

**SENATE . . . . . No. 2372**

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Eighty-Ninth General Court**  
**(2015-2016)**  
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SENATE, June 24, 2016

The committee on Ways and Means, to whom was referred the House Bill to promote energy diversity (House, No. 4385); reports, recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2372.

For the committee,  
Karen E. Spilka

**The Commonwealth of Massachusetts**

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**In the One Hundred and Eighty-Ninth General Court  
(2015-2016)**  
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1           SECTION 1. Section 97A of chapter 13 of the General Laws, as appearing in the 2014  
2 Official Edition, is hereby amended by striking out, in line 5, the words “documents to be  
3 provided” and inserting in place thereof the following words:- that documents be made available.

4           SECTION 2. Said section 97A of said chapter 13, as so appearing, is hereby further  
5 amended by striking out, in lines 7 to 9, inclusive, the words “at the time of closing, outlining the  
6 procedures and benefits of a home energy audit; provided however” and inserting in place  
7 thereof the following words:- at the time of listing; provided, however, that if there is no public  
8 listing, the documents shall be made available prior to the time of the signing of the purchase and  
9 sale agreement and shall disclose the results of a home energy audit and the residential  
10 dwelling’s energy rating and label, as established by the department of energy resources in  
11 section 11G½ of chapter 25; provided further.

12           SECTION 3. Said section 97A of said chapter 13, as so appearing, is hereby further  
13 amended by adding the following 3 paragraphs:-

14           Notwithstanding the previous paragraph, a sale or transfer of a dwelling in the following  
15 circumstances shall not require the disclosure of the results of a home energy audit and energy

16 assessment and may include documents disclosing the procedures and benefits of a home energy  
17 audit: (i) a foreclosure or pre-foreclosure sale; (ii) a deeded or trustee sale; (iii) a transfer of title  
18 related to the exercise of eminent domain; (iv) a sale between family members; (v) a sale under  
19 court order; (vi) a sale under a decree of legal separation or divorce; or (vii) a sale or transfer that  
20 involves a dwelling that is designated on the National Register of Historic Places or the state  
21 register of historic places as a historic building or landmark.

22 The regulations under this section may include exemptions of the requirements for a  
23 home energy audit for dwellings that were constructed within 3 years of the listing or sale and  
24 that comply with the most recent energy provisions of the state building code that are applicable  
25 to residential buildings.

26 The department of energy resources, in consultation with the energy efficiency advisory  
27 council, shall track and publicly report, not less than quarterly, the number of home energy audits  
28 conducted and energy ratings and labels issued.

29 SECTION 4. Section 11F of chapter 25A of the General Laws, as so appearing, is hereby  
30 amended by striking out, in lines 16 and 17, the words “and (3) an additional 1 per cent of sales”  
31 and inserting in place thereof the following words:- (3) an additional 1 per cent of sales every  
32 year until December 31, 2016; and (4) an additional 2 per cent of sales.

33 SECTION 5. Section 11F½ of said chapter 25A, as so appearing, is hereby amended by  
34 inserting after the word “biofuel”, in line 16, the following words:- , waste-to-energy that is a  
35 component of conventional municipal solid waste plant technology in commercial use regardless  
36 of the commercial operation date of the waste-to energy facility.

37 SECTION 6. Said section 11F½ of said chapter 25A, as so appearing, is hereby further  
38 amended by striking out, in line 24, the words “or (v)” and inserting in place thereof the  
39 following words:- (v) fuel cells; or (vi).

40 SECTION 7. Said section 11F½ of said chapter 25A, as so appearing, is hereby further  
41 amended by inserting after the word “energy”, in line 30, the following words:- or fuel cell  
42 technology.

43 SECTION 8. Said section 11F½ of said chapter 25A, as so appearing, is hereby further  
44 amended by inserting after the word “for”, in line 70, the following words:- fuel cells and.

45 SECTION 9. Said section 11F½ of said chapter 25A, as so appearing, is hereby further  
46 amended by striking out, in lines 73 and 74, the words “renewable thermal”.

47 SECTION 10. Said chapter 25A is hereby amended by inserting after section 11G the  
48 following section:-

49 Section 11G½. (a) The department shall establish an energy rating and labeling system  
50 that stores and provides information regarding energy performance of single family residential  
51 dwellings, multi-family residential dwellings with less than 5 units and condominium units. The  
52 energy rating and labeling system shall provide a consistent scoring method regarding the energy  
53 performance of a residential dwelling that is based upon the physical assets of the unit. The  
54 energy rating and labeling system shall include, but not be limited to, information regarding  
55 annual: (i) energy consumption by fuel; (ii) energy costs for electricity and thermal needs; and  
56 (iii) carbon or greenhouse gas emissions.

