- and nothing shall prohibit the local licensing authority from establishing reduced fees for special licenses issued pursuant to Section 15F of this Chapter.

SECTION 143. Chapter 138 of the General Laws is hereby amended by inserting after section 15E the following section:-

Section 15F. Special licenses to a Farmer-Winery for the sale of wines at agricultural events; fees
Notwithstanding any other provision of Chapter 138, in any city or town wherein the granting of licenses to sell wine is authorized under this chapter, the local licensing authority may issue to an applicant authorized to operate a farmer-winery under section nineteen B or in any other state, a special license for the sale of wine produced by or for the licensee in sealed containers for off-premise consumption at an indoor or outdoor agricultural event. All sales of wine shall be conducted by an agent, representative, or solicitor of the licensee to individuals who are at least twenty-one (21) years of age. A licensee under this section may provide, without charge, samples of wine to prospective customers at an indoor or outdoor agricultural event. All samples of wine shall be served by an agent, representative, or solicitor of the licensee to individuals who are at least twenty-one (21) years of age and all samples must be consumed in the presence of the agent, representative, or solicitor of the licensee. Provided further that no sample shall exceed one (1) ounce of wine and no more than five (5) samples shall be served to any individual customer. For the purposes of this section, the term "agricultural event" shall be limited to those events certified by the department of agricultural resources as set forth herein below.

The licensee under this section shall obtain a special license from the local licensing authority. In order to obtain a special license from the local licensing authority, a licensee under this section shall file an application and plan with the department of agricultural resources that will demonstrate that the event is an agricultural event as set forth herein below. The application shall include a description of the event, the date(s) time and location of the event, a copy of the operational guidelines and/or rules for the event, written approval that the licensee has been approved as a vendor at the event, including the name and contact information of the on-site manager, and a plan depicting the premises and the specific location where the licensee will exercise it.

Upon review of the application and plan, the department may certify that the event is an agricultural event. The department shall consider the following factors in determining whether an event is an "agricultural event" for the purposes of this section: operation as a farmers' market or agricultural fair approved and/or inspected by the department; frequency and regularity of the event, including date(s), time(s) and location(s); number of vendors; terms of vendor agreements; presence of an on-site manager; training of the on-site manager; operational guidelines and/or rules, which shall include vendor eligibility

and produce source; focus of event on local agricultural products grown and/or produced within the market area; types of shows and/or exhibits, including those which are described in section 2(f) of chapter one hundred and twenty eight; and sponsorship and/or operation by an agricultural or horticultural society organized under the laws of the Commonwealth, or by a local grange organization and/or association whose primary purpose is the promotion of agriculture and its allied industries. The department of agricultural resources may promulgate rules and regulations necessary for the operation, oversight, approval, and inspection of agricultural events under this Section.

Along with its application and prior to the issuance of a special license, the licensee shall file with the local licensing authority proof of certification from the department of agricultural resources with the local licensing authority prior to the issuance of a special license. The special license issued by the local licensing authority shall designate the specific premises, and date(s), and times covered. Any special license issued by the local licensing authority may be issued for an indoor or outdoor agricultural event which takes place on multiple dates and/or times during a single calendar year; but in no event shall any special license be issued for an agricultural event that will not take place within one (1) calendar year. A copy of a special license issued by the local licensing authority shall be submitted to the commission at least seven (7) days prior to the date the agricultural event is first scheduled to take place and shall be displayed conspicuously by the licensee at the licensed premises. The local licensing authority may charge a fee for each such special license issued, but such charge or fee shall not exceed fifty (50) dollars. Any special license granted pursuant to this section shall be nontransferable to any other person, corporation, or organization and shall be clearly marked nontransferable on the face of the license. The commission may promulgate rules and regulations it deems appropriate to effectuate the purposes of this section.

SECTION 144. Section 17 of said chapter 138, as so appearing, is hereby amended by inserting after the last paragraph the following paragraph:

In addition to the number of licenses otherwise authorized to be granted by the provisions of this section, a city or town may grant additional licenses under sections twelve, fifteen or fifteen F to the holder of farmer-winery license under section 19B or in any other state for the sale of wine produced by or for said applicant. Any license issued by a city or town under section twelve, fifteen or fifteen F shall not be counted as a license for purposes of determining the number of licenses allowed to be issued by a city or town under the provisions of this section. Any license granted pursuant to this section shall be nontransferable to any other person, corporation or organization and shall be clearly marked nontransferable on the face of the license.

