

SENATE No. 2202

The Commonwealth of Massachusetts

PRESENTED BY:

Jason M. Lewis

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to building energy and decarbonization.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>2/23/2021</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>3/8/2021</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>3/8/2021</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>3/23/2021</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>	<i>5/13/2021</i>

SENATE No. 2202

By Mr. Lewis, a petition (accompanied by bill, Senate, No. 2202) of Jason M. Lewis, Tami L. Gouveia, James B. Eldridge, Thomas M. Stanley and others for legislation relative to building energy and decarbonization. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to building energy and decarbonization.

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

1 SECTION 1. Section 13 of Chapter 23J of the General Laws is hereby amended by
2 adding the following section:-

3 (c) The Center shall appoint and convene an advisory body to guide the program’s effort
4 that shall meet not less than four times each year. The advisory body shall review and provide
5 feedback on the implementation of the clean energy equity workforce and market development
6 program and shall develop targets for increasing participation of populations named in
7 subsection (a).

8 The advisory body shall be comprised of: (i) the chief executive officer of the of
9 Massachusetts Clean Energy Center or their designee who shall act as chair; (ii) at least one
10 resident of environmental justice communities from each county in the Commonwealth; (iii) at
11 least one certified minority-owned small business enterprise that performs clean energy services;
12 (iv) at least one certified woman owned small business enterprise that performs clean energy

13 services; (v) one representative from a racial justice organization; (vi) one representative of a
14 community college located in an environmental justice community; (vii) one representative of
15 the MassHire State Workforce Board; (viii) one representative of a building trade association;
16 (ix) one representative of the low-income energy affordability network; (x) one representative
17 from a not for profit that advocates for wind energy; (xi) one representative from a not for profit
18 that advocates for solar energy; (xii) one representative from a not for profit that advocates for
19 energy efficiency; (xiii) one representative from a not for profit that advocates for affordable
20 housing; (xiv) one representative of commonwealth cities and towns; and (xv) one representative
21 of a regional planning agency.

22 The secretary of housing and community development or their designee, the
23 commissioner of the department of energy resources or their designee, the commissioner of the
24 department of environmental protection or their designee, and the director of environmental
25 justice at the executive office of energy and environmental affairs or their designee, a
26 representative of an investor owned utility, and a representative of a municipal lighting plant or
27 municipal light plant industry association shall also be non-voting members of the advisory
28 body.

29 (d) Not later than December 1 of each year, the center shall report on the activities of the
30 fund to the clerks of the house of representatives and the senate and to the house and senate
31 committees on ways and means. The report shall include analysis on implementation of and
32 results from the program including progress towards emissions limits and sublimits established
33 in Chapter 21N, establishing and tracking progress towards achieving annually increasing targets
34 of populations identified in subsection (a) of this section in the clean energy sector, a description
35 of the work of the advisory body established in sub section (c) of this section, an accounting of

36 expenditures made from the fund with a description of the purpose of each expenditure, an
37 accounting of amounts credited to the fund and any unexpended balance remaining in the fund.

38 SECTION 2. Section 1 of chapter 23M is amended by striking out the words “or (2) the
39 construction of an extension of an existing natural gas distribution company line to qualifying
40 commercial or industrial property to enable the qualifying commercial or industrial property to
41 obtain natural gas distribution service to displace utilization of fuel oil, electricity or other
42 conventional energy sources” and inserting in place thereof the following words:-

43 or (2) participation in a district heating and cooling system by qualifying commercial or
44 industrial real property, provided such district energy system incorporates renewable energy, or
45 (3) participation in a microgrid, including any related infrastructure for such microgrid, by
46 qualifying commercial or industrial real property, provided such microgrid incorporates
47 renewable energy, or (4) participation in an energy storage system by qualifying commercial or
48 industrial property when paired with renewable energy generation

49 SECTION 3. Said Section 1 of chapter 23M is further amended by inserting the
50 following definitions:-

51 “District heating and cooling system”, a local system consisting of a central generation
52 source and network of pipes that use hot water, chilled water, or steam to provide space heating,
53 cooling and/or hot water to multiple buildings.

54 “Energy storage system”, a commercially available technology that is capable of
55 absorbing energy, storing it for a period of time and thereafter dispatching the energy; provided,
56 however, that an energy storage system shall (1) use mechanical, chemical or thermal processes
57 to store energy that was generated for use at a later time; (2) store thermal energy for direct

58 heating or cooling use at a later time in a manner that avoids the need to use electricity at that
59 later time; (3) use mechanical, chemical or thermal processes to store energy generated from
60 renewable resources for use at a later time; or (4) use mechanical, chemical or thermal processes
61 to capture or harness waste electricity and to store the waste electricity generated from
62 mechanical processes for delivery at a later time.

