

## Chapter 240 of the Acts of 2010

### AN ACT RELATIVE TO ECONOMIC DEVELOPMENT REORGANIZATION.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith a business-friendly environment that will stimulate job growth and improve the ease with which businesses can operate in the markets they serve, and to coordinate economic development activities funded by the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** 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.

#### SECTION 2B.

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

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 under this program and of all funds expended for this purpose, including, but not limited to, all information required for projects under section 25 of chapter 304 of the acts of 2008..... \$50,000,000.

7007-9031.. For the recapitalization of the Massachusetts Technology Development Corporation, established in section 2 of chapter 40G of the General Laws..... \$5,000,000

**SECTION 3.** Section 16G of chapter 6A of the General Laws as 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 is hereby further amended by striking out subsections (i) and (j) , as so appearing, and inserting in place thereof the following 2 subsections:-

(i) The secretary shall establish in the executive office an office of performance management and oversight. The secretary shall appoint a director to operate and administer said office who shall have experience with economic development in the public or private sector. The director shall establish performance measurements for all public and quasi-public entities engaged in economic development or subject to section 56 of chapter 23A 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 measurements, the secretary shall seek out private sector advice and models that can be adapted to the needs of the commonwealth. Clear measurements shall be developed and effectuated while ensuring that no undue administrative burden is placed on agencies and organizations subject to this section. The director shall prepare an annual report for publication on progress to improve the effectiveness of the commonwealth's economic development efforts and shall report regularly to the public on the progress the office and agencies within the office are making towards achieving stated goals.

Agencies to which the system applies shall file an annual report with the office of performance management and oversight. The annual report, which shall be in a form and manner prescribed by the secretary, shall include but not be limited to:

- (1) a secretary approved agency plan for the year including the goals set for the year and the performance measurements by which to evaluate those goals and programs or initiatives; and
- (2) the agency's:
  - (i) operations and accomplishments;
  - (ii) performance on the goals and programs or initiative outlined in the agency's approved plan;
  - (iii) receipts and expenditures during the agency's fiscal year; and
  - (iv) assets and liabilities at the end of the agency's fiscal year;
- (3) audited financial reports of the agency;
- (4) the number, nature and amounts of investments made and grants awarded by the agency;
- (5) information detailing debt or equity investment of the agency;
- (6) the number, nature and amounts of any loans, real estate loans, working capital loans and guarantees approved by the agency;
- (7) other forms of financing or financial assistance that the agency provided;
- (8) a report of patents or products resulting from agency-funded activities; and
- (9) a description of technical assistance that the agency provided.

Performance measurements shall include at least the then-current fiscal year and the previous 3 fiscal years. All information in the performance measurement system shall be a public record unless otherwise exempted by law. The annual reports of each agency shall be made available to the public not later than December 31 and shall be published on the official website of the commonwealth and be electronically submitted to the clerks of the senate and house of representatives, the chairs of the house and senate committees on ways and means and the house and senate chairs of the joint committee on economic development and emerging technologies.

(j) The office shall annually re-evaluate the goals and measures established by the office and agencies within the office and monitor the results that the agencies report. The office shall recommend changes to proposed goals and measures as are appropriate to align goals and measures with the statewide economic development policy and plan required under this section.

The secretary shall use the performance measurements established under 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. The results of such performance measures shall be criteria used in negotiating any such contracts

**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.** Said section 16G of said chapter 6A, as most recently amended by section 1 of chapter 56 of the acts of 2010, is hereby further amended by adding the following subsection:-

(l) During the first year of each new gubernatorial administration, the governor shall convene an economic development planning council consisting of no fewer than 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 the commonwealth. The governor may also appoint additional members of regional and local economic development groups and members of the business community to serve on the council. Members of the council shall serve for a term of 1 year or until an economic development policy has been approved by the governor under this section.

The secretary of housing and economic development, with the assistance of economic development planning council appointed under this section, shall develop and implement a written comprehensive economic development policy for the commonwealth and a strategic plan for implementing the policy. The policy shall set long term goals and measurable benchmarks which 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. The strategic plan shall include any major economic development initiatives and programs of the secretariat and any agencies subject to this section. In developing the policy, the council shall review the published economic development policy and plan in effect at the commencement of the governor's term of office and may hold public hearings throughout the commonwealth.

Once the policy and plan have been adopted by the secretary and the council, the council shall submit the policy and plan to the clerks of the senate and house of representatives and the joint committee on economic development and emerging technologies. The committee shall conduct a public hearing on the policy and plan prior to final approval by the governor. The approved policy and plan shall be published in writing and on the official website of the commonwealth not later than December 31 of that year.

**SECTION 7.** Chapter 7 of the General Laws is hereby amended by inserting after section 22N the following section:-

Section 22O. Notwithstanding any general or special law to the contrary and to the extent permitted by federal law, a state agency or authority shall establish a preference for the procurement of products or services by businesses, as defined in section 3A of chapter 23A, with their principal place of business in the commonwealth.. In addition, 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 per cent of statewide procurement contracts are entered with businesses, as so defined, which (i) are independently owned and operated; (ii) have a principal place of business in the commonwealth; and (iii) would be defined as a small business under applicable federal law.

**SECTION 8.** Subsection (c) of section 12 of chapter 7A of the General Laws, as appearing in section 4 of chapter 26 of the acts of 2009, is hereby amended by adding the following paragraph:-

The comptroller shall publish a list of state authorities and, in the comptroller's sole discretion, identify those entities within the list that shall be required under generally accepted accounting principles to report to the commonwealth for financial reporting purposes in a schedule and manner the comptroller deems necessary.

**SECTION 9.** Section 10 of chapter 10 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following paragraph:- The state treasurer shall semi-annually report to the house and senate committees on ways and means and the joint committee on revenue the lending and banking institutions into which the cash deposits of the commonwealth are being deposited.

**SECTION 10.** Said chapter 10 is hereby amended by inserting after section 10 the following section:  
-

Section 10A. The state treasurer shall whenever possible, establish a preference in the deposit of the commonwealth's cash reserves to those lending and banking institutions that exceed the statewide average for lending to small businesses, as defined in section 57 of chapter 23A; provided, however, that this shall not prohibit the treasurer from depositing and investing said reserves in such a manner as to secure the highest rate of return available consistent with the safety of said reserves.

**SECTION 11.** Section 35J of chapter 10 of the General Laws, as appearing in the 2008 Official Edition, 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 12.** Chapter 10 of the General Laws is hereby amended by inserting after section 56 the following section:-

Section 56A. The council shall be subject to section 16G of chapter 6A and section 56 of chapter 23A.

**SECTION 13.** Section 1 of chapter 23A of the General Laws is hereby amended by striking out, in lines 2 to 4, inclusive, as appearing in the 2008 Official Edition, 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 14.** Said section 1 of said chapter 23A is hereby further amended by striking out subsection (b), as amended by section 3 of chapter 56 of the acts of 2010.

**SECTION 15.** 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; 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 16.** The definition of “Facility” in said section 3A of said chapter 23A, as appearing in section 3 of said chapter 166, is hereby amended by inserting after the word “buildings” the following words:- or locations.

**SECTION 17.** Said section 3A of said chapter 23A is hereby further amended by striking out the definition of “Gateway municipality”, as appearing in said section 3 of said chapter 166, and inserting in place thereof the following definition:-

“Gateway municipality”, a municipality with a population greater than 35,000 and less than 250,000, a median household income below the commonwealth’s average and a rate of educational attainment of a bachelor’s degree or above that is below the commonwealth’s average.

**SECTION 18.** Said section 3A of said chapter 23A is hereby further amended by striking out the definition of “Manufacturing retention project”, as so appearing, 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 19.** 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:

“MOBD”, the Massachusetts office of business development established in section 1.

**SECTION 20.** The introductory paragraph of subsection (1) of section 3F of said chapter 23A is hereby amended by inserting after the word “retention”, inserted by section 7 of chapter 166 of the acts of 2009, the following words:- and job growth.

**SECTION 21.** Said subsection (1) of said section 3F of said chapter 23A is hereby further amended by inserting after the word “retention”, inserted by section 8 of said chapter 166, the following words:- and job growth.

**SECTION 22.** Said subsection (1) of said section 3F of said chapter 23A is hereby further amended by inserting after the word “retention”, inserted by section 14 of said chapter 166, the following words:- and job growth.

**SECTION 23.** Clause (c) of subsection (5) of said section 3F of said chapter 23A, inserted by section 18 of said chapter 166, is hereby amended by inserting after the word “retention” the following words:- and job growth.

**SECTION 24.** Section 3I of said chapter 23A is hereby amended by striking out, in lines 2 and 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 25.** Said chapter 23A is hereby further amended by inserting after section 3I the following 3 sections:

Section 3J. (a) The Massachusetts office of business development shall partner with regional economic development organizations to establish a plan for business development which supports regionally-based efforts to grow and retain existing businesses and attract new business to the commonwealth. To implement the business development plan and to provide efficient and consistent response to businesses seeking assistance from the commonwealth, the office shall create a regional economic development program in order to provide efficient and consistent response to businesses seeking assistance from the commonwealth. To implement the program the office shall contract with eligible regional economic development organizations, as defined in section 3K, which shall serve as the primary points of contact in the various regions of the state for businesses seeking assistance, services or information from the commonwealth. The contracts and reimbursements shall be designed to support regionally-based efforts to stimulate, encourage, facilitate and nurture economic growth and prosperity in the commonwealth, including, but not limited to, activities related to the growth and retention of existing businesses and the attraction of new businesses into the commonwealth. The contracts shall support a network of partnerships between regional economic development organizations and the Massachusetts office of business development.

The Massachusetts office of business development shall locate staff throughout the regions of the commonwealth 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.

