

An Act Promoting Economic Development Throughout the Commonwealth

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.

SECTION 1. The General Laws are hereby amended by inserting after Chapter 3 the following chapter:-

CHAPTER 3A. THE MASSACHUSETTS SUNSET ACT.

Section 1. There is hereby established a procedure for the identification and elimination of waste, duplication, and inefficiency in state government agencies and authorities established by statute, regulation or executive order to be known as the Massachusetts Sunset Act.

Section 2.

For the purpose of this chapter, the following definitions shall apply:

- (a)“Advisory Committee”, a committee, council, commission or other entity created under state law whose primary function is to advise a state agency;
- (b)“Commission”, the Sunset Advisory Commission;
- (c)“State Agency”, an agency expressly made subject to this chapter;

(d) "State Authority", any body politic and corporate that is constituted as a public instrumentality of the commonwealth and is established by an act of the general court to serve an essential governmental function. A state authority shall not be a state agency or owned by a city or town, and shall not be confined to a particular geographical region that is smaller than the commonwealth.

Section 3.

- (a) Notwithstanding any other general or special law to the contrary, there is hereby established a Massachusetts Sunset Advisory Commission, consisting of 5 members of the senate, 4 of whom shall be appointed by the president of the senate and 1 of whom shall be appointed by the minority leader of the senate, and 1 public member appointed by the president of the senate and 5 members of the house of representatives, 4 of whom shall be appointed by the speaker of the house of representatives, and 1 of whom shall be appointed by the minority leader of the house, and 1 public member appointed by the speaker of the house of representatives. The president of the senate and the speaker of the house may serve legislative appointees.
- (b) An individual is not eligible for appointment as a public member if the individual or the individual's spouse is:
- (1) Regulated by a state agency that the commission will review during the term for which the individual would serve;
 - (2) Employed by, participating in the management of, or having, directly or indirectly, more than a 10 per cent interest in a business entity or other organization regulated by a state agency the commission will review during the term for which the individual would serve; or

- (3) Required to register as an executive or legislative agent under section 41 of chapter 3 because of the person's activities for compensation on behalf of a profession or entity related to the operation of an agency under review.
- (c) A public member of the commission shall be removed if the member does not have the qualifications required by subsection (b) for appointment to the commission at the time of appointment or does not maintain the qualifications while serving on the commission. The validity of the commission's action is not affected by the fact that it was taken when a ground for removal of a public member from the commission existed.
- (d) Legislative members shall serve 2-year terms, conterminous with their service as elected members of the legislature. If a legislative member ceases to be a member of the legislature, the legislator's position shall be declared vacant, and the balance of the term filled by another legislator appointed in the same manner as the previous appointee. If the president of the senate or the speaker of the house serves on the commission, service continues until resignation from the commission or until the individual ceases to hold the office. Public members shall serve 2-year terms expiring January 1 of each odd-numbered year.
- (e) Members other than the president of the senate and the speaker of the house are subject to the following restrictions:
- (1) After a public member serves 6 consecutive years on the commission, the individual is not eligible for appointment to another term or part of a term until the expiration of 2 years;
 - (2) A legislative member who serves a full term may not be appointed to an immediately succeeding term; and

(3) A public member may not serve more than 3 consecutive 2-year terms; provided, however, that, for purposes of this prohibition, a member is considered to have served a term only if the member has served more than half of the term.

(f) The president of the senate and the speaker of the house shall make their appointments before February 1 of each odd-numbered year.

(g) If a legislative member ceases to be a member of the house from which he was appointed, that member vacates his membership on the commission.

(h) If a vacancy occurs, the appropriate appointing authority shall appoint a person to serve for the remainder of the unexpired term in the same manner as the original appointment.

(i) The commission shall have a chair and a vice-chair as presiding officers. The chair and vice-chair positions must alternate every 2 years between the 2 membership groups appointed by the president of the senate and the speaker of the house. The chair and vice-chair may not be from the same membership group. The president of the senate shall designate a presiding officer from the president's appointed membership group and the speaker shall designate the other presiding officer from the speaker's appointed membership group.

(j) Seven members of the commission constitute a quorum. A final action or recommendation may not be made unless approved by a recorded roll call vote of a majority of members appointed by the president of the senate and the speaker of the house. All other actions by the commission shall be decided by a majority of the members present and voting.

- (k) Each member of the commission is entitled to reimbursement for actual and necessary expenses incurred in performing commission duties. Each legislative member is entitled to reimbursement from the appropriate fund of the member's respective house. Each public member is entitled to reimbursement funds appropriated to the commission.

Section 4.

- (a) The commission shall employ an executive director to act as the executive head of the commission.
- (b) The executive director shall employ persons necessary to carry out this chapter through funds made available by the legislature.
- (c) The chair and vice-chair of the commission may each employ a staff person to work for them on matters related to commission activities.

Section 5.

The commission shall adopt rules necessary to carry out this chapter.

Section 6.

Before July 1 of the odd-numbered year before the year in which a state agency subject to this chapter is abolished, the agency shall report to the commission:

- (1) Information regarding the application to the agency of the criteria set forth in section 10; and
- (2) Any other information that the agency considers appropriate or that the commission requests.

Section 7.

- (a) Within 1 year of the appointment and qualification of the members of the commission, and the organization of the commission staff, the commission shall assign sunset dates for each agency, authority, and advisory committee of the commonwealth, and shall notify the head of such agency, authority and advisory committee of the date selected. The commission shall then file legislation with the general court to implement the abolition schedule.
- (b) Before January 1 of the year in which a state agency subject to this chapter and its advisory committees are scheduled to be abolished, the commission shall:
- (1) Review and take action necessary to verify the reports submitted by the agency under this chapter;
 - (2) Consult the house and senate committees on post audit & legislative oversight, the state auditor, the inspector general and the state comptroller, or their successors, on the application to the agency of the criteria provided in section 10;
 - (3) Conduct a review of the agency based on the criteria provided in section 10 and prepare a written report; and
 - (4) Review the implementation of commission recommendations contained in the reports presented to the legislature during the preceding legislative session and the resulting legislation.
- (c) The written report prepared by the commission under clause (3) of subsection (b) shall be a public record.

Section 8.

- (a) Before February 1 of the year a state agency subject to this chapter and its advisory committees are abolished, the commission shall conduct public hearings concerning but not limited to the application to the agency of the criteria provided in section 10.
- (b) The commission may hold the public hearings after the review of the agency required in section 8 is complete and available to the public.

Section 9.

- (a) At each regular legislative session, the commission shall present to the legislature and the governor a report on the agencies and advisory committees reviewed.
- (b) In the report the commission shall include:
 - (1) Its findings regarding the criteria prescribed in section 10;
 - (2) Its recommendations based on the matters prescribed in this chapter; and
 - (3) Other information the commission considers necessary for a complete review of the agency.

Section 10. The commission and its staff shall consider the following criteria in determining whether a public need exists for the continuation of a state agency, authority or advisory committee or for the performance of the functions of the agency, authority or advisory committee:

- (1) The efficiency and effectiveness with which the agency, authority or advisory committee operates;
- (2)

- (a) an identification of the mission, goals, and objectives intended for the agency, authority, or advisory committee and of the problem or need that the agency, authority, or advisory committee was intended to address; and
 - (b) the extent to which the mission, goals, and objectives have been achieved and the problem or need has been addressed;
- (3)
- (a) An identification of any activities of the agency or authority in addition to those granted by statute and of the authority for those activities; and
 - (b) The extent to which those activities are needed;
- (4) An assessment of authority of the agency or authority relating to fees, inspections, enforcement and penalties;
- (5) Whether less restrictive or alternative methods of performing any function that the agency or authority performs could adequately protect or provide service to the public;
- (6) The extent to which the jurisdiction of the agency or authority and the programs administered by the agency authority overlap or duplicate those of other agencies or authorities, the extent to which the agency or authority coordinates with those agencies or authorities, and the extent to which the programs administered by the agency or authority can be consolidated with the programs of other state agencies;
- (7) The promptness and effectiveness with which the agency or authority addresses complaints concerning entities or other persons affected by the

agency, including an assessment of the agency's or authority's administrative hearings process;

- (8) An assessment of the agency's or authority's rulemaking process and the extent to which the agency or authority has encouraged participation by the public in making its rules and decisions and the extent to which the public participation has resulted in rules that benefit the public;
- (9) The extent to which the agency or authority has complied with:
 - (a) Federal and state laws and applicable rules regarding equality of employment opportunity and the rights and privacy of individuals; and
 - (b) State law and applicable rules of any state agency or authority regarding purchasing guidelines and programs for historically underutilized businesses;
- (10) The extent to which the agency or authority issues and enforces rules relating to potential conflicts of interest of its employees and chapter 268A;
- (11) The extent to which the agency or authority complies with chapters 66 and 66A and follows records management practices that enable the agency to respond efficiently to requests for public information; and
- (12) The effect of federal intervention or loss of federal funds if the agency is abolished.

Section 11. In its report on a state agency, the commission shall:

- (1) Make recommendations on the abolition, continuation or reorganization of each affected state agency, authority or advisory committee, and on the need

for performance of the functions of the agency, authority or advisory committee;

(2) Make recommendations on the consolidation, transfer, or reorganization of programs within state agencies or authorities not under review when the programs duplicate functions performed in agencies under review; and

(3) Make recommendations to improve the operations of the agency, its policy body, and authority or advisory committee, including management recommendations that do not require a change in the agency's or authority's enabling statute.

(a) The commission shall include the estimated fiscal impact of its recommendations and may recommend appropriation levels for certain programs to improve the operations of the state agency, to be forwarded to the house and senate committees on ways and means and the executive office for administration and finance.

(b) The commission shall have drafts of legislation prepared to carry out the commission's recommendations under this section.

(c) After the legislature acts on the report, the commission shall present to the secretary of administration and finance, the commission's recommendations that do not require a statutory change to be put into effect.

Section 12. In the 2-year period preceding the date scheduled for the abolition of a state agency under this chapter, the commission may exempt certain agencies from the requirements of this chapter relating to staff reports, hearings, and reviews.

- (a) The commission may only exempt agencies that have been inactive for a period of 2 years preceding the date the agency is scheduled for abolition or that have been rendered inactive by an action of the legislature.
- (b) The commission's action in exempting agencies or authorities under this section must be done by an affirmative record vote and must be decided by a majority of all members present and voting.

Section 13. During each legislative session, the staff of the commission shall monitor legislation affecting agencies that have undergone sunset review and shall periodically report to the members of the commission on proposed changes which would modify prior recommendations of the commission.

Section 14. An advisory committee, the primary function of which is to advise a particular state agency or authority, is abolished on the date set for abolition of the agency or authority unless the advisory committee is expressly continued by law.

Section 15. During the annual session immediately before the abolition of a state agency, authority or an advisory committee that is subject to this chapter, the legislature by law may continue the agency, authority, or advisory committee for a period not to exceed 12 years.

- (a) This chapter shall not prohibit the legislature from:
 - (1) Terminating a state agency, authority, or advisory committee subject to this chapter at a date earlier than that provided in this chapter; or
 - (2) Considering any other legislation relative to a state agency, authority or advisory committee subject to this chapter.

- (a) Section 16. A state agency or authority that is abolished in an odd-numbered year may continue in existence until June 30 of the following year to conclude its business. Unless the law provides otherwise, abolition does not reduce or otherwise limit the powers and authority of the state agency or authority during the concluding year. A state agency or authority is terminated and shall cease all activities at the expiration of the 1-year period. Unless the law provides otherwise, all rules that have been adopted by the state agency or authority expire at the expiration of the 1-year period.
- (b) Any un-obligated and unexpended appropriations of an abolished agency or advisory committee lapse on September 1 of the year after abolition.
- (c) Except as provided by subsection (f) or as otherwise provided by law, all money in a dedicated fund of an abolished state agency, authority or advisory committee on September 1 of the year after abolition is transferred to the General Fund. The part of the law dedicating the money to a specific fund of an abolished agency becomes void on September 1 of the year after abolition.
- (d) Unless the law or a specific provision in the General Appropriations Act provides otherwise, an abolished state agency, authority or advisory committee funded in the General Appropriations Act may not spend or obligate any of the money appropriated beyond one year from the date of abolition.
- (e) Unless the governor designates an appropriate state agency as prescribed by subsection (f), property and records in the custody of an abolished state agency, authority or advisory committee on September 1 of the year after abolition shall be transferred to the state archives. If the governor designates an appropriate state agency or authority, the property and records shall be transferred to the designated state agency.

(f) The legislature recognizes the state's continuing obligation to pay bonded indebtedness and all other obligations, including lease, contract, and other written obligations, incurred by a state agency or authority abolished under this chapter, and this chapter does not impair or impede the payment of bonded indebtedness and all other obligations, including lease, contract and other written obligations, in accordance with their terms. If an abolished state agency or authority has outstanding bonded indebtedness or other outstanding obligations, including lease, contract or other written obligations, the bonds and all other obligations, including lease, contract and other written obligations, remain valid and enforceable in accordance with their terms and subject to all applicable terms and conditions of the laws and proceedings authorizing the bonds and all other obligations, including lease, contract and other written obligations. The governor shall designate an appropriate state agency or authority that shall continue to carry out all covenants contained in the bonds and in all other obligations, including lease, contract and other written obligations, to complete the construction of projects or the performance of other obligations, including lease, contract, and other written obligations. The designated state agency or authority shall provide payment from the sources of payment of the bonds in accordance with the terms of the bonds and shall provide payment from the sources of payment of all other obligations, including lease, contract, and other written obligations, in accordance with their terms, whether from taxes, revenues, or otherwise, until the bonds and interest on the bonds are paid in full and all other obligations, including lease, contract and other written obligations, are performed and paid in full. If the proceedings so provide, all funds established by laws or proceedings authorizing the bonds or authorizing other obligations, including lease, contract, and

other written obligations, shall remain with the comptroller or the previously designated trustees. If the proceedings do not provide that the funds remain with the comptroller or the previously designated trustees, the funds shall be transferred to the designated state agency.