63 “Microgrid”, a group of interconnected loads and distributed energy sources within
64 clearly defined electrical boundaries that acts as a single controllable entity with respect to the
65 grid and that connects and disconnects from such grid to enable it to operate in both grid
66 connected and island mode.

67 SECTION 4. Subsection (b) of section 21 of chapter 25 is hereby amended by adding to
68 the end of clause (1) the following:--

69 Each plan shall demonstrate alignment with Chapter 21N greenhouse gas emissions
70 limits and sublimits during the three-year plan term.

71 SECTION 5. Said subsection (b) of said section 21 of said chapter 25 is hereby further
72 amended by striking clauses 2 and 3 and inserting in place thereof:-

73 (2) A plan shall include: (i) an assessment of the estimated lifetime cost, reliability,
74 avoided greenhouse gas emissions, and magnitude of all available energy efficiency and demand
75 reduction resources that are cost effective or less expensive than supply; (ii) the amount of
76 demand resources, including efficiency, conservation, demand response and load management,
77 that are proposed to be acquired under the plan and the basis for this determination; (iii) the
78 estimated energy cost and greenhouse gas emissions savings that the acquisition of such
79 resources will provide to electricity and natural gas consumers, including, but not limited to,

80 reductions in capacity and energy costs and increases in rate stability and affordability for low-
81 income customers; (iv) a description of programs, which may include, but which shall not be
82 limited to: (A) efficiency and load management programs, including energy storage and other
83 active demand management technologies, and strategic electrification, such as measures that are
84 designed to result in cost-effective reductions in greenhouse gas emissions through the use of
85 expanded electricity consumption while minimizing ratepayer costs; (B) demand response
86 programs; (C) programs for research, development and commercialization of products or
87 processes which are more energy-efficient than those generally available; (D) programs for
88 development of markets for such products and processes, including recommendations for new
89 appliance and product efficiency standards; (E) programs providing support for energy use
90 assessment, real time monitoring systems, engineering studies and services related to new
91 construction or major building renovation, including integration of such assessments, systems,
92 studies and services with building energy codes programs and processes, or those regarding the
93 development of high performance or sustainable buildings that exceed code; (F) programs for the
94 design, manufacture, commercialization and purchase of energy-efficient appliances and heating,
95 air conditioning and lighting devices; (G) programs for planning and evaluation; (H) programs
96 providing commercial, industrial and institutional customers with greater flexibility and control
97 over demand side investments funded by the programs at their facilities; (I) programs for public
98 education regarding energy efficiency and demand management; and (J) programs that result in
99 customers switching to renewable energy sources or other clean energy technologies; provided,
100 however, that not more than 1 per cent of the fund shall be expended for items (C) and (D)
101 collectively, without authorization from the advisory council; (v) a proposed mechanism which
102 provides performance incentives to the companies based on their success in meeting or

103 exceeding the goals in the plan; (vi) the budget that is needed to support the programs; (vii) a
104 fully reconciling funding mechanism which may include, but which shall not be limited to, the
105 charge authorized by section 19; (viii) the estimated amount of reduction in peak load that will
106 be reduced from each option and any estimated economic benefits for such projects, including
107 job retention, job growth or economic development (ix) decreased annual spending on
108 incentives, programs, and support for all systems, equipment, workforce development, and
109 training as relates to fossil fuels within the 2022 to 2024 energy efficiency plan, and all plans
110 thereafter shall include no such spending; and (x) data showing the percentage of all monies
111 collected that will be used for direct consumer benefit, such as incentives and technical
112 assistance to carry the plan. With the approval of the council, the plan may also include a
113 mechanism to prioritize projects that have substantial benefits in reducing peak load, reducing
114 the energy consumption or costs of municipalities or other governmental bodies, maximizing net
115 climate, environmental and equity impacts or that have economic development, job creation or
116 job retention benefits.

