SENATE . . . . . No. 2143

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

SECTION 1. To provide for a program of capital facility repairs and improvements to protect and improve the capital facilities of the commonwealth and for a program of capital asset acquisitions for general government operations, the sums set forth in sections 2, 2A, 2B and 2C, inclusive, for the several purposes and subject to the conditions specified in this act are hereby made available, subject to the laws regulating the disbursement of public funds, which sums shall be in addition to any other amounts previously appropriated for these purposes.

SECTION 2.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Division of Capital Asset Management and Maintenance

1102-2009 For costs associated with planning and studies, dispositions, acquisition of land and buildings and interests therein by purchase, prepayment of lease for a term that exceeds the useful life of the facility, gifts, or other transfers, or by eminent domain pursuant to chapter 79 of the General Laws, for the preparation of plans and specifications, disparity studies, repairs, construction, renovations, improvements, asset management and demolition, disposition and remediation of state-owned and former county facilities and grounds and for costs associated with repair and maintenance of buildings and building systems and equipment at various facilities of the commonwealth; provided, however, that all maintenance and repair work funded in this item shall be listed in the capital asset management information system administered by the division of capital asset management and maintenance; provided, further, that where appropriate, the commissioner of capital asset management and maintenance may transfer funds authorized herein in accordance with a delegation of project control and supervision process pursuant to section 5 of chapter 7C of the General Laws; provided, further, that funds so transferred shall be distributed based on the severity of the need that the repair will address and other criteria developed by the division, in consultation with the secretary of administration and finance; provided, further, that costs payable from this item shall include, but not be limited to: (1) the costs of leases of temporary relocation space or equipment as required for completion of a project; and (2) the costs of engineering and other services essential to these projects rendered by

division of capital asset management and maintenance employees or by consultants; provided further, that the amounts specified in this item for a particular project or use may be adjusted in order to facilitate other projects specified in this item; provided further, that $2,500,000 shall be expended for the maintenance, improvement, and expansion of the Brookwood Community Farm, including buildings, structures and real property, in the town of Canton; provided further, that $6,200,000 shall be expended for the engineering, design and construction of a new vault in the State Archives Building; provided further, that $25,000,000 shall be expended for the acquisition, maintenance, and improvement of state office facilities; provided further, that $15,000,000 shall be expended for the engineering, design and construction of a new Energy and Environment Building at Massachusetts Maritime Academy; provided further, that $20,000,000 shall be expended for the engineering, design, restoration and repair of the Senate Chamber and related Senate facilities; provided further, that $1,600,000 shall be expended for the demolition and removal of the Richardson Building, the Upham Building, and the Gould Building located on the West Campus of the University of Massachusetts Lowell at 255 Princeton Street in Chelmsford for the purpose of improving public safety on the property and the abutting residential neighborhood; and provided, further, that $4,000,000 shall be expended for the engineering, design and reconstruction of the historic Hampshire courthouse ……..……. $350,000,000

4000-2022 For costs associated with planning and studies, dispositions, acquisition of land and buildings and interests therein by purchase, prepayment of lease for a term that exceeds the useful life of the facility, gifts, or other transfers or by eminent domain pursuant to chapter 79 of the General Laws, for the preparation of plans and specifications, repairs, construction, renovations, improvements, asset management and demolition for health and human services facilities, all as the commissioner of capital asset management and maintenance, in consultation with the secretary of health and human services and the appropriate commissioners of the departments within the executive office, shall consider appropriate; provided, however, that costs payable from this item shall include, but not limited to: (1) the costs of leases of temporary relocation space or equipment as required for completion of a project; and (2) the costs of engineering and other services essential to these projects rendered by the division of capital asset management and maintenance employees or by consultants; provided further, that the amounts specified in this item for a particular project or use may be adjusted in order to facilitate other projects specified in this item; provided, further, that $15,000,000 shall be expended for the maintenance, improvement, and expansion of the Massachusetts Hospital School in the town of Canton; provided, further, that $5,000,000 shall be expended to fund capital improvements at the Dimock Center in the city of Boston; and provided, further, that $1,000,000 shall be expended to renovate appropriate portions of state facilities in order to expand the capacity of the Commonwealth Children’s Center to provide daycare services..... $300,000,000

1102-2014 For costs associated with improving accessibility of state facilities, including, but not limited to: (1) strategic accessibility assessments; (2) accessibility transition plans; (3) technical assistance to state agencies; (4) consultants relative to the preparation of strategic accessibility assessments; (5) transition plans or provision of technical assistance to state agencies; (6) planning and studies; and (7) costs associated with repairs, improvements, construction, asset management, demolition and maintenance of buildings and building systems; provided, however, that all transition planning elements, planning and studies, maintenance and repair work undertaken pursuant to this item shall be listed in the capital asset management information system administered by the division of capital asset management and maintenance; provided, however, that the use of funds from this item shall be approved by the commissioner of capital asset management and maintenance and the secretary of administration and finance or the secretary's designee; and provided, further, that costs payable from this item shall include, but not be limited to: (a) the costs of leases of temporary relocation space or equipment as required for completion of a project; and (b) the costs of engineering and other services essential to these projects rendered by division of capital asset management and maintenance employees or by consultants..... $25,000,000

SECTION 2A.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Office of the Secretary.