Section 17.

- (a) The commission may issue process to compel the attendance of witnesses and the production of books, records, papers and other objects necessary or proper for the purposes of the commission proceedings. The process may be served on a witness at any place in this state.
- (b) If a majority of the commission directs the issuance of a subpoena, the chairman shall issue the subpoena in the name of the commission.
- (c) If the chairman is absent, the chairman's designee may issue a subpoena or other process in the same manner as the chairman.
- (d) If necessary to obtain compliance with a subpoena or other process, the commission may issue attachments. The attachments may be addressed to and served by any peace officer in this state.
- (e) Testimony taken under subpoena must be reduced to writing and given under oath subject to the penalties of perjury.
- (f) A witness who attends a commission proceeding under process is entitled to the same mileage and per diem as a witness who appears before a grand jury in this state.

Section 18.

- (a) The commission may request the assistance of state agencies and officers. When assistance is requested, a state agency or officer shall assist the commission.
- (b) In carrying out its functions under this chapter, the commission or its designated staff member may inspect the records, documents and files of any state agency.

Section 19.

- (a) A working paper, including all documentary or other information, prepared and maintained by the commission staff in performing its duties under this chapter or other law to conduct an evaluation and prepare a report is exempted from the public disclosure requirements of chapter 66.
- (b) A record held by another entity that is considered to be confidential by law and that the commission receives in connection with the performance of the commission's functions under this chapter or another law remains confidential and is exempted from the public disclosure requirements of chapter 66.

Section 20.

If an employee is displaced because a state agency, authority, or advisory committee is abolished, reorganized or continued, the state agency and the executive office of labor and workforce development shall make a reasonable effort to relocate the displaced employee. Except as otherwise expressly provided, abolition of a state agency does not affect the rights and duties that matured, penalties that were incurred, civil or criminal liabilities that arose, or proceedings that were begun before the effective date of abolition.

Section 21.

- (a) Each bill filed in a house of the legislature that would create a new state agency, a new authority, or a new advisory committee to a state agency shall be reviewed by the commission.
- (b) The commission shall review the bill to determine if:
 - (1) The proposed functions of the agency or committee could be administered by 1 or more existing state agencies or advisory committees;
 - (2) The form of regulation, if any, proposed by the bill is the least restrictive form of regulation that will adequately protect the public;
 - (3) The bill provides for adequate public input regarding any regulatory function proposed by the bill; and
 - (4) The bill provides for adequate protection against conflicts of interest within the agency or committee.
- (c) On request, the commission shall forward a written comment on the legislation to the author of the bill and to the presiding officer of the committee to which the bill is referred.

Section 22.

- (a) The commission may accept gifts, grants and donations from any organization described in Section 501(c)(3) of the Internal Revenue Code for the purpose of funding any activity under this chapter.
- (b) All gifts, grants, and donations must be accepted in an open meeting by a majority of the voting members of the commission and reported in the public record of the commission with the name of the donor and purpose of the gift, grant, or donation.

SECTION 2. Subsection (a) of section 16G of chapter 6A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 2, the words “a department” and inserting in place thereof the following words:- the Massachusetts office.

SECTION 3. Said section 16G of said chapter 6A, as so appearing, is hereby further amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) The following state agencies shall be within the Massachusetts office of business development: the office of small business and entrepreneurship and the state office of minority and women business assistance.

SECTION 4. Said section 16G of said chapter 6A, as so appearing, is hereby amended by striking out subsections (i) and (j) and inserting in place thereof the following 2 subsections:-

(i) The director of the Massachusetts office of business development shall operate and administer an office of performance management and oversight within the executive office.

The director shall establish a performance measurement system for the office, which shall establish program goals, measure program performance against those goals and report publicly on progress to improve the effectiveness of the commonwealth’s economic development efforts. Performance measurements shall include at least the then-current fiscal year and the previous 5 fiscal years. The system shall be applicable to all agencies within the office, any private entities with whom the office may contract to perform services on behalf of the office, and any public authorities undertaking economic development efforts in the commonwealth on which the secretary sits as a member of its board, including, but not limited to, the Health and Education Facilities Authority, the Massachusetts Convention Center Authority, Massachusetts Port Authority, Massachusetts Development Finance Agency, the Massachusetts Technology Collaborative, the Massachusetts Marketing Partnership, the Massachusetts Small Business Finance Corporation, the Massachusetts Technology Development Corporation and the Massachusetts cultural council. All agencies to which the system applies shall report to the office of performance management and oversight with regard to setting goals and establishing performance measures to improve those agencies’ operations in the commonwealth. Performance measurements shall include both output measures, such as numbers of inquiries and referrals, and outcome measures, such as jobs retained as a result of agency operations. All information in the project information system shall be a public record unless otherwise exempted by law. An annual report of performance measurements shall be published and made available to the public not later than December 31. The report shall also be filed annually with 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. The performance measurement system shall require each agency to which the system applies to develop a strategic plan for program activities and performance goals. The system shall require annual program performance reports which shall be submitted to the house and senate committees on ways and means and the joint committee on economic development

and emerging technologies.

(j) The office of performance management shall annually re-evaluate the goals and measures established by the office and its agencies and monitor the results reported. The office shall recommend changes to proposed goals and measures as are appropriate to align goals and measures with the statewide economic development plan required under subsection (l) of this section. The office shall report regularly to the public on the progress the office and its agencies are making towards achieving stated goals.

The office shall be responsible for reporting publicly and making all reports available on the internet.

The director shall use the performance criteria established in this section to determine the quality of service of all private entities, including regional economic development organizations that perform economic development services under contract with the office. The results of such performance measures shall be criteria used in negotiating any contracts.

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

SECTION 6. Said section 16G of said chapter 6A, as so appearing, is hereby further amended by adding the following 2 subsections:-

(l) During the first year of each new gubernatorial administration, the secretary, with the assistance of a cabinet-level committee appointed under subsection (m), shall develop and implement a written comprehensive economic development policy for the commonwealth. In developing this policy, the secretary and the committee shall review any economic development policy in effect at the commencement of the governor's term of office. The secretary shall make such revisions to the existing policy as the secretary deems necessary to ensure that it is appropriate for the commonwealth. Once the policy has been adopted by the secretary and the committee and approved by the governor, it shall be published in writing and on the official website of the commonwealth not later than December 31 of that year and submitted to the house and senate for its consideration. The house and senate shall hold public hearings on the policy.

(m) During the first year of each new gubernatorial administration, the governor shall issue an executive order creating a cabinet-level committee to assist the secretary in the development of the comprehensive economic development policy for the commonwealth. The secretary shall be the chairman of the committee, and the secretary of administration and finance, and the secretaries of education, health and human services, energy and environmental affairs and transportation shall serve as committee members. The governor may also appoint members of regional and local economic development groups and members of the business community to serve on the committee.

SECTION 7. Section 35J of chapter 10 of the General Laws, as so appearing, is hereby amended by striking out, in lines 16 and 17, the words “Massachusetts International Trade Council” and inserting in place thereof the following words:- Massachusetts trade office.

SECTION 8. Section 52 of said chapter 10, as so appearing, is hereby amended by striking out, in line 1, the words “the treasurer” and inserting in place thereof the following words:- travel and tourism established in chapter 23A.

SECTION 9. 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 56 of chapter 23A.

SECTION 10. Section 9 of chapter 15A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 172 and 173, the words, “section three of chapter six hundred and fourteen of the acts of nineteen hundred and sixty-eight” and inserting in place thereof the following words:- section 2 of chapter 23K.

SECTION 11. Said section 9 of said chapter 15A, as so appearing, is hereby further amended by striking out, in lines 182 to 185, inclusive, the words, “their affiliated building authorities, or any other organization affiliated therewith, as defined in paragraph (e) of said section three of said chapter six hundred and fourteen” and inserting in place thereof the following words:- as defined in section 2 of chapter 23K, or their affiliated building authorities, or any other organization affiliated with the institutions of higher learning.

SECTION 12. Section 10 of said chapter 15A, as so appearing, is hereby amended by striking out the definition of “HEFA” and inserting in place thereof the following definition:- the Health and Educational Facilities Authority, established by section 3 of chapter 23K.

SECTION 13. Section 12 of said chapter 15A, as so appearing, is hereby amended by striking out, in lines 23 and 24, the words, “pursuant to chapter six hundred and fourteen of the acts of nineteen hundred and sixty-eight” and inserting in place thereof the following words:- under chapter 23K.

SECTION 14. Said section 12 of said chapter 15A, as so appearing, is hereby further amended by striking out, in line 31, the words, “the provisions of said chapter six hundred and fourteen” and inserting in place thereof the following words:- chapter 23K.

SECTION 15. Section 1 of chapter 23A of the General Laws, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words, “department of business and technology in this chapter called the department, which shall be under the control of the director of business and technology” and inserting in place thereof the following words:- Massachusetts office of business development, which shall be under the control of the director of business development.

SECTION 16. Said section 1 of said chapter 23A, as so appearing, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) There shall be within the Massachusetts office of business development the office of small business and entrepreneurship and the office of minority and women business assistance.

SECTION 17. Section 3A of said chapter 23A, as so appearing, is hereby amended by inserting after the definition of “Facility” the following definition:-

“MOBD”, the Massachusetts office of business development created by section 1.

SECTION 18. Section 3I of said chapter 23A of the General Laws, as amended by section 28 of chapter 25 of the acts of 2009, is hereby amended by striking out, in lines 2 and 33, the words, “the department” and inserting in place thereof, in each instance, the following:- Massachusetts office of business development.

SECTION 19. Said chapter 23A, as so appearing, is hereby amended by inserting after section 3I the following 3 sections:

Section 3J. (a) The Massachusetts office of business development 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 contract provisions 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.

(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 where a person, corporation or other business entity in which any partner is in any way interested such interest is disclosed in advance and further, that no partner having such an interest may participate in a decision relating to such person, corporation or other business entity. The contracting organization shall also agree to a biennial audit and examination of its audited financial statements conducted by the auditor of the commonwealth.

(c) The Massachusetts office of business development will 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, non-profit organizations, higher education institutions, planning professionals, organizations and economic and workforce development professionals.

Section 3K.(a) The Massachusetts office of business development shall issue a request for proposals to provide regional business development services. 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 must 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.

Eligible applicants must demonstrate the following:

- (i) The applicant operates regionally and its service area or membership includes more than 3 contiguous cities or towns. The organization must articulate a comprehensive vision for recognition of its contiguous member 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.

(b) Preference in awarding contracts will be given 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, its industrial base, its demographics and its strengths and weaknesses and prior experience and involvement with regional governmental entities, including but not limited to, regional competitiveness councils 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 pursuant to section 13A and compliance with the marketing materials developed by said partnership;
- (v) Furnish advice and assistance to businesses and industrial prospects which may locate in the region, furnish advice and assistance to existing businesses and industries, furnish advice and assistance to 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 provide direct consultation with businesses seeking to expand or locate to the region.
- (viii) Act as the primary contact for the region in instances where a business seeks state assistance and incentives in a location decision.
- (ix) Prepare an economic development plan for the region and establish strategies for implementation. The plan shall include identification of industry clusters, initiatives for business recruitment and retention, regional economy and competitiveness indicators, and a determination of the assets, liabilities, and resources that the region contributes to the commonwealth. The plan shall include the identification and prioritization of regional infrastructure and regulatory needs as they relate to business attraction and retention.
- (x) Assist member municipalities with economic development efforts related to business attraction and retention and with access to state economic development programs
- (xi) Submit an annual report to the Massachusetts office of business development on the grantee's business development activities. The report shall include: a summary of the preceding year's program activities, objectives and accomplishments; a description of how the grantee's programs and marketing strategy aligns with the commonwealth's overall economic development and strategies; an analysis of how the grantee's involvement in promotion activities has generated prospective business expansion and relocation clients; and a summary of the grantee's efforts to obtain funds from local, private, and federal sources.

(d) Contracts entered into under this section may contain a term not greater than 3 years, and may provide for the renewal of the contract at the discretion of the Massachusetts office of business development, provided that said renewal shall not be 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 shall develop a formula to determine funding for contractual reimbursements. That formula shall reflect demographic and economic indicators as well as an assessment of regional needs and the priorities of the statewide economic development plan created under section 16G of chapter 6A. Renewal contracts shall also provide for additional payments to reward achievement in reporting in compliance with performance measurements, and to reward achievement of specific performance goals.

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

Section 3L. (a) The Massachusetts office of business development will provide business assistance services in municipalities and regions not served by an eligible regional economic development organization that has contracted with the commonwealth to provide services under section 3J.

(b) The Massachusetts office of business development will provide initial assistance to any business which contacts the office requesting service. The Massachusetts office of business development will 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 any business prospects that have expressed interest to the Massachusetts office of business development in moving to the commonwealth.

(c) The Massachusetts office of business development shall partner with the regional economic development organizations and 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 will 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 quasi-public agencies and authorities and private entities.

(d) The Massachusetts office of business development shall coordinate activity among regional economic development organizations and between economic development organizations and the commonwealth's economic development agencies and 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.

(e) The Massachusetts office of business development shall support the secretary of housing and economic development in the creation of the statewide economic development plan prepared under section 16G of chapter 6A and shall coordinate the inclusion of information and strategies from the regional economic development plans.

SECTION 20. Section 4 of chapter 23A, as so appearing, is hereby amended by striking the word "department of economic development" and inserting in place thereof the following words:- Massachusetts office of business development.

SECTION 21. Said section 4 of said chapter 23A, as so appearing, is hereby amended by adding at the end thereof 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 22. 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 23. Section 6 of said chapter 23A, as so appearing, is hereby amended in line 2 by striking the words: “of economic development”.

SECTION 24. Said section 6 of said chapter 23A, as so appearing, is hereby further amended by adding at the end of the first paragraph 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 pursuant to section 3J.

SECTION 25. Section 10A of said chapter 23A, as so appearing, is hereby amended by striking out the words, “Said department” and inserting in place thereof the following:- the Massachusetts office of business development.