117 (3) A program included in the plan shall be screened through cost-effectiveness testing
118 which compares the value of program benefits to the program costs to ensure that the program is
119 designed to obtain energy savings and other benefits, including but not limited to climate,
120 environmental, and equity benefits, with value greater than the costs of the program. Program
121 cost effectiveness shall be reviewed periodically by the department and by the energy efficiency
122 advisory council. For the purposes of reviewing cost effectiveness, programs shall be aggregated
123 by sector. Any sector with a benefit cost ratio greater than 1.0 indicating benefits are greater than
124 costs shall be considered cost-effective. If a sector fails the cost-effectiveness test as part of the
125 review process, its component programs shall either be modified so that the sector meets the test

126 or shall be terminated, unless a significant climate and/or equity benefit can be demonstrated to
127 the council. The cost-effectiveness test shall not be applied determinatively as part of the review
128 process at a subsector level.

129 SECTION 6. Subsection (c) of said section 21 of chapter 25 is hereby amended by
130 inserting before the last sentence the following:-

131 The council shall not approve plans that it determines do not demonstrate alignment with
132 Chapter 21N greenhouse gas emissions limits and sublimits during the three-year plan term.

133 SECTION 7. Paragraph (2) of subsection (d) of said section 21 of said chapter 25 is
134 hereby amended by striking the first sentence and inserting in place thereof the following:-

135 Not later than 90 days after submission of a plan, the department shall issue a decision on
136 the plan which ensures that the electric and natural gas distribution companies have identified
137 and shall capture all energy efficiency and demand reduction resources that are cost effective or
138 less expensive than supply and demonstrate alignment with Chapter 21N greenhouse gas
139 emissions limits and sublimits during the three-year plan term and shall approve, modify and
140 approve, or reject and require the resubmission of the plan accordingly.

141 SECTION 8. Section 22 of said chapter 25 of the General laws are hereby amended by
142 striking out subsection (b) and inserting in place thereof the following:-

143 (b) The council shall, as part of the approval process by the department, seek to maximize
144 net climate, environmental, equity, and economic benefits through energy efficiency, load
145 management, and non-combustion renewable energy resources and to achieve energy, capacity,
146 climate and environmental goals through a sustained and integrated statewide energy efficiency

147 effort. The council shall review and approve demand resource program plans and budgets, work
148 with program administrators in preparing energy resource assessments, determine the economic,
149 system reliability, climate and air quality benefits of efficiency, non-combustion renewable
150 energy, and load management resources, conduct and recommend relevant research, and
151 recommend long term efficiency, renewable energy, and load management goals to achieve
152 climate, environmental, and equity goals in a cost-effective manner. Approval of efficiency and
153 demand resource plans and budgets shall require a two-thirds majority vote. Approval shall not
154 be granted unless the council determines that program administrators have demonstrated the
155 plan's alignment with Chapter 21N greenhouse gas emissions limits and sublimits. The council
156 shall, as part of its review of plans, examine opportunities to offer joint programs providing
157 similar efficiency measures that save more than 1 fuel resource or to coordinate programs
158 targeted at saving more than one fuel resource. Any costs for joint programs shall be allocated
159 equitably among the efficiency programs. The council shall establish annually increasing targets
160 for serving populations traditionally underserved by the program including but not limited to
161 moderate-income ratepayers, renter ratepayers, ratepayers whose primary language is not
162 English, small business rate payers and rate payers in Environmental Justice communities.

163 SECTION 9. Said section 22 of said chapter 25 is amended by striking subsection (d) and
164 inserting in place thereof the following:-

165 (d) The electric and natural gas distribution companies and municipal aggregators shall
166 provide quarterly reports to the council on the implementation of their respective plans. The
167 reports shall include a description of the program administrator's progress in implementing the
168 plan, a summary of the savings secured to date, progress in serving populations traditionally
169 underserved by the program including but not limited to moderate-income ratepayers, renters,

170 ratepayers whose primary language is not English, small business rate payers and rate payers in
171 Environmental Justice communities, progress towards achieving greenhouse gas emissions limits
172 and sublimits established in Chapter 21N, and such other information as the council shall
173 determine. The council shall provide an annual report to the department and the joint committee
174 on telecommunications, utilities and energy on the implementation of the plan which includes
175 descriptions of the programs, expenditures, cost-effectiveness and savings and other benefits
176 during the previous year.