57 (b) The department may promulgate regulations that are necessary to implement this  
58 section.

59 SECTION 11. Section 1 of chapter 164 of the General Laws, as appearing in the 2014  
60 Official Edition, is hereby amended by inserting after the definition of “Energy management  
61 services” the following definition:- “Energy storage system”, a commercially available  
62 technology that is capable of absorbing energy, storing it for a period of time and thereafter  
63 dispatching the energy and which may be owned by an electric distribution company; provided,  
64 however, that an “energy storage system” shall: (i) reduce the emission of greenhouse gases; (ii)  
65 reduce demand for peak electrical generation; (iii) defer or substitute for an investment in  
66 generation, transmission or distribution assets; or (iv) improve the reliable operation of the  
67 electrical transmission or distribution grid; and provided further, that an energy storage system  
68 shall: (1) use mechanical, chemical or thermal processes to store energy that was generated for  
69 use at a later time; (2) store thermal energy for direct heating or cooling use at a later time in a  
70 manner that avoids the need to use electricity at that later time; (3) use mechanical, chemical or  
71 thermal processes to store energy generated from renewable resources for use at a later time; or  
72 (4) use mechanical, chemical or thermal processes to capture or harness waste electricity and to  
73 store the waste electricity generated from mechanical processes for delivery at a later time.

74 SECTION 12. Chapter 169 of the acts of 2008 is hereby amended by inserting after  
75 section 83A, inserted by chapter 209 of the acts of 2012, the following 3 sections:-

76 Section 83B. For the purposes of this section and sections 83C and 83D, the following  
77 words shall have the following meanings unless the context clearly requires otherwise:

78 “Affiliated company”, an affiliated company as defined in section 85 of chapter 164 of  
79 the General Laws.

80 “Clean energy generation”, (i) hydroelectric generation; (ii) new Class I renewable  
81 portfolio standard eligible resources that are firming up with hydroelectric generation; or (iii) new  
82 Class I renewable portfolio standard eligible resources.

83 “Distribution company”, a distribution company as defined in section 1 of chapter 164 of  
84 the General Laws.

85 “Long-term contract”, a contract for a period of 15 to 20 years for offshore wind energy  
86 generation under section 83C or for clean energy generation under section 83D.

87 “New Class I renewable portfolio standard eligible resources”, Class I renewable energy  
88 generating sources under section 11F of chapter 25A of the General Laws that have not  
89 commenced commercial operation prior to the date of execution of a long-term contract or that  
90 represent a net increase from incremental new generating capacity at an existing facility after the  
91 date of execution of a long-term contract.

92 “Offshore wind developer”, a provider of electricity developed from an offshore wind  
93 energy generation project.

94 “Offshore wind energy generation”, offshore electric generating resources derived from  
95 wind that: (i) are Class I renewable energy generating sources under section 11F of chapter 25A  
96 of the General Laws; and (ii) have a commercial operations date on or after January 1, 2018 that  
97 has been verified by the department of energy resources.

98           Section 83C. (a) Not later than October 1, 2017, every distribution company shall, with  
99   the department of energy resources, jointly and competitively solicit proposals for offshore wind  
100   energy generation. If the department of energy resources, in consultation with the independent  
101   evaluator under subsection (e), determines that any reasonable proposal has been received, the  
102   distribution companies shall enter into cost-effective long-term contracts, subject to the approval  
103   of the department of public utilities, to facilitate the financing of offshore wind energy  
104   generation resources and the reaching of the commonwealth's emission reduction goals under  
105   chapter 298 of the acts of 2008 and chapter 21N of the General Laws, apportioned among the  
106   distribution companies under this section.

107           (b) The timetable and method of solicitation of long-term contracts shall be proposed  
108   jointly by the distribution companies and the department of energy resources. The distribution  
109   companies, in coordination with the department of energy resources, shall consult with the office  
110   of the attorney general regarding the choice of solicitation methods. The department of energy  
111   resources shall be a full participant in the execution and evaluation of all proposals. The  
112   timetable and method shall be reviewed and approved by the department of public utilities. A  
113   solicitation may be coordinated and issued jointly with other New England states or entities  
114   designated by those states. The distribution companies shall conduct at least 3 competitive  
115   solicitations through a staggered procurement schedule developed by the distribution companies  
116   and the department of energy resources; provided, however, that the distribution companies shall  
117   jointly enter into cost-effective long-term contracts for offshore wind energy generation equal to  
118   approximately 2,000 megawatts of aggregate nameplate capacity not later than June 30, 2030.  
119   The first solicitation shall seek proposals of approximately 400 megawatts of aggregate  
120   nameplate capacity.