0640-0302 For the Massachusetts Cultural Facilities Fund, established in section 42 of chapter 23G of the General Laws, for the acquisition, design, construction, repair, renovation, rehabilitation or other capital improvement or deferred maintenance to a cultural facility ……$75,000,000

1100-3002 For a grant program to vocational schools for the purpose of providing funding for the purchase and installation of equipment, under rules adopted by the secretary of the executive office for administration and finance and the secretary of the executive office for education …..…….....….$8,000,000

Division of Capital Asset Management and Maintenance.

1100-3003 For a grant program to cities and towns for the purpose of providing funding for the repair, renovation or construction of municipal facilities or infrastructure or of any cultural, social, recreational or other facilities serving a municipal purpose, including those owned or operated by nonprofit organizations, technology upgrades and purchase of equipment, under rules adopted by the executive office for administration and finance based upon the following criteria: (1) an assessment of fiscal and budgetary constraints facing the municipality; (2) an analysis of the municipality's proposed budget and financing of the repair, renovation or construction project; (3) the municipality's need for the project; (4) the benefits to the

municipality that will result from the project; and (5) an overall evaluation of the merits of the grant proposal; provided, however, that the executive office for administration and finance may expend not more than 1 per cent of the total amount available for the cost of administering this program; provided, further, that $2,000,000 shall be expended for the repair, renovation or improvement of municipally-owned theatres that have been in operation for at least 75 years; provided, further, that $4,000,000 shall be expended on capital improvements to the Orpheum Theater in the city of New Bedford including, but not limited to: demolition, acquisition, renovation, restoration, design and construction; provided, further, that $3,000,000 shall be expended for the restoration and preservation of the Zeiterion Theatre in New Bedford; provided further, that $10,000,000 shall be expended for the preservation of historical naval vessels, including Battleship Cove in Fall River; provided, further, that $11,405,000 shall be expended for restoration and upgrades to Fort Taber in New Bedford; provided, further, that $475,000 shall be expended for the restoration and preservation of historic property and for the creation and construction of a fishing heritage museum at the Seamen's Bethel/Mariner's Home in New Bedford; provided, further, that $3,000,000 shall be expended on the design and construction of a new public safety facility in the town of Berry, which shall be referred to as the Stephen M. Brewer Public Safety Building; provided further that $2,500,000 shall be expended for the preservation and restoration of the Blue Hills Observatory in the town of Milton; provided, further, that $5,000,000 shall be provided to the town of Milton or to the Milton Animal League for the historic preservation, restoration and renovation of the Broderick Stables in the town of Milton; provided, further, that $1,500,000 shall be expended on construction and improvements to the Canton Senior Center; provided, further, that $1,000,000 shall be expended on improvements to the state theatre in the town of Stoughton; provided further, that $2,500,000 shall be expended for the rehabilitation, protection and preservation of historic artifacts at the Governor Oliver Ames Estate in Easton; provided further, that $2,500,000 shall be expended for further improvements to parking, lighting, and comfort stations at Houghton's Pond in Milton; provided further, that $2,500,000 shall be expended for improvements, repairs, and energy efficiency upgrades at the Trailside Museum in the town of Canton; and provided further that $25,420,000 shall be expended for the phase III expansion of the Massachusetts Museum of Contemporary Art in the city of North Adams $86,845,000

Board of Library Commissioners.

7000-9091 For a program of grants to cities and towns for approved public library projects pursuant to sections 19G to 19J, inclusive, of chapter 78 of the General Laws; provided, however, that not more than $500,000 shall be expended by the board of library commissioners for the administrative costs directly attributable to the projects funded in this item, including the costs of temporary personnel; provided, further, that no permanent personnel shall be compensated from this item; and provided, further, that the board shall file an annual spending plan with the executive office for administration and finance and the house and senate

committees on ways and means which details, by subsidiary, all temporary personnel and administrative costs charged to this item..... $150,000,000

EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY

Office of the Secretary.