177 SECTION 10. Section 2 of chapter 25a is amended by striking out the first sentence in
178 the second paragraph and inserting in place thereof:-

179 There shall be within the department 4 divisions: (i) a division of energy efficiency,
180 which shall work with the department of public utilities regarding energy efficiency programs;
181 (ii) a division of renewable and alternative energy development, which shall oversee and
182 coordinate activities that seek to maximize the installation of renewable and alternative energy
183 generating sources that will provide benefits to ratepayers, advance the production and use of
184 biofuels and other alternative fuels as the division may define by regulation, and administer the
185 renewable portfolio standard and the alternative portfolio standard; (iii) a division of building
186 energy and emissions reductions which shall oversee and coordinate activities that seek to
187 maximize building sector decarbonization; and (iv) a division of green communities, which shall
188 serve as the principal point of contact for municipalities and other governmental bodies
189 concerning all matters under the jurisdiction of the department of energy resources.

190 SECTION 11. Section 6 of said chapter 25A is hereby amended by inserting after "net-
191 zero building" in clause (14) the following:-

192 “provided, that the definition shall apply to both residential and commercial new
193 construction and major renovation, shall be designed to ensure that the building is highly energy
194 efficient with all remaining electrical and thermal energy needed for the building supplied by
195 renewable sources generated onsite or through approved offsite locations or a combination of
196 onsite and offsite, and shall disallow combustion for primary heating and fossil fuel for all
197 applications, with the exception for a limited amount of time, to be reviewed every 2 years, for
198 consideration for affordable, low-income, and institutional applications, including but not limited
199 to back-up generators, as deemed appropriate by the department; provided also that it shall
200 include EV-ready wiring for all building types, and solar roof requirements for the majority of
201 buildings.”

202 (15) Regulations adopted by this section shall be reviewed and updated in increments of
203 not less than three years and in alignment with the same cycle as the International Energy
204 Conservation Code; provided further that the department in consultation with the board of
205 building regulations and standards shall hold hearings to review such updates including not less
206 than 3 held in environmental justice communities across the Commonwealth for each review or
207 update cycle with appropriate and reasonable advance notice to said communities.

208 SECTION 12. Section 10 of said chapter 25A is hereby amended by striking subsection
209 (b) in its entirety and inserting in place thereof the following new subsection:-

210 (b) The division shall establish a green communities program. The purpose of the
211 program shall be to provide technical and financial assistance, in the form of grants and loans, to
212 municipalities and other local governmental bodies that qualify as green communities and or
213 green plus communities under this section. These loans and grants shall be used to finance all or

214 a portion of the costs of studying, designing, constructing and implementing energy efficiency
215 and climate change mitigation activities, including but not limited to, energy conservation and
216 renewable energy measures and projects; procurement of energy management services;
217 installation of energy management systems; adoption of demand side reduction initiatives;
218 deployment of energy storage, microgrids, or district energy systems connected to renewable
219 energy generation; purchase of zero-emissions vehicles; installation of electric vehicle charging
220 equipment or infrastructure, or related technologies; coordination of residential or small business
221 clean energy outreach, technical assistance, or financing programs; and the adoption of energy
222 efficiency policies. They shall also be used to finance the siting and construction of renewable
223 and alternative energy projects on municipally-owned land.

224 SECTION 13. Said section 10 of said chapter 25A is hereby further amended by inserting
225 after subsection (c) the following new subsection:-

226 (c ½) To qualify as a green plus community, a municipality or other governmental body
227 shall: (1) file an application with the division in a form and manner to be prescribed by the
228 division; (2) establish a greenhouse gas emissions baseline inventory for residential, commercial
229 and industrial buildings sited within the municipality, which may also include transportation,
230 waste, and other sources of emissions within the municipality; (3) put in place a comprehensive
231 plan whose implementation begins within 1 year from the date of initial participation in the
232 program, designed to reduce the greenhouse gas emissions baseline inventory by a percentage
233 approved by the division that is not less than 20 per cent within 5 years of initial participation in
234 the program; (4) adopt the municipal opt-in specialized stretch energy code established in
235 subsection 14 of Section 6 of chapter 25A; and (5) fulfill qualifications subsection 2 through 6
236 inclusive of the green community program as described in section (c).

237 Preference shall be given to those municipalities that include additional sources of
238 emissions within their greenhouse gas emissions baseline inventory. Not later than one year after
239 the adoption of this section, the division shall adopt a tracking system for community-wide
240 greenhouse gas emissions, to include but not be limited to the building, transportation, energy,
241 land use, and waste sectors, that can be used by municipalities. The secretary may waive these
242 requirements based on a written finding that due to unusual circumstances, a municipality cannot
243 reasonably meet all of the requirements and the municipality has committed to alternative
244 measures that advance the purposes of the green plus communities program as effectively as
245 adherence to the requirements

246 SECTION 14. Said section 10 of said chapter 25A is hereby further amended in
247 subsection (d) by striking the figure “20,000,000” and inserting in place thereof “40,000,000
248 with not less than \$10,000,000 going to green plus communities”.