SECTION 145. Section 19B of said chapter 138, as so appearing, is hereby amended by inserting after the words 'foreign country,' in subsection (g)(4), the following words:-

(5) at retail by the bottle to consumers, for consumption off the winery premises in accordance with a license issued under section fifteen or fifteen F of this chapter.

(6) at retail by the glass or bottle to be consumed on the premises prescribed by a license issued by local authority pursuant to section twelve of this chapter.

SECTION 146. Section 19B of said chapter 138, as so appearing, is hereby amended by striking subsection (h) and inserting in place thereof the following words:-

(h) A winegrower may not sell at retail to consumers any wine or winery product not produced by the winery or produced for the winery and sold under the winery brand name. All retail sales must be made on the winery premises, except where a winegrower obtains additional licenses for the sale of wine to consumers at additional locations off the winery premises at locations authorized by a license issued pursuant to sections fifteen and fifteen F of this chapter.

SECTION 147. Section 6I of Chapter 62 of the General Laws is hereby amended by deleting the phrases ‘, if allocated a federal low income housing tax credit with respect to a project,’ and substituting ‘a’ for ‘the same’ in paragraph (1) of subsection (c).

SECTION 148. Section 31H of Chapter 63 of the General Laws is hereby amended by deleting the phrases ‘, if allocated a federal low income housing tax credit with respect to a project,’ and substituting ‘a’ for ‘the same’ in paragraph (1) of subsection (c).

SECTION 149. Notwithstanding any other general or special law to the contrary. The Executive Office of Labor and Workforce Development shall partner with the Department of Higher Education and the Department of Veteran Services to study and report back its finding on the feasibility of creating a program to give returning veterans opportunities to attend community colleges and technological trade programs within the Commonwealth that will assist veterans with already acquired technical skills from military service and assist them in transitioning those skills into a civilian workforce setting. The findings of said report are due by December 31, 2010.

SECTION 150. The Massachusetts Growth Capital Corporation established pursuant to chapter 40F shall examine the Massachusetts opportunity rebuilding and expansion infrastructure program as filed in the 2009-2010 legislative session and make legislative recommendations for filing and action on the implementation of said program to the clerks of the house of representatives and senate before July 31, 2011.

SECTION 151. Clause (c) of paragraph 5 of section 30 of chapter 63 of the General Laws, as so appearing, is hereby amended by striking subclause (iii).

SECTION 152. Said paragraph 5 of said section 30 of said chapter 63, as so appearing, is hereby amended by adding the following clauses:-

(d) Notwithstanding any other provision of this section, in the case of a business corporation, losses incurred before the corporation becomes subject to tax liability in this commonwealth shall not be allowed.

(e) Notwithstanding any other provision of this section, when a net operating loss is otherwise allowed to a corporation under this chapter, the loss is to be determined and carried forward by multiplying the loss by the corporation's apportionment percentage as determined under this chapter for the taxable year in which the loss is sustained, with respect to the business that generated the loss, and is to be deducted by the corporation from its taxable net income allocated or apportioned to the commonwealth. The commissioner shall adopt rules or regulations to implement this section and to coordinate the application of this section with the other provisions of this chapter.

SECTION 153. Section 152 shall be effective for net operating losses and loss carryforwards determined or claimed as a deduction in tax years beginning on or after January 1, 2010. The commissioner or revenue may adopt rules or regulations to address any transition issues in implementing this section.

SECTION 154. Subsection (g) of section 11F of chapter 25A, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word 'megawatts' , in line 141, the following words: - or from solar photovoltaic or solar thermal electric energy sources having a power production capacity of not more than 6 megawatts.

SECTION 154A. Notwithstanding any general or special act to the contrary, the operational services division within the executive office for administration and finance shall endeavor to ensure that in any fiscal year no less than 15% of statewide procurement contracts are entered into with small businesses. For the purposes of this section, small business shall mean a business entity, including its affiliates, that (i) is independently owned and operated; (ii) has a principal place of business in the commonwealth; and (iii) would be defined as a small business under applicable federal law.