8000-3501 For a grant program to cities and towns to provide funding for the repair, renovation, purchase or construction of municipal public safety facilities and equipment, under rules adopted by the executive office of public safety and security based upon the following criteria: (1) an assessment of fiscal and budgetary constraints facing the municipality; (2) an analysis of the municipality's proposed budget and financing of the repair, renovation or construction project; (3) the municipality's need for the project; (4) the benefits to the municipality that will result from the project; and (5) an overall evaluation of the merits of the grant proposal; provided, however, that the executive office may expend not more than 1 per cent of the total amount available for the cost of administering this program .....…$10,000,000

SECTION 2B.

EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY

Office of the Secretary.

8000-0701 For equipment for the department of correction and other agencies within the executive office of public safety and security including, but not limited to, medical equipment, security equipment, communications equipment and vehicles……...$10,000,000

8000-2021 For the design, construction and implementation of the department of state police mobile data network and an automated motor vehicle citation system, including the use of so called "MDT" devices..... $10,000,000

8100-2026 For the replacement of state police cruisers; provided, that the state police shall develop a 5-year plan which specifies the number of vehicles to be replaced each fiscal year over a 5-year period; provided, however, that $10,000,000 shall be expended for the purchase of a state police helicopter capable of carrying additional personnel and equipment..... $60,000,000

SECTION 2C.

EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY

Office of the Secretary.

8000-2022 For a program of grants to municipalities for the design, construction and implementation of an automated motor vehicle citation system, including the use of so called "MDT" devices under rules adopted by the executive office for public safety and security; provided, that for projects which the secretary of administration and finance certifies to the comptroller, directly or indirectly generate new state revenue or budgetary savings, the comptroller shall transfer those budgetary savings or revenue to the state treasurer for payment of debt service related to those projects……$20,000,000

SECTION 3. To meet the expenditures necessary in carrying out section 2, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor, from time to time, but not exceeding, in the aggregate, $675,000,000. All such bonds issued by the commonwealth shall be designated on their face, Capital Improvement Act of 2014, and shall be issued for a maximum term of years, not exceeding 25 years, as the governor may recommend to the general court pursuant to section 3 of Article LXII of the Amendments to the Constitution. The bonds shall be payable not later than June 30, 2043. All interest and payments on account of principal on these obligations shall be payable from the General Fund. Bonds and interest thereon issued pursuant to this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

SECTION 4. To meet the expenditures necessary in carrying out section 2A, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from, time to time, but not exceeding, in the aggregate, $329,845,000. All such bonds issued by the commonwealth shall be designated on their face, Capital Improvement Act of 2014, and shall be issued for a maximum term of years, not exceeding 25 years, as the governor may recommend to the general court pursuant to section 3 of Article LXII of the Amendments to the Constitution. The bonds shall be payable not later than June 30, 2043. All interest and payments on account of principal on these obligations shall be payable from the General Fund. Bonds and interest thereon issued pursuant to this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

SECTION 5. To meet the expenditures necessary in carrying out section 2B, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from, time to time, but not exceeding, in the aggregate, $80,000,000. All such bonds issued by the commonwealth shall be designated on their face, Capital Improvements Loan Act of 2014, and shall be issued for a maximum term of years, not exceeding 10 years, as the governor may recommend to the general court pursuant to section 3 of Article LXII of the Amendments to the Constitution. The bonds shall be payable not later than June 30, 2028. All interest and payments on account of principal on these obligations shall be payable from the General Fund. Bonds and interest thereon issued pursuant to this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

SECTION 6. To meet the expenditures necessary in carrying out section 2C, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from, time to time, but not exceeding, in the aggregate, $20,000,000. All such bonds issued by the commonwealth shall be designated on their face, Capital Improvements Loan Act of 2014, and shall be issued for a maximum term of years, not exceeding 10 years, as the governor may recommend to the general court pursuant to section 3 of Article LXII of the Amendments to the Constitution. The bonds shall be payable not later than June 30, 2028. All interest and payments on account of principal on these obligations shall be payable from the General Fund. Bonds and interest thereon issued pursuant to this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

SECTION 7. The secretary of administration and finance shall submit a report on the progress of any projects funded through the authorizations in this act and included in the governor's 5-year capital investment to the clerks of the senate and house of representatives, the chairs of the senate and house committees on ways and means and the chairs of the senate and house committees on bonding, capital expenditures and state assets. The report shall include, but not be limited to: (1) the previous year planned spending; (2) the previous year spending; (3) the current year planned spending; (4) the current year spending to date; (5) the original estimated total project cost; (6) the project description; (7) the location of the project; (8) the type of spending; (9) the type of asset; and (10) the useful life of the project once completed. The report shall be submitted not later than June 30 and December 31 of each year for a period of 8 years after the effective date of this act.