249 SECTION 15. Said section 10 of said chapter 25A is hereby further amended in by
250 inserting after subsection (e) the following:--

251 (e ½) The division shall, not later than 1 year after the passage of this act, adopt
252 regulations enabling those communities served by municipal lighting plants to participate in the
253 green communities program established under section 10 of chapter 25A through alternate means
254 which shall include consideration of, but not be limited to, a funding match from a municipal
255 light plant on behalf of the served community in their region and the allowance of single
256 communities within a municipal light plant served region to participate in the program without
257 all communities needing to participate. Municipalities participating under the regulations

258 established by this section shall be required to comply with the qualifications established in
259 subsection (c) of this section.

260 SECTION 16. Said chapter 25A is hereby amended by adding after Section 17 the
261 following sections:-

262 Section 18. (a) For the purposes of this section the following words shall have the
263 following meanings:--

264 “building emissions” greenhouse gas emissions as expressed in metric tons of carbon
265 dioxide equivalent emitted as a result of operating a covered building and calculated in
266 accordance with rules promulgated by the department.

267 “building emissions intensity” For a covered building, the number obtained by dividing
268 the building emissions by the gross floor area for such building, expressed in metric tons of
269 carbon dioxide equivalent per square foot per year.

270 (b) The purpose of the building energy and emissions reduction division shall be to
271 establish and administer programs and regulations for assessing annual energy use in and
272 emissions from buildings to further the goal of achieving emissions limits and sublimits
273 established in Chapter 21N. The division shall collaborate with other department divisions, the
274 department of housing and economic development, MassDevelopment, Massachusetts Clean
275 Energy Center, the net zero energy building advisory council established in section 21 of this
276 chapter and other relevant stakeholders on the development of programs and regulations, as
277 appropriate. The division shall take all reasonable steps to inform the owners of buildings of their
278 obligations under this section in advance including but not limited to materials developed for
279 outreach and education made available on the division’s website. Said materials shall be

280 available in English and in other languages commonly spoken in the Commonwealth. Such
281 outreach shall include a list of city, state, federal, private and utility incentive programs related to
282 building energy reduction, renewable energy, or building retrofits for which buildings reasonably
283 could be eligible.

284 (c) The division shall promulgate regulations establishing annual carbon intensity limits
285 on building emissions or a building energy performance standard or a combination thereof for
286 covered buildings in alignment with emissions limits and sublimits established in Chapter 21N.
287 Covered buildings shall be established by the division and reflect a phased-in schedule that shall
288 begin no later than January 1, 2023, beginning with large buildings no smaller than 25,000
289 square feet to be defined by the division and shall include all building types by 2026 and all
290 buildings by 2030. The division may include exemptions for small accessory buildings or
291 structures with no or minimal space conditioning, to be defined in regulations. Phases may be
292 defined by, but are not limited to being defined by, size and type, such as commercial and
293 industrial properties, residential buildings, and other specialized typologies. The building
294 performance limits shall be set for periods of not more than five years and emissions limits shall
295 decrease over time at a pace to at least align with emissions limits and sublimits established in
296 Chapter 21N.

297 (d) The division shall promulgate regulations for alternative methods of compliance with
298 building emissions intensity limits, energy use performance standards or a combination thereof
299 as established by the division including but not limited to adjustments for the use of on-site
300 renewable energy generation, adjustments for special categories of buildings or for special use,
301 accommodations or support for buildings housing low- or moderate-income occupants, and
302 alternative compliance payments. Alternative compliance payments shall be established such that

303 low- and moderate-income households and small businesses are charged reduced amounts
304 proportionate with their ability to pay. The division shall also establish fines for noncompliance
305 which shall be higher than alternative compliance payments. Both alternative compliance
306 payments and fines shall be deposited into the building energy retrofit program trust fund
307 established in section 20 of this chapter.

308 (e) The division shall create and manage an online portal for the submission of required
309 data by building owners, including the building's baseline emissions and energy use for year one
310 of the program and annual reports on that data thereafter.

311 (f) The division shall establish an annual deadline for receiving reports from building
312 owners and a deadline extension or hardship waiver process for owners who, in the judgment of
313 the division, demonstrate cause for a deadline extension or hardship waiver.