SECTION 155. (a)(1) Notwithstanding any general or special law to the contrary, the commissioner of the department of revenue, in consultation with the executive office of housing and economic development, shall conduct a study on the costs and benefits of Section 89 and Section 95 and shall file a report with the clerks of the Senate and House of Representatives on or before October 15th of each year. (a)(2) The report shall include an analysis of the impact on investment in Massachusetts based companies, including, but not limited to, the number of start-up companies created, the amount of investment in start-up companies, the number of jobs created and the impact on corporate income tax collections. (b) The executive office of housing and economic development shall submit to the commissioner, on or before May 15th of each year, data the commissioner deems necessary to complete the report required in sections (a)(1) and (2).

SECTION 157. To meet the expenditures necessary in carrying out section 2A, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$75,000,000. All such bonds issued by the commonwealth shall be designated on their face, Job Creation by Small Business Act of 2010, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution. The bonds shall be payable not later than June 30, 2045. All interest and payments on account of principal on these obligations shall be payable from the General Fund. Bonds and interest thereon issued under this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

SECTION 158. Section 5 of chapter 23A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 9, the words “, in the department of economic development”.

SECTION 159. Section 6 of said chapter 23A, as so appearing, is hereby amended by striking out, in line 2, the words ‘of economic development’

SECTION 160. Notwithstanding any other general or special law to the contrary a stock purchase agreement between the commonwealth and the Community Development Finance Corporation, or CDFC, in existence on the effective date of this act which contains outstanding obligations on the part of the commonwealth and which has been pledged as security for the payment of debt obligations issued by the CDFC which are also outstanding on the effective date of this act shall continue to constitute a general obligation of the commonwealth for which the faith and credit of the commonwealth remains pledged for the benefit of the CDFC and of the holders of said debt obligations of the CDFC until the terms of said debt obligations are satisfied.

SECTION 161. (a) Notwithstanding any general or special law to the contrary, this section shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property and legal obligations of the following functions of state government from the transferor agency to the transferee agency, defined as follows: (1) the functions of the Massachusetts Sports and Entertainment Commission, as the transferor agency, to the Massachusetts marketing partnership, as the transferee agency; (2) the functions of the Community Development Finance Corporation and the Economic Stabilization Trust, as transferor agencies, to the Massachusetts Growth Capital Corporation, as the transferee agency; (3) the functions of the department of business development, as the transferor agency, to the Massachusetts office of business development, as the transferee agency; (4) the functions of the office of travel and tourism in the department of business development, as the transferor agency, to the office of travel and tourism in the Massachusetts marketing partnership, as the transferee agency; (5) the functions of the office of international trade and investment in the department of business development, as the transferor agency, to the Massachusetts international trade office in the Massachusetts marketing partnership, as the transferee

agency; and (6) the function of the office of small business and entrepreneurship, as the transferor agency, to the Massachusetts Office of Business Development, as the transferee agency.

(b) The employees of each transferor agency, including those who immediately before the effective date of this act hold permanent appointment in positions classified under chapter 31 of the General Laws or have tenure in their positions as provided by section 9A of chapter 30 of the General Laws or do not hold such tenure, or hold confidential positions, are hereby transferred to the respective transferee agency, without interruption of service, without impairment of seniority, retirement or other rights of the employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such reorganization, and without loss of accrued rights to holidays, sick leave, vacation and benefits.

The reorganization shall not impair the civil service status of any such reassigned employee who immediately before the effective date of this act either holds a permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30 of the General Laws.

Notwithstanding the provisions of any general or special law to the contrary, all such employees shall continue to retain their right to collectively bargain under chapter 150E of the General Laws and shall be considered employees for the purposes of said chapter 150E. Nothing in this section shall be construed to confer upon an employee a right not held immediately before the date of said transfer, or to prohibit a reduction of salary grade, transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited before such date.

(c) All petitions, requests, investigations and other proceedings appropriately and duly brought before each transferor agency or duly begun by each transferor agency and pending before it before the effective date of this act, shall continue unabated and remain in force, but shall be assumed and completed by the transferee agency.