SECTION 26. Chapter 23A of the General Laws is hereby amended by striking out sections 13A and 13B, as appearing in the 2008 Official Edition, and inserting in place thereof the following 2 sections:-

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

“Foreign offices”, foreign offices for international trade within the 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 the secretary of housing and economic development, who shall chair the partnership; 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; and 5 individuals appointed by the governor for terms of 5 years, as follows: 1 person from a list of 3 names submitted by the Associated Industries of Massachusetts, each of whom shall be employed by a business that has a principal place of business in the commonwealth and that exports goods to other countries; 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 represent a regional tourism council in the commonwealth outside of Suffolk County, Middlesex County and Norfolk County. Of the initial appointed partners, 3 shall serve a term of 2 years and 2 shall serve a term of 5 years.

At least 3 of the governor's 5 appointments shall reside outside of Suffolk County, Middlesex County and Norfolk County. Not more than 5 of the partners shall be members 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 travel; provided, however that that such reimbursement shall not exceed \$500 annually. 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 member. A partner shall be eligible for reappointment. A partner may be removed by the governor for cause. The board shall annually elect 1 of its members to serve as vice-chairperson.

(b) Seven 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 partners may be taken without a meeting if all of the partners consent, in writing, to the action and that written consent is filed with the records of the minutes of the meetings of the partnership. Such consent shall be treated for all purposes as a vote at a meeting. Each partner shall make full disclosure, 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 members of the partnership and recorded in its minutes; and provided, further, that no partner having such an interest or involvement may

participate in a decision of the partnership relating to such person, corporation or other business entity. Employment by the commonwealth or service in an agency or political subdivision of the commonwealth shall not be deemed to be such an interest or involvement.

(d) The partnership shall bi-annually elect 1 of its members as treasurer and 1 of its members 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) Board members and officers who are not compensated employees of the department shall not be liable to the commonwealth, the department or any other person as a result of their activities, whether ministerial or discretionary, as such board members or officers except for willful dishonesty or intentional violations of law. Neither members of the department 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 board of directors may purchase liability insurance for board members, officers and employees and may indemnify the board members 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 section 11A 1/2 of chapter 30A, except that said section 11A 1/2 shall not apply to any meeting of members of 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 department is discussed and decided at the meeting. The partnership shall be subject to all other provisions 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 56 of chapter 23A.

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

SECTION 27. Said chapter 23A is hereby 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) 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

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

SECTION 28. Said chapter 23A, as appearing in the 2008 Official Edition, is hereby amended by striking out sections 13D and 13E and inserting in place thereof the following 14 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, chapter 7, chapter 7A, chapter 10 and chapter 29; provided, however, that the comptroller may identify additional instructions or actions necessary for the partnership to manage fiscal operations in the state accounting system and meet statewide and other governmental accounting and audit standards. Unless otherwise exempted by law or the applicable central service agency, the partnership shall participate in other available commonwealth central services including, but not limited, to the state payroll system under section 31 of chapter 29, and may purchase other goods and services provided by state agencies under the direction of the comptroller. The comptroller may chargeback the partnership for the transition and ongoing costs for participation in the state accounting and payroll systems and may retain and expend such costs without further appropriation for the purposes of this section.

The partnership shall be subject to section 5D of chapter 29 and subsection (f) of section 6B of chapter 29.

(b) The office of the attorney general shall appear for the partnership, its partners and agencies, 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 its partners and agencies 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 and its partners and agencies shall be generally considered to be an agency of the commonwealth for purposes of chapter 12.

(c) The Massachusetts office of business development may provide staff support for the Massachusetts Marketing Partnership.

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 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 tourism shall be appointed by the governor, and serve at the pleasure of the governor. The position of executive director of tourism shall be classified under section 45 of chapter 30 and the executive director of 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 tourism shall be the executive and administrative head of tourism and shall be responsible for administering and enforcing the laws relative to tourism and to any administrative unit of that office. Powers and duties given to an administrative unit of tourism by a general or special law shall be exercised subject to the direction, control and supervision of the executive director of 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 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 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 28 members: 1 representative from each of the following organizations: the Massachusetts Restaurant Association, the Massachusetts Lodging Association, the Massachusetts Camping Ground Association, the New England Bus Association, the Massachusetts cultural council and the Massachusetts historical commission; 1 representative of a professional sports franchise located in the commonwealth, 2 representatives of the Massachusetts Visitor Industry Council; the executive director or the executive director's designee of each of the following regional tourism councils: the Berkshire Hills Visitors Bureau, the Bristol County 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 and the following individuals, who shall not serve as chair: the commissioner of conservation and recreation or the commissioner's designee, the administrator of the highway division or the administrator's designee, the Massachusetts state coordinator of the United States National Park Service, and the house and senate chairs of the joint committee on tourism, arts and cultural development.

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. 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; the Massachusetts sports partnership, which shall be the official and lead agency to facilitate and attract major sports events and championships in the commonwealth; and the Massachusetts cultural council established under section 52 of chapter 10.

Section 13K. There shall be within the partnership a Massachusetts trade office, which shall be under the supervision and control of an executive director. The executive director shall be appointed by the governor, and serve at the pleasure of the governor. The executive director shall devote his full time during business hours to the duties of the Massachusetts trade office. The executive director of the 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 trade representative. The purpose of the Massachusetts trade representative shall be to: (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 provisions of 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.

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

recommendations of the committee on whether the commonwealth should consent to the international trade agreement in question and memorializing the commonwealth's 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. There shall be within the trade office 1 or more foreign offices for international trade. The foreign offices may be located in any far eastern or European country that the executive director of the trade office determines to be best suited as the location for the furthering of foreign trade opportunities for the businesses of the commonwealth. The foreign offices shall encourage and further trade between foreign businesses and businesses in the commonwealth. The foreign offices shall also promote investment opportunities in the commonwealth for foreign businesses in order to encourage the location and establishment of such businesses within the commonwealth. For the purposes of furthering foreign trade and investment, the foreign offices, subject to appropriation and approval by the executive director of the trade office, may contract for such advertising and other communication services as may be necessary. The foreign offices shall maintain an updated list of businesses in the commonwealth and foreign businesses which are or might become active in the import or export of their products and services. The executive director shall consult with Massachusetts office of business development and the regional economic development designated pursuant to section 3J in order to ensure that the businesses and assets of all regions of the commonwealth are included in such lists. The foreign office may also provide additional information and assistance to businesses in the commonwealth that desire to export their goods and services.

The foreign offices shall maintain and give suitable publicity to an updated list of available sites for the location of foreign based businesses in the commonwealth. The foreign offices may make available technical assistance to foreign businesses interested in the establishment of plants or facilities in the commonwealth.

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

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

Section 13Q. The trade office shall operate a 1 or more centers, subject to appropriation, for technical assistance to companies operating in the commonwealth that export products to other countries.

SECTION 29. Section 14 of said chapter 23A, as so appearing, is hereby amended by inserting after the word "Bureau", in line 11, the words:- " , the MetroWest Tourism and Visitor's Bureau".

SECTION 30. 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 31. 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 32. Section 20 of said chapter 23A, as so appearing, is hereby amended in the first paragraph by striking out the last sentence.

SECTION 33. Said section 20 of said chapter 23A, as so appearing, is hereby further amended by inserting after the first paragraph the following new paragraph:-

The director shall establish a program to support the provision of financial and managerial consulting and technical assistance companies which receive financial assistance from the commonwealth or any of the commonwealth’s public authorities. The program shall support direct consulting work provided to individual companies and shall consult with the commonwealth’s public authorities, private business associations and regional economic development organizations to maintain a directory of organizations, experts and consultants available to be engaged to offer financial or managerial consulting services.

SECTION 34. Sections 23A to 28, inclusive, of chapter 23A of the General Laws are hereby repealed.

SECTION 35. Sections 39A to 39D, inclusive, of said chapter 23A are hereby repealed.

SECTION 36. Said chapter 23A, as appearing in the 2008 Official Edition, is hereby amended by striking out sections 40 to 43, inclusive, and inserting in place thereof the following 4 sections:-

Section 40. As used in sections 41 to 44, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Director”, the director of SOMWBA.

“Minority business enterprise”, for the purpose of receipt of services from SOMWBA, a business enterprise that is owned or controlled by 1 or more socially or economically disadvantaged persons, which disadvantage may arise from cultural, racial, chronic economic circumstances or background or other similar cause; provided, that persons shall include, but not be limited to, African-Americans, Puerto Ricans, Spanish-speaking Americans, American Indians, Eskimos and Aleuts.

“SOMWBA”, the state office of minority and women business assistance established in section 41.

“Veteran business enterprise”, for the purpose or receipt of services from SOMWBA, a business enterprise that is both owned and controlled by 1 or more veterans, as defined in section 7 of chapter 4, who have invested in an ongoing business free of conversion rights.

“Women business enterprise”, for the purpose or receipt of services from SOMWBA, a business enterprise that is both owned and controlled, by 1 or more women who have invested in an ongoing business free of conversion rights.

Section 41. There shall be a state office of minority and women business assistance which shall be a division of the Massachusetts office of business development within the executive office of housing and economic development.

Section 42. The director shall have all necessary authority to utilize existing staff in the agencies within the executive office of housing and economic development to effect the purposes of sections 39 to 44, inclusive, and shall have the authority to seek such funds, public or private, as may be available and needed to carry out the intent of those sections.

Section 43. Subject to appropriation, SOMWBA shall have a director, assistant director and such other specialists in minority and women business assistance. SOMWBA, may, either on its own staff or by contract with community groups, private companies or public or nonprofit agencies, have available community liaison officers, financial and marketing experts and persons skilled in public and private contract procurement procedures.

SECTION 37. Section 44 of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words, “ executive director of OMWBDE” and inserting in place thereof the following words:- secretary of housing and economic development.

SECTION 38. Said section 44 of said chapter 23A, as so appearing, is hereby further amended by striking out, in lines 20 and 21, the words, “through the director of economic development and the OMWBDE executive director, shall coordinate its activities with those of other offices and activities of OMWBDE” and inserting in place thereof the following words:- through the Massachusetts office of business development and the secretary of housing and economic development, shall coordinate its activities with those of other offices and departments within the executive office of housing and economic development.

SECTION 39. Said section 44 of said chapter 23A, as so appearing, is hereby further amended by striking out, in lines 67 and 68, the words, “executive director of OMWBDE and the director of economic development” and inserting in place thereof the following words:- Massachusetts office of business development.

SECTION 40. Sections 46 to 55, inclusive, of said chapter 23A are hereby repealed.

SECTION 41. Chapter 23A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out section 56 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. These quasi-public entities and public purpose agencies shall, within 90 days after the end of its fiscal year, submit a complete and detailed annual report, in a form and manner prescribed by the secretary, setting forth: its operations and accomplishments; its receipts and expenditures during its fiscal year; its assets and liabilities at the end of its fiscal year; audited financial reports; the number, nature and amounts of investments made and grants awarded; information detailing debt or equity investment; the number, nature and amounts of any loans, real estate loans, working capital loans and guarantees approved; other forms of financing or financial assistance that it provided; a report of patents or products resulting from funded activities; and a description of any technical assistance that it provided.

(b) The secretary shall aggregate the data 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 of chapter 23A.

(c) In order to fully utilize all appropriate measures to provide risk capital to small businesses in the commonwealth the Massachusetts Small Business Finance 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 a biennial audit by the auditor of the commonwealth 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.

SECTION 42. Section 57 of said chapter 23A, as so appearing, is hereby 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 this 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 section 57 of said chapter 23A, as so appearing, is hereby further amended by striking out the definition of “small business” and inserting in place thereof the following definition:-

“Small business”, 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) if in a manufacturing industry, employs fewer than 500 full-time employees, if in a wholesale trade industry, employs fewer than 100 full-time employees or, if in any other industry, receives less than \$7 million in annual receipts; provided, however, that for purposes of this definition, the industry of a business shall be classified according to the North American Industry Classification System.

SECTION 44. Said chapter 23A is hereby amended by striking out section 58, as so appearing, and inserting in place thereof the following section:-

Section 58. The agency is hereby authorized to:

(a) enter into a contract, after a competitive bidding process, with an organization to act as the agent of the agency with respect to the administration of the program; provided, however, that the contract shall: (1) be for a period of 2 years with such provisions for extension or renewal of the contract as the agency may agree to with the administering agent; and (2) provide for compensation and reimbursement of the agent on terms the agency may deem appropriate for the administration of the program, for any expenses incurred by the administering agent in connection with its services as agent and for such other services as the agency may deem appropriate including, but not limited to, the use of the premises, personnel and personal property of the administering agent;

(b) conduct an annual review and assessment of the performance of the administering agent in its capacity as agent for the agency; provided, however, that the annual review shall be based on whether the administering agent has satisfactorily met the terms and conditions of the contract and on the program’s effectiveness in achieving its intended goals;

(c) make and publish rules and regulations respecting the implementation of the small business capital access program established by this section and any other rules and regulations necessary to fulfill the purposes of this section; and

(d) do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this section.

SECTION 45. Said chapter 23A is hereby amended by striking out section 61, as so appearing, and inserting in place thereof the following section:-

Section 61. The Massachusetts office of business development or its successor may:

(a) enter into a contract, after a competitive bidding process, with an organization to act as the agent of the agency with respect to the administration of the program; provided, however,

that said contract shall: (1) be for a period of 2 years with such provisions for extension or renewal of the contract as the agency may agree to with the administering agent; and (2) provide for compensation and reimbursement of the agent on terms the agency may deem appropriate for the administration of the program, for any expenses incurred by the administering agent in connection with its services as agent and for such other services as the agency may deem appropriate including, but not limited to, the use of the premises, personnel and personal property of the administering agent;

(b) conduct an annual review and assessment of the performance of the administering agent in its capacity as agent for the agency; provided, however, that the annual review shall be based on whether the administering agent has satisfactorily met the terms and conditions of the contract and on the program's effectiveness in achieving its intended goals;

(c) make and publish rules and regulations respecting the implementation of the redevelopment access to capital program and any other rules and regulations necessary to fulfill the purposes of this section; and

(d) do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this section.