314 (g) Except as otherwise provided in this statute or otherwise provided by regulation, after
315 a building is deemed a covered building, it shall not exceed the annual building performance
316 limits for such building as determined by the division.

317 (h) The division shall make building information and data available to the public on its
318 website. For each building, the information made available shall include, but is not limited to,
319 building identification information and building emissions and energy data.

320 The department shall utilize such practices as are necessary to prevent the public
321 disclosure of personal information regarding owners and tenants, and maintain a quality
322 assurance process to improve the accuracy and completeness of the available information. The
323 department shall provide owners with the opportunity to submit contextual information related to
324 data and shall disclose such information on its website upon request by the owner. The website

325 shall be made available in English and multiple other languages commonly spoken in the
326 commonwealth.

327 (i) The division shall prepare an annual report that shall be posted on the department's
328 website and filed with the house and senate committees on ways and means and the joint
329 committee on telecommunication, utilities and energy not later than December 31. The report
330 shall include, but is not limited to, analysis on implementation of, compliance with, and results
331 from the program including progress towards emissions limits and sublimits established in
332 Chapter 21N. The division shall make available to a regional planning agency, municipality or
333 other public agency requesting such information any data set forth in this section, utilizing such
334 practices as are necessary to prevent the public disclosure of personal information regarding
335 owners and tenants.

336 (j) The division shall promulgate regulations governing the building performance
337 program after holding not less than 3 hearings held in environmental justice communities as
338 defined as defined in section 62 of chapter 30.

339 Section 19. (a) There shall be a grant and loan program within the division known as the
340 Building Energy and Emissions Retrofit Funding Program, hereafter referred to as the program,
341 for the purpose of encouraging and supporting building owners to invest in deep energy retrofits
342 and whole-building energy performance upgrades to their properties that reduce greenhouse gas
343 emissions, create healthier homes and buildings, and are in alignment with achieving the GWSA
344 limits and sublimits established under Chapter 21N. Eligible projects for funding shall include
345 pre-weatherization barrier mitigation, pre-electrification barrier mitigation, and renewable energy
346 systems, if part of a more comprehensive deep energy retrofit or whole-building energy

347 performance upgrade. Conversions from one fossil fuel system to another or additions of fossil
348 fuel systems or infrastructure shall not be funded by these programs.

349 The division shall develop the program in consultation with the net zero energy building
350 advisory council established in section 21 of this chapter, the Department of Housing and
351 Community Development, the Department of Public Utilities, the Department of Environmental
352 Protection, the Energy Efficiency Advisory Council, the Department of Public Health, and the
353 Massachusetts Clean Energy Center. Nothing in this section guarantees an individual or
354 corporation a right to the benefits provided in this section.

355 (b) The division shall design and implement the program, which shall include a
356 certification process to certify qualified expenses for a grant or loan under this section.
357 Applications for the program shall be reviewed and grants or loans shall be awarded on no less
358 than an annual basis.

359 (c) The division shall, (i) promote awareness of the program, including through
360 coordination with relevant trade groups, community based organizations, nonprofits,
361 municipalities, regional planning agencies, and by integration in economic development
362 marketing campaigns; and (ii) adopt measurable goals, performance measures, and an audit
363 strategy to assess the utilization and performance of the program.

364 (d) The division shall prioritize investments in (i) property that is located in an
365 environmental justice community as defined in section 62 of chapter 30; (ii) property that is low
366 or moderate income or rental housing; (iii) property owned by municipalities; and (iv) projects
367 that improve public health outcomes.

368 (e) The incentives shall be funded, at least in part, by the building energy retrofit program
369 trust fund established in section 20 of chapter 25A. To the extent possible, the program shall seek
370 to leverage existing state and federal programs including, but not limited to, Massachusetts
371 School Building Authority.

372 (f) The division shall promulgate rules, regulations and guidelines for the administration
373 and oversight of this chapter which shall include definitions of deep energy retrofit, pre-
374 weatherization barriers, and pre-electrification barriers and may allow for municipalities to
375 establish or continue their own municipal program so long as it meets or exceeds the
376 greenhouse gas emissions reductions of the Building Energy Retrofit Funding Program. The
377 department shall commence awarding funds no later than January 1, 2022.