121           The department of public utilities shall not approve a long-term contract that results from  
122 a subsequent solicitation and procurement period if the levelized cost of energy and the net  
123 present value of the contract price that results from that subsequent procurement is greater than  
124 or equal to the levelized cost of energy or net present value of the contract price that resulted  
125 from the previous procurement. For the purposes of this section, “levelized cost of energy” shall  
126 include transmission and renewable energy certificates.

127           If the department of energy resources determines that no reasonable proposal was  
128 received in response to a solicitation, the department may terminate the solicitation. If the  
129 department, in consultation with the independent evaluator, deems all proposals under a  
130 solicitation to be unreasonable, it shall issue public, written findings and the independent  
131 evaluator shall review the findings and issue an independent assessment of the decision by the  
132 department of energy resources to deem every proposal unreasonable. The department of energy  
133 resources may reconsider any proposal based upon a recommendation from the independent  
134 evaluator.

135           (c) In developing proposed long-term contracts, the distribution companies shall consider  
136 long-term contracts for renewable energy certificates for energy and for a combination of both  
137 renewable energy certificates and energy. Notwithstanding a determination from the department  
138 of energy resources that a proposal is reasonable, a distribution company may decline to pursue a  
139 proposal if the proposal’s terms and conditions would require the contract obligation to place an  
140 unreasonable burden on the distribution company’s balance sheet; provided, however, that the  
141 distribution company shall take all reasonable actions to structure the contracts, pricing or  
142 administration of the products purchased under this section in order to prevent or mitigate an  
143 impact on the balance sheet or income statement of the distribution company or its parent



144 company, subject to the approval of the department of public utilities; provided further, that  
145 mitigation shall not increase costs to ratepayers. If a distribution company deems all proposals to  
146 be unreasonable, the department of public utilities shall initiate a docket to examine the  
147 distribution company's decision for declining the proposals and may order the distribution  
148 company to reconsider any proposal. If distribution companies are unable to agree on a winning  
149 bid following a solicitation under this section, the matter shall be submitted to the department of  
150 energy resources which shall, in consultation with the independent evaluator, issue a final,  
151 binding determination of the winning bid. The department of energy resources may require  
152 additional solicitations to fulfill the requirements of this section.

153 (d)(1) The department of public utilities shall promulgate regulations consistent with this  
154 section. The regulations shall: (i) allow offshore wind developers of offshore wind energy  
155 generation to submit proposals that are consistent with this section for long-term contracts; (ii)  
156 require that a proposed long-term contract executed by the distribution companies under a  
157 proposal be filed with and approved by the department of public utilities before becoming  
158 effective; (iii) require transmission costs to be incorporated into a proposal; (iv) after the  
159 approval by the department of public utilities of a long-term contract, require an offshore wind  
160 developer to proceed with reasonable promptness and diligence to provide offshore wind energy  
161 resources; (v) allow offshore wind energy generation resources to be paired with energy storage  
162 systems; and (vi) require that offshore wind energy generating resources to be used by a  
163 developer under the proposal: (A) provide enhanced electricity reliability; (B) are cost effective  
164 to electric ratepayers over the term of the contract, taking into consideration costs and benefits,  
165 including economic and environmental benefits and existing or reasonably anticipated federal  
166 and state environmental requirements; (C) avoid line loss and mitigate transmission costs to the

167 extent possible and ensure that transmission cost overruns, if any, are not borne by ratepayers;  
168 (D) moderate system peak load requirements; (E) adequately demonstrate project viability in a  
169 commercially reasonable timeframe; (F) mitigate environmental impacts; and (G) promote  
170 additional employment and economic development.

171 (2) The department of public utilities shall, subject to agreement with an offshore wind  
172 developer, require an offshore wind developer that has executed a final long-term contract  
173 approved by the department to provide data to the department. The data shall be provided to the  
174 department not more than once every 6 months. The offshore wind developer providing the data  
175 shall agree, as a condition of submitting a proposal under this section, that it will in good faith  
176 pursue a data agreement with the department. The agreement shall provide that the department  
177 shall not disclose data or other confidential or proprietary information provided by the offshore  
178 wind developer to the department under the data agreement and shall otherwise protect the data  
179 for an agreed upon period of time which shall not be more than 24 months after the date on  
180 which the data was collected. For the purposes of this paragraph, “data” shall mean primary data  
181 observations and metadata collected and stored by or on behalf of the offshore wind developer in  
182 relation to investigation modeling and monitoring of the development site or surrounding area  
183 related to meteorological, geotechnical, oceanographic or other environmental characteristics as  
184 determined by the department.