SECTION 46. Said chapter 23A is hereby amended by striking out section 62, as so appearing, and inserting in place thereof the following section:-

Section 62. There shall be an 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 47. Section 8 of chapter 23D of the General Laws, as amended by section 17 of chapter 27 of the acts of 2009, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- There shall be in the executive office of housing and economic development, but not subject to its jurisdiction, an economic stabilization trust which shall be administered by the Massachusetts Small Business Finance Corporation established in chapter 40F.

SECTION 48. Said chapter 23D of the General Laws is further amended by striking out section 9, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:

Section 9. The trust shall be governed and its powers exercised by the board of directors of the Massachusetts Small Business Financing Corporation established in chapter 40F.

SECTION 49. Said chapter 23D is hereby further amended by striking out section 10, as amended by section 19 of chapter 27 of the acts of 2009, and inserting in place thereof the following section:-

Section 10. The offices of the trust shall be located within the Massachusetts Small Business Finance Corporation. The president of the Massachusetts Small Business Financing Corporation, shall appoint an executive director of the trust. The executive director shall serve as the administrative and operational officer of the trust, shall attend meetings of the trust and shall direct the resources and staff of the program to achieve the purposes of sections 8 to 16, inclusive.

SECTION 50. Said chapter 23D of the General Laws is hereby further amended by inserting after section 15 the following section:-

Section 15A. The trust shall be subject to section 56 of chapter 23A.

SECTION 51. Said chapter 23D is hereby further amended in section 16 by striking out the words: "board of trustees of the Economic Stabilization Trust and inserting in place thereof the words: "board of directors of the Massachusetts Small Business Finance Corporation".

SECTION 52. Said chapter 23D is hereby further amended in paragraph (b) of section 20 by striking out the word: 'trustees' and inserting in place thereof the word: 'directors'.

SECTION 53. Chapter 23F of the General Laws is hereby repealed.

SECTION 54. Section 1 of chapter 23G of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out in lines 117 to 124, inclusive, the words “; provided, however that the words ‘industrial enterprise’ shall also include an institution. For the purposes of this chapter and of said chapter 40D, as applied to the Agency, an institution shall not be deemed to constitute a commercial enterprise. The board shall not be required with respect to an institution to make the findings set forth in clauses (e) and (k) of said subsection (2) of said section 12 of said chapter 40D if the board finds that the issuance of the bonds will result in a public benefit”.

SECTION 55. Said section 1 of said chapter 23G, as so appearing, is hereby further amended by striking out the definition of the word “Institution”.

SECTION 56. Section 2 of said chapter 23G, as so appearing, is hereby amended by striking out, in line 12, the words “director of economic development” and inserting in place thereof the following words:- secretary of housing and economic development.

SECTION 57. Subsection (b) of said section 2 of said chapter 23G, as so appearing, is hereby further amended by striking out the sixth sentence and inserting in place thereof the following sentence:- The secretary of housing and economic development shall serve as chairperson.

SECTION 58. The first paragraph of subsection (a) of section 8 of said chapter 23G, as so appearing, is hereby amended by striking out the third sentence.

SECTION 59. Section 27 of said chapter 23G, as so appearing, is hereby amended by striking out the words “and (5)”, in line 58, and inserting in place thereof the following words:- (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).

SECTION 60. Said section 27 of said chapter 23G, as so appearing, is hereby further by inserting after the figure “(2)”, in line 90, the following words:- and (5).

SECTION 61. Section 28 of said chapter 23G, as so appearing, is hereby amended by striking out the words “business and technology”, in lines 2 and 4 and 5, each time it appears, and inserting in place thereof, in each instance, the following words:- the Massachusetts office of business development.

SECTION 62. The first paragraph of subsection (a) of said section 28 of said chapter 23G, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof

the following sentence:- The executive director of the Massachusetts Technology Park Corporation and the executive director of the Massachusetts Technology Transfer Center shall serve as ex-officio members of the advisory committee.

SECTION 63. Chapter 23G of the General Laws is hereby amended by adding the following section:-

Section 44. The agency shall be subject section 56 of chapter 23A.

SECTION 64. Section 6 of chapter 23I of the General Laws, as appearing in the 2008 Official Edition, 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 65. Section 12 of said chapter 23I, as so appearing, is hereby further amended by striking out the word “and”, in line 9, and inserting in place thereof the following words:- the executive director of the Massachusetts Technology Transfer Center and.

SECTION 66. Chapter 23I of the General Laws is hereby amended by adding the following section:

Section 18. The center shall be subject to section 56 of chapter 23A.

SECTION 67. Section 2 of chapter 23J of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 61 and 62, the words “his designee shall serve as chairperson” and inserting in place thereof the following words:- the secretary’s designee and the secretary of housing and economic development, or the secretary’s designee shall serve as co-chairs.

SECTION 68. Chapter 23J of the General Laws is hereby amended by adding the following section:-

Section 9. The center shall be subject to section 56 of chapter 23A.

SECTION 69. The General Laws are hereby amended by inserting after chapter 23J the following chapter:-

CHAPTER 23K

The Health and Educational Facilities Authority

Section 1. This chapter may be referred to and cited as the "Health and Educational Facilities Authority Act."

Section 2. In this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Authority", the Health and Educational Facilities Authority created by section 3.

"Bonds" or "revenue bonds", revenue bonds of the authority issued under this chapter, including revenue refunding bonds, notwithstanding that the same may be secured by any federally guaranteed security, whether acquired by the authority or by a participating institution, or by mortgage, the full faith and credit or by any other lawfully pledged security of 1 or more participating institutions.

"Cost", as applied to a project or any portion thereof financed under this chapter embraces all or any part of the cost of construction, acquisition, alteration, enlargement, reconstruction and remodeling of a project including all lands, structures, real or personal property, rights, rights of way, air rights, franchises, easements and interests acquired or used for or in connection with a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during and for a period after completion of such construction and acquisition, reasonably required amounts to make the project operational, provisions for reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of architectural, engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of constructing the project and such other expenses as may be necessary or incident to the construction and acquisition of the project, the financing of such construction and acquisition and the placing of the project in operation.

"Cultural institution", a nonprofit cultural or scientific institution within the commonwealth with respect to which the authority finds that the institution is a major regional resource, that it provides educational services to candidates for academic degrees for credit at other institutions or resources for research by scholars holding academic degrees or other education at an advanced

level, and that it has demonstrated broad community support through giving for capital or current purposes.

"Federally guaranteed security", any security, investment or evidence of indebtedness which is either directly or indirectly, insured or guaranteed, in whole or in part, as to the repayment of principal or interest or both by the United States or any instrumentality of the United States.

"Federally insured project loan", a loan to finance or refinance the cost of a project for an institution which is either directly or indirectly, insured or guaranteed, in whole or in part, as to the repayment of the principal or interest or both by the United States or an instrumentality of the United States, or a commitment by the United States or an instrumentality of the United States to so insure or guarantee such a loan.

"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 corporation which is organized and operated for the benefit of, to perform 1 or more of the functions of, or to carry out 1 or more of the purposes of 1 or more licensed nonprofit hospitals or health maintenance organizations, including operation of a nursing home, comprehensive gerontology facility or congregate care facility; or any other nonprofit charitable institution in the commonwealth not otherwise eligible to participate under this chapter; provided, however, that such other nonprofit charitable institution may only 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 institution; and provided further, that such other nonprofit charitable institution participates in or is a member of a group power purchasing program organized and administered by or on behalf of the authority.

"Institution", a hospital or a nonprofit corporation organized to operate a facility or facilities that provide cultural or educational services, including but not limited to an institution for higher education, a school for the developmentally disabled, or a cultural institution.

"Institution for higher education", a public or a private, nonprofit educational institution within the commonwealth authorized by law to provide a program of education beyond the high school level, or any organization affiliated therewith; provided, that for the purposes of this definition an "organization affiliated" with such educational institution shall be any organization or association, in any form, the activities of which are a part of the activities of such educational institution and are subject to regulation by the trustees or other governing body of such educational institution, or any research foundation, teaching hospital and associated clinics, or other research or educational organization the operation of which in conjunction with such educational institution is approved by the trustees or other governing body of such educational institution, or any other entity whose activities are approved by the trustees or other governing body of such educational institution as furthering the purposes of the educational institution, or, in the case of a public institution for higher education, the advisory committee on education policy established under section 2 of chapter 15A.

"Participating cultural institution", a cultural institution which, under this chapter, undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of obligations or of a mortgage or of advances as provided in this chapter.

"Participating hospital", a hospital which, under this chapter, undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of obligations or of a mortgage or of advances as provided in this chapter.

"Participating institution", a participating hospital or other participating nonprofit corporation organized to operate a facility or facilities that provide cultural or educational services, including but not limited to a participating institution for higher education, a participating school for the developmentally disabled, or a participating cultural institution.

"Participating institution for higher education", an institution for higher education which, under this chapter, undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of obligations or of a mortgage or of advances as provided in this chapter.

"Participating school for the developmentally disabled", a school for the developmentally disabled which, under this chapter, undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of obligations.

"Project", in the case of a participating institution for higher education, participating institution for the developmentally disabled or other participating institution that offers residences to students, a structure or structures suitable for use as a dormitory or other multi-unit housing facility for students, faculty, officers or employees, a dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, maintenance facility, storage or utility facility and other structures or facilities related to any of those structures or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education or participating institution for the handicapped or other participating institution, including parking and other facilities or structures essential or convenient for the orderly conduct of such institution for higher education or participating institution for the developmentally disabled or other participating institution; provided, however, that "project" shall also include landscaping, site preparation, furniture, equipment and machinery and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended as well as any furnishings, equipment, machinery and other similar items necessary or convenient for the operation of an institution of higher education or participating institution for the handicapped or other participating institution, whether or not such items are related to a particular facility or structure financed under this chapter; provided, however, that "project" shall not include such items as books, fuel, supplies or other items the cost of which are customarily deemed to result in a current operating charge, and shall not include any facility used or to be used for sectarian instruction or as a place of religious worship nor any facility which is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination; provided, further, that "project" shall include, in the case of a participating hospital, a structure or structures suitable for use as a hospital, clinic, comprehensive gerontology facility, nursing home, or other health care facility, laboratory, laundry, nurses or interns residence or other multi-unit housing facility for staff, employees, patients or relatives of patients admitted for treatment in such hospital, or for the aged, doctors office building, administration building, research facility, maintenance, storage or utility facility

and other structures or facilities related to any of the foregoing or required or useful for the operation of a hospital, including parking and other facilities or structures essential or convenient for the orderly conduct of such hospital, and shall also include landscaping, site preparation, furniture, equipment and machinery and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended and shall further include any furnishings, equipment, machinery and other similar items necessary or convenient for the operation of a hospital, whether or not such items are related to a particular facility or structure financed under this chapter, and may also include the issuance of tax exempt debt instruments for working capital and for the providing of such items as fuel, supplies or other items the cost of which are customarily deemed to result in a current operating charge; and in the case of a particular cultural institution, a structure or structures suitable for its purposes, whether or not to be used to provide educational services, or research resources; provided, further, that "project" shall also include supporting facilities, landscaping, site preparation, furniture, equipment, machinery and other related items and shall further include any furnishings, equipment, machinery and other similar items necessary or convenient for the operation of a cultural institution, whether or not such items are related to a particular facility or structure financed under this chapter, but shall not include books, works of art, or other items for display or exhibition, or items the cost of which are customarily deemed to result in a current operating charge; provided, further, that "project" may include any combination of 1 or more of the foregoing undertaken jointly by 1 or more participating institutions with each other or with other parties; and, notwithstanding anything in this definition to the contrary, "project" may also include any capital or operating expenditure which may legally be made by any participating institution and the thing produced or acquired by such expenditure.

"School for the developmentally disabled", a nonprofit primary, secondary or post-secondary school within the commonwealth which: (i) serves students, at least 70 per cent of whom are developmentally disabled, as determined by 1 or more appropriate educational, rehabilitation, medical or mental health authorities; (ii) is accredited by a recognized accrediting body; and (iii) is determined by the authority to be a major resource of benefit to the developmentally disabled.

Section 3. (a) There is hereby created a body politic and corporate to be known as the "Health and Educational Facilities Authority". The authority is constituted a public instrumentality and

the exercise by the authority of the powers conferred by this chapter shall be deemed and held to be the performance of an essential public function. The authority shall consist of 9 members, to be appointed by the governor, who shall be residents of the commonwealth, 1 of whom shall be the secretary of housing and economic development and not more than 5 of whom shall be members of the same political party. At least 2 of the members shall be trustees, directors, officers or employees of institutions for higher education, at least 2 shall be trustees, directors, officers or employees of hospitals, at least 1 shall be a person having a favorable reputation for skill, knowledge and experience in the field of state and municipal finance, either as a partner, officer or employee of an investment banking firm which originates and purchases state and municipal securities, or as an officer or employee of an insurance company or bank whose duties relate to the purchase of state and municipal securities as an investment and to the management and control of a state and municipal securities portfolio, and at least 1 shall be a person having a favorable reputation for skill, knowledge and experience in the building construction field. Upon the expiration of the term of any member, a successor shall be appointed for a term of 7 years. The governor shall fill any vacancy for the remainder of the unexpired term. Any member of the authority may be removed by the governor for misfeasance, malfeasance or willful neglect of duty or other cause after notice and a public hearing unless such notice and hearing shall be expressly waived in writing.

(b) The secretary of the executive office of housing and economic development shall serve as the chairman of the authority. The authority shall annually elect 1 of its members as vice chairman. It may appoint an executive director and assistant executive director, who shall not be members of the authority, who shall serve at the pleasure of the authority. They shall receive such compensation as shall be fixed by the authority.

(c) The executive director or assistant executive director or other person designated by resolution of the authority shall keep a record of the proceedings of the authority and shall be custodian of all books, documents and papers filed with the authority, the minute book or journal of the authority, and its official seal. The executive director or assistant executive director or other person may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates.