SECTION 8. To provide for the continued availability of certain bond-funded spending authorizations which otherwise would expire, the balances of the following appropriation items and any allocations thereof shall be extended through June 30, 2017, for the purposes of, and subject to, the conditions stated for these items in the original authorizations and any amendments to such authorizations: 0330-2223, 0526-2012, 0640-0301, 1100-1570, 1100-1580, 1100-3001, 1100-7500, 1100-7981, 1100-7985, 1100-8000, 1100-8001, 1100-8020, 1100-9200, 1100-9520, 1102-0004, 1102-1994, 1102-5600, 1102-7967, 1599-4994, 1599-7156, 4000-2020, 5500-9400, 5500-9405, 6001-0816, 6001-0817, 6001-0818, 7000-9090, 7002-0015, 7007-6300, 7007-9040, 7066-2010, 7066-8000, 7100-1000, 7411-7960, 8000-0700, 8000-2020, 8000-3500, 8000-4900, 8100-2025, 8100-9000, 8500-1000, 8900-7500, 8900-8500 and 8910-0023

SECTION 9. (a) To carry out the purposes of items 1102-2009, 1102-2014, 1100-3003 and 4000-2022, the commissioner of capital asset management and maintenance may, notwithstanding sections 32 to 37, inclusive, of chapter 7C of the General Laws or any other general or special law to the contrary, but subject to this subsection, acquire, by purchase, prepayment of lease for a term that exceeds the useful life of the facility, gifts or other transfers, or by eminent domain pursuant to chapter 79 of the General Laws, any interests in land and buildings considered necessary by the commissioner to carry out the purposes of this act including, but not limited to, easements for drainage, access, utilities and environmental

mitigation and may grant and retain such easements and interests as considered necessary by the commissioner to carry out the purposes of this act.

(b) The commissioner shall solicit proposals for any facility acquisition through requests for proposals. Each request for proposals shall, at a minimum, include: (1) a description of the facility for which proposals are sought; (2) a statement as to whether the commissioner seeks to purchase or lease the facilities; (3) a statement as to whether the commissioner seeks to acquire improved or unimproved land, buildings and interests therein; (4) a statement as to whether the selected proposer shall be required to undertake the design, construction, renovation, reconstruction, alteration, improvement, demolition, expansion or management of a new or existing facility; (5) the proposed contractual terms and conditions, some of which may be considered mandatory or nonnegotiable; (6) the evaluation criteria that will be utilized by the commissioner; (7) the time and date for receipt of proposals; (8) the address of the office to which proposals shall be delivered; and (9) such other matters as may be determined by the commissioner. Public notice of each request for proposals shall be published at least 3 weeks before the time specified in the notice for the receipt of proposals in the central register published by the state secretary. At the opening of the proposals, the commissioner shall prepare a register of proposals which shall include the name of each proposer. The register of proposals shall be open for public inspection. Notwithstanding any general or special law to the contrary, until the completion of the selection process, the contents of the proposals and the selection process shall not be disclosed to competing proposers and shall not be public documents.

(c) Any design, construction, renovation, reconstruction, alteration, improvement, demolition, expansion or management of a facility undertaken pursuant to this section shall be subject to chapters 7C, 30 and 149 of the General Laws and any other general or special law or regulation governing the design, construction, renovation, reconstruction, alteration, improvement, demolition, expansion or management of real or personal property by the commonwealth.

(d) The commissioner shall solicit proposals for temporary relocation space as required for completion of a project funded pursuant to items 1102-2009, 1102-2014, 1100-3003 or 4000-2022 in accordance with section 37 of chapter 7C of the General Laws.

SECTION 10. Section 16G of chapter 6A, as appearing in the 2012 Official Edition, is hereby amended by adding the following subsection:-

(m) During the first year of each gubernatorial administration, the governor shall convene an infrastructure cost council consisting of no fewer than 11 members: 1 of whom shall be the secretary of administration and finance who shall serve as chair; 1 of whom shall be the secretary of energy and environmental affairs; 1 of whom shall the secretary of transportation; 1 of whom shall be appointed by the speaker of the house of representatives; 1 of whom shall be appointed by the president of the senate; 1 of whom shall be appointed by the attorney general; and 5 of

whom shall be appointed by the governor: 1 of whom shall be appointed from a list of 3 people provided by the Massachusetts Association of Regional Planning Agencies, 1 of whom shall be a representative from Associated Industries of Massachusetts, 1 of whom shall be a representative of a telecommunications company doing business in Massachusetts; 1 of whom shall be a representative from the Massachusetts municipal association; and 1 of whom shall be a representative of a regulated utility operating in an exclusive service are within Massachusetts. The governor may also appoint additional members of regional and local economic development groups and members of the business community to serve on the council. Members of the council shall serve for a term of 1 year or until a set of infrastructure cost projections has been approved by the governor under this section.