185 (e) The department of energy resources and the attorney general shall jointly select an  
186 independent evaluator to monitor, participate in and report on the solicitation and bid selection  
187 process in order to assist the department of energy resources in determining if a received  
188 proposal is reasonable and to assist the department of public utilities in its consideration of long-  
189 term contracts filed for approval. To ensure an open, fair and transparent solicitation and bid

190 selection process that is not unduly influenced by an affiliated company, the independent  
191 evaluator shall: (i) be paid an equal amount and in full by each offshore wind developer  
192 submitting a proposal for the solicitation; (ii) issue a report to the department of public utilities,  
193 upon its review of the timetable and method of solicitation, that analyzes the proposed  
194 solicitation process and includes recommendations, if any, for improving the process; and (iii)  
195 upon the opening of an investigation by the department of public utilities into a proposed long-  
196 term contract for a winning bid proposal, file a report with the department of public utilities that  
197 summarizes and analyzes the solicitation and the bid selection process and provide its  
198 independent assessment of whether all bids were evaluated in a fair and objective manner. The  
199 independent evaluator shall also issue an assessment of whether a winning bid proposal complies  
200 with the regulations under subsection (d). The independent evaluator shall have access to the  
201 information and data related to the competitive solicitation and bid selection process that is  
202 necessary to fulfill the purposes of this subsection; provided, however, that the independent  
203 evaluator shall ensure that proprietary information shall remain confidential. The department of  
204 public utilities shall consider the findings of the independent evaluator and may adopt  
205 recommendations made by the independent evaluator as a condition for approval. If the  
206 independent evaluator concludes in the findings that the solicitation and bid selection of a long-  
207 term contract was not fair and objective and that the process was substantially prejudiced as a  
208 result, the department of public utilities shall reject the bid proposal.

209 (f) A proposed long-term contract shall be subject to the review and approval of the  
210 department of public utilities. As part of its approval process, the department of public utilities  
211 shall consider the attorney general's recommendations, which shall be submitted to the  
212 department of public utilities within 45 days following the filing of the proposed contract with

213 the department of public utilities. The department of public utilities shall consider the potential  
214 costs and benefits of the proposed contract and shall approve a proposed contract if it finds that  
215 the proposed contract is a cost-effective mechanism for procuring reliable renewable energy on a  
216 long-term basis. The department of public utilities' consideration of potential costs and benefits  
217 shall include consideration of non-price economic and environmental benefits, existing or  
218 reasonably anticipated federal and state environmental requirements, other factors outlined in  
219 this section and the commonwealth's goals under chapter 298 of the acts of 2008 and chapter  
220 21N of the General Laws.

221 (g) The distribution companies shall each enter into a contract with the winning bidders  
222 for their apportioned share of the market products being purchased from the project. The  
223 apportioned share shall be calculated and based upon the total energy demand from the  
224 distribution customers in each service territory of the distribution companies.

225 (h) A distribution company may elect to use energy purchased under a contract for resale  
226 to its customers and may elect to retain renewable energy certificates to meet the applicable  
227 annual renewable portfolio standard requirements under section 11F of chapter 25A. If the  
228 energy and renewable energy certificates are not so used, the company shall sell the purchased  
229 energy into the wholesale spot market and sell the purchased renewable energy certificates  
230 through a competitive bid process; provided, however, that the department of energy resources  
231 shall conduct periodic reviews to determine the impact on the energy and renewable energy  
232 certificate markets of the disposition of energy and renewable energy certificates under this  
233 section. The department of energy resources may issue a report recommending legislative  
234 changes if it determines that the disposition of energy and renewable energy certificates is  
235 adversely affecting the energy and renewable energy certificate markets.

236 (i) If a distribution company sells the purchased energy into the wholesale spot market  
237 and sells the renewable energy certificates through a competitive bid process, the distribution  
238 company shall net the cost of payments made to projects under the long-term contracts against  
239 the proceeds obtained from the sale of energy and renewable energy certificates, and the  
240 difference shall be credited or charged to distribution customers through reconciling distribution  
241 rates, subject to review and approval of the department of public utilities.

242 (j) A long-term contract procured under this section shall require an appropriate unit-  
243 specific tracking system to ensure an accounting of the delivery of clean energy generation  
244 resources. The unit-specific tracking system shall utilize reasonable estimates of life-cycle  
245 greenhouse gas emissions specific by units of clean energy generation resources, as determined  
246 by the department of energy resources in consultation with the department of environmental  
247 protection, to ensure accurate measurement of progress in achieving the commonwealth's goals  
248 under chapter 298 of the acts of 2008 or chapter 21N of the General Laws.