(d) Five members of the authority shall constitute a quorum. The affirmative vote of a majority of all the members of the authority shall be necessary for any action taken by the authority. A vacancy in the membership of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. An action taken by the authority under this chapter may be authorized by resolution at a regular or special meeting, and each such resolution shall take effect immediately and need not be published or posted.

(e) Before the authority issues revenue bonds under this chapter, the chairman, vice chairman, executive director and assistant executive director and any other member of the authority authorized by resolution of the authority to handle funds or sign checks of the authority shall execute a surety bond in the penal sum of \$50,000, or in lieu thereof the chairman shall obtain a blanket position bond covering the executive director and every member and other employee of the authority in the penal sum of \$50,000. Each such bond shall be conditioned upon the faithful performance of the duties of the principal or the members, executive director and other employees, as the case may be, shall be executed, by a surety company authorized to transact business in the commonwealth as surety, shall be approved by the attorney general and shall be filed in the office of the state secretary. The cost of each such bond shall be paid by the authority.

(f) The members of the authority shall receive no compensation for the performance of their duties under this chapter but each member shall be paid the member's necessary expenses incurred while engaged in the performance of the member's duties.

(g) A member, officer, agent or employee of the authority who, directly or indirectly, has a financial interest in a property to be included in, or a contract for property or materials to be furnished or used in connection with, a project of the authority, shall be punished by a fine of not less than \$50 nor more than \$1,000, or by imprisonment for not more than 1 month, or both.

(h) Members of the authority shall be considered state employees for the purposes of chapters 268A and 268B; provided, however, that notwithstanding subsection (g) or any other law to the contrary, it shall not be or constitute a conflict of interest or violation of paragraph (g) or any other law for a trustee, director, officer or employee of a participating institution or for a person having the required favorable reputation for skill, knowledge and experience in state and municipal finance or for a person having the required favorable reputation for skill, knowledge

and experience in the building construction field to serve as a member of the authority; provided, further, that;

(1) in each case to which this subsection is applicable, such trustee, director, officer or employee of such participating institution abstains from discussion, deliberation, action and vote by the authority in specific respect to an undertaking under this chapter in which such participating institution has an interest;

(2) such person having the required favorable reputation for skill, knowledge and experience in state and municipal finance abstains from discussion, deliberation, action and vote by the authority in specific respect to any sale, purchase or ownership of bonds of the authority in which the investment banking firm or insurance company or bank of which such person is a partner, officer or employee has a past, current or future interest; or

(3) such person having the required favorable reputation for skill, knowledge and experience in the building construction field abstains from discussion, deliberation, action and vote by the authority in specific respect to construction or acquisition of a project of the authority in which a partnership, firm, joint venture, sole proprietorship or corporation of which such person is an owner, venturer, participant, partner, officer or employee who has a past, current or future interest.

Section 4. The purpose of the authority shall be to assist institutions in the acquisition, construction, financing and refinancing of projects. For that purpose the authority may:

(a) adopt by-laws for the regulation of its affairs and the conduct of its business;

(b) adopt an official seal and alter the same at its pleasure;

(c) maintain an office at such place or places as it may designate;

(d) sue and be sued in its own name, plead and be impleaded;

(e) determine the location and character of a project to be financed under this chapter, and construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease, as lessee or lessor, and regulate the same, enter into contracts for any or all of such purposes, enter into contracts for the management and operation of a project, and designate a participating

institution as its agent to determine the location and character of a project undertaken by such participating institution under this chapter and, as the agent of the authority, construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease, as lessee or lessor, and regulate the same, and, as the agent of the authority, enter into contracts for any or all of such purposes, including contracts for the management and operation of such project;

(f) issue bonds, bond anticipation notes and other obligations of the authority for any of its corporate purposes, and fund or refund bonds, bond anticipation notes and other obligations as provided in this chapter;

(g) generally, fix and revise and charge and collect rates, rents, fees and charges for the use of and for the services furnished or to be furnished by a project or any portion of a project and contract with any person, partnership, association or corporation or other body public or private in respect thereof and designate a participating institution as its agent to fix, revise, charge and collect such rates, rents, fees and charges and make such contracts;

(h) establish rules and regulations for the use of a project or any portion of a project and designate a participating institution as its agent to establish rules and regulations for the use of a project in which such participating institution is participating;

(i) require, at the expense directly or indirectly of an institution intending to participate in a project, a report on the financial feasibility of such project to be financed; provided, however, that the report of an independent accountant or accounting firm or financial expert employed or selected by such institution with the approval of the authority shall be deemed to satisfy the requirement of such report, if such independent accountant, accounting firm or financial expert has demonstrated capability of preparing such financial feasibility reports; and provided, further, that the authority shall not unreasonably or arbitrarily withhold such approval and may promulgate regulations stipulating the form and content of such report;

(j) employ and fix the compensation of consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers, and other employees and agents as may be necessary in its judgment;

(k) receive and accept from any public agency loans or grants for, or in aid of, the construction of a project or any portion of a project, and to receive and accept loans, grants, aid or contributions from any source of either money, property, labor or other things of value to be held, used and applied only for the purposes for which such loans, grants, aid and contributions are made;

(l) mortgage a project and the site of the project for the benefit of the holders of revenue bonds issued to finance that project; provided, however, that the authority shall not mortgage any project undertaken on behalf of a public institution for higher education or the site of that project, and shall not convey that project or site except under section 7;

(m) make loans to a participating institution for the cost of a project under an agreement between the authority and 1 or more participating institutions; provided, however, that no such loan shall exceed the total cost of the project as determined by the participating institution and approved by the authority;

(n) make loans to participating institutions to refund outstanding obligations, mortgages or advances issued, made or given by the institutions for the cost of a project;

(o) charge to and equitably apportion among participating institutions its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter; provided that the authority shall seek to contract with another public authority for the performance of core administrative functions by that authority, including but not limited to, human resources, financial management, information technology, legal, procurement and asset management, to minimize the administrative costs and expenses apportioned to participating institutions under this clause; provided, further, that the authority shall publish and disseminate through its website each fiscal year a schedule of fees or a methodology for determining fees to be charged under this clause, which shall result in similar charges for similarly-situated projects, regardless of the size of the participating institution;

(p) acquire and enter into commitments to acquire a federally guaranteed security and pledge or otherwise use the federally guaranteed security in such manner as the authority shall approve to secure or otherwise provide a source of repayment on any of its bonds or to enter into an appropriate agreement with 1 or more participating institutions whereby the authority may make a loan to any such institution for the purpose of enabling such institution to fund or refund,

directly or indirectly, the cost of acquiring or entering into commitments to acquire a federally guaranteed security; provided, however, that the federally guaranteed security is evidence of a federally insured project loan or, if not such evidence, that the authority determines that the federally guaranteed security has been issued to pass through a federally insured project loan;

(q) issue electric rate reduction bonds, as defined in section 1H of chapter 164, for the benefit of any electric company, as defined in section 1 of said chapter 164, that is determined to be eligible for said bond financing by the department of energy resources under said chapter 164; provided, however, that such electric rate reduction bonds shall constitute bonds as defined in section 2; provided, further, that such an electric company shall be deemed to be a participating institution as defined in section 2; and provided further, that the financing or refinancing of transition costs or the acquiring of transition property as provided for in section 1H of said chapter 164 shall be deemed to be a project as defined in section 2; and

(r) do all things necessary or convenient to carry out the purpose of this chapter.

In carrying out the purposes of this chapter, the authority may undertake joint projects for 2 or more participating institutions for higher education or 2 or more participating hospitals, or for any combination of participating institutions for higher education and participating hospitals, and, thereupon, all other provisions of this chapter shall apply to and for the benefit of the authority and the participants in such joint projects.

The authority shall not undertake a project on behalf of a public institution for higher education except upon written request made by the advisory committee on education policy established under section 2 of chapter 15A.

Section 5. All expenses incurred in carrying out this chapter shall be payable solely from funds provided under the authority of this chapter and no liability or obligation shall be incurred by the authority under this chapter beyond the extent to which moneys shall have been provided under this chapter.

Section 6. The authority may, directly or by and through a participating institution, as its agent, acquire by purchase solely from funds provided under the authority of this chapter, or by gift or devise, and take title to such lands, structures, property, real or personal, rights, rights-of-way, air

rights, franchises, easements and other interests in lands, including lands lying under water and riparian rights, which are located within the commonwealth as the authority may deem necessary or convenient for the acquisition, construction or operation of a project, upon such terms and at such prices as may be considered by the authority to be reasonable and can be agreed upon between the authority and the owner in the name of the authority or in the name of 1 or more participating institutions as its agent.

Section 7. When the principal of and interest on revenue bonds of the authority issued to finance the cost of a particular project for 1 or more participating institutions, including revenue refunding bonds issued to refund and refinance the revenue bonds, have been fully paid and retired or when adequate provision has been made to fully pay and retire the revenue bonds, and all other conditions of the resolution or trust agreement authorizing and securing the revenue bonds have been satisfied and the lien of the resolution or trust agreement has been released in accordance with the resolution or trust agreement, the authority shall promptly do such things and execute such deeds and conveyances as are necessary and required to convey title to the project to the participating institutions, all to the extent that title to the project is not, at the time, vested in the participating institutions.

Section 8. The authority may issue negotiable notes for a corporate purpose and may renew notes by issuing new notes, whether the notes to be renewed have or have not matured. The authority may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. The notes may be authorized, sold, executed and delivered in the same manner as bonds. A resolution authorizing notes of the authority or an issue of notes by the authority may contain provisions which the authority is authorized to include in a resolution authorizing revenue bonds of the authority or an issue of bonds by the authority, and the authority may include in a note any terms, covenants or conditions which it is authorized to include in any bonds. A resolution may delegate to the executive director, assistant executive director, or any member of the authority or any combination of them, the power to determine any of the details of the notes and to award the notes to a purchaser. All the notes shall be payable solely from the revenues of the authority, subject only to any contractual rights of the holders of any of its notes or other obligations then outstanding.

Section 9. (a) The authority may issue revenue bonds for any corporate purpose and all the revenue bonds, notes, bond anticipation notes or other obligations of the authority issued under this chapter shall be negotiable for all purposes notwithstanding their payment from a limited source and notwithstanding any general or special law to the contrary. In anticipation of the sale of revenue bonds the authority may issue negotiable bond anticipation notes and may renew the notes from time to time, but the maximum maturity of a bond anticipation note, including renewals of that note, shall not exceed 5 years from the date of issue of the original note. Bond anticipation notes shall be paid from revenues of the authority available for that purpose and not otherwise pledged, or from the proceeds of sale of the revenue bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the revenue bonds. The notes and the resolution authorizing those notes may contain any provisions, conditions or limitations which a bond resolution of the authority may contain.

(b) The revenue bonds and notes of every issue shall be payable solely out of revenues to the authority, subject only to any agreements with the holders of particular revenue bonds or notes pledging any particular revenues and subject to any agreements with any participating institution. Notwithstanding that revenue bonds and notes may be payable from a special fund, they shall be and be deemed to be, for all purposes, negotiable instruments, subject only to the provisions of the revenue bonds and notes for registration.

(c) The revenue bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds of both types. The revenue bonds shall be authorized by resolution of the members of the authority and shall bear such date or dates, mature at such time or times, not exceeding 50 years from their respective dates, bear interest at such rate or rates, payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. Such resolution or resolutions may delegate to the executive director, assistant executive director or any member of the authority or any combination of them, the power to determine any of the matters set forth in this section and the power to award the bonds to a purchaser or purchasers at public sale or to negotiate a sale to a purchaser or purchasers provided in the latter case that the bonds are to be reoffered to the

public. The revenue bonds or notes may be sold at public or private sale for such price or prices as the authority shall determine. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates which shall be exchanged for such definitive bonds.

(d) A resolution authorizing a revenue bond or an issue of revenue bonds may contain provisions, which shall be a part of the contract with the holders of the revenue bonds to be authorized, as to:

(1) pledging all or any part of the revenues of a project, a revenue producing contract made by the authority with an individual, partnership, corporation or association or other body, public or private, or a federally guaranteed security and moneys received therefrom whether the security is acquired by the authority or a participating institution to secure the payment of the revenue bonds or of any particular issue of revenue bonds, subject to such agreements with bondholders as may then exist; (2) the rentals, fees and other charges to be charged, and the amounts to be raised in each year by those rentals, fees and charges, and the use and disposition of the revenues; (3) the establishment and setting aside of reserves or sinking funds, and the regulation and disposition of those reserves or sinking funds; (4) limitations on the right of the authority or its agent to restrict and regulate the use of the project; (5) limitations on the purpose to which the proceeds of sale of any issue of revenue bonds then or thereafter to be issued may be applied, including as authorized purposes, all costs and expenses necessary or incidental to the issuance of bonds, to the acquisition of or commitment to acquire a federally guaranteed security and to the issuance and obtaining of a federally insured mortgage note and pledging such proceeds to secure the payment of the revenue bonds or an issue of the revenue bonds; (6) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds; (7) the procedure, if any, by which the terms of a contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given; (8) limitations on the amount of moneys derived from the project to be expended for operating, administrative or other expenses of the authority; (9) defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default; (10) the duties, obligations and liabilities of

any trustee or paying agent; and (11) the mortgaging of a project and the site of the project for the purpose of securing the bondholders.

(e) Neither the members of the authority nor a person executing the revenue bonds or notes shall be liable personally on the revenue bonds or notes or be subject to any personal liability or accountability due to the issuance of the bonds or notes.

(f) The authority shall have power out of any funds available for the authority to purchase its bonds or notes. The authority may hold, pledge, cancel or resell those bonds or notes, subject to and in accordance with agreements with bondholders.