The secretary of administration and finance, with the assistance of the infrastructure cost council appointed under this section, shall develop consensus demographic projections for the commonwealth, including distinct projections for the various regions of the commonwealth. These projections shall be used as the basis for developing infrastructure cost projections for the commonwealth, for both publicly and privately-owned infrastructure, for a period identified by the council that is at least 10 years long. As used in this section, the term “infrastructure” shall refer to surface transportation infrastructure, and the infrastructure necessary to deliver water and wastewater services, telecommunications services, gas, oil, and electricity.

The commonwealth office of performance, accountability and transparency shall provide staff support for the study required by this section. Every regional planning agency formed under chapter 40B of the General Laws shall provide its current set of demographic projections used for regional planning. Any metropolitan planning organization that uses a set of demographic projections that is different from those of its regional planning agency shall also provide its current set of demographic projections. All regulated utilities shall provide necessary information required by the council. The council may take whatever steps are necessary to ensure the confidentiality of any competitively-sensitive information submitted.

In developing its consensus demographic projections, the council shall compare, contrast and reconcile all of the demographic projections and other information it receives. It shall strive to reconcile differences among those projections so that the consensus demographic projections for the commonwealth are based on a common and consistent set of assumptions.

The council shall conduct at least 1 public hearing. The secretary shall file his report with the clerks of the house and senate and with the chairs of the house and senate committees on bonding, capital expenditures and state assets not later than December 31 of the furst year of each new gubernatorial administration. The report shall also be published on the website of the commonwealth.

SECTION 11. Section 35VV of chapter 10 of the General Laws is hereby amended by striking the figure “50,000,000” and inserting in place thereof the following figure:- 75,000,000.

SECTION 12. Said section 35VV is hereby further amended by inserting after the first sentence the following sentence:- Such contracts shall seek to provide specific, measurable outcomes in the areas of recidivism, homelessness, workforce development, preventive health care, and early childhood education, among others.

SECTION 13. Chapter 23G of the General Laws, as appearing in the 2010 Official Edition, as amended by section 12 of chapter 238 of the acts of 2012, is hereby amended by adding the following section:-

Section 46. Commercial Sustainable Energy Program. (a) As used in this section, the following words shall have the following meanings, unless the context clearly requires otherwise:

"Agency", the Massachusetts Development Finance Agency as established in chapter 23G.

"Betterment Assessment", an assessment of a betterment on qualified commercial or industrial property in relation to energy or resiliency improvements established under the commercial sustainable energy program, that has been duly assessed in accordance with chapter 80.

"Benefitted property owner", an owner of qualifying commercial or industrial property who desires to install energy or resiliency improvements and who provides free and willing consent to the betterment assessment against the qualifying commercial or industrial property.

"Commercial or industrial property", any real property other than a residential dwelling containing fewer than five dwelling units.

"Commercial sustainable energy program", a program that facilitates PACE projects and utilizes the betterment assessments authorized by this section as the source of both the repayment of and collateral for the financing of PACE projects.

"Department", the Department of Energy Resources as established in chapter 25A.

"Energy Improvements", (1) any renovation or retrofitting of qualifying commercial or industrial real property to reduce energy consumption or installation of a renewable energy system to serve qualifying commercial or industrial property, provided such renovation, retrofit or installation is permanently fixed to such qualifying commercial or industrial property, or (2) the construction of an extension of an existing natural gas distribution company line to qualifying commercial or industrial property to enable the qualifying commercial or industrial property to obtain natural gas distribution service to displace utilization of fuel oil, electricity or other conventional energy sources.

"EOEEA", the Executive Office of Energy and Environmental Affairs as established in section 1 of chapter 21A.

"Financing entity", (1) the agency; or (2) special purpose entity duly authorized by the agency.

"PACE bonds", bonds, notes or other evidence of indebtedness, in the form of revenue bonds and not general obligation bonds of the commonwealth or the financing entity, issued by the financing entity related to the commercial sustainable energy program established by this section.

"PACE project", with respect to a parcel of qualifying commercial or industrial property, (1) design, procurement, construction, installation and implementation of energy or resiliency improvements; (2) related energy or resiliency audits; (3) renewable energy system feasibility studies; and (4) measurement and verification reports of the installation and effectiveness of such energy improvements .

"Participating municipality", a municipality that has entered into a written agreement with the agency as contemplated by subsection (b)(3) of this section.

"Qualifying commercial or industrial property", any commercial or industrial property owned by any person or entity other than a municipality or other governmental entity, that meets the qualifications established for the commercial sustainable energy program in accordance with the program guidelines as established in subsection (d) of this section and in subsection (13) of section 6 of chapter 25A.