(b) Each contract shall include performance criteria specific to the contracting organization developed under section 16G of chapter 6A 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 in which a person, corporation or other business entity in which any partner is in any way interested, such interest shall be disclosed in advance and 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.

(c) The Massachusetts office of business development shall establish standard governance provisions to be required of regional economic development organizations that contract with the commonwealth as provided in this section. The standards shall include the participation of local government officials and a broad range of regional representatives of businesses, nonprofit organizations, higher education institutions, planning professionals, organizations and economic and workforce development professionals.

Section 3K. (a) (1) The Massachusetts office of business development shall award up to 12 contracts for regional business development services. Each contract shall specify the municipalities which comprise the region to be served under that contract.

(2) Eligible organizations shall be corporations, foundations, organizations or institutions that are exempt from federal taxation under section 501(c) of the Internal Revenue Code. Eligible organizations shall have a primary focus on economic development. 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.

(3) In order to be eligible to be a regional business development service, an applicant shall demonstrate the following:

- (i) The applicant operates regionally and its service area or membership includes more than 10 contiguous cities or towns. The organization shall describe the economic interdependency of its contiguous member municipalities and articulate a comprehensive vision for recognition of those municipalities as a self identified region with interrelated economic assets such as industrial base, public infrastructure, research, educational and financial institutions and environmental characteristics.
- (ii) The governance structure and leadership of the applicant organization complies with the standards established by the Massachusetts office of business development.
- (iii) The applicant is engaged primarily in activities intended to promote job and business retention, creation and attraction across all industry sectors within its identified region.
- (iv) The applicant has a history of collaboration with the area business community, local officials, economic development organizations, higher

education institutions and other public and private organizations within the identified region. The applicant must describe a plan for a formal program encouraging participation in activities by a wide variety of organizations, governments and businesses operating in the identified region.

(v) The applicant has received or has commitments to receive substantial financial and in kind support from private sources or member municipalities.

(vi) The applicant is capable of and agrees to provide services to the entire region identified in the application.

(b) The Massachusetts office of business development shall give preference in awarding contracts to organizations that have prior experience furnishing advice and assistance to businesses within or seeking to locate to the identified region, a working knowledge of the region, the region's industrial base, the region's demographics and the region's strengths and weaknesses and prior experience and involvement with regional governmental entities including, but not limited to, regional competitiveness councils, regional planning agencies and regional employment boards.

(c) Contracts for services entered into under this section shall include, but not be limited to, the following required services to be performed by the organization on behalf of the commonwealth:

(i) act as the primary 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 the Massachusetts office of business development 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 the Massachusetts office of business development, 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 the Massachusetts office of business development on the business development activities conducted under the contract. The report shall include: a summary of the preceding year's program activities, objectives and accomplishments; a description of how the programs and marketing strategy conducted under the contract align with the commonwealth's overall economic development and strategies; an analysis of how the contracting organization's involvement in promotion activities has generated

prospective business expansion and relocation clients; and a summary of its efforts to obtain funds from local, private and federal sources.

- (d) Contracts entered into under this section shall be for a term not longer than 3 years and may provide for the renewal of the contract at the discretion of the Massachusetts office of business development; provided, however, that the renewal shall be for a term not longer than 2 years. Nothing in this subsection shall preclude a regional organization from re-applying to provide services under a new contract.
- (e) The Massachusetts office of business development may cancel any contract under this section upon a showing that the regional economic development organization has failed to provide the necessary regional services listed in subsection (c)
- (f) The Massachusetts office of business development shall develop a formula to determine funding for contractual reimbursements. That formula shall reflect demographic and economic indicators, including, but not limited to, population and the number of business establishments operating in the region, as well as an assessment of regional needs and the priorities of the statewide economic development plan created under section 16G of chapter 6A. The formula shall also reflect the significant need for increased economic activity in regions which include target areas, as defined in section 2 of chapter 40H. Renewal contracts shall also provide incentives to reward reporting in compliance with performance measurements and to reward achievement of specific performance goals.
- (g) 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.
- (h) If MOBD determines through the request for proposals process that no organization meets the requirements in this section or a region is not served by any eligible regional economic development organization, then MOBD may either rebid the contract or serve as the primary coordinator for business development initiatives in that region and rebid the contract at its discretion.

Section 3L. (a)The Massachusetts office of business development shall provide initial assistance to a business which contacts the office requesting service. The Massachusetts office of business development shall provide the business with information about the various regional economic development organizations with which it has contracted and continue to serve as primary contact for that business until the business has established a relationship with a particular region. The Massachusetts office of business development shall notify all regional economic development organizations, on a nondiscriminatory basis, of business prospects that have expressed interest to the Massachusetts office of business development in moving to the commonwealth.

- (b) The Massachusetts office of business development shall coordinate activity among regional economic development organizations and between regional economic development organizations and the commonwealth's economic development agencies and the commonwealth's initiatives: (i) to ensure that initiatives led by the commonwealth or quasi-public economic development agencies receive information and advice from the regional economic development organizations; and (ii) to ensure that initiatives led by the regional economic development organizations receive information and advice from agencies within the executive branch and from quasi-public economic development agencies.

(c) The Massachusetts office of business development shall support the secretary of housing and economic development in the creation of the statewide economic development plan under section 16G of chapter 6A.

**SECTION 26.** Section 4 of said chapter 23A, as appearing in the 2008 Official Edition, is hereby amended by striking out the words “department of economic” and inserting in place thereof the following words:- Massachusetts office of business.

**SECTION 27.** Said section 4 of said chapter 23A, as so appearing, is hereby further amended by adding the following sentence: The Massachusetts office of business development shall locate staff throughout the regions of the commonwealth in order to partner with the regional economic development organizations and establish efficient and rapid access for businesses and regional organizations to all state government and quasi-public business services.

**SECTION 28.** Section 5 of said chapter 23A, as so appearing, is hereby amended by striking out, in line 9, the words “, in the department of economic development”.

**SECTION 29.** Section 6 of said chapter 23A, as so appearing, is hereby amended by striking out, in line 2, the words “of economic development”.

**SECTION 30.** The first paragraph of said section 6 of said chapter 23A, as so appearing, is hereby amended by adding the following sentence:- The director shall establish an advisory council that shall assist and advise the director on matters related to the administration and evaluation of the regional business development program created under section 3J.

**SECTION 31.** Section 10A of said chapter 23A, as so appearing, is hereby amended by striking out, in line 20, the words, “Said department” and inserting in place thereof the following words:- The Massachusetts office of business development.

**SECTION 32.** Said chapter 23A is hereby further amended by striking out sections 13A and 13B, as so appearing, and inserting in place thereof the following 2 sections:-

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

“Foreign offices”, foreign offices for international trade within the international trade office.

“Partnership”, the Massachusetts marketing partnership created in this section.

“Tourism”, the office of travel and tourism.

In order to promote common, coordinated and concerted efforts on behalf of the commonwealth, there shall be within the executive office of housing and economic development, but not subject to the supervision or control of the 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.

(a) The partnership shall consist of 11 partners who shall be: the secretary of housing and economic development, who shall be the chair; the director of the Massachusetts office of business development or the director’s designee; the executive director of the Massachusetts Convention Center Authority or the executive director’s designee; the executive director of the Massachusetts Port Authority or the executive director’s designee; the executive director of the Massachusetts Alliance for Economic

Development, or its successor organization; and 6 individuals appointed by the governor for terms of 5 years, as follows: 2 persons employed by a business that has a principal place of business in the commonwealth and that 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 person who has significant experience with a public relations or advertising firm doing business in the commonwealth; 1 person who shall be on the faculty of a public or private business school in the commonwealth who is experienced in international business; and 2 persons who shall each 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.

At least 3 of the governor's 6 appointments shall reside outside of Suffolk county, Middlesex county and Norfolk county. Of the 6 gubernatorial appointments, no more than 3 shall be of the same political party. Each partner shall serve without compensation but may be reimbursed for actual and necessary expenses reasonably incurred in the performance of the partner's duties, including reimbursement for reasonable costs of travel as 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 vice-chair.

(b) 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 the partnership files the written consent 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, under subsection (c), 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.

(c) 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 Massachusetts marketing partnership and recorded in the partnership's 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.

(d) The partnership shall bi-annually 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) 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.

(f) 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.

(g) 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.

(h) 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 sections 18 to 25, inclusive of chapter 30A except that 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 purposes of chapter 12A.

(i) The partnership shall be subject to section 16G of chapter 6A and section 56 of chapter 23A.

Section 13B. There shall be within the partnership the following offices: the office of travel and tourism, the Massachusetts international trade office and the commonwealth marketing office.

**SECTION 33.** Said chapter 23A is hereby further amended by striking out section 13C, as amended by section 29 of chapter 25 of the acts of 2009, and inserting in place thereof the following section:-

Section 13C. The partnership shall have the power to:

- (1) adopt and amend by-laws, regulations and procedures for the governance of its affairs and the conduct of its business for the administration and enforcement of this 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 by-laws 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 34.** Said chapter 23A is hereby further amended by striking out sections 13D and 13E, as appearing in the 2008 Official Edition, and inserting in place thereof the following 16 sections:-

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, chapters 7, 7A, 10 and 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 said 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 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 said office or 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 partnership.

Section 13E. 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.

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.

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. 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.

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, 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 for highways within the Massachusetts Department of Transportation 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.

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 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 Massachusetts international trade representative shall: (1) serve as the commonwealth's official point of contact with the federal government on matters related to international trade; (2) 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; (3) serve as the designated recipient of federal requests for the commonwealth to agree to be bound by investment, procurement, services or any other international trade agreements, including those which may infringe upon state law or regulatory authority reserved to the commonwealth; (4) 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 clerks of the house of representatives and 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 a 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 the Massachusetts office of business development and the regional economic development organizations designated under section 3K 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 3K 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 3K.