Section 10. In the discretion of the authority a revenue bond issued under this chapter may be secured by a trust agreement by and between the authority and a corporate trustee, which may be a trust company or bank having the powers of a trust company under section 1A of chapter 172 or a savings bank under section 2 of chapter 167F within the commonwealth. The trust agreement or the resolution allowing the authority to issue those revenue bonds may pledge or assign the revenues to be received or proceeds of a contract pledged and may convey or mortgage the project or a portion of the project. A trust agreement or resolution allowing the authority to issue the revenue bonds may contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including particularly provisions that are specifically authorized by this chapter to be included in a resolution of the authority authorizing revenue bonds of the authority. A bank, trust company or savings bank incorporated under the laws of the commonwealth which may act as depository of the proceeds of bonds or of revenues or other moneys may furnish the indemnifying bonds or pledge the securities as may be required by the authority. A trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. A trust agreement or resolution may also contain other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the trust agreement or resolution may be treated as a part of the cost of the operation of a project.

Section 11. Revenue bonds issued under this chapter shall not be deemed to constitute a debt or liability of the commonwealth or of any political subdivision of the commonwealth or a pledge

of the faith and credit of the commonwealth or of any political subdivision of the commonwealth, but shall be payable solely from the funds provided for payment of those funds from revenues. A revenue bond shall contain on its face a statement to the effect that neither the commonwealth nor the authority shall be obligated to pay the revenue bond or the interest on the revenue bond except from revenues of the project or the portion of the project for which they are issued and that neither the faith and credit nor the taxing power of the commonwealth or of a political subdivision of the commonwealth is pledged to the payment of the principal of or the interest on the bond. The issuance of revenue bonds under this chapter shall not directly or indirectly or contingently obligate the commonwealth or a political subdivision of the commonwealth to levy or to pledge any form of taxation or to make an appropriation for their payment.

Section 12. (a) The authority may fix, revise, charge and collect rates, rents, fees and charges for the use of and for the services furnished or to be furnished by each project and the authority may contract with any person, partnership, association or corporation, or other body, public or private, for those purposes.

(b) The rates, rents, fees and charges shall be fixed and adjusted in respect of the aggregate of rates, rents, fees and charges from a project so as to provide funds sufficient with other revenues, if any: (1) to pay the cost of maintaining, repairing and operating the project and each and every portion thereof, to the extent that the payment of a cost has not otherwise been adequately provided for; (2) to pay the principal of and the interest on outstanding revenue bonds of the authority issued in respect of that project as the same shall become due and payable; and (3) to create and maintain reserves required or provided for in any resolution authorizing, or trust agreement securing, those revenue bonds of the authority.

(c) The rates, rents, fees and charges shall not be subject to supervision or regulation by any department, commission, board, body, bureau or agency of this commonwealth other than the authority, except as provided in section 13.

(d) A sufficient amount of the revenues derived in respect of a project, except the part of those revenues as may be necessary to pay the cost of maintenance, repair and operation and to provide reserves and for renewals, replacements, extensions, enlargements and improvements as may be

provided for in the resolution authorizing the authority to issue revenue bonds of the authority or in the trust agreement securing the revenue bonds, shall be set aside at such regular intervals as may be provided in the resolution or trust agreement in a sinking or other similar fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on the revenue bonds as the payment of the principal of and interest on the revenue bonds shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as provided in the resolution or trust agreement. A pledge shall be valid and binding from the time when the pledge is made; the rates, rents, fees and charges and other revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without any physical delivery of the lien or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice of the lien.

(f) Neither the resolution nor a trust agreement by which a pledge is created need be filed or recorded except in the records of the authority. The use and disposition of moneys to the credit of such sinking or other similar fund shall be subject to the resolution authorizing the authority to issue the bonds or of the trust agreement.

(g) Except as may otherwise be provided in a resolution or a trust agreement, a sinking or other similar fund shall be a fund for all the revenue bonds issued to finance a project at 1 or more participating institutions, without distinction or priority of one over another; provided, however, that the authority in a resolution or trust agreement may provide that the sinking or other similar fund shall be the fund for a particular project at an institution and for the revenue bonds issued to finance a particular project and may, additionally, permit and provide for the authority to issue revenue bonds having a subordinate lien in respect of the security authorized in this section to other revenue bonds of the authority and, in such case, the authority may create separate or other similar funds in respect of the subordinate lien bonds.

Section 13. In the case of a project for a public institution for higher education, an establishment or revision of rules and regulations for the use of that institution and the fixing or revising of rates, rents, fees or other charges by the authority shall require the approval of the trustees. The trustees shall exercise their powers so that the aggregate of the rates, rents, fees and charges from the project with other revenues, if any, shall be sufficient: (1) to pay the cost of maintaining,

repairing and operating the project and each and every portion of the project, to the extent that the payment of the cost has not otherwise been adequately provided for; (2) to pay the principal of and the interest on outstanding revenue bonds of the authority issued in respect of such project as the principal of and the interest on those bonds shall become due and payable; and (3) to create and maintain reserves required or provided for in any resolution authorizing, or trust agreement securing, such revenue bonds of the authority. Upon a failure of the trustees to exercise those powers, the authority may establish or revise such rules and regulations and fix or revise such rates, rents, fees or other charges without the approval of the trustees; provided, however, that in that case the trustees may propose alternative rules and regulations or scale of rates, rents, fees or other charges which shall then be adopted by the authority if they will produce sufficient aggregate revenues to meet the requirements. The rates, rents, fees or other charges shall not, except as expressly provided in this section with respect to the trustee, be subject to supervision or regulation of a department, division, commission, board, bureau or agency of the commonwealth or a political subdivision of the commonwealth.

For the purpose of this section, the term "trustees" shall mean: (1) the advisory committee on education policy established in section 2 of chapter 15A, in the case of any state college, as listed in section 19 of chapter 73, or in the case of any community college, as defined in section 10 of chapter 15A; or (2) the trustees of the public institution of higher education, or said advisory committee on education policy if authorized by the trustees, in the case of a public university.

Section 14. Money received under the authority of this chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this chapter. An officer with whom, or a bank or trust company with which, such money shall be deposited shall act as trustee of that money and shall hold and apply that money for the purposes provided in this chapter, subject to such regulations as this chapter and the resolution authorizing the bonds of an issue or the trust agreement securing those bonds may provide.

Section 15. Any holder of revenue bonds, notes, bond anticipation notes, other notes or other obligations of the authority issued under this chapter or any of the coupons appertaining thereto, and the trustee or trustees under any trust agreement, except to the extent the rights herein given may be restricted by any resolution authorizing the issuance of, or any such trust agreement

securing, such bonds or other obligations, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the commonwealth or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this chapter or by such resolution or trust agreement to be performed by the authority or any officer, employee or agent thereof, including the fixing, charging and collecting of the rates, rents, fees and charges herein authorized and required by the provisions of such resolution or trust agreement to be fixed, established and collected.

Section 16. The exercise of the powers granted by this chapter shall be for the benefit of the people of this commonwealth, for the increase of their commerce, welfare and prosperity, and for the improvement of their health and living conditions. The operation and maintenance of a project by the authority or its agent shall constitute the performance of an essential public function. Neither the authority nor its agent shall be required to pay a tax or assessment: (a) upon or in respect of a project or a property acquired or used by the authority or its agent under this chapter; or (b) upon the income from a project or a property acquired or used by the authority or its agent. The income from a bond issued or transferred under this chapter, including any profit made on the sale of the bond, shall at all times be free from taxation of every kind by the commonwealth and by the municipalities and other political subdivisions in the commonwealth.

Section 17. (a) The authority may issue revenue bonds for the purpose of refunding outstanding revenue bonds of the authority, including the payment of a redemption premium on the bonds and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase or maturity of the revenue bonds, and, if deemed advisable by the authority, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions or enlargements of a project or any portion of a project.

(b) The proceeds of revenue bonds issued to refund outstanding revenue bonds may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of such outstanding revenue bonds either on their earliest or any subsequent redemption date or upon the purchase or at the maturity of the bonds and may, pending such application, be placed

in escrow to be applied to the purchase or retirement at maturity or redemption on a date as may be determined by the authority.

(c) Escrowed proceeds, pending such use, may be invested and reinvested in direct obligations of the United States, or in certificates of deposit or time deposits secured by direct obligations of the United States, maturing at a time as shall be appropriate to assure the prompt payment, as to principal, interest and redemption premium, if any, of the outstanding revenue bonds to be so refunded. The interest, income and profits, if any, earned or realized on such an investment may also be applied to the payment of the outstanding revenue bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, a balance of such proceeds and interest, income and profits, if any, earned or realized on the investments may be returned to the authority for use by it in any lawful manner.

(d) The portion of the proceeds of a revenue bond issued for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions or enlargements of a project may be invested and reinvested in direct obligations of the United States, or in certificates of deposit or time deposits secured by direct obligations of the United States, maturing not later than the time when such proceeds will be needed to pay all or any part of such cost. The interest, income and profits, if any, earned or realized on such an investment may be applied to the payment of all or any part of such cost or may be used by the authority in any lawful manner.

(e) All such revenue bonds shall be subject to this chapter in the same manner and to the same extent as other revenue bonds issued under this chapter.

Section 18. Bonds issued by the authority under this chapter are hereby made securities in which all public officers and public bodies of the commonwealth and its political subdivisions, all insurance companies, trust companies, savings banks, co-operative banks, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any commonwealth or municipal officer or any agency or political subdivision of the commonwealth

for any purpose for which the deposit of bonds or obligations of the commonwealth is now or may hereafter be authorized by law.

Section 19. The authority shall be subject to section 56 of chapter 23A.

Section 20. (a) The authority may take such action as it deems appropriate to enable its employees to come within the provisions and obtain the benefits of the federal social security act. If the employees of the authority shall come within the provisions of said social security act, their employment shall be included in the term "employment" as used in sections 1 to 7, inclusive, of chapter 151A.

(b) Sections 26 to 29, inclusive, and sections 44A to 44M, inclusive, of chapter 149 and sections 39F to 39S, inclusive, of chapter 30 shall apply to the authority to the same extent and in the same manner as they are applicable to the commonwealth.

(c) Notwithstanding chapter 106 or any other general or special law, the authority by the filing of financing statements, as provided in chapter 106, may perfect security interests in revenues and receipts of participating institutions, whether in the form of proceeds of accounts receivable or contract rights or otherwise, and in any rights to receive those revenues and receipts, and those perfected security interests shall take priority over any subsequently perfected security interests in those revenues, receipts or rights or in the accounts receivable, goods, contract rights, or other rights or personal property giving rise to the revenues, receipts or rights provided that the financing statements filed by the authority contain a reference to this section.

(d) Real or personal property which forms or has formed any part of the cost of a project financed or refinanced in whole or in part by the authority shall be excluded from a calculation of real and personal property for any general or special law limiting the amount of real and personal property which may be owned or held by an institution.

Section 21. Sections 1 to 20, inclusive, of this chapter shall be deemed to provide a complete, additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws; provided, however, that the issuance of revenue bonds and revenue refunding bonds under this chapter need not comply with the requirements of any other law applicable to the issuance of bonds including,

chapter 106. Except as otherwise expressly provided in this chapter, none of the powers granted to the authority by this chapter shall be subject to the supervision or regulation or require the approval or consent of any municipality or political subdivision or any department, division, commission, board, body, bureau, official or agency of the municipality or political subdivision or of the commonwealth.

Section 22. This chapter, being necessary for the welfare of the commonwealth and its inhabitants, shall be liberally construed to effect its purposes.

Section 23. To the extent that this chapter is inconsistent with any general statute or special act or parts thereof, this chapter shall be deemed controlling.

SECTION 70. Chapter 25C of the General Laws is hereby amended by inserting after section 6 the following section:-

Section 6A. (a) As used in this section, the following words and phrases shall, unless the context clearly requires otherwise, have the following meanings:

“Internet Protocol-enabled service” or “IP-enabled service”, service, capability, functionality, or application provided using Internet Protocol, or any successor protocol, that enables an end user to send or receive a communication in Internet Protocol format or any successor format, regardless of whether the communication is voice, data or video; provided, however, that no service included within the definition of “Voice over Internet Protocol service” shall be included within this definition.

"Voice-over-Internet Protocol Service" or "VoIP Service", service that:

- (i) enables real-time, 2-way voice communications that originate from or terminate to the user’s location in Internet Protocol or any successor protocol;
- (ii) uses a broadband connection from the user's location; and
- (iii) permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

(b) Except as set forth in subsections (c), (d) and (e), and notwithstanding any other general or special law to the contrary, no department, agency, commission or political subdivision of the commonwealth, shall enact, adopt or enforce, either directly or indirectly, any law, rule, regulation, ordinance, standard, order or other provision having the force or effect of law that regulates, or has the effect of regulating, the entry, rates, terms or conditions of VoIP Service or IP-enabled service.

(c) Subsection (b) shall not be construed to affect the authority of the attorney general to apply and enforce the law, including chapter 93A.

(d) Subsection (b) shall not be construed to affect, mandate or prohibit the assessment of nondiscriminatory enhanced 911 fees or telecommunications relay service fees.

(e) Subsection (b) shall not be construed to modify or affect the rights or obligations of any carrier under sections 251 or 252 of Title 47 of the United States Code.

SECTION 71. Section 1 of chapter 29 of the General Laws, as so appearing, is hereby amended by striking out the definition of “State authority,” and inserting in place thereof the following definition:-

"State authority" shall mean any body politic and corporate that is constituted as a public instrumentality of the commonwealth and is established by an act of the general court to serve an essential governmental function. A state authority shall not be a state agency or owned by a city or town, and shall not be confined to a particular geographical region that is smaller than the commonwealth.

SECTION 72. Chapter 29 of the General Laws is hereby amended by inserting after section 30 the following section:-

Section 30A. Notwithstanding section 50 of chapter 3, or any other general or special law to the contrary, a state agency or state authority shall not use state funds to pay for an executive or legislative agent, as defined in section 39 of chapter 3, unless the executive or legislative agent is a full-time employee of the state agency or state authority.

SECTION 73. Section 1 of chapter 30A of the General Laws, as appearing in the 2008 Official Edition, 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 74. Said section 1 of said chapter 30A, as so appearing, is hereby further amended by inserting after paragraph (5) the following paragraph:-

(5A) “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) if in a manufacturing industry, employs fewer than 500 full-time employees, if in a wholesale trade industry, employs fewer than 100 full-time employees or, if in any other industry, receives less than \$7,000,000 in annual receipts; provided, however, that for purposes of this definition, the industry of a business shall be classified according to the North American Industry Classification System.