(d) All orders, rules and regulations duly made and all approvals duly granted by each transferor agency, which are in force immediately before the effective date of this act, shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the transferee agency.

(e) All books, papers, records, documents, equipment, buildings, facilities, cash and other property, both personal and real, including all such property held in trust, which immediately before the effective date of this act are in the custody of each transferor agency shall be transferred to the transferee agency.

(f) All duly existing contracts, leases and obligations of each transferor agency shall continue in effect but shall be assumed by the respective transferee agency. No existing right or remedy of any character shall be lost, impaired or affected by this act.

SECTION 162. Sections 92, 93, 96 and 97 shall take effect January 1, 2011.

SECTION 163. The provisions of section 89 of this act shall not be deemed severable. If any of its provisions shall be held to be invalid or unconstitutional by any court of competent jurisdiction, all of the provisions of this section shall be deemed to be void.

SECTION 164. Subsection (b) of section 21 of chapter 62C of the General Laws, as most recently amended by section 34 of chapter 27 of the Acts of 2009, is hereby further amended by adding the following clause:-

(26) the disclosure to members of the Joint Enforcement Task Force on the Underground Economy and Employee Misclassification, established by Executive Order 499, of information relating to the classification by a business entity of individuals providing services to such business entity as employees or independent contractors, including but not limited to information relating to the business entity's withholding or failure to withhold personal income tax pursuant to chapter 62B with respect to payments to particular individuals and the amount of any such payments or withholding.

SECTION 165. Section 1 of chapter 63 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended in subsection (b) of the definition of 'Net Income' by striking out the words 'other taxable years' and inserting in place thereof the following words:- taxable years beginning before January 1, 2012.

SECTION 166. Subsection (1)(b)(ii) of section 52A of chapter 63 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the words 'other taxable years' and inserting in place thereof the following words:- taxable years beginning before January 1, 2012.

SECTION 167. Section 6(j)(1) of Chapter 62 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking the words 'on or before August 5, 2011', in line 2 and adding the following words in place thereof:- on or before August 5, 2013.

SECTION 168. Section 6(j)(1) of Chapter 62 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking the words 'January 1, 2012' and inserting in place thereof:- January 1, 2014.

SECTION 169. Section 38(Q)(a) of Chapter 63 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by deleting the words 'on or before August 5, 2011', in lines 1 and 2, and adding in place thereof the words:- on or before August 5, 2013. SECTION 170. Section 38(Q)(a) of said Chapter 63, as so appearing, is hereby further amended by deleting the words 'between August 1, 1988 and January 1, 2012', in lines 5 and 6 and adding in place thereof the words:- between August 1, 1998 and January 1, 2014.

SECTION 171. Notwithstanding any general or special law to the contrary, for the days of August 14, 2010 and August 15, 2010, an excise shall not be imposed upon nonbusiness sales at retail of tangible

personal property, as defined in section 1 of chapter 64H of the General Laws. For the purposes of this act, tangible personal property shall not include telecommunications, tobacco products subject to the excise imposed by chapter 64C of the General Laws, gas, steam, electricity, motor vehicles, motorboats, meals or a single item the price of which is in excess of \$2,500.

SECTION 172. Notwithstanding any general or special law to the contrary, for the days of August 14, 2010 and August 15, 2010, a vendor shall not add to the sales price or collect from a nonbusiness purchaser an excise upon sales at retail of tangible personal property, as defined in section 1 of chapter 64H of the General Laws. The commissioner of revenue shall not require a vendor to collect and pay excise upon sales at retail of tangible personal property purchased on August 14, 2010 and August 15, 2010. An excise erroneously or improperly collected during the days of August 14, 2010 and August 15, 2010, shall be remitted to the department of revenue. This section shall not apply to the sale of telecommunications, tobacco products subject to the excise imposed by chapter 64C of the General Laws, gas, steam, electricity, motor vehicles, motorboats, meals or a single item the price of which is in excess of \$2,500. SECTION 173 Reporting requirements imposed upon vendors of tangible personal property, by law or by regulation, including, but not limited to, the requirements for filing returns required by chapter 62C of the General Laws, shall remain in effect for sales for the days of August 14, 2010, and August 15, 2010.