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 of representatives and the 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, including 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 executive director of the international trade office 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 international trade office.

Section 13S. There shall be a commission, within the international trade office, which shall evaluate the continuing impacts on state laws and regulations of international trade policy and international trade agreements, examine proposed international trade agreements, maintain active communications with any individual or entity, as the commission deems appropriate, regarding ongoing developments in international trade agreements and policy; and examine any aspects of international trade, international economic integration and international trade agreements that the members of the commission deem appropriate. For the purposes of this section, "international trade agreement" shall include any international trade or investment agreement or treaty including, but not limited to, the North American Free Trade Agreement, the Central American Free Trade Agreement and agreements concluded by the World Trade Organization.

The commission shall engage in at least 1 public hearing annually and shall report on the economic and sovereignty impacts of international trade agreements on the commonwealth. The 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. The annual report shall be transmitted to the clerks of the house of representatives and the senate, the governor,

the attorney general, the United States trade representative and each member of the commonwealth's congressional delegation.

The commission shall consist of 3 members of the senate, 1 of whom shall be appointed by the minority leader; 3 members of the house of representatives, 1 of whom shall be appointed by the minority leader; the governor or the governor's designee; the attorney general or the attorney general's designee; the state treasurer or the treasurer's designee; a representative from the Massachusetts international trade office; and 9 persons appointed by the governor, 1 of whom shall be a representative of organized labor, 1 of whom shall represent small business, 1 of whom shall be a representative from a human rights organization, 1 of whom shall represent farmers, 1 of whom shall be a representative from an environmental group, 1 of whom shall be a representative of the Massachusetts Municipal Association, 1 of whom shall be engaged in the business of exporting goods internationally, 1 of whom shall be a faculty member of a private law school in the commonwealth, with expertise in issues of constitutional federalism and 1 of whom shall be a faculty member of the University of Massachusetts with experience in economics or labor studies.

**SECTION 35.** Section 14 of said chapter 23A, as so appearing, is hereby amended by inserting after the word "Bureau", in line 11, the following words:- , the MetroWest Tourism and Visitors Bureau, the Johnny Appleseed Trail Association, Inc., the Hampshire County Tourism and Visitors Bureau.

**SECTION 36.** Said 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 37.** 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 38.** Sections 15 to 28, inclusive, of chapter 23A of the General Laws are hereby repealed.

**SECTION 39.** Sections 46 to 55, inclusive, of said chapter 23A are hereby repealed.

**SECTION 40.** 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 subsection (i) of section 16G of chapter 6A 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 section 12 of chapter 11 and 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 established in chapter 23I, the Massachusetts clean energy technology center established in chapter 23J, the Massachusetts Technology Development Corporation established in chapter 40G, the Massachusetts Technology Park Corporation established in chapter 40J, and the Massachusetts Technology Transfer Center established in 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 41.** Subsection (a) of section 57 of said chapter 23A, as so appearing, is hereby amended by striking out the definition of "Small business" and inserting in place thereof the following definition:-

"Small business", 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, as established in the United States Code and promulgated from time to time by the United States Small Business Administration.

**SECTION 42.** Said section 57 of said chapter 23A, as so appearing, is hereby further amended by striking out subsection (i) and inserting in place thereof the following 2 subsections:-

(i) No loan or loans in an aggregate principal amount in excess of \$500,000 shall be provided to a borrower under the program and no small business borrower under the program shall be provided a loan under the program for passive real estate purposes.

(j) Any financial institution desiring to become a participating financial institution shall execute an agreement in such form as the agency or its agent may prescribe, which agreement shall contain the terms and provisions set forth in subsections (a) to (i), inclusive and such other terms and provisions as the agency or its agent may deem necessary or appropriate.

**SECTION 43.** Said chapter 23A is hereby further amended by striking out section 62, as so appearing, and inserting in place thereof the following section:-

Section 62. There shall be a 10 person interagency permitting board within the Massachusetts office of business development. The members of the board shall be comprised of the state permit ombudsman who will serve as the chair of the interagency permitting board, the secretary of housing and economic development, the secretary of transportation, the secretary of energy and environmental affairs, the secretary of public safety and security, the director of the department of housing and community development, the director of business development, the director of the department of workforce development, the director of the office of consumer affairs and business regulation, and the executive director of the Massachusetts Development Finance Agency; or their designees. Six

members shall be a quorum for the transaction of business. The chair shall communicate with municipal officials responsible for local review procedures to determine the municipal perspective on the proposed project, and to facilitate communication between the municipality and state agencies. The interagency permitting board shall consult with each regional office of the Massachusetts office of business development as well as each regional planning agency and regional economic development organizations with which the Massachusetts office of business development has contracted under this chapter in order to better serve local businesses. At the direction of the chair, the board shall meet no fewer than 8 times a year, and shall monitor the development of priority development sites under chapter 43D and investigate ways in which to expedite priority development site projects. The board shall evaluate state agency permit procedures and recommend changes for improved efficiency. The board shall administer the technical assistance grants program established in subsection (b) of section 3 of chapter 43D. The secretary of housing and economic development shall work with the chair of the interagency permitting board and senior staff members to develop a recommended format for an application form and procedure which shall be used by all executive offices when possible.

**SECTION 44.** Sections 8 to 15, inclusive, of chapter 23D of the General Laws are hereby repealed.

**SECTION 45.** Chapter 23D of the General Laws is hereby 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 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 46.** 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 47.** Chapter 23F of the General Laws is hereby repealed.

**SECTION 48.** 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 49.** Said section 1 of said chapter 23G, as so appearing, is hereby further amended by inserting after the definition of “Governing body” the following definition:-

“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 any of the functions of, or to carry out any of the purposes of a licensed nonprofit hospital or health maintenance organization, 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 50.** 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 to which the agency is otherwise authorized to provide financing.

**SECTION 50A.** Said section 1 of said chapter 23G, as so appearing, is hereby further amended by inserting after the definition of “Massachusetts export finance program” the following definition:-

“Massachusetts Health and Educational Facilities Authority”, or “HEFA”. the authority established under chapter 614 of the acts of 1968.

**SECTION 51.** Said section 1 of said chapter 23G, as so appearing, is hereby further amended by inserting after the word “financing”, in line 188, the following words:- ; provided, however, 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 52.** 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 2 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, 1 of whom shall be experienced in real estate development, 1 of whom shall be experienced in commercial or industrial credit, 1 of whom shall be experienced in mortgage lending, 1 of whom shall be experienced in banking or investment banking, 1 of whom shall be experienced in planning and the redevelopment of

environmentally contaminated lands, 1 of whom shall be experienced in health care facility financing, and 1 of whom shall be a representative of organized labor. The secretary of housing and economic development shall serve as chairperson of the board.

**SECTION 53.** Clause (16) of the first paragraph of section 3 of said chapter 23G, as so appearing, is hereby amended by adding the following words:- ; provided, however, that the agency shall publish and disseminate through its website each fiscal year a schedule of fees or a methodology for determining fees to be charged to institutions under this chapter, which shall result in similar charges for similarly-situated projects, regardless of the size of the participating institution. Before promulgating such schedule, the agency shall hold at least 1 public hearing under section 2 of chapter 30A.

**SECTION 54.** Said first paragraph of said section 3 of said chapter 23G, as so appearing, is hereby further amended by adding the following clause:-

(34) to make loans, including working capital and contract based loans, provide guarantees, loan insurance or reinsurance or otherwise provide financing or credit enhancing devices for the operation of companies which have a principal place of business in the commonwealth, including but not limited to loans to lending institutions under terms and conditions requiring the proceeds of such loans to be used by such lending institutions for the making of loans for the operation of companies.

**SECTION 55.** 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.

**SECTION 56.** Said chapter 23G is hereby further amended by striking out sections 27 and 28, as so appearing, and inserting in place thereof the following 2 sections:-

Section 27. (a) There shall be within the agency an Emerging Technology 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 defined and approved under rules approved by the advisory committee created in 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 as follows:

- (1) in the making of qualified investments, under rules approved by the advisory committee;
- (2) in defraying the ordinary and necessary expenses of administration and operation associated with the fund;
- (3) 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;

- (4) for the payment of binding obligations associated with such qualified investments which are secured by the fund as the obligations become payable; and
- (5) 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:

- (1) 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; and
- (2) 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;
- (3) 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 (2) awarded or to be awarded by the federal government, industry or other sources;
- (4) 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;
- (5) 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
- (6) 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 (1) 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 (1) of said subsection (b) unless such qualified investment complies 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, however, 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 (2) and (5) 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 (1) 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 this chapter, 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 the 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 fund 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 shall be an advisory committee to the Emergency Technology Fund established in section 27 which shall consist 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, 3 persons to be appointed by the governor, 1 of whom shall be a representative of an emerging technology industry, 1 of whom shall have knowledge of financing of emerging technology companies and 1 of whom shall have knowledge of technology transfer and commercialization activities at research institutions, and 3 persons to be appointed by the board of the agency, 1 of whom shall be a representative of an emerging technology industry, 1 of whom shall have knowledge of financing of emerging technology companies and 1 of whom shall be a member of the agency's board of directors; 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. The executive director of the Massachusetts Technology Transfer Center or the executive director's designee shall serve as an ex-officio and nonvoting 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 1 of the governor's initial appointees and 1 of the board of the agency's initial appointees shall serve for a term of 1 year, 1 of the governor's initial appointees and 1 of the board of the agency's initial appointees shall serve for a term of 2 years, and 1 of the governor's initial appointees and 1 of the board of the agency's initial 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 by-laws 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.

(g) The advisory committee and the agency may 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 57.** Said chapter 23G is hereby further amended by adding the following section:-  
Section 44. The agency shall be subject to section 16G of chapter 6A and section 56 of chapter 23A.