SECTION 75. Section 2 of said chapter 30A, as so appearing, is hereby amended by inserting after the third paragraph the following 2 paragraphs:-

At least 21 days prior to the date of the public hearing, the agency shall file 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 76. Section 3 of said chapter 30A, as so appearing, is hereby amended by inserting after the third paragraph the following 2 paragraphs:—

At least 21 days prior to the date of the proposed action, the agency shall file 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 77. The second paragraph of section 5 of said chapter 30A, as so appearing, is hereby amended by striking out the third sentence.

SECTION 78. Said section 5 of said chapter 30A, as so appearing, is hereby further amended by inserting after the second paragraph the following 2 paragraphs:-

Prior to the adoption of a proposed regulation, an agency shall consider, 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; and

(5) exempting small businesses from all or any part of the requirements contained in the proposed regulation.

An agency shall utilize regulatory methods that will accomplish the objectives of applicable statutes while minimizing adverse impact on small businesses.

SECTION 79. Said section 5 of said chapter 30A, as so appearing, is hereby further amended by adding the following sentence:-

Failure to file a small business impact statement under this section shall not affect the validity or enforceability of a regulation.

SECTION 80. Said chapter 30A, as so appearing, is hereby amended by inserting after section 5 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 consider 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 81. Section 23 of chapter 32 of the General Laws, as so appearing, is hereby amended by inserting after the word “section;”, in line 361, the following words:-

provided, however, 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 subdivision (7)(a), and that when electing to make such investments the board shall review the guidelines for investing in small businesses contained in 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;

SECTION 82. 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) if in a manufacturing industry, employs fewer than 500 full-time employees, if in a wholesale trade industry, employs fewer than 100 full-time employees or, if in any other industry, has less than \$7 million in annual receipts; provided, however, that for purposes of this definition, the industry of a

business shall be classified according to the North American Industry Classification System.

- (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 only be provided in conjunction with the provision of financial and managerial advisory services to all businesses served.

SECTION 83. 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 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 84. 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:-

(iii) 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 85. Clause (iii) 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: -

(iii) 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 86. Chapter 40E of the General Laws is hereby repealed.

SECTION 87. The General Laws are hereby amended by striking out chapter 40F and inserting in place thereof the following chapter:-

Chapter 40F. Massachusetts Small Business Finance 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 any other lawful derivations of the foregoing.

“Community Development Corporation” or “CDC”, "CDC", a community development corporation, as defined in section 2 of chapter 40H.

“Corporation” or “SBFC”, the Massachusetts Small Business Finance Corporation created by section 2.

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

“Financial products”, loans, equity investments and other similar financing activities including 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 or (b) economic development activity involving the financing of commercial, industrial or other real estate activity.

“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) if in a manufacturing industry, employs fewer than 500 full-time employees, if in a wholesale trade industry, employs fewer than 100 full-time employees or, if in any other industry, has less than \$7 million in annual receipts; provided, however, that for purposes of this definition, the industry of a business shall be classified according to the North American Industry Classification System.

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

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

(b)The corporation shall consist of 11 directors, 1 of whom shall be the secretary of housing and economic development, who shall serve as chair, and 1 of whom shall be the secretary of administration and finance, or the secretary’s designee. The governor shall appoint the remaining 9 members, 3 of whom shall have served as trustees of the economic stabilization trust in 2009, 1

of whom shall be experienced in small business financing, 2 of whom shall be members of CDCs or residents of the municipalities served by a CDC, 1 of whom shall be a current or retired certified public accountant or chief financial officer, 1 of whom shall be a practicing or retired attorney with a business financing experience, and 1 of whom shall be a representative of organized labor. Each member appointed by the governor shall serve a term of 5 years, except that in making his initial appointments the governor shall appoint 1 member to serve for a term of 1 year, 1 member to serve for a term of 2 years, 1 member for a term of 3 years, 2 members for a term of 4 years, and 1 member for a term of 5 years.

Any person appointed to fill a vacancy in the office of a member shall be appointed in a like manner and shall serve for only the unexpired term. A member shall be eligible for reappointment. A member may be removed from his appointment by the governor only for good cause. The directors shall annually elect one of their members as vice-chair and designate a secretary-treasurer who need not be a member of the board. 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.

(c) 6 of the directors of the corporation shall constitute a quorum and a majority vote of the directors shall be necessary for the transaction of business or the exercise of any power or function of the corporation. Each director shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of his official duties.

The corporation, its directors, officers, and employees shall be subject to the provisions of 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 any public nonprofit community development corporation organized to carry out the purposes of this chapter of which any director of the corporation is also a member or officer provided that such interest is disclosed in advance to members of the board and recorded in the minutes of the corporation and, provided further, that no director having such a financial interest may participate in any decision affecting such transaction.

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

Section 3. The SBFC 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; provided, however, that the corporation shall seek to contract with another public authority for the performance of core administrative functions by that authority, including but not limited to, human resources, financial management, information technology, legal, procurement and asset management, to minimize the administrative costs and expenses of the corporation.
- (e) Acquire, hold and dispose of personal property for its corporate purposes.
- (f) Enter into agreements or other transactions with any federal or state agency.
- (g) Acquire real property, or an interest in real property, by purchase or foreclosure, where such acquisition is necessary or appropriate to protect or secure any investment or loan in which the agency has an interest; to sell, transfer and convey any 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 any funds held in reserves or sinking funds, or any 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 that the corporation shall not issue debt obligations the principal amount of which, when added to the principal amount of the debt obligations theretofore issued by the corporation, excluding debt obligations previously refunded or being or to be refunded thereby, shall exceed 30 million dollars.
- (j) Employ a president, who shall be the chief executive officer of the corporation, and such other agents, employees, professional and business advisers as may from time to time be necessary in the judgment of the board of directors and to fix their compensation. The president, professional advisers and business advisers shall not be subject to the provision of chapter thirty-one or section 9A of chapter 30.
- (k) Appear in its own behalf before boards, commissions, departments or other agencies of government, municipal, state or federal.

(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 the provisions of any contract with noteholders or bondholders, whenever it deems it necessary or desirable in the fulfillment of the purposes of this act, to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, or any other terms, of any mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which the SBFC 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 act.

(o) Receive and accept from any federal or state agency grants, loans or advances for or in aid of the purposes of this chapter and to receive and accept contributions from any source of either money, property, labor or other things of value, to be held, used and applied for said purposes.

(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 in a manner which is designed to enhance development of capital ownership in areas of the commonwealth where a majority of residents are low or moderate income.

(q) Provide and pay for such advisory services and technical assistance as may be necessary or desirable to carry out the purposes of this act.

(r) Exercise any other powers or rights or responsibilities of a corporation organized under chapter 156B.

(s) In addition to the powers enumerated in paragraph (p), the Corporation is hereby authorized to create and issue shares which any person, firm or corporation may purchase. Each share issued shall be in the form of non-voting common stock with each share having a par value of 10 dollars. The total value of the shares issued shall not exceed 25 million dollars.

Under no circumstances shall any debt obligation issued pursuant to paragraph (i), stock or capital participation instrument created pursuant to paragraph (p) or share issued pursuant to paragraph (s) be or become an indebtedness or obligation of the commonwealth of Massachusetts, 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 of Massachusetts but is payable solely from the revenues or income of the Massachusetts Small Business Finance Corporation.

Section 4

- (1) The Corporation, subject to the restrictions as set forth in this section, 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:
 - (a) The project is reasonably expected to support or promote community economic development, revitalization, or stability; or
 - (b) The project will promote employment opportunities for residents of the commonwealth; or;
 - (c) The project will promote the creation or retention of jobs; or,
 - (d) The project will support the creation or expansion of a business sector whose success will 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.
 - (e) Funding for the project is not available in the traditional capital markets
- (2) Whenever a CDC requests that SBFC participate in a project and the Corporation will make a determination of the likelihood that i) the project will provide employment opportunities to low and moderate income residents of the commonwealth, ii) is likely to enhance the quality of life of low and moderate income residents of the commonwealth, and iii) supports the creation or expansion of the business sector in the region served by the CDC. Whenever SBFC enters into an agreement to participate in such a project, the terms of the financial products made available shall be reflect the economic and social benefits which inures to the commonwealth from the project.
- (3) Provision must be made in any contract for adequate reporting of financial and other data to the Corporation. The contract shall require that any 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 5. 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 SBFC in that year, to minority-owned or women-owned contractors notwithstanding the conditions described in section 5, except that the SBFC must find (a) that the project plans conform to all applicable environmental, zoning, building, planning or sanitation laws, (b) that there is a reasonable expectation that the project will be successful, and (c) that its participation is necessary to 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 6. The SBFC is hereby specifically authorized to establish or to invest in the capital stock of one or more corporations organized for the purposes of increasing capital available to small businesses or furthering the objectives set forth in section one of chapter eight hundred and

sixty-six of the acts of nineteen hundred and seventy-five. Without limitation, any such 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.

The SBFC may have a controlling or a minority interest in any such corporation, as the board of directors of the SBFC shall determine in its discretion; provided, however, that at least one member of the board of directors of the SBFC shall sit on the board of directors of any such corporation.

Any corporation established under the provisions of this section or in which the SBFC has invested pursuant to this section shall, prior to making any 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 or as set forth in section 1 of chapter 866 of the acts of 1975 and may reasonably be expected to contribute to the redevelopment and economic well-being of the commonwealth or will create or retain jobs, or will assist minority or women-owned businesses.

(2) That the funds provided by the SBFC will be used solely in connection with the costs of the project or the operation of the small business.

(3) That provision is made in the contract for participation in a project for adequate reporting of financial data from the small business or project to such corporation. The contract shall require that any business receiving financial products shall participate in financial and managerial consulting services and the contract shall include a requirement for an annual or other periodic audit of the books of the project or the small business.

(4) That its participation is necessary to the successful completion of the proposed project or to the success of the small business because funding for the project or small business is unavailable in the traditional capital markets, or that credit has been offered on terms that would preclude the success of the project or the small business.

(5) That provision has been made that should the SBFC desire to sell or otherwise dispose of stock received pursuant to such a contract, that the small business or entity undertaking a project, or their nominee, shall within one hundred and twenty days have the right of first refusal upon said sale and the right to meet any subsequent bona fide offer by a third party.

In no case shall the SBFC, or the SBFC in combination with such corporation, own more than forty-nine percent of the voting stock in any small business.

Upon the request of the SBFC, the commissioner of banks is hereby specifically authorized and directed to examine the books of any corporation established or invested in by the SBFC pursuant to the provisions of this section in the event that such examination is a condition of the particular investment, lending, loan guaranty or grant program administered by such corporation.

Section 7. The SBFC shall be subject to section 56 of chapter 23A.

SECTION 88. Section 3 of chapter 40F is hereby amended by striking paragraph (b) and inserting in place thereof the following:

(b)The corporation shall consist of 11 directors, 1 of whom shall be the secretary of housing and economic development, who shall serve as chair, and 1 of whom shall be the secretary for administration and finance, or the secretary's designee. The governor shall appoint the remaining 9 members, 4 persons who together shall be experienced in small business financing, turnarounds of troubled businesses, the organization and operation of employee owned businesses, and business management, provided that each such director shall be experienced and knowledgeable in at least one such area, 2 of whom shall be members of CDCs or residents of the municipalities served by a CDC, 1 of whom shall be a current or retired certified public accountant or chief financial officer, 1 of whom shall be a practicing or retired attorney with a business financing experience, and 1 of whom shall be a representative of organized labor. Each member appointed by the governor shall serve a term of five years, except that in making his initial appointments the governor shall appoint one member to serve for a term of one year, one member to serve for a term of two years, one member for a term of three years, two members for a term of four years, and one member for a term of five years.

Any person appointed to fill a vacancy in the office of a member shall be appointed in a like manner and shall serve for only the unexpired term. Any member shall be eligible for reappointment. Any member may be removed from his appointment by the governor only for good cause. The directors shall annually elect one of their members as vice-chairman and designate a secretary-treasurer who need not be a member of the board. 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.

SECTION 89. 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” 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.

SECTION 90. The fifth paragraph of said section 2 of said chapter 40G, as so appearing, is hereby amended by striking out the fourth sentence.

SECTION 91. Chapter 40G of the General Laws is hereby amended by adding the following section:-

Section 11. The MTDC shall be subject to section 56 of chapter 23A.

SECTION 92. 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 quasi-public corporation exempt from federal taxation under section 501(c) of the Internal Revenue Code and organized under chapter 180 to create, develop and sustain economically and ethnically diverse communities in urban, rural and suburban areas of the commonwealth where low and moderate income people have access to a full range of economic opportunities and to provide such persons the opportunity to work together to initiate and implement programs, projects and activities designed to improve their communities and expand their economic opportunities and with by-laws providing that:

- (1) it is organized to operate in one or more neighborhoods, municipalities, or regions of the commonwealth with a population that is economically disadvantaged;
- (2) membership in the corporation shall be open to all residents of said area who are eighteen years or older;
- (3) a primary purpose of the organization is to engage local residents and businesses to work together to undertake 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;
- (4) the organization's constituency is meaningfully represented on the board of directors of the organization and directors include low and moderate income persons, appointees of elected state or local government officials, and appointees of other nonprofit organizations having as a purpose the promotion of community development in the designated region;

At least a majority of the board of directors shall be elected by the full membership with each member having an equal vote. Elections shall be held annually for at least one-third of the

members of the board of directors so that each elected director shall serve for a term of at least three years;

SECTION 93. The definition of “Eligible organization” in section 2 of chapter 40H is hereby amended by striking out the second sentence.

SECTION 94. Section 2 of chapter 40H is hereby amended by striking out the definition of “Target Area” and inserting in place thereof the following definition:-

““Target area” shall mean any contiguous geographic area in which the project is located in and is either (1) an economic target area as so designated pursuant to section three D of chapter 23A; or (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 twenty-five per cent or whose mean household income is at or below eighty per cent of the state mean household income as of the most recent decennial census.”