378 Section 20. (a) The commissioner shall create and administer the building energy retrofit
379 program trust fund into which shall be deposited: (i) any revenues or other financing sources
380 directed to the fund by appropriation; (ii) bond revenues authorized by the general court and
381 designated to be credited to the fund; (iii) any income derived from the investment credited to the
382 fund; (iv) funds from public or private sources including, but not limited to, gifts, federal or
383 private grants, donations, rebates and settlements received by the commonwealth that are
384 designated to be credited to the fund; and (v) all other amounts credited or transferred into the
385 fund from any other source.

386 (b) There shall be established upon the books of the commonwealth a separate fund to be
387 known as the Building Energy Retrofit Trust Fund. There shall be credited to said fund all
388 amounts received through (i) any revenues or other financing sources directed to the fund by
389 appropriation; (ii) bond revenues authorized by the general court and designated to be credited to

390 the fund; (iii) any income derived from the investment credited to the fund; (iv) funds from
391 public or private sources including, but not limited to, gifts, federal or private grants, donations,
392 rebates and settlements received by the commonwealth that are designated to be credited to the
393 fund; and (v) all other amounts credited or transferred into the fund from any other source. All
394 amounts credited to the fund shall be held in trust and shall be available for expenditure, without
395 further appropriation, by the department for activities of the department related to section 18 and
396 section 19 of this chapter. Any unexpended balance in the fund at the close of a fiscal year shall
397 remain in the fund and shall be available for expenditure in the following fiscal year; provided
398 however, that the fund shall not be in deficit at the end of any state fiscal year.

399 (c) The operating and administrative expenses shall not exceed 5 per cent of the annual
400 total revenue expended from the fund

401 (d) Annually, not later than December 1 of each year, the commissioner shall report on
402 the activities of the fund to the clerks of the house of representatives, the senate and to the house
403 and senate committees on ways and means, and the net zero energy building advisory council
404 established in section 21 of this chapter. The report shall include an accounting of expenditures
405 made from the fund with a description of the purpose of each expenditure, an accounting of
406 amounts credited to the fund and any unexpended balance remaining in the fund.

407 Section 21. (a) The commissioner shall establish a building decarbonization advisory
408 council which shall review and provide feedback on the implementation of programs under the
409 building energy and emissions performance division with a focus on supporting development of
410 net zero buildings in the Commonwealth in alignment with the targets established in chapter
411 21N. The council shall be chaired by the Commissioner or a designee and members shall

412 include, but are not limited to,: (i) The attorney general, or a designee; (ii) at least three residents
413 of environmental justice communities as defined in section 62 of chapter 30; (iii) at least three
414 certified minority-owned or women-owned small business enterprises that perform clean energy
415 services; (iv) one representative of the public institutions of higher education included in section
416 5 of chapter 15A; (v) one representative of the MassHire State Workforce Board; (vi) one
417 representative of the energy efficiency advisory council established in section 22 of chapter 25
418 who does not represent a state agency or utility that is otherwise seated on the council; (vii) one
419 representative of a building trade association; (viii) one representative of the labor community;
420 (ix) one residential architect; (x) one commercial architect; (xi) one building engineer; (xii) one
421 non-profit that specializes in clean energy efficiency research; (xiii) one representative of the
422 low-income energy affordability network; (xiv) one representative of commonwealth cities and
423 towns; (xv) one representative of a regional planning agency; and (xvi) one expert in land use.

424 Non-voting members shall include the secretary of housing and community development
425 or their designee; the Commissioner of the department of public health or their designee the
426 Commissioner of the department of environmental protection or their designee; the CEO of
427 Massachusetts Clean Energy Center or their designee; a representative of an investor owned
428 utility, and a representative of a municipal lighting plant or municipal light plant industry
429 association.

430 Interested parties shall apply to the commissioner for designation as members. There
431 shall be members from each county of the commonwealth represented on the council. In their
432 initial appointments the Commissioner shall designate one third of members to serve for one
433 year, one third to serve for a term of two years and the remaining third to serve for a term of
434 three years and their successors shall serve for terms of three years.

435 The advisory board may convene working groups. Such working groups may include
436 individuals external to the advisory board. The Commissioner shall invite the appropriate federal,
437 state and local agencies and authorities to participate.

438 (b) The advisory council shall meet at least 4 times a year and shall hold at least 2 public
439 hearings each year. The council shall review and monitor the recommendations for expenditure
440 of grants and programs in the secretariat. In the event the council or members of the council
441 disapproves of any such recommendation it may file a report noting its objection with the
442 governor, the house and senate committees on ways and means and the joint committee on
443 environment, natural resources and agriculture.