"Resiliency Improvements", any renovation or retrofitting of qualifying commercial or industrial real property to adjust to actual or expected climactic stimuli or their effects , provided such renovation or retrofit is permanently fixed to such qualifying commercial or industrial property.

"Special purpose entity", a partnership, limited partnership, association, corporation, limited liability company or other entity established and authorized by the agency to issue PACE bonds, subject to approval by the agency as provided by the agency in its resolution authorizing the special purpose entity to issue PACE bonds.

(b) (1) The agency, in consultation with the department, shall establish a commercial sustainable energy program in the commonwealth, and in furtherance thereof, is authorized to issue PACE bonds, either directly or through a special purpose entity, for the purpose of financing all or a portion of the costs of the activities comprising one or more PACE projects.

(2) Upon the approval of a PACE project by the department, the financing entity may issue PACE bonds. Such PACE bonds shall be issued in accordance with section 8 of this chapter; provided, however, that the agency shall not be required to make the findings set forth in

subsections (a) and (b) of said section 8. PACE bonds issued in furtherance of this section shall not be subject to, or otherwise included in, the principal amount of debt obligations issued under section 29 of this chapter. Such PACE bonds may be secured as to both principal and interest by a pledge of revenues to be derived from the commercial sustainable energy program, including revenues from betterment assessments on qualifying commercial or industrial property on which the PACE projects being financed by the issuance of such PACE bonds are located, as well as any reserve funds or other credit enhancements created in connection with the commercial sustainable energy program.

(3) Each municipality in the Commonwealth shall have the option to participate in the commercial sustainable energy program as a participating municipality by executing a written agreement, as approved by a majority vote of the city or town council, or by a majority vote of the board of selectmen, with the agency pursuant to which the municipality has agreed to assess, collect, remit and assign betterment assessments, in return for energy or resiliency improvements for a benefitted property owner located within such municipality and for costs reasonably incurred in performing such duties. Any energy use reduction accomplished through the commercial sustainable energy program shall count toward the municipality's 20 per cent baseline reduction required by section 10 of chapter 25A in order to qualify as a green community.

(c) The agency, (1) working in conjunction with the department, shall develop program guidelines governing the terms and conditions under which financing for PACE projects may be made available to the commercial sustainable energy program, which may include standards to encourage property owners to undertake projects where the energy cost savings of the energy or resiliency improvements over the useful life of the improvements exceeds the costs of the improvements; (2) shall provide information as requested by the department regarding the expected financing costs for PACE projects; (3) may serve as an aggregating entity for the purpose of securing state or private third-party financing for energy or resiliency improvements pursuant to this section; (4) may establish a loan loss, liquidity reserve or credit enhancement program to support PACE bonds issued under this section; and (5) may use the services of one or more private, public or quasi-public third-party administrators to administer, provide support or obtain financing for PACE projects under the commercial sustainable energy program.

(d) If a benefitted property owner requests financing from the agency for energy or resiliency improvements under this section, the agency shall:

(1) Refer the project to the department for approval under the guidelines established by subsection (13) of section 6 of chapter 25A;

(2) Upon confirmation of project approval by the department, evaluate the project for compliance with the financial underwriting guidelines established by the agency;

(3) Impose requirements and conditions on the financing in order to ensure timely repayment, including, but not limited to, procedures for placing a lien on a property as security for the repayment of the betterment assessment;

(4) Require that the property owner provide a copy of a contract duly executed by the contractor performing the energy or resiliency improvements;

(5) Require that the property owner obtain consent from any existing mortgage holder of the property to the intent to finance such energy or resiliency improvements pursuant to this section; and

(6) If the agency approves financing, require the participating municipality to levy a betterment assessment in a manner consistent with this section and with chapter 80, insofar as such provisions may be applicable and consistent with this section, on the qualifying commercial or industrial property in a principal amount sufficient to pay the costs of the energy or resiliency improvements and any associated costs that the agency determines will benefit the qualifying commercial or industrial property, including costs of the agency.

(e) (1) The agency may enter into a financing and assessment agreement with the property owner of qualifying commercial or industrial property. The agency may raise funds to supply the financing under such agreement by issuing PACE bonds. Upon execution of such agreement and immediately prior to making the funds, which may constitute all or a portion of the proceeds from the issuance of such PACE bonds, available to the property owner for the PACE project under the agreement, the agency shall notify the participating municipality and the participating municipality or its designee shall record the betterment assessment and lien on the qualifying commercial or industrial property.

(2) The agency shall disclose to the property owner the costs associated with participating in the commercial sustainable energy program established by this section, including the effective interest rate of the betterment assessment, any fees charged by the authority to administer the program and any fees charged by third parties such as originators or other intermediaries.