**SECTION 58.** 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 59.** 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 60.** Section 12 of said chapter 23I, as so appearing, is hereby amended by striking out, in line 9, the words "his designee," and inserting in place thereof the following words:- the secretary's designee, the executive director of the Massachusetts Technology Transfer Center and.

**SECTION 61.** Said chapter 23I is hereby further amended by adding the following section:  
Section 18. The center shall be subject to section 16G of chapter 6A and section 56 of chapter 23A.

**SECTION 62.** Chapter 23J of the General Laws is hereby amended by adding the following section:-

Section 9. The center shall be subject to section 16G of chapter 6A and section 56 of chapter 23A.

**SECTION 63.** Section 11F of chapter 25A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 141, the figure “2” and inserting in place thereof the following figure:- 6.

**SECTION 64.** Section 1 of chapter 29 of the General Laws is hereby amended by striking out the definition of “State authority”, as amended by section 31 of chapter 25 of the acts of 2009, 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 65.** Section 1 of chapter 30A of the General Laws, as so appearing, is hereby amended by inserting after paragraph (4) the following paragraph:-

(4A) “Proposed regulation”, a proposal by an agency to adopt, amend or repeal an existing regulation.

**SECTION 66.** Said section 1 of said chapter 30A of the General Laws, as appearing in the 2008 Official Edition, is hereby further amended by inserting after paragraph (5) the following paragraph:-

(5A) “Small business”, a business entity or agriculture operation, 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, as established in the United States Code and promulgated from time to time by the United States Small Business Administration.

**SECTION 67.** Section 2 of said chapter 30A, as so appearing, is hereby amended by inserting after the third paragraph the following 2 paragraphs:-

The notice shall also include a small business impact statement considering the impact of the proposed regulation on small business with the state secretary. Notwithstanding the provisions of section 6, the state secretary shall include the statement of small business consideration on the electronic website of the state secretary; provided, however, that the full text of the small business impact statement may be inspected and copied in the office of the state secretary during business hours.

That small business impact statement shall include, but not be limited to, the following:

- (1) an estimate of the number of small businesses subject to the proposed regulation;
- (2) projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation;
- (3) the appropriateness of performance standards versus design standards;
- (4) an identification of regulations of the promulgating agency, or of another agency or department of the commonwealth, which may duplicate or conflict with the proposed regulation; and
- (5) an analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the commonwealth;

**SECTION 68.** Section 3 of said chapter 30A, as so appearing, is hereby amended by inserting after the third paragraph the following 2 paragraphs:-

The notice shall also include a small business impact statement considering the impact of the proposed action on small businesses with the state secretary.

notwithstanding the provisions of section 6, the state secretary shall include the small business impact statement on the electronic website of the state secretary; provided, however, that the full text of the small business impact statement may be inspected and copied in the office of the state secretary during business hours.

That small business impact statement shall include, but not be limited to, the following:

- (1) an estimate of the number of small businesses subject to the proposed regulation;
- (2) projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation;
- (3) the appropriateness of performance standards versus design standards;
- (4) an identification of regulations of the promulgating agency, or of another agency or department of the commonwealth, which may duplicate or conflict with the proposed regulation; and
- (5) an analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the commonwealth;

**SECTION 69.** The second paragraph of section 5 of said chapter 30A, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- The requirements to file small business impact statements under this section and sections 2, 3 and 5A shall be enforceable by a civil action for mandamus relief, but the sufficiency of the statement filed shall not be grounds for invalidating or staying the effect of the regulation.

**SECTION 70.** Said section 5 of said chapter 30A, as so appearing, is hereby further amended by inserting after the second paragraph the following paragraph:-

Prior to the adoption of a proposed regulation, an agency shall file an amended small business impact statement, which considers, without limitation, whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

- (1) establishing less stringent compliance or reporting requirements for small businesses;
- (2) establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- (3) consolidating or simplifying compliance or reporting requirements for small businesses;
- (4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation;
- (5) an analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the commonwealth; and
- (6) minimizing adverse impact on small businesses by using alternative regulatory methods.

**SECTION 71.** Said chapter 30A is hereby amended by inserting after section 5, as so appearing, the following section:-

Section 5A. Rules and regulations shall be reviewed at least once every 12 years after their publication as the final rules or regulations to ensure that those rules and regulations minimize economic impact on small businesses in a manner consistent with the stated objectives of applicable statutes.

In reviewing a rule or regulation to minimize economic impact of the rule or regulation on small businesses, the agency shall file a small business impact statement which considers the following factors:

- (1) the continuing need for the rule or regulation;
- (2) the nature of complaints or comments received concerning the rule or regulation from the public;
- (3) the complexity of the rule or regulation;

- (4) the extent to which the rule or regulation overlaps, duplicates or conflicts with other federal, state and local governmental rules and regulations;
- (5) the length of time since the rule or regulation has been enacted, changed, amended or modified; and
- (6) the degree to which technology, economic conditions or other factors have changed in the subject areas affected by the rule or regulation.

**SECTION 72.** Chapter 30B of the General Laws is hereby amended by adding the following section:  
-

Section 22. (a) Notwithstanding any general or special law to the contrary and to the extent permitted by federal law, a governmental body may, by a majority vote, establish a preference for the procurement of products or services by businesses, as defined in section 3A of chapter 23A, with their principal place of business in the commonwealth.

(b) If a governmental body establishes such a preference, the procurement officer responsible for procuring products and services on behalf of the governmental body shall effectuate such preference for the procurement in: (i) advertising for bids, contracts or otherwise and making reasonable efforts to facilitate the purchase of such products or services; and (ii) purchasing products or services by businesses, as defined in said section 3A of said chapter 23A, with their principal place of business in the commonwealth, unless the price of such goods or services exceed, by more than 10 per cent, the price of such goods or services produced by businesses with their principal place of business outside of the commonwealth.

**SECTION 73.** Section 23 of chapter 32 of the General Laws is hereby amended by inserting after the word "however", in line 361, as appearing in the 2008 Official Edition, the following words:-, that consistent with sound investment policy and in accordance with the procedures and processes employed to oversee the allocation of traditional investment of funds, the director shall whenever reasonably possible ensure that funds are invested in banks or financial institutions which directly or through any subsidiary may make loans to small businesses, as defined in clause (a) of subdivision (7), and that when electing to make such investments the board shall review the guidelines for investing in small businesses contained in said subdivision (7) and monies shall be invested as much as reasonably possible in such banks, financial institutions or companies which provide capital to small businesses under those guidelines so long as such use is consistent with sound investment policy; provided further.

**SECTION 74.** Said section 23 of said chapter 32, as so appearing, is hereby further amended by adding the following subdivision:-

(7) The guidelines for investing in small businesses with a principal place of business in the commonwealth shall be:

(a) For the purposes of this section small business shall be 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, as established in the United States Code and promulgated from time to time by the United States Small Business Administration.

(b) Investments shall be made by banks or financial institutions with demonstrated experience making capital available to small businesses with good management, which are fast growing and identify the potential to use increased capital to create jobs and which are experiencing difficulty in accessing capital.

(c) Capital shall be provided to small businesses in a variety of financial instruments,

including but not limited to: working capital and expansion loans to businesses, both secured and non-secured; provide lines of credit; capital expenditure loans; term loans; project finance loans; grants; loan guarantees; and mezzanine and structured finance loans.

(d) Capital shall not be provided unless financial and managerial advisory services are also provided to the business that is served.

**SECTION 75.** 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 76.** Said section 59 of said chapter 40, as so appearing, is hereby further amended by adding the following clause:-

(viii) requires of an owner of a parcel pursuant to clause (v) to submit to the city or town clerk and the economic assistance coordinating council a report detailing the status of the construction laid out in the plan; the current value of the property; and the number of jobs created to date as a result of the plan; provided, however, that a report shall be filed every 5 years for the term of the tax increment exemption allowed under clause Fifty-first of section 5 of chapter 59; and provided further, that a final report shall be filed in the final year of the exemption.

**SECTION 77.** Clause (iii) of subsection (a) of section 60 of said chapter 40, as so appearing, is hereby amended by striking out the introductory paragraph and inserting in place thereof the following introductory 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 UCH-TIF zone and for which an agreement has been executed under clause (v); provided, however, that the UCH-TIF 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 78.** Clause (iii) of subsection (a) of section 60A of said chapter 40, as so appearing, is hereby amended by striking out the introductory paragraph and inserting in place thereof the following introductory 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 MWT-TIF zone and for which an agreement has been executed with the owner of the parcel under clause (iv); provided, however, that the MWT-TIF 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:

**SECTION 79.** Section 3 of chapter 40A of the General Laws is hereby amended by inserting after the word “more”, in line 25, as so appearing, the following words:- or to parcels 2 acres or more if the sale of products produced from the agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture use on the parcel annually generates at least \$1,000 per acre based on gross sales dollars.

**SECTION 80.** 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” and inserting in place thereof the following words: secretary of housing and.

**SECTION 81.** Chapter 40E of the General Laws is hereby repealed.

**SECTION 82.** 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 83.** The fifth paragraph of said section 2 of said chapter 40G, as so appearing, is hereby amended by striking out the fourth sentence.

**SECTION 84.** 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 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 MTDC.

**SECTION 85.** Chapter 40G of the General Laws is hereby further amended by adding the following section:-

Section 11. The MTDC shall be subject to section 16G of chapter 6A and section 56 of chapter 23A.

**SECTION 86.** Section 2 of chapter 40H of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the definition of “CDC” and inserting in place thereof the following definition:-

“CDC” or “Community Development Corporation”, a non-profit corporation organized under chapter 180, and exempt from taxation under section 501(c) of the Internal Revenue Code and which:

- (a) 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;
- (b) 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;
- (c) 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.

**SECTION 87.** The definition of “Eligible organization” in section 2 of said chapter 40H, as so appearing, is hereby amended by striking out the second sentence.