444 (c) Not later than December 1 of each year, the Department shall report on the activities
445 of the council to the clerks of the house of representatives and the senate, to the house and senate
446 committees on ways and means and to the chairs of the Joint Committee on
447 Telecommunications, Utilities and Energy.

448 SECTION 17. Subsection (o) of Section 94 of chapter 143 is hereby amended by adding
449 at the end:-

450 “If the energy provisions of the state building code are not updated within said one year
451 of any revision to the International Energy Conservation Code (IECC), the Board shall report on
452 the status of approval of the latest International Energy Conservation Code and steps being taken
453 to move towards expedient adoption. Reports shall be filed with the chairs of the Joint
454 Committee on Telecommunication, Utility and Energy, the Joint Committee on Consumer
455 Protection and Professional Licensure the clerk of the house of representatives, and the clerk of
456 the senate no later than 30 days beyond the one-year deadline described in this section, and again

457 every 6 months, until the past due IECC provisions and any more stringent amendments are
458 adopted.”

459 SECTION 18. Section 95 of said chapter 143 is hereby amended by striking all text and
460 inserting in place the following:--

461 “Section 95. The powers and duties of the board set forth in section ninety-four shall be
462 exercised to affect the following general objectives:

463 (a) Uniform standards and requirements for construction and construction materials,
464 compatible with accepted standards of engineering and fire prevention practices, energy
465 conservation, climate change mitigation and resilience, and public health and safety.

466 In the formulation of such standards and requirements, performance for the use intended
467 shall be the test of acceptability, in accordance with accredited testing standards. There shall be
468 consideration for addressing equity and meeting statewide greenhouse gas emission limits and
469 sublimits established pursuant to chapter 21N.

470 (b) Adoption of modern technical methods, devices and improvements which may reduce
471 the cost of construction, and maintenance over the life of the building, and mitigate the impacts
472 of and damage from climate change without affecting the health, safety and security of the
473 occupants or users of buildings.

474 (c) Elimination of restrictive, obsolete, conflicting and unnecessary building regulations
475 and requirements which may increase the cost of construction, maintenance and impacts of and
476 damage from climate change over the life of the building or retard unnecessarily the use of new
477 materials, or which may provide unwarranted preferential treatment of types of classes of

478 materials, products or methods of construction without affecting the health, safety, and security
479 of the occupants or users of buildings.

480 SECTION 19. The Department of Energy Resources, in consultation with Massachusetts
481 Clean Energy Center, the Board of Building Regulations and Standards and the Secretary of
482 Housing and Economic Development, shall issue a written report to the Clerk of the House of
483 Representatives, the Clerk of the Senate and the Joint Committee on Telecommunication and
484 Energy within one year of adoption of this act which shall include, but is not limited to, analysis
485 on the feasibility and timing for adopting the following: (i) mass timber buildings taller than five
486 stories; (ii) reduction of embodied carbon; (iii) carbon storage in building materials; (iv) modular
487 building systems; and (v) healthy non-toxic building materials.

488 The report shall include recommendations for any legislation that may be required to
489 adopt these or other innovations in the Commonwealth.

490 SECTION 20. Notwithstanding any special or general law, rule or regulation to the
491 contrary, not later than January 1, 2025, the opt-in specialized stretch energy code as developed
492 and promulgated under section 6 of chapter 25A shall be incorporated into the Stretch Energy
493 Code in Appendix 115AA of the Massachusetts building energy code. Upon such incorporation,
494 municipalities that previously adopted the opt-in specialized stretch energy code shall be part of
495 the Stretch Energy Code in Appendix 115AA of the Massachusetts building energy code with no
496 action required.

497 SECTION 21. Notwithstanding any special or general law, rule or regulation to the
498 contrary, not later than January 1, 2028, the state board of building regulations and standards
499 shall incorporate the Stretch Energy Code in Appendix 115AA of the Massachusetts building

500 energy code into the base energy provisions of the state building code issued by the state board
501 of building regulations under section 93 of chapter 143.

502 Section 22. To develop a residential version of the PACE program established in section
503 4 of chapter 23M of the general laws, Mass Development shall: (i) hold not less than two public
504 hearings; and (ii) include appropriate consumer protection measures and homeowner protections.
505 The residential version of the PACE program shall be developed, adopted and available for
506 municipal participation not later than 1 year after the passage of this act.