(f) At the time the betterment assessment is made, the agency shall set the term and amortization schedule, the fixed or variable rate of interest for the repayment of the betterment assessment amount, and any required closing fees and costs. The amortization schedule shall provide for an amortization period of no longer than the lesser of: (1) the useful life of the longest-lived of the energy or resiliency improvements comprising the PACE project(s) financed by such betterment assessment; or (2) 20 years. The interest rate, which may be supplemented with state or federal funding, shall be sufficient to pay the principal and interest and may be calculated to include the financing and administrative costs of the commercial sustainable energy program, including delinquencies.

(g) When the agency has authorized, but not issued, PACE bonds for PACE projects and other costs of the commercial sustainable energy program, including interest costs and other costs related to the issuance of PACE bonds, the agency may require the participating municipality where the qualifying commercial or industrial property is located, or the program administrator duly approved by the agency, to record the agreement between the agency and the property owner as a betterment pursuant to chapter 80, except that such betterment may apply to a single parcel of qualifying commercial or industrial property, and as a lien against the qualifying commercial or industrial property benefitted.

(h) Betterment assessments levied pursuant to this section and the interest, fees and any penalties thereon shall constitute a lien against the qualifying commercial or industrial real property until they are paid, notwithstanding the provisions of section 12 of chapter 80, and shall continue notwithstanding any alienation or conveyance of the qualifying commercial or industrial real property by one property owner to a new property owner. A new property owner shall take title to the qualifying commercial or industrial property subject to the betterment assessment and related lien. The lien shall be levied and collected in the same manner as the property taxes of the participating municipality on real property, including, in the event of default or delinquency, with respect to any penalties, fees and remedies and lien priorities. Each lien may be continued, recorded and released upon repayment in full of the benefit assessment in the manner provided for property tax liens. Each lien shall take precedence over all other liens or encumbrances, except a lien for taxes of the municipality on real property.

(i) Any participating municipality may sell or assign to the agency, or to an assignee designated by the agency, any and all liens filed by the tax collector, as provided in the written agreement between the participating municipality and the agency. The agency and the assignee(s) shall negotiate the consideration received by the agency. The assignee(s) shall have and possess the same powers and rights at law or in equity as the agency and the participating municipality and its tax collector would have had with regard to the precedence and priority of such lien, the accrual of interest and the fees and expenses of collection. The assignee(s) shall have the same rights to enforce such liens as any private party holding a lien on real property, including, but not limited to, foreclosure and a suit on the debt. The assignee(s) shall recover costs and reasonable attorneys' fees incurred as a result of any foreclosure action or other legal proceeding brought pursuant to this section and directly related to the proceeding from those having title to the property subject to the proceedings. Such costs and fees may be collected by the assignee(s) at any time after the assignee(s) have made a demand for payment.

(j) The exercise of the powers granted by this section shall be for the benefit of the people of the commonwealth by increasing energy efficiency and resiliency in the commonwealth. As the exercise of such powers shall constitute the performance of essential government functions, the financing entity shall not be required to pay any taxes or assessments upon the property acquired or used by the financing entity under this section or upon the income derived therefrom. The PACE bonds issued under this section, their transfer and the income derived therefrom,

including any profit made on the sale thereof, shall at all times be free of taxation within the commonwealth.

(k) The activities of the commercial sustainable energy program shall be reviewed in the 3-year planning process and annual reviews undertaken pursuant to section 21 of chapter 25.

(l) The agency may establish rules and guidelines as are necessary to implement the purposes of the program, including procedures describing the application process and criteria to be used in evaluating application for PACE bonds under this section.

SECTION 14. Section 6 of chapter 25A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking subsection 12 and inserting in place thereof the following subsections:-

(12) intervene and advocate on behalf of small commercial and industrial users before the department of public utilities in any dispute between such businesses and generation or distribution companies, as defined pursuant to section 1 of chapter 164; and

(13) plan, develop, oversee and operate the commercial sustainable energy program, with the Massachusetts Development Finance Agency, in accordance with the provisions of section 46 of chapter 23G. In accordance with this section, the Department shall approve each PACE project prior to the issuance of a PACE bond under section 46 of chapter 23G and in so doing shall consider whether the energy cost savings of the energy or resiliency improvements over the useful life of such improvements exceed the costs of such improvements.

SECTION 15. Notwithstanding sections 40E to 40K, inclusive, and sections 52 to 55, inclusive, of chapter 7C of the General Laws or any other general or special law to the contrary, the division of capital asset management and maintenance, on behalf of and in consultation with the department of conservation and recreation, may lease and enter into other agreements, for terms not to exceed 25 years with the Milton Animal League for the Broderick Stables in the town of Milton, so as to provide for the continued use, operation, maintenance, repair and improvement of the existing structure, the grounds, and any additions, renovations, or new construction thereon.