SECTION 95. Chapter 40H of the General Laws, is hereby amended by inserting, after Section 2, the following section:-

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

(b) The director shall file an annual report on December 15 of each year to 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 detailing the following:

- i. A list of certified CDCs in the Commonwealth;
- ii. A summary of any programs, initiatives or partnerships operated by the Executive Office of Housing and Economic Development, its agencies and any 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 advance the purposes of section 1 of chapter 866 of the acts of 1975 together with recommendations for action to enhance the ability of CDCs to advance those purposes.

SECTION 96. Section 3 of chapter 40H of the General Laws, 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 97. Subsection (b) of said section 3 of said chapter 40H, as so appearing, is hereby amended by striking out the sixth sentence.

SECTION 98. Chapter 40H of the General Laws is hereby amended by adding the following section:-

Section 9. CEDAC shall be subject to section 56 of chapter 23A.

SECTION 99. The third paragraph of section 3 of chapter 40J of the General Laws, as appearing in the 2008 Official Edition, 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 his 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 100. Section 6A of said chapter 40J of the General Laws, as so appearing, is hereby amended by striking out, in line 16, the words, “undersecretary of business development” and inserting in place thereof the following words:- secretary of housing and economic development.

SECTION 101. 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 102. Subsection (c) of said section 6B of said chapter 40J, as so appearing, is hereby further amended by striking out the second sentence.

SECTION 103. Subsection (b) of section 6D of said chapter 40J, as so appearing, is hereby amended by striking out the second and third sentences and inserting in place thereof the following 2 sentences:-

The council shall advise the institute on the dissemination of health information technology across the commonwealth, including the deployment of electronic health records systems in all health care provider settings that are networked through a statewide health information exchange. 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 104. Chapter 40J of the General Laws is hereby amended by adding the following section:-

Section 13. The corporation shall be subject to section 56 of chapter 23A.

SECTION 105. Section 1 of chapter 40Q of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting, in line 4, the following definition:-

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

SECTION 106. Said section 1 of said chapter 40Q, as so appearing, is hereby further amended, in lines 31 and 32, by striking out the words, “(8) the duration of the program which shall not exceed 30 years from the date of designation of the district” and inserting in place thereof the following words:-

(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 107. Said section 1 of said chapter 40Q, as so appearing, is hereby amended by striking out the definition “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 108. Said section 1 of said chapter 40Q, as so appearing, is hereby further amended by striking out, in line 59, the word “and”.

SECTION 109. Said section 1 of said chapter 40Q, as so appearing, is hereby further amended by inserting, in line 61, after the word, “located” the following words:-

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

(3) In the case of (i) a manufacturing corporation or a research and development corporation, as defined in section 42B of chapter 63, or (ii) a limited liability company that; (a) has its usual place of business in the commonwealth; (b) is engaged in manufacturing in the commonwealth and whose sole member is a manufacturing corporation as defined by 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. 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 112. Said section 5 of said chapter 59, as so appearing, is hereby amended by striking out the Fifty-first clause and inserting in place thereof the following new 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 any 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 113. Section 45 of chapter 75 of the General Laws, as so appearing, is hereby amended by striking out, in line 15, the words, “director of business and technology” and inserting in place thereof the following words:- secretary of housing and economic development.

SECTION 114. 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 115. Section 45 of chapter 75 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 25 to 27, inclusive, the words “director of business and technology, or his designee, the director of science and technology within the department of business and technology and 7” and inserting in place thereof the following words:- “secretary of housing and economic development, who shall serve as chair, and 8”

SECTION 116. Said section 45 of said chapter 75, as so appearing, is hereby amended by inserting after the word “technology”, in line 27, the following words:- , 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.

SECTION 117. Chapter 75 of the General Laws is hereby amended by inserting after section 45 the following section:-

Section 45A. The center shall be subject to section 56 of chapter 23A.

SECTION 118. Section 1H of chapter 164 of the General Laws, as appearing in the 2008 official edition, is hereby amended by striking out the definition of the word “department” and

inserting in place thereof the following definition:- “Department”, the department of energy resources.

SECTION 119. The second paragraph of section 14 of chapter 167, as so appearing, is hereby amended, in line 22, by striking out the words “paragraphs 8, 29 and 30” and inserting in place thereof the following words: -

paragraphs 8, 29, 30 and 30A.

SECTION 120. Section 2 of chapter 167F of the General Laws as appearing in the 2008 Official Edition is hereby amended by inserting after paragraph 30 the following paragraph: --

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

SECTION 121. Paragraph 13 of section 2 of chapter 167f of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- To act as trustee for the holders of any bond issued by the Massachusetts Industrial Finance Agency, under chapter 23A or by any industrial development authority of any city or town under chapter 40D or by the Massachusetts Health and Educational Facilities Authority, under chapter 23K.

SECTION 122. Section 21 of chapter 218 of the General Laws, as appearing in the 2008 official edition, is hereby amended by striking out, in line 35, the following words, “two thousand dollars” and inserting in place thereof the following figure:- \$7,000.

SECTION 123. The second paragraph of section 2 of chapter 465 of the acts of 1956 is hereby amended by inserting after the second sentence the following sentence:- The secretary of housing and economic development and the secretary of transportation shall be members and serve as co-chairs of the Authority..

SECTION 124. Said section 2 of said chapter 465 is hereby amended by striking out the third paragraph, as appearing in section 12 of chapter 196 of the acts of 2004, and inserting in place

thereof the following paragraph:- The Authority shall annually elect 1 of its members as vice chairman and shall also elect a secretary-treasurer who need not be a member of the Authority.

SECTION 125. 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 56 of chapter 23A of the General Laws.

SECTION 126. Chapter 614 of the acts of 1968 is hereby repealed.

SECTION 127. Section 33 of chapter 190 of the acts of 1982 is hereby amended by striking out the second paragraph, as appearing in chapter 23 of the acts of 1998, and inserting in place thereof the following paragraph:-

The authority shall consist of 13 members, 9 of whom shall be appointed by the governor, 1 of whom shall be the secretary of housing and economic development or the secretary's designee, who shall serve as chair, 1 of whom shall be appointed from a list of 3 nominees recommended by the Massachusetts Visitors Industry Council, 1 of whom shall be appointed from a list of 3 nominees recommended by the Massachusetts Lodging Association, 1 of whom shall be a resident of the city of Cambridge and 1 of whom shall be a resident of Hampden county. Two persons shall be appointed by the mayor of the city of Boston, 1 of whom shall be a resident of South Boston. The remaining 2 persons shall be the secretary of administration and finance or the secretary's designee and the collector-treasurer of the city of Boston or the collector-treasurer's designee, both of whom shall serve ex officio and shall have the right to exercise or vote on matters before the authority. Three of the members of the authority first appointed by the governor shall continue in office for a term expiring December 31, 2000 and 3 members of the authority first appointed by the governor shall continue in office for a term expiring December 31, 2001 and 3 members of the authority first appointed by the governor shall continue in office for a term expiring December 31, 2003. The term of each such member shall be designated by the governor and shall continue until the member's successor is duly appointed and qualified. The members appointed by the mayor shall continue in office for a term expiring December 31, 1999, and shall continue until their successors are duly appointed and qualified. The successor of each such member shall be appointed for a term of 6 years and until his successor is duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term and until his successor is duly appointed and qualified. Each member of the authority shall be eligible for reappointment. Each member of the authority shall serve at the pleasure of the governor, if appointed by the governor, and each member of the authority may be removed by the governor, if appointed by the governor, or by the mayor, if appointed by the mayor. Each member of the authority before entering upon his duties shall take an oath before the governor to administer the duties of his office faithfully and impartially, and a record of such oaths shall be filed in the office of the secretary of the commonwealth. Members of the authority shall serve without compensation, but service as a member of the authority shall be credited to such member's years in service for pension and retirement purposes.

SECTION 128. 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 56 of chapter 23A of the General Laws.

SECTION 129. Section 9 of chapter 498 of the acts of 1993 is hereby amended by striking out clause (2) and inserting in place thereof the following 2 clauses:- (2) 1 of whom shall be the secretary of housing and economic development, who shall serve as chair; and (3) 5 commissioners shall be appointed by the Governor of whom: (a) no 2 shall be legal residents of the same town; and (b) at least 3 shall reside in the Devens Region.

SECTION 130. Said section 9 of said chapter 498 is further amended by striking out the fifth sentence and in inserting in place thereof the following sentence:- The governor shall appoint 1 commissioner to serve as vice-chairman of the commission.

SECTION 131. Chapter 498 of the acts of 1993 is hereby amended by inserting after section 29 the following section:-

Section 30. The Bank's and Commission's activities relating to Devens shall be subject to section 56 of chapter 23A of the General Laws.

SECTION 132. The second paragraph of section 64 of chapter 365 of the acts of 1996 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:-

The corporation shall be governed by a board of directors consisting of the secretary of housing and economic development, who shall serve as chair, the secretary of labor and workforce development, the commissioner of the department of transitional assistance, the commissioner of the department of education, the chancellor of the board of higher education, or their respective designees, and 14 persons appointed by the governor, each of whom shall be appointed for a term of 4 years, including persons having knowledge and experience in business and industry, skills training, education, labor organizations, and minority employment.

SECTION 133. 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 56 of chapter 23A of the General Laws.

SECTION 134. 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 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 January 1, 2008 and continuing through January 1, 2011.

(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 3 years, in addition to the lawful term of the approval.

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

(i) any permit or approval issued by the government of the United States or any agency or instrumentality of the government of the United States, or to any 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) an enforcement order issued by the department of environmental protection;

(iii) any 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 any municipal, regional or state governmental entity, including any agency, department, commission, or other instrumentality of any 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) 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 135. Notwithstanding any general or special law to the contrary, within 4 years of the enactment of this law, each agency shall review all agency 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 136. Notwithstanding any general or special law to the contrary, the executive office of housing and economic development shall conduct a study to examine the cost reliability and economic impact of electricity. 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; and

(ii) the extent to which efforts to achieve recently-established goals relating to zero net energy growth, greenhouse gas reductions or scheduled increases in renewable power, demand resources and energy efficiency contribute to the rates paid by residential, commercial and industrial customers in the commonwealth.

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 no later than December 31, 2010.

SECTION 137. Notwithstanding any general or special law to the contrary, all current members of the health and educational facilities authority established by section 4 of chapter 614 of the acts of 1968 shall continue to serve, as if the member had been appointed under section 4 of chapter 21J, until the expiration of the term of that member.

SECTION 138. Notwithstanding any general or special law to the contrary, all current assets, liabilities, obligations and debt of the authority shall be deemed to have been created under chapter 23K of the General Laws, and no existing rights of the holders of the bonds, revenue bonds, notes, bond anticipation notes, other notes or other obligations issued by HEFA under chapter 614 of the acts of 1968 shall be impaired and HEFA shall maintain the covenants of the trust indentures pertaining to those bonds so long as those bonds shall remain outstanding.

SECTION 139. Notwithstanding any general or special law to the contrary, the health and educational facilities authority shall establish fees under clause (o) of section 4 of chapter 23K for fiscal years 2011 and 2012 that are no higher than the fees charged by that authority in fiscal year 2010. The authority shall use all reasonable efforts to ensure that any additional revenue realized in those 2 fiscal years resulting from changes in chapter 23G in this act shall be used by the authority to expand the availability of the authority's programs.

SECTION 140. 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 141. Notwithstanding any other general or special law to the contrary any stock purchase agreement between the commonwealth and Community Development Finance Corporation (CDFC) in existence on February 8, 2010 which contains outstanding obligations on the part of the commonwealth and which has been pledged as security for the payment of debt obligations issued by the CDFC which are also outstanding on February 8, 2010 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 CDFC and of the holders of said debt obligations of CDFC until the terms of said debt obligations are satisfied.

SECTION 142. (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 Small Business Finance 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 trade office in the Massachusetts Marketing Partnership, 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 pursuant to 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 any employee any right not held immediately before the date of said transfer, or to prohibit any reduction of salary grade, transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited before such date.

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

(d) All orders, rules and regulations duly made and all approvals duly granted by each transferor agency, which are in force immediately before the effective date of this act, shall

continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the transferee agency.

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

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

SECTION 143. 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 144. (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; the executive director of the Massachusetts Small Business Finance Corporation or his 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 his 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. 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 examine the lending practices of the existing public agencies in the commonwealth that perform lending services. The Massachusetts development finance agency, the Massachusetts Housing Finance Agency, the Health and Educational Facilities Authority, the board of the economic stabilization trust, the Massachusetts Small Business Finance Corporation and any other public authority in the commonwealth that lends money shall cooperate fully with the commission and shall supply any 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 145. The Massachusetts office of business development shall within 120 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 each region of the commonwealth.

The Massachusetts office of business development may implement the bidding process as a phased, multi-step process that may include one 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. A call for solutions that would focus on regional approaches to meet the needs of specified industry sectors or clusters or locations in the commonwealth;
- 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 process provided for in this section until the Massachusetts office of business development promulgates the formula for contractual reimbursement required in section 3J of chapter 23A.

SECTION 146. Within 90 days of the effective date of this act or at least 180 days before the expiration of the current contract with the Massachusetts business development corporation, whichever shall occur earlier, the Massachusetts office of business development shall initiate a competitive process seeking bidders to administer, either jointly or separately, the capital access program described in sections 57 and 58 of chapter 23A of the General Laws and the redevelopment access to capital program described in sections 60 and 61 of said chapter 23A. Contracts for the administration of the programs described in the preceding sentence shall be within the definition of “services,” as defined in section 1 of chapter 12A of the General Laws.

SECTION 147. Sections 6, 7A, 7B and 8 of chapter 324 of the acts of 1987 are hereby repealed.

SECTION 148. Sections 44 and 45 shall take effect upon the termination of the Massachusetts office of business development’s current contract with the Massachusetts business development corporation, without renewal or extension of those contracts.

SECTION 149. Section 88 shall take effect on July 1, 2011.