**SECTION 88.** 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: (1) an economic target area designated under section 3D of chapter 23A; (2) the service area of community development corporation; or (3) 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 89.** Chapter 40H of the General Laws is hereby 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 those organizations; provided, however, that the organizations shall 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: (i) the percentage, if any, of the board that is elected by the general membership; (ii) the percentage of the board members who are residents of the service area; (iii) the percentage of board members that are persons of low or moderate income; (iv) the racial and ethnic composition of the board in comparison to the racial and

ethnic composition of the community that the organization serves; (v) 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 (vi) 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 90.** 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 91.** Subsection (b) of said section 3 of said chapter 40H, as so appearing, is hereby amended by striking out the sixth sentence.

**SECTION 92.** Said chapter 40H is hereby amended by adding the following section:-

Section 9. CEDAC shall be subject to section 16G of chapter 6A and section 56 of chapter 23A.

**SECTION 93.** The third paragraph of section 3 of chapter 40J of the General Laws, as appearing in section 15 of chapter 158 of the acts of 2009, is hereby amended by striking out the first sentence and inserting in place thereof the following 2 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 vice-chairperson and may designate a treasurer and a secretary, who need not be members of the board.

**SECTION 94.** Section 6A of said chapter 40J is hereby amended by striking out, in line 16, as so appearing, the words "undersecretary of business" and inserting in place thereof the following words:- secretary of housing and economic.

**SECTION 95.** Section 6B of said chapter 40J, as so appearing, is hereby 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 96.** Subsection (c) of said section 6B of said chapter 40J, as so appearing, is hereby further amended by striking out the second sentence.

**SECTION 97.** 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 98.** Said chapter 40J is hereby further amended by adding the following section:-  
Section 13. The corporation shall be subject to section 16G of chapter 6A and section 56 of chapter 23A.

**SECTION 99.** Section 1 of chapter 40Q of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the definition of "Base date" and inserting in place thereof the following 2 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.

"Base date", the last assessment date of the real property tax immediately preceding the creation of the district.

**SECTION 100.** The definition of "Development program" in said section 1 of said chapter 40Q, as so appearing, is hereby amended 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 101.** 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 102.** Said section 1 of said chapter 40Q, as so appearing, is hereby further amended by striking out, in line 59, the word "and".

**SECTION 103.** 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 104.** 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 105.** The General Laws are hereby amended by inserting after chapter 40U the following 2 chapters:-

CHAPTER 40V.  
HOUSING DEVELOPMENT INCENTIVE PROGRAM.

Section 1. As used in this chapter, 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", gateway municipality as defined 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 project", a multi-unit residential rehabilitation project that is located in a gateway municipality and once rehabilitated, shall contain at least 80 per cent market rate units.

"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.

"Market rate residential unit", a residential unit priced for households above 110 per cent of the area's household median income.

"Qualified substantial rehabilitation expenditure", the cost of substantial rehabilitation meeting the following criteria: (i) an initial certification by the 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 meets 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.

"Sponsors", sponsors, as defined in section 25 of chapter 23B.

“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 1 or more areas of a gateway municipality as an HD Zone and take any and all actions necessary or appropriate to such a designation, upon receipt of a municipal application requesting such designation and representing in its application 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.

Section 3. Under 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 chapter; provided, however, that the proposed project:

- (i) contains 2 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 not more than 50 market rate residential units;
- (iii) is located in a designated or proposed HD zone;
- (iv) contains at least 80 per cent market rate units upon completion of the rehabilitation, to be sold or leased;
- (v) has received from the municipality a property tax exemption under section 5M of chapter 59; and
- (vi) is a substantial rehabilitation of an existing property.

(b) The department may from time to time approve 1 or more housing development projects, located in HD zones designated as certified projects under section 2 and take any and all actions necessary or appropriate to such a designation, upon compliance with the following:

- (i) receipt of a project proposal for such a designation requesting such designation from the municipality, submitted in a timely manner, in such form and with such information as the department prescribes, 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 under section 5M of chapter 59 and this section so long as the municipality has determined and incorporated in a formal written determination, based on the information submitted with the project proposal and such additional investigation as the municipality shall make, that the project as described in the proposal and all documentation submitted with the proposal:

- (A) is consistent with and can reasonably be expected to benefit significantly from the gateway municipality’s plans relative to the project property tax exemption;
- (B) together with all other projects previously certified and located in the same project HDIP zone, shall not overburden the municipality’s supporting resources; and
- (C) together with the municipal resources committed to the project, shall, if

certified, have a reasonable chance of increasing residential growth, diversity of housing supply, supporting economic development and promoting neighborhood stabilization in 1 of the municipality's housing development zones of the municipality as advanced in the proposal; and

(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 5 years and not more than 20 years.

(c) The department shall evaluate and either grant or deny any project proposal not later than 90 days from the date of its receipt of a complete project proposal and failure to do so by the department shall result in approval of such project for a term of 20 years. Approval of a project due to the department's failure to act within 90 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 this section.

(e) The department shall review such certified project at least once every 2 years. 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. Upon such a revocation, the commonwealth and the municipality, may bring a cause 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, to the joint committee on revenue and the joint committee on housing and community development.

Section 5. The department may award to a sponsor of a certified project tax credits available under subsection (q) of section 6 of chapter 62 and section 38BB of chapter 63 not to exceed 10 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 under subsection (q) of section 6 of chapter 62 and section 38BB of chapter 63 to a dollar amount or in any other manner deemed appropriate by the department.

CHAPTER 40W.  
MASSACHUSETTS GROWTH CAPITAL CORPORATION

Section 1. For the purposes of this chapter the following words and terms 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 certified community development corporation, as defined in section 2 of chapter 40H.

“Corporation” or “GCC”, the Massachusetts Growth Capital Corporation established in 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, as established in the United States Code and promulgated from time to time by the United States Small Business Administration.

Section 2. (a) There is hereby established 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 be governed and its corporate powers exercised by a board of directors, which shall consist of 12 directors; 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, 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 vice-chair 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) Six of the directors of the corporation shall constitute a quorum and 6 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 directors shall appoint the president of the corporation and shall establish the president's salary. 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:

- (a) adopt by-laws for the regulation of its affairs and the conduct of its business;
- (b) adopt an official seal;
- (c) sue and be sued in its own name;
- (d) make and execute contracts and all other instruments necessary or convenient for the exercise of its power and functions;
- (e) acquire, hold and dispose of personal property for its corporate purposes;
- (f) enter into agreements or other transactions with federal and state agencies;
- (g) 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;
- (h) 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;
- (i) 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;
- (j) 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;
- (k) appear in its own behalf before boards, commissions, departments or other agencies of municipal, state or federal government;
- (l) procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable;

- (m) 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;
- (n) do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this chapter;
- (o) 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;
- (p) 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;
- (q) 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;
- (r) exercise other powers, rights or responsibilities of a corporation organized under chapter 156B;
- (s) create and issue shares which a person, firm or corporation may purchase; provided, however, that each share issued shall be in the form of non-voting 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;
- (t) 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;
- (u) provide loan guarantees to public or private entities for the purpose of causing such entities to provide financing to a business;
- (v) establish and collect such fees, charges and interest rates as the corporation determines to be reasonable; and
- (w) 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 clause (i), stock or capital participation instrument created under clause (p) or share issued under clause (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 whether the project: (i) is likely to 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 inure 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; (a) that the project plans conform to applicable environmental, zoning, building, planning and sanitation laws; (b) that there is a reasonable expectation that the project will be successful; and (c) 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 to increase 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 well-being 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, that the contract requires that a business receiving financial products shall participate in financial and managerial consulting services and that the contract includes 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; and

(d) Should the GCC desire to sell or otherwise dispose of stock received under a contract under this section, 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.

(e) The GCC shall not, nor shall the GCC in combination with a corporation established or invested in by the GCC under this section, own more than 49 percent of the voting stock in a small business.

(f) 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 shall not be 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 start-up 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 start-up 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 shall 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 shall 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 pre-feasibility 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 section 16G of chapter 6A and section 56 of chapter 23A.

**SECTION 106.** 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.

**SECTION 107.** 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 an 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 under chapter 40A and chapter 164 or requests for variances or waivers from state laws or regulations.

“Priority development site”, priority development site as defined in section 2 of chapter 43D.

“Project”, project as defined in section 62 of chapter 30.

“Site”, a privately or publicly owned property that is zoned for commercial or industrial use.

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 an extension under section 5, for projects that are in: (i) priority development sites designated under chapter 43D; (ii) located within a growth district; (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 neither the project nor any portion of the project shall be 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 under 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 issuing authority issues 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 if: (1) the issuing authority has made a timely determination that the application is not complete in accordance with its requirements, properly notified the applicant 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 if 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 of housing and economic development. 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 shall not deny a permit exclusively due to a lack of time for review if the applicant has provided a complete application and met all other obligations under this chapter.

Section 6. The commencement of the time period for an administrative or judicial appeal of a grant under section 3 shall be the date the applicant files notice of the grant under said section 3. The 180 or 210 day timeline shall 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 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 may issue rules and regulations to tailor this chapter to the specific permits issued by such agency.

**SECTION 108.** Clause Sixteenth of section 5 of chapter 59 of the General Laws is hereby amended by striking out paragraph (3), as amended by section 4 of chapter 173 of the acts of 2008, 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 109.** Said section 5 of said chapter 59, as appearing in the 2008 Official Edition, 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 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 110.** 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 40V, may, by vote of its legislative body, subject to the charter of the municipality, establish an exemption in an amount not less than 10 per cent 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 under chapter 40V, for a period of not less than 5 years and not more than 20 years. For the purposes of this section, "market rate residential unit" shall mean a market rate residential unit as defined in section 1 of chapter 40V. Such exemption shall be approved by the department of housing and community development, as established in chapter 23B. The department shall promulgate applicable rules and regulations to carry out this section.