249 (k) The department of energy resources and the department of public utilities may each  
250 require a bond or other security to ensure performance with the requirements under this section.

251 (l) The department of energy resources may promulgate regulations that are necessary to  
252 implement this section.

253 (m) If this section is subjected to a legal challenge, the department of public utilities may  
254 suspend the applicability of the challenged provision during the pendency of the action until a  
255 final resolution, including any appeals, is obtained and shall issue an order and take other action  
256 that is necessary to ensure that the provisions that are not the subject of the challenge are  
257 implemented expeditiously to achieve the public purposes of this section.

258           Section 83D. (a) Not later than April 1, 2017, every distribution company shall jointly  
259 and competitively solicit proposals for clean energy generation with the department of energy  
260 resources. If the department of energy resources, in consultation with the independent evaluator  
261 under subsection (e), determines that a reasonable proposal has been received, the distribution  
262 companies shall enter into cost effective long-term contracts, subject to the approval of the  
263 department of public utilities, to facilitate reaching the commonwealth's emission reduction  
264 targets under chapter 298 of the acts of 2008 or chapter 21N of the General Laws, apportioned  
265 among the distribution companies under this section.

266           (b) The timetable and method for solicitation of long-term contracts shall be proposed  
267 jointly by the distribution companies and the department of energy resources. The distribution  
268 companies, in coordination with the department of energy resources, shall consult with the  
269 attorney general's office regarding the choice of solicitation method. The department of energy  
270 resources shall be a full participant in the execution and evaluation of the proposals. The  
271 timetable and method for solicitation shall be reviewed and approved by the department of public  
272 utilities. A solicitation may be coordinated and issued jointly with other New England states or  
273 entities designated by those states. The distribution companies shall conduct 1 or more  
274 competitive solicitations through a schedule or staggered procurement schedule developed by the  
275 distribution companies and the department of energy resources; provided, however, that the  
276 distribution companies shall enter into cost-effective long-term contracts for clean energy  
277 generation of not more than 12,450,000 megawatt-hours by December 31, 2018.

278           If the department of energy resources determines that no reasonable proposal was  
279 received in response to a solicitation, the department may terminate the solicitation. If the  
280 department of energy resources, in consultation with the independent evaluator, deems all

281 proposals under a solicitation to be unreasonable, it shall issue public, written findings and the  
282 independent evaluator shall review the findings and issue an independent assessment of the  
283 decision by the department of energy resources to deem the proposals unreasonable. The  
284 department of energy resources may reconsider any proposal based upon a recommendation from  
285 the independent evaluator.

286 (c) In developing proposed long-term contracts, the distribution companies shall consider  
287 long-term contracts for renewable energy certificates for energy and for a combination of both  
288 renewable energy certificates and energy, if applicable. A distribution company may decline to  
289 to pursue a proposal if the proposal's terms and conditions would require the contract obligation  
290 to place an unreasonable burden on the distribution company's balance sheet; provided, however,  
291 that the distribution company shall take all reasonable actions to structure the contracts, pricing  
292 or administration of the products purchased under this section in order to prevent or mitigate  
293 impacts on the balance sheet or income statement of the distribution company or its parent  
294 company, subject to the approval of the department of public utilities; provided further, that the  
295 mitigation shall not increase costs to ratepayers. If a distribution company deems all proposals to  
296 be unreasonable, the department of public utilities shall initiate a docket to examine the  
297 distribution company's decision for declining the proposals and may order the distribution  
298 company to reconsider any proposal. If distribution companies are unable to agree on a winning  
299 bid under a solicitation under this section, the matter shall be submitted to the department of  
300 energy resources which shall, in consultation with the independent evaluator, issue a final,  
301 binding determination of the winning bid. The department of energy resources may require  
302 additional solicitations to fulfill the requirements of this section.