SECTION 174. On or before December 31, 2010, the commissioner of revenue shall certify to the comptroller the amount of sales tax forgone, as well as new revenue raised from personal and corporate income taxes and other sources, pursuant to this act. The commissioner shall file a report with the joint committee on revenue and the house and senate committees on ways and means detailing by fund the amounts under general and special laws governing the distribution of revenues under chapter 64H of the General Laws which would have been deposited in each fund, without this act. SECTION 175 The commissioner of revenue shall issue instructions or forms, or promulgate rules or regulations, necessary for the implementation of this act.

SECTION 176 Eligible sales at retail of tangible personal property under sections 1 and 2 are restricted to those transactions occurring on August 14, 2010 and August 15, 2010 Transfer of possession of or payment in full for the property shall occur on 1 of those days, and prior sales or layaway sales shall be ineligible.

SECTION 177. Subsection (c)(3) of section 32B of Chapter 63 of the General Laws, as enacted by chapter 173 of the Acts of 2008, is hereby amended by inserting the following clause at the end thereof:-(iv) Where a combined group determines its taxable net income or loss on a water's edge basis, an item of income of a corporation that is organized outside of the United States shall not be included in the combined group's taxable income to the extent that such item is exempt from US federal income tax by virtue of the provisions of a federal income tax treaty. Any items of expense and apportionment

factors related to such item of exempt income shall be excluded in the determination of taxable net income or loss to the extent provided in regulations issued by the commissioner. However, any such item of exempt income shall be taken into account for purposes of determining whether the corporation is included in the water's edge group pursuant to clauses (ii) or (iii). If a corporation organized outside of the United States is included in a water's edge combined group and has an item of income that is exempt from US federal income tax by virtue of the provisions of a federal tax treaty, the corporation shall be considered to be included in the combined group pursuant to that clause only with regard to any items of income described in that clause that are not so exempt, taking into account items of expense and apportionment factors associated with such items of non-exempt income to the extent provided by regulations issued by the commissioner. Nothing in this clause shall prevent the Commissioner from adjusting, pursuant to sections 31I, 31J, 31K, or 39A of this chapter, section 3A of chapter 62C, or any other provision of law, any deduction claimed by the payer for amounts that are excluded from the combined group's taxable income in accordance with this clause. The Commissioner may require the reporting of the amounts of such excluded income and the documentation of any claimed treaty exemption as conditions to be met by a payer claiming a deduction of such payments.

SECTION 178. Section 177 shall apply to taxable years beginning on or after January 1, 2009.

SECTION 179. Section 184B of chapter 94 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out the eighth paragraph and inserting in place thereof the following paragraph:- 'Food department', any seller other than a food store or warehouse club with any grocery item section, area, or display and which sells one hundred or more different food items for consumption off the seller's premises at least in part to individuals for their own personal, family, or household use; provided, however, that any food section which is within a larger business and is the functional equivalent of a supermarket with its own separate checkout, may be deemed a food store by the director of standards.

SECTION 180. Section 184B of said Chapter 94, as so appearing, is hereby further amended by striking out the ninth paragraph and inserting in place thereof the following paragraph:-

'Food store', any store, shop, supermarket, grocer, convenience store, or other seller whose primary business is selling either food for consumption off the seller's premises alone or in combination with grocery items or other nondurable items typically found in a supermarket, and such items are sold at least in part to individuals for their own personal, family, or household use. For purposes of this section and sections 184C to 184E, a warehouse club shall not be considered a food store.

SECTION 181. Section 184B of said Chapter 94, as so appearing, is hereby further amended by adding the following final paragraph:- 'Warehouse club', a retail store in which customers pay annual membership fees in order to purchase items at member-only prices.

SECTION 182. The definition of 'food store' in said section 184B of said chapter 94, as amended by section 180, is hereby further amended by striking the words 'For purposes of this section and sections 184C to 184E, a warehouse club shall not be considered a food store.

SECTION 183. The definition of 'warehouse club' in said section 184B of said chapter 94, as amended by section 181, is hereby repealed.

SECTION 184. Sections 182 and 183 shall take effect on December 1, 2011.”.