**SECTION 111.** Section 4 of chapter 62 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the words "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; provided, however, that 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 112.** Subsection (g) of section 6 of chapter 62 of the General Laws, inserted by section 21 of chapter 166 of the acts of 2009, is hereby amended by striking out paragraph (1) and 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 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.

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 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 under 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 \$10,000,000 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.

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 113.** Paragraph (1) of subsection (j) of said section 6 of said chapter 62, as appearing in the 2008 Official Edition, is hereby amended by striking out the figure "2011" and inserting in place thereof the following figure:- 2013.

**SECTION 114.** Said paragraph (1) of said subsection (j) of said section 6 of said chapter 62, as so appearing, is hereby further amended by striking out the figure "2012" and inserting in place thereof the following figure:- 2014.

**SECTION 115.** Said section 6 of said chapter 62 is hereby further amended by adding 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, hereinafter referred to as "DHCD", for a certified housing development project, as defined in chapter 40V, in an amount up to ten 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 40V. 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 under 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 5 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 116.** Section 6I of chapter 62 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 70 and 71, the words “, if allocated a federal low income housing tax credit with respect to a project,”.

**SECTION 117.** Said section 6I of said chapter 62 is hereby further amended by striking out, in line 72, as so appearing, the words “the same” and inserting in place thereof the following word:- a.

**SECTION 118.** Section 1 of chapter 62C, as amended by section 39 of chapter 131 of the acts of 2010, is hereby further amended by striking out the definition of “Tax credit program” and inserting in place thereof 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 119.** Subsection (b) of section 21 of chapter 62C of the General Laws, as 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 120.** Subparagraph (b) of paragraph 5 of section 30 of chapter 63 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following 2 sentences:- Losses sustained in any taxable year prior to January 1, 2010, may be carried forward for not more than 5 years and may not be carried back. Losses sustained in any taxable year beginning on January 1, 2010 may be carried forward for not more than 20 years and may not be carried back.

**SECTION 121.** Clause (c) of said paragraph 5 of said section 30 of said chapter 63, as so appearing, is hereby amended by striking out subclause (iii).

**SECTION 122.** Said paragraph 5 of said section 30 of said chapter 63, as so appearing, is hereby further amended by adding the following 2 clauses:-

(d) A business corporation that incurs losses before the corporation becomes subject to tax liability in the commonwealth shall not be allowed to carry those losses forward under this section.

(e) Notwithstanding any other provision of this section, when a corporation is allowed to carry forward net operating losses under this section, the loss shall 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 123.** Paragraph (1) of subsection (c) of section 31H of said chapter 63, as appearing in the 2008 Official Edition, is hereby amended by striking out the words “, if allocated a federal low income housing tax credit with respect to a project,”.

**SECTION 124.** Said paragraph (1) of said subsection (c) of said section 31H of said chapter 63, as so appearing, is hereby further amended by striking out the words “the same” and inserting in place thereof the following word:- a.

**SECTION 125.** Paragraph (3) of subsection (c) of section 32B of said chapter 63, as appearing in the 2008 Official Edition, is hereby amended by adding the following clause:-

(iv)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 United States federal income tax by virtue 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 to determine whether the corporation is included in the water's edge group under clause (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 United States federal income tax by virtue of a federal tax treaty, the corporation shall be considered to be included in the combined group under 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, under 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 under 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 126.** Section 38N of said chapter 63 is hereby amended by striking out subsection (a), as appearing in section 23 of chapter 166 of the acts of 2009, and inserting in place thereof the following subsection:

(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 under this subsection for real property leased under an operating lease.

The total amount of credits that may be authorized by the economic assistance coordinating council in a calendar year under 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 under subsection (5) of section 38BB of this chapter and paragraph (5) of subsection (q) of section 6 of chapter 62 and shall include: (1) refundable credits granted during the year under said subsection (g) of said section 6 of said chapter 62 or this section; (2) nonrefundable credits granted during the year under 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 under 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 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.

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 127.** Section 38Q of said chapter 63, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 3, the figure "2011" and inserting in place thereof the following figure:- 2013.

**SECTION 128.** Said section 38Q of said chapter 63, as so appearing, is hereby further amended by striking out, in line 8, the figure "2012" and inserting in place thereof the following figure:- 2014.

**SECTION 129.** 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, in this section referred to as "DHCD", established in chapter 23B, for a certified housing development project, as defined in chapter 40V, in an amount up to 10 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 40V. The credit under this section shall be allowed for the taxable year in which DHCD gives the commissioner of revenue written notification of completion of the certified housing development project.

(2) Taxpayers eligible for the this credit may, with prior notice to and under 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.

(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 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 shall 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 5 years after the taxable year in which DHCD gives the commissioner of revenue 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 of revenue 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 under 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 under this section or said subsection (q) of section (6) of chapter 62; (2) carry forwards of credits from prior years under 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 of revenue to offset tax liabilities during the year. Any portion of the \$5,000,000 annual cap not awarded by DHCD in a calendar year shall not be applied to awards in a subsequent year. 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 of revenue, in consultation with DHCD, shall adopt regulations necessary to carry out this section.

**SECTION 130.** Section 45 of chapter 75 of the General Laws, as appearing in the 2008 Official Edition, 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 131.** 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 132.** Said section 45 of said chapter 75, as so appearing, is hereby further 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 133.** Said chapter 75 is hereby further amended by inserting after section 45 the following section:-

Section 45A. The center shall be subject to section 16G of chapter 6A and section 56 of chapter 23A.

**Governor disapproved of SECTIONS 134 thru 138, inclusive, for message see (Senate, No. 2602)**

~~**SECTION 134.** Section 184B of chapter 94 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the definition of “Food department” and inserting in place thereof the following definition:-~~

~~‘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 135.** Said section 184B of said chapter 94, as so appearing, is hereby further amended by striking out the definition of “Food store” and inserting in place thereof the following definition:-~~

~~‘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 136.** The definition of “Food store” in said section 184B of said chapter 94 is hereby amended by striking out the words ‘For purposes of this section and sections 184C to 184E, a warehouse club shall not be considered a food store, inserted by section 135-.~~

~~**SECTION 137.** Section 184B of said chapter 94, as so appearing, is hereby further amended by adding the following definition:-~~

~~‘Warehouse club’, a retail store in which customers pay annual membership fees in order to purchase items at member only prices.~~

~~**SECTION 138.** The definition of “Warehouse club” in said section 184B of said chapter 94 is hereby repealed.~~

**SECTION 139.** 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, notwithstanding any limitation on the number of licenses the city or town is authorized to grant in section 17, may grant a license to the holder of a farmer-winery license under section 19B or from any other state for service to travelers, strangers, and other patrons and customers who are at least 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 shall have the meaning ascribed to it in section 1A of chapter 128.

**SECTION 140.** Section 15 of said chapter 138, as so appearing, is hereby amended by inserting after the figure “19C”, in line 18, the following words:- , or to an applicant licensed to operate as a farmer-winery under said section 19B or in any other state.

**SECTION 141.** Said section 15 of said chapter 138, as so appearing, is hereby further amended by inserting after the word “fee”, in line 47, the following words:- and nothing shall prohibit the local licensing authority from establishing reduced fees for special licenses issued under section 15F.

**SECTION 142.** Said chapter 138 is hereby further amended by inserting after section 15A the following section:-

Section 15F. 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 19B 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 customers who are at least 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 21 years of age and all samples shall be consumed in the presence of such agent, representative, or solicitor of the licensee; provided, however, that no sample shall exceed one (1) ounce of wine and no more than 5 samples shall be served to an individual prospective 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 in this section.

An applicant for a special license under this section shall first submit a plan to the department of agricultural resources that shall demonstrate that the event is an agricultural event. The plan shall include a description of the event, the date, time and location of the event, a copy of the operational guidelines or rules for the event, written approval that the prospective 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 license will be exercised.

Upon review of the plan, the department may certify that the event is an agricultural event; provided, however, that in making that determination, the department shall consider the following factors: (i) operation as a farmers' market or agricultural fair approved or inspected by the department; (ii) frequency and regularity of the event, including dates, times and locations; (iii) number of vendors; (iv) terms of vendor agreements; (v) presence of an on-site manager; (vi) training of the on-site manager; (vii) operational guidelines or rules, which shall include vendor eligibility and produce source; (viii) focus of event on local agricultural products grown or produced within the market area; (ix) types of shows or exhibits, including those which are described in clause (f) of the first paragraph of section 2 of chapter 128; and (xi) sponsorship 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.

An applicant for a license under this section shall file with the local licensing authority along with its application proof of certification from the department of agricultural resources that the event is an agricultural event. A special license under this section shall designate the specific premises, and dates and times covered. A special license may be granted for an indoor or outdoor agricultural event which takes place on multiple dates and/or times during a single calendar year but no special license shall be granted for an agricultural event that will not take place within 1 calendar year. The special license shall be displayed conspicuously by the licensee at the licensed premises. A copy of a special license granted by the local licensing authority shall be submitted by the authority to the commission at least 7 days prior to the date the agricultural event is first scheduled to begin. The local licensing authority may charge a fee for each special license granted, but such fee shall not exceed fifty \$50. A special license granted under this section shall be nontransferable to any other person, corporation, or organization and shall be clearly marked nontransferable on its face.

The commission may promulgate rules and regulations it deems appropriate to effectuate the purposes of this section.

**SECTION 143.** Section 17 of said chapter 138, as so appearing, is hereby amended by adding the following paragraph:

In addition to the number of licenses otherwise authorized to be granted pursuant to this section, a city or town may grant additional licenses under sections 12, 15 or 15F to the holder of a farmer-winery license under section 19B or in any other state for the sale of wine produced by or for the applicant. A license granted by a city or town under said section 12, 15 or 15F shall not be include as a license for purposes of determining the number of licenses allowed to be granted by a city or town under this section. A license granted pursuant to this paragraph shall be nontransferable to any other person, corporation or organization and shall be clearly marked nontransferable on its face.