303 (d) The department of public utilities shall promulgate regulations consistent with this  
304 section. The regulations shall: (i) allow developers of clean energy generation resources to  
305 submit proposals that are consistent with this section for long-term contracts; (ii) require that  
306 contracts executed by the distribution companies under the proposals are filed with, and  
307 approved by, the department of public utilities before they become effective; (iii) require  
308 transmission costs to be incorporated into a proposal, whether the costs are a part of the bid price  
309 or related to the delivery of the assigned energy via a federally-regulated transmission tariff;  
310 provided, however, that the department of public utilities may authorize or require the relevant  
311 parties to seek recovery of the transmission costs of the project through federal transmission  
312 rates, consistent with policies and tariffs of the Federal Energy Regulatory Commission, to the  
313 extent the department of public utilities finds that recovery is in the public interest; (iv) allow  
314 long-term contracts for clean energy generation resources to be paired with energy storage  
315 systems; (v) after the approval by the department of public utilities of a long-term contract,  
316 require a developer to proceed with reasonable promptness and diligence to provide clean energy  
317 generation resources; and (vi) require that the clean energy resources to be used by a developer  
318 under the proposal: (A) provide enhanced electricity reliability; (B) include moderate system  
319 peak load requirements; (C) are cost effective to electric ratepayers over the term of the contract  
320 by providing reliability and economic and environmental benefits that outweigh costs; (D) avoid  
321 line loss and mitigate transmission costs to the extent possible and ensure that transmission cost  
322 overruns, if any, are not borne by ratepayers; (E) adequately demonstrate project viability in a  
323 commercially reasonable timeframe; (F) mitigate environmental impacts; and (G) promote  
324 additional employment and economic development. The department shall give preference to



325 proposals that include both hydroelectric generation and new Class 1 eligible resources and give  
326 preference to proposals that include firm service.

327 (e) The department of energy resources and the attorney general shall jointly select an  
328 independent evaluator to monitor, participate in and report on the solicitation and bid selection  
329 process in order to assist the department of energy resources in determining if a received  
330 proposal is reasonable and to assist the department of public utilities in its consideration of  
331 resulting long-term contracts filed for approval. To ensure an open, fair and transparent  
332 solicitation and bid selection process that is not unduly influenced by an affiliated company, the  
333 independent evaluator shall: (i) be paid an equal amount and in full by each clean energy  
334 generation developer submitting a proposal for the solicitation; (ii) issue a report to the  
335 department of public utilities, upon its review of the timetable and method of solicitation, that  
336 analyzes the proposed solicitation process and includes recommendations for improving the  
337 process, if any; and (iii) upon the opening of an investigation by the department of public utilities  
338 into a proposed long-term contract for a long-term contract for a winning bid proposal, file a  
339 report with the department of public utilities that summarizes and analyzes the solicitation and  
340 the bid selection process and provide its independent assessment of whether every bid was  
341 evaluated in a fair and objective manner. The independent evaluator shall also issue its  
342 assessment of whether a winning bid proposal complies with the regulations under subsection  
343 (d). The independent evaluator shall have access to the information and data related to the  
344 competitive solicitation and bid selection process that is necessary to fulfill the purposes of this  
345 subsection; provided, however, the independent evaluator shall ensure that proprietary  
346 information remains confidential. The department of public utilities shall consider the findings of  
347 the independent evaluator and may adopt recommendations made by the independent evaluator

348 as a condition for approval. If the independent evaluator concludes in the findings that the  
349 solicitation and bid selection of a long-term contract was not fair and objective and that the  
350 process was substantially prejudiced as a result, the department of public utilities shall reject the  
351 bid proposal.

352 (f) A proposed long-term contract shall be subject to the review and approval of the  
353 department of public utilities. As part of its approval process, the department of public utilities  
354 shall consider the attorney general's recommendations, which shall be submitted to the  
355 department of public utilities within 45 days following the filing of the proposed contract with  
356 the department of public utilities. The department of public utilities shall consider the potential  
357 costs and benefits of the proposed contract and shall approve a proposed contract if it finds that  
358 the proposed contract is a cost-effective mechanism for procuring low cost clean energy on a  
359 long-term basis. The department of public utilities' consideration of potential costs and benefits  
360 shall include the factors outlined in this section and the commonwealth's goals under chapter 298  
361 of the acts of 2008 and chapter 21N of the General Laws.

362 (g) The distribution companies shall each enter into a contract with the winning bidders  
363 for their apportioned share of the market products being purchased from the project. The  
364 apportioned share shall be calculated and based upon the total energy demand from the  
365 distribution customers in each service territory of the distribution companies.

366 (h) A distribution company may elect to use energy purchased under a contract for resale  
367 to its customers, and may elect to retain renewable energy certificates to meet the applicable  
368 annual renewable portfolio standard requirements under section 11F of chapter 25A. If the  
369 energy and renewable energy certificates are not so used, the company shall sell the purchased

370 energy into the wholesale spot market and sell the purchased renewable energy certificates  
371 through a competitive bid process; provided, however, that a distribution company shall retain  
372 renewable energy certificates that are not attributed to Class I renewable portfolio standard  
373 eligible resources. The department of energy resources shall conduct periodic reviews to  
374 determine the impact on the energy and renewable energy certificate markets of the disposition  
375 of energy and renewable energy certificates under this section and may issue a report  
376 recommending legislative changes if it determines that the disposition of energy and renewable  
377 energy certificates is adversely affecting the energy and renewable energy certificate markets.