SECTION 16. (a) The terms used in this section shall have the following meanings unless the context clearly requires otherwise:

“Commissioner”, the commissioner of the division of capital asset management and maintenance.

“District”, the Essex North Shore Agricultural and Technical School District established pursuant to chapter 463 of the Acts of 2004 as amended by chapter 9 of the acts of 2006 and by chapter 130 of the acts of 2010.

"Division", the division of capital asset management and maintenance.

"School", the Essex North Shore Agricultural and Technical School established pursuant to chapter 463 of the acts of 2004 as so amended.

(b) Notwithstanding section 32 to 37, inclusive, of chapter 7C of the General Laws, chapter 463 of the acts of 2004 as amended by chapter 9 of the acts of 2006 and by chapter 130 of the acts of 2010 or any other general or special law to the contrary, the commissioner may, upon approval of the Inspector General and in consultation with the district, lease or enter into other agreements for a term, including any extensions, not to exceed 25 years for certain lands and any buildings and other appurtenances thereon located at the school in the town of Middleton to Essex Sports Center, LLC. The location and boundaries of the parcel or parcels to be leased shall be determined by the commissioner based upon a survey.

(c) The lessee shall use the property solely for the purpose of constructing and operating athletic and recreational facilities for use by the school or any other authorized parties. The lease or other agreement pertaining to the lease of the property shall include a provision restricting the use of the property to such purposes and providing for termination of the lease if the property ceases to be used for such a purpose.

(d) The lease or other agreement authorized by this act shall be on terms and conditions acceptable to the commissioner and the district after consultation with the district; provided, however, that such lease or other agreement shall provide, without limitation that: (a) the lessee shall manage, operate, improve, repair, and maintain the land, buildings, and appurtenances associated therewith during the term of the lease which is subject to the approval of the commissioner and the district. The upkeep shall be reviewed on an annual basis by the commissioner, the lessee and the district; the lessee shall be responsible for the repairs and maintenance as recommended by the commissioner or the district; (b) the lessee shall carry comprehensive general liability insurance in an amount acceptable to the commissioner and the district naming the commonwealth and the district as the co-insured, protecting the commonwealth and the district against all claims for personal injury or property damage arising from the land, buildings, and appurtenances associated therewith during the term of the lease; (c) the lessee shall pay rent in an amount equal to or greater than the full and fair market value of its leasehold interest under this act as determined by independent appraisal prepared in accordance with the usual and customary professional appraisal practices by a certified appraiser commissioned by the commissioner; (d) the lessee shall be responsible for the capital improvements to the premises; and (e) the lessee shall not design or construct any facilities on the parcel without the written approval of the division, in consultation with the district.

(e) The lessee shall be responsible for and shall maintain an escrow fund for all costs and expenses including, but not limited to, costs associated with any engineering, surveys, appraisals, and lease preparation as such costs may be determined by the commissioner. The lessee shall

also maintain a bond in a minimum amount that shall cover the cost of any amount due to any lender, public or private, in the case of default, foreclosure, or bankruptcy by the lessee.

(f) The District may establish a receipts reserved for appropriation account for any revenue generated from the lease of property to the lessee. This account shall be used for the general appropriations of the District.

(g) No general or special law, rule, or regulation relating to the advertising, bidding, or award of contracts to the procurement of services, including, but not limited to chapter 30B of the General Laws, or to the construction and design improvements shall apply to the district or the lessee under this act.

SECTION 17. Notwithstanding any general or special law to the contrary, the comptroller shall transfer $5,000,000 from the General Fund to the Workforce Competitiveness Trust Fund established in section 2WWW of chapter 29 of the General Laws.

SECTION 18. Notwithstanding any general or special law to the contrary, the unexpended and unencumbered balances of the bond-funded authorizations in the following accounts shall cease to be available for expenditure 90 days after the effective date of this act: 9300-3905, 1102-8880, 0330-8891, 1102-7893, 1102-7894, 1102-9897, 5500-8300, 5500-8400, 5500-8500, 1102-0961, 7112-0960, 7113-0960, 7114-0960, 7115-0960, 7116-0960, 7117-0960, 7220-0960, 7310-0960, 7410-7960, 7452-7960, 7504-7961, 7505-7960, 7512-7960, 8195-8968, 1102-9980, 8900-7967, 0330-2206, 0330-2209, 1102-2992, 1102-4994, 1102-7947, 1102-8245, 1102-8940, 1102-8945, 1102-8947, 1102-4940, 1102-8949, 0333-0010, 1102-2011, 1102-3010, 1102-3013, 7100-0001, 8000-2011, 0332-8811, 0431-8833, 1102-8872.

SECTION 19. This act shall take effect upon passage.