**SECTION 144.** Section 19B of said chapter 138, as so appearing, is hereby amended by inserting after the word “section”, in line 97, the following words:- 15, 15F or

**SECTION 145.** Said section 19B of said chapter 138, as so appearing, is hereby further amended by striking out, in line 99, the word “and”, the second time it appear.

**SECTION 146.** Said section 19B of said chapter 138, as so appearing, is hereby amended by inserting after the word “country” in line 100., the following word:-

(5) 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 147.** Said section 19B of said chapter 138, as so appearing, is hereby further amended by striking out subsection (h) and inserting in place thereof the following words:-

(h) A winegrower shall not sell at retail to consumers any wine or winery product not produced by or for the winery and sold under the winery brand name. All retail sales shall 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 15 and 15F.

**SECTION 148.** Section 52C of chapter 149 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the fifth paragraph and inserting in place thereof the following paragraph: -

An employer shall notify an employee within 10 days of the employer placing in the employee’s personnel record any information to the extent that the information is, has been used or may be used, to negatively affect the employee’s qualification for employment, promotion, transfer, additional compensation or the possibility that the employee will be subject to disciplinary action. An employer receiving a written request from an employee shall provide the employee with an opportunity to review such employee’s personnel record within 5 business days of such request. The review shall take place at the place of employment and during normal business hours. An employee shall be given a copy of the employee’s personnel record within 5 business days of submission of a written request for such copy to the employer. An employer shall not be required to allow an employee to review the employee’s personnel record on more than 2 separate occasions in a calendar year; provided, however, that the notification and review caused by the placing of negative information in the personnel record shall not be deemed to be 1 of the 2 annually permitted reviews.

**SECTION 149.** Section 1H of chapter 164 of the General Laws, as so appearing, is hereby amended by striking out the definition of the word “department” and inserting in place thereof the following definition:-

“Department”, the department of public utilities.

**SECTION 150.** Section 14 of chapter 167 of the General Laws, as so appearing, is hereby amended by striking out, in line 22, the words “and 30” and inserting in place thereof the following words:- , 30 and 30A.

**SECTION 151.** Said section 2 of said chapter 167F, 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 40W 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 152.** 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 153.** Said section 168 of said chapter 175, as so appearing, is hereby further amended by striking out, in line 61, the word “or”.

**SECTION 154.** 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 155.** 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 under clause (4) of subsection (c), 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 under 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) of 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 alien 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 under this section if the commissioner determines that such refusal will be in the public interest. In reviewing an application, the commissioner may consider:

(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 168;

(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 in subsection (c);

(3) has willfully violated the laws of the commonwealth; or

(4) does not conduct a proper claims practice.

**SECTION 156.** Section 21 of chapter 218 of the General Laws, as so appearing, is hereby amended by striking out, lines 6 and 35, the following words, “two thousand dollars” and inserting in place thereof, in each instance, the following figure:- \$7,000.

**SECTION 157.** 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 158.** Chapter 465 of the acts of 1956 is hereby amended by inserting after section 21 the following section:-

Section 21A. The authority shall be subject to section 16G of chapter 6A and section 56 of chapter 23A of the General Laws.

**SECTION 159.** 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 figure:- 25.

**SECTION 160.** 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 161.** Subsection (a) of section 4 of chapter 614 of the acts of 1968, as amended by section 6 of chapter 454 of the acts 1969., is hereby further amended by striking out the fourth, fifth, sixth, seventh and eighth sentences 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 162.** Section 4 of said chapter 614 of the acts of 1968 is hereby repealed.

**SECTION 163.** Subsection (b) of said section 4 of said chapter of chapter 614 of the acts of 1968, as amended is hereby further amended by adding 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 164.** Chapter 190 of the acts of 1982 is hereby amended by inserting after section 40 the following section:-

Section 40A. The Authority shall be subject to section 16G of chapter 6A and section 56 of chapter 23A of the General Laws.

**SECTION 165.** Section 6 of chapter 528 of the acts of 1990, as amended by section of chapter 131 of the acts of 2010, is hereby further amended by striking out the words “August 1,2010” and inserting in place thereof the following “September 30, 2010.”

**SECTION 166.** Section 64 of chapter 365 of the acts of 1996, as amended by chapter 352 of the acts of 2004, is hereby amended by adding the following sentence:-

The corporation shall be subject to section 16G of chapter 6A and section 56 of chapter 23A of the General Laws.

**SECTION 167.** Notwithstanding any general or special law to the contrary, within 4 years of the effective date of this act, each agency shall review the agency's rules and regulations currently existing to determine whether such rules and regulations should be continued without change or should be amended or rescinded to minimize economic impact of those rules and regulations on small businesses in a manner consistent with the stated objective of applicable statutes. If the head of the agency determines that completion of the review of existing rules is not feasible by the established date the agency shall publish a statement certifying that determination. The agency may extend the completion date by 1 year at a time for a total of not more than 5 years.

**SECTION 168.** The state secretary shall immediately notify all agencies required to file rules or regulations under section 5 of chapter 30A of the General Laws of the new requirements regarding small business impact statements.

**SECTION 169.** Notwithstanding any other general or special law to the contrary a stock purchase agreement between the commonwealth and Community Development Finance Corporation 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 Community Development Finance Corporation 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 Community Development Finance Corporation and of the holders of said debt obligations of the Community Development Finance Corporation until the terms of said debt obligations are satisfied.

**SECTION 170.** The secretary of housing and economic development, in consultation with the economic assistance coordinating council, shall promulgate regulations that reflect the changes implemented in section 74A of this act.

**SECTION 171.** Notwithstanding any other general or special law to the contrary, the pension reserves investment management board established under section 23 of chapter 32 of the General Laws shall review its investment portfolio and to the extent it is reasonably possible it shall invest not less than \$25,000,000 and not more than \$50,000,000 in banks or financial institutions which make capital available to small businesses under the guidelines of subdivision (7) of section 23 of chapter 32 of the General Laws and shall make such investment a priority of the portfolio as long as such investment is consistent with sound investment policy.

**SECTION 172.** To meet the expenditures necessary in carrying out section 2B, 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 173.** Notwithstanding any general or special law to the contrary, certain regulatory approvals are hereby extended as provided in this section.

(a) For purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Approval” except as otherwise provided in subsection (b), any permit, certificate, order, excluding enforcement orders, license, certification, determination, exemption, variance, waiver, building permit, or other approval or determination of rights from any municipal, regional or state governmental entity, including any agency, department, commission, or other instrumentality of the municipal, regional or state governmental entity, concerning the use or development of real property, including certificates, licenses, certifications, determinations, exemptions, variances, waivers, building permits, or other approvals or determination of rights issued or made under chapter 21, chapter 21A excepting section 16, chapter 21D, sections 61 to 62H, inclusive, of chapter 30, chapters 30A, 40, 40A to 40C, inclusive, 40R, 41, 43D, section 21 of chapter 81, chapter 91, chapter 131, chapter 131A, chapter 143, sections 4 and 5 of chapter 249, or chapter 258, of the General Laws or chapter 665 of the acts of 1956, or any local by-law or ordinance.

“Development”, division of a parcel of land into 2 or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of a building or other structure or facility, or any grading, soil removal or relocation, excavation or landfill or any use or change in the use of any building or other structure or land or extension of the use of land.

“Tolling period”, the period beginning August 15, 2008, and continuing through August 15, 2010.

(b) (1) Notwithstanding any general or special law to the contrary, an approval in effect or existence during the tolling period shall be extended for a period of 2 years, in addition to the lawful term of the approval.

(2) Nothing in this section shall be deemed to extend or purport to extend:

- (i) a permit or approval issued by the government of the United States or an agency or instrumentality of the government of the United States or to a permit or approval, of which the duration of effect or the date or terms of its expiration are specified or determined by or under law or regulation of the federal government or any of its agencies or instrumentalities;
- (ii) a comprehensive permit issued by a board of appeals under sections 20 to 23, inclusive, of chapter 40B of the General Laws; or;
- (iii) a permit, license, privilege or approval issued by the division of fisheries and wildlife under chapter 131 for hunting, fishing or aquaculture.

(3) Nothing in this section shall affect the ability of a municipal, regional or state governmental entity, including an agency, department, commission or other instrumentality of a municipal, regional or state governmental entity to revoke or modify a specific permit or approval or extension of a specific permit or approval under this section, when that specific permit or approval or the law or regulation under which the permit or approval was issued contains language authorizing the modification or revocation of the permit or approval.

(4) In the event that an approval tolled under this section is based upon the connection to a sanitary sewer system, the approval’s extension shall be contingent upon the availability of sufficient capacity, on the part of the treatment facility, to accommodate the development whose approval has been extended. If sufficient capacity is not available, those permit holders whose approvals have been extended shall have priority with regard to the further allocation of gallonage over those approval

holders who have not received approval of a hookup prior to the effective date of this section. Priority regarding the distribution of further gallonage to a permit holder who has received the extension of an approval under this section shall be allocated in order of the granting of the original approval of the connection.

(5) In the case when an owner or petitioner sells or otherwise transfers a property or project, in order for an approval to receive an extension, all commitments made by the original owner or petitioner under the terms of the permit must be upheld by the new owner or petitioner. If the new owner or petitioner does not meet or abide by those commitments then the approval shall not be extended under this section.

(6) Nothing in this section shall be construed or implemented in such a way as to modify a 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 174.** 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 175.** 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 176.** 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 177.** 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 178.** The commissioner of revenue shall issue instructions or forms or promulgate rules or regulations, necessary for the implementation of this act.