378 (i) If a distribution company sells the purchased energy into the wholesale spot market  
379 and sells the renewable energy certificates through a competitive bid process, the distribution  
380 company shall net the cost of payments made to projects under the long-term contracts against  
381 the proceeds obtained from the sale of energy and renewable energy certificates, and the  
382 difference shall be credited or charged to distribution customers through reconciling distribution  
383 rates, subject to review and approval of the department of public utilities.

384 (j) A long-term contract procured under this section shall require an appropriate unit-  
385 specific tracking system to ensure an accounting of the delivery of clean energy generation  
386 resources. The unit-specific tracking system shall utilize reasonable estimates of life-cycle  
387 greenhouse gas emissions by specific units of clean energy generation resources, as determined  
388 by the department of energy resources in consultation with the department of environmental  
389 protection, to ensure accurate measurement of progress in achieving the commonwealth's goals  
390 under chapter 298 of the acts of 2008 or chapter 21N of the General Laws.

391 (k) The department of energy resources and the department of public utilities may each  
392 require a bond or other security to ensure performance with requirements under this section.

393 (l) The department of energy resources may promulgate regulations that are necessary to  
394 implement this section.

395 (m) If this section is subject to a legal challenge, the department of public utilities may  
396 suspend the applicability of the challenged provision during the pendency of the action until a  
397 final resolution, including any appeals, is obtained and shall issue an order and take other action  
398 that is necessary to ensure that the provisions that are not the subject of the challenge are  
399 implemented expeditiously to achieve the public purposes of this section.

400 SECTION 13. In designing the energy rating and labeling system under section 11G½ of  
401 chapter 25A of the General Laws, the department of energy resources shall consider the energy  
402 rating and labeling systems used as part of the Mass Save Home MPG program, the RESNET  
403 home energy rating system and the United States Department of Energy's home energy score in  
404 addition to other energy rating and labeling systems that are used in other jurisdictions that the  
405 department determines appropriate.

406 The department shall finalize the energy rating and labeling system for residential  
407 dwellings not later than December 15, 2016 and shall begin implementing the system not later  
408 than June 30, 2017. The department shall also provide recommendations for the implementation  
409 of an energy rating and labeling system for residential rental property transactions not later than  
410 June 30, 2017.

411 SECTION 14. Notwithstanding section 2, the residential dwelling's energy rating and  
412 label, as established by the department of energy resources in section 11G½ of chapter 25A of  
413 the General Laws, shall not be required to be made available under section 97A of chapter 13 of  
414 the General Laws until January 1, 2018.

415 SECTION 15. (a) On or before December 31, 2016, the department of energy resources  
416 shall determine whether to set appropriate targets for electric companies to procure viable and  
417 cost-effective energy storage systems to be achieved by January 1, 2020. As part of this decision,  
418 the department may consider a variety of policies to encourage the cost-effective deployment of  
419 energy storage systems, including the refinement of existing procurement methods to properly  
420 value energy storage systems, the use of alternative compliance payments to develop pilot  
421 programs and the use of energy efficiency funds under section 11H of chapter 25A of the  
422 General Laws if the department determines that the energy storage system is installed at a  
423 customer's premises, provides sustainable peak load reductions on either the electric or gas  
424 distribution systems and is otherwise consistent with section 11G of said chapter 25A.

425 (b) The department shall adopt the procurement targets, if determined to be appropriate  
426 under subsection (a), by July 1, 2017. The department shall reevaluate the procurement targets  
427 not less than once every 3 years.

428 (c) Not later than January 1, 2020, each electric company entity shall submit a report to  
429 the department of energy resources demonstrating that it has complied with the energy storage  
430 system procurement targets and policies adopted by the department pursuant to this section.

431 SECTION 16. There shall be an energy efficiency task force to develop  
432 recommendations and proposed statutory changes for the creation of a successor energy  
433 efficiency program to be implemented starting in 2018 at the conclusion of the current 3-year,  
434 statewide energy efficiency plan approved pursuant to section 21 of chapter 25 of the General  
435 Laws. In making its recommendations, the task force shall consider: the successes, challenges  
436 and shortcomings of the current program design; the role of the program administrators; the  
437 designation or creation of a single entity, other than a gas or electric company, to run the  
438 program; ways to increase market competition; alternative funding mechanisms for energy  
439 efficiency; the identification of targets for energy efficiency customer participation and system  
440 load reduction; and alternative program design and best practices implemented in other states  
441 and countries. The task force shall consider, but not be constrained by, the current cost-effective  
442 test for program measures.

443 The task force shall consist of the following members or their designees: the  
444 commissioner of the department of energy resources, who shall serve as chair; the attorney  
445 general; 2 members of the senate, 1 of whom shall be appointed by the minority leader; 2  
446 members of the house of representatives, 1 of whom shall be appointed by the minority leader; a  
447 representative from the low-income weatherization and fuel assistance program network; a  
448 representative from the Northeast Energy Efficiency Partnerships, Inc.; and 5 members who shall  
449 be appointed by the governor, 1 of whom shall be a representative of the business community,  
450 including large commercial and industrial end-users, 1 of whom shall be a representative of an  
451 energy efficiency business, 1 of whom shall be a representative of an electric and natural gas  
452 distribution company, 1 of whom shall be a representative of a municipal aggregator and 1 of  
453 whom shall be a representative of an energy services company.

454           The task force shall convene its first meeting by October 1, 2016. The task force may  
455 retain the assistance of experts to conduct research or facilitate the task force process. The task  
456 force shall report on its recommendations, which shall include drafts of legislation, to the house  
457 and senate chairs of the joint committee on telecommunications, utilities and energy by June 1,  
458 2017.

459           SECTION 17. The department of energy resources, in consultation with the department  
460 of public utilities, shall conduct a study on the need to modernize the electric grid with the goal  
461 of reducing demand, reducing energy costs to ratepayers, integrating distributed energy  
462 resources, reducing carbon emissions and enhancing reliability and resiliency. As part of the  
463 study, the department shall consider alternative regulatory, incentive and ratemaking structures  
464 and market design, including the creation of an open market for third-party services, to achieve  
465 these goals. The department shall also consider ways to enhance consumer knowledge regarding  
466 energy use and provide energy customers with tools to support effective management of their  
467 energy bills.

468           As part of the study, the department shall engage in an extensive, open and transparent  
469 stakeholder process. Stakeholders shall consist of, but not be limited to: the attorney general in  
470 the role of the ratepayer advocate or a designee; 2 members of the senate, 1 of whom shall be  
471 appointed by the minority leader; 2 members of the house of representatives, 1 of whom shall be  
472 appointed by the minority leader; an appointee from the Massachusetts Municipal Association,  
473 Inc.; an appointee from the Associated Industries of Massachusetts, Inc.; an appointee from the  
474 National Consumer Law Center, Inc.; and an appointee from the Northeast Clean Energy  
475 Council, Inc.; and an appointee representing environmental interests. The department shall

476 conduct at least 2 public hearings in geographically diverse locations and shall submit a report,  
477 along with proposed statutory and regulatory changes, to the clerks of the senate and house of  
478 representatives and the house and senate chairs of the joint committee on telecommunications,  
479 utilities and energy not later than October 1, 2017.

480 SECTION 18. There shall be a renewable energy infrastructure financing task force  
481 which shall examine industry gaps in financing clean and renewable energy infrastructure in the  
482 commonwealth.

483 The task force shall consist of the following members: the secretary of energy and  
484 environmental affairs or a designee, who shall serve as chair; the senate chair of the joint  
485 committee on telecommunications, utilities and energy or a designee; the house chair of the joint  
486 committee on telecommunications, utilities and energy or a designee; the commissioner of the  
487 department of energy resources or a designee; the chair of the department of public utilities or a  
488 designee; the president of the Massachusetts clean energy technology center or a designee; the  
489 president of Massachusetts Development Finance Agency or a designee; and 5 persons appointed  
490 by the governor who shall each have expertise in at least 1 of the following subjects: renewable  
491 energy financing, management of clean energy companies or the making or advancing of clean  
492 energy policy.

493 The task force shall convene its first meeting not later than September 1, 2016. It shall  
494 research and identify gaps in renewable energy infrastructure financing and shall develop a plan  
495 to reduce those gaps, which may include recommendations to stimulate private capital  
496 investment, develop bridge financing mechanisms, encourage community renewable energy  
497 infrastructure, establish a loan program or finance entity, advance public and private partnerships



498 and other partnerships for financing renewable energy infrastructure that will help meet the  
499 targets established in chapter 298 of the acts of 2008 and chapter 21N of the General Laws. The  
500 plan shall include cost estimates and recommend potential funding sources.

501           The task force shall file the plan along with recommended regulatory changes and draft  
502 legislation with the governor, the secretary of energy and environmental affairs, the clerks of the  
503 senate and house of representatives, the chairs of the joint committee on telecommunications,  
504 utilities and energy and the chairs of the senate and house committees on ways and means not  
505 later than January 1, 2017.

506           SECTION 19. Sections 1 to 3, inclusive, shall take effect on July 1, 2017