**SECTION 179.** Eligible sales at retail of tangible personal property under sections 175 and 176 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 180.** (a) There shall be a commission to study the feasibility of establishing a bank owned by the commonwealth or by a public authority constituted by the commonwealth.

(b) The commission shall consist of the secretary for administration and finance and the secretary of housing and economic development or their respective designees, who shall serve as co-chairs of the commission; the state treasurer or the treasurer's designee; the state comptroller or the comptroller's designee; 2 persons to be appointed by the president of the senate, 1 of whom shall be a member of the senate; 1 person to be appointed by the minority leader of the senate; 2 persons to be appointed by the speaker of the house of representatives; 1 of whom shall be a member of the house of representatives; 1 person to be appointed by the minority leader of the house; the executive directors of the Massachusetts Development Financing Agency and the Massachusetts Housing Finance Agency or their designees; president of the Massachusetts Growth Capital Corporation or the president's designee; and 8 persons to be appointed by the governor who shall not be employees of the executive branch, 3 of whom shall be drawn from a list of 5 names submitted by the Massachusetts Bankers Association, at least 1 of whom shall be a representative of a community bank operating in the commonwealth, 1 of whom shall be drawn from a list of 3 names submitted by the Associated Industries of Massachusetts, 1 of whom shall be drawn from a list of 3 names submitted by the Small Business Association of New England and 1 of whom shall be a professor at an institution of higher education in the commonwealth who has researched and published articles on banking. Of the governor's remaining appointments, not more than 1 may be a representative of a financial services firm located in the commonwealth. The governor shall ensure geographic diversity in the governor's appointments to the commission. The members of the commission shall be appointed not later 90 days after the effective date of this act.

(c) The commission shall examine the technical, legal and financial feasibility of establishing a commonwealth-owned bank, including but not limited to a commonwealth-owned bank for infrastructure investment purposes. The commission shall seek participation in its deliberations from the president of the Federal Reserve Bank of Boston or the president's designee. The commission shall evaluate the experiences of other states with state-owned banks, identifying the financial performance of such banks and evaluating the lending practices of such banks to show whether such banks successfully fill lending gaps not filled by the private sector. The commission shall also evaluate the manner in which public funds are invested or deposited by the commonwealth and its political subdivisions including funds managed by the state treasurer; the Massachusetts Municipal Depository Trust and state and local pension funds. The commission shall examine the infrastructure investment activities conducted by other states with state-owned banks. The commission shall also examine the lending practices, including lending to support infrastructure, of the existing public agencies in the commonwealth that perform lending services. The Massachusetts development finance agency, Massachusetts Housing Finance Agency, Health and Educational Facilities Authority, Massachusetts Growth Capital Corporation and any other public authority in the commonwealth that lends money shall cooperate fully with the commission and shall supply information reasonably required by the commission to carry out its charge.

(d) The commission shall hold at least 3 public hearings in distinct geographic regions of the commonwealth.

(e) The commission shall publish its findings and recommendations, together with drafts of legislation, if any, necessary to carry those recommendations into effect, in a written report not later than 1 year after the effective date of this act. The report shall be published on the official website of

the commonwealth, and shall be contemporaneously filed with the house and senate committees on ways and means and the house and senate chairs of the joint committee on financial services.

**SECTION 181.** There shall be a commission to develop an index of creative and innovative education in the public schools. The commission shall consist of the commissioner of elementary and secondary education, the secretary of housing and economic development, the secretary of labor and workforce development, or their designees, the executive director of the Massachusetts cultural council, 3 members to be appointed by the senate who shall reside in different geographic regions, 3 members to be appointed by the house who shall reside in different geographic regions and 5 persons to be appointed by the governor who shall reside in different geographic regions, 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 and 1 of whom shall be a representative of the Massachusetts Business Roundtable. Each of the members 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 act.

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 public schools, what funding or finance measures the commonwealth would need to implement that index and any recommendations for interagency agreements, intermunicipal agreements or other cooperative agreements that would be required to foster creative and innovative education programs in the public schools. The index shall rate every public school on teaching, encouraging and fostering creativity in students. The index shall be based in part on the creative opportunities in each school as measured by the availability of classes and before-school and after-school programs offered by and through school districts that provide creative opportunities for students including, but not limited to, arts education, debate clubs, science fairs, theatre performances, concerts, filmmaking and independent research.

The commission shall measure and encourage skill building in increasingly critical areas to employers such as creativity, creative thinking skills, innovation and teamwork. 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 the index and any financial measures that would be necessary for implementation. The commission shall submit a report to the governor, the clerks of the senate and house of representatives, the joint committee on tourism, arts and cultural development and the joint committee on education not 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 182.** There shall be a commission to study on alternative, dependable sources for funding tourist visitor centers in order to improve tourism throughout the commonwealth.

The commission shall be chaired jointly by the executive director of travel and tourism or the executive director's designee and the executive director of business development or the executive director's designee. The commission shall also include the house and the senate chairs of the joint committee on tourism, arts and cultural development or their designees, 1 representative from the Massachusetts Visitor Industry Council, and 5 additional members to be appointed by the governor who shall be from geographically diverse areas and each of whom is a representative of a regional tourism council, including 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 MetroWest Tourism and Visitor's Bureau, the Johnny Appleseed Trail Association, Inc., the Hampshire County Tourism and Visitor's Bureau, and the Nantucket Island Chamber of Commerce.

The study shall include but not be limited to effects of funding cuts on staffing and services, as well exploring alternative, dependable sources to fund tourist centers. The commission shall report the results of the study to the office of travel and tourism, the office of business development, the joint committee on tourism, arts and cultural development, and the house and senate committees on ways and means no later than December 31, 2010.

**SECTION 183.** 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 184.** The Massachusetts Growth Capital Corporation established pursuant to chapter 40W 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 185.** Notwithstanding any general or special law to the contrary, the executive office of housing and economic development, in consultation with the executive office of energy and environmental affairs, 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 implementing 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; and
- (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 various sectors of the commonwealth's economy. 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 186.** Notwithstanding any general or special law to the contrary, the Massachusetts Development Finance Agency shall establish fees under clause (16) of section 3 of chapter 23G of the General laws for fiscal years 2011, 2012 and 2013 that are no higher than the fees charged by that agency or the Massachusetts Health and Educational Facilities Authority in fiscal year 2010. For those 3 fiscal years, the requirement to hold a public hearing in said clause (16) of said section 3 shall be suspended. The Massachusetts Development Finance Agency shall use all reasonable efforts to ensure that any additional revenue realized in those 3 fiscal years resulting from changes in chapter 23G in this act shall be used by the agency to expand the availability of the agency's programs.

**SECTION 187.** 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 188.** (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 189.** 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.

**SECTION 190.** (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; (6) the functions of the Massachusetts Health and Educational Facilities Authority, as transferor agency, to the Massachusetts Development Finance Agency, as the transferee agency and (7) 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, assets 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.

(g) All transfers under this section shall be completed by October 1, 2010.

**SECTION 191.** The Massachusetts office of business development shall, within 180 days of the effective date of this act, publish and release a solicitation for a competitive regional economic development bidding process under section 3K of chapter 23A. The solicitation shall seek applications from eligible organizations under said section 3K to act as the commonwealth's primary agents for business development in various regions of the commonwealth. If MOBD determines through this process that there are no proposals to appropriately serve a particular region, then MOBD shall serve as the primary coordinator for business development initiatives in that region and reopen the bidding process at its discretion.

The Massachusetts office of business development may implement the bidding process as a phased, multi-step process that may include 1 or more of the following prior to the issuance of a request for proposals:

- (i) a request for information that would inform the development of a request for proposals;
- (ii) call for solutions that would focus on regional approaches to meet the needs of specified industry sectors or clusters or locations in the commonwealth; and
- (iii) a request for qualifications that would determine the pool of entities that would be eligible to apply for funding.

The Massachusetts office of business development shall not initiate the bidding process under this section until the Massachusetts office of business development promulgates the formula for contractual reimbursement required in sections 3J and 3K of chapter 23A.

**SECTION 192.** 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 Massachusetts Growth Capital Corporation established under chapter 40W of the General Laws.

**SECTION 193.** The provisions of section 111 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 194.** Sections 65 to 70, inclusive shall only apply to regulations proposed after the effective date of this act.

**SECTION 195.** Sections 105 and 11 shall take effect upon their passage.

**SECTION 196.** Sections 48 to 53, inclusive, and sections 55, 162 and 186 shall take effect on October 1, 2010.

**SECTION 197.** Sections 112, 115 and 126 shall take effect on January 1, 2011.

**SECTION 198.** Sections 99 to 104, inclusive, shall apply only to district created on or after the effective date of this act.

**SECTION 199.** Section 105 shall apply to qualified substantial rehabilitation expenditures incurred on or after its effective date; provided however, that sections 3 and 5 of chapter 40V of the General Laws shall take effect on January 1, 2011.

**SECTION 200.** Section 108 shall be effective for tax years beginning on or after January 1, 2011.

**SECTION 201.** Section 111 shall be effective for tax years beginning on or after January 1, 2011.

**Governor disapproved the following section, for message see (Senate, No. 2602)**

~~**SECTION 202.** Sections 136 and 138 shall take effect on December 1, 2011.~~

**SECTION 203.** Sections 121 and 122 shall be effective for net operating losses and loss carry forwards 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 204.** Section 125 shall apply to taxable years beginning on or after January 1, 2009.

**SECTION 205.** Section 44 shall be effective on October 1, 2010.

**SECTION 206.** Except as otherwise provided, this act shall take effect on August 1, 2010.

*Approved (in part) August 5, 2010*

---

**Return to:**

[List of Laws passed in 2010 Session](#)

[General Court home page](#), or

[Commonwealth of Massachusetts home page](#).