

## **Consolidated Amendment "A" to H4789**

### **Consolidated Amendment A**

Amendments: 8, 9, 12, 21, 22, 23, 25, 27, 34, 41, 42, 45, 46, 53, 62, 63, 64, 65, 73, 76, 81, 84, 107, 121, 127, 129, 131, 140, 149, 156, 157, 158, 159, 160, 164, 166, 175, 177, 181, 183, 184, 187, 190, 198, 209, 239, 240, 248, 252, 265, 266, 277, 280, 283, 284, 285, 301, 305, 307, 308, 309, 310, 332, 340, 342, 346, 357, 363, 365, 376, 378, 380, 397, 435, 469, 471, 487, 497, 512, 514, 521, 523, 539, 546, 547, 548, 549, 566, 567, 569, 578, 579, 594, 604, 609, 617, 623, 624, 633

Mr. Michlewitz of Boston and others move to amend H.4789 by inserting after section 8 the following section:-

SECTION 8A. Section 4C of chapter 21A of the General Laws, as so appearing, is hereby amended by adding the following subsection:-

(l) The ocean management plan shall require an environmental DNA study to determine the nature of the habitat of and usage by the marine life specific to the area and shall examine potential impacts to the ecosystem, including, but not limited to, commercial and recreational fishing.

And further amend the bill in section 31 by striking out, in lines 531 and 532, the words “and national tour launches” and inserting in place thereof the following words:- , national tour launches and regional professional theater productions.

And further amend the bill in said section 31 by striking out, in lines 542 and 550, the figure “\$5,000,000”, both times it appears, and inserting in place thereof, in each instance, the following figure:- \$7,000,000.

And further move to amend the bill by inserting after section 34 the following section:-

SECTION 34A. Said chapter 23A is hereby further amended by adding the following section:-

Section 70. (a) The terms defined in paragraph (aaa) of section 6 of chapter 64H shall apply to this section unless the context clearly requires otherwise.

(b) The secretary of the executive office of economic development, in consultation with the commissioner of revenue, shall determine qualifications for qualified data centers, to qualify for a sales and use tax exemption pursuant to paragraph (aaa) of section 6 of chapter 64H.

(c) To apply for the sales and use tax exemption pursuant to paragraph (aaa) of section 6 of chapter 64H, the owner or operator of a data center shall submit to the secretary of economic development an application on a form prescribed by the commissioner of revenue that shall include:

(i) the name, address and telephone number of the owner or operator;

(ii) the address of the site where the qualified data center is or will be located, including, but not limited to, information sufficient to identify the facility composing the data center, and the expected commercial operations date of each data center building that will be located at the data center facility;

(iii) the anticipated aggregate square feet of the qualified data center for which the sales and use tax exemption is being sought; provided, that in determining whether the facility has the required square footage, the total square footage of the data center facility shall include the space that houses the computer information technology equipment, networking, data processing or data storage, including, but not limited to, servers and routers and the following spaces that support the operation of enterprise information technology equipment including, but not limited to, office space, meeting space, loading dock space and mechanical and other support facilities;

(iv) the anticipated investment associated with the qualified data center for which the sales and use tax exemption is being sought;

(v) the anticipated number of jobs that the data center will create and maintain within 1 year, 5 years and 10 years of operations after certification; and

(vi) an affirmation, signed by an authorized executive representing the owner or operator, that the data center is expected to satisfy the certification requirements in this section as a qualified data center.

(d)(1) Within 60 days after receiving a completed application, the secretary of economic development shall review the application submitted by the owner or operator of a data center and certify the data center as a certified qualified data center if the data center meets all requirements of this section.

(2) The secretary shall issue a written certification that the data center qualifies for the sales and use tax exemption or provide written reasons for its denial and an opportunity for the applicant to cure any deficiencies.

(3) Failure to approve or deny the application within 60 days after the date the owner or operator submits the application to the secretary shall constitute approval of the qualified data center and the secretary shall issue written certification to the owner or operator within 14 days.

(4) The certification shall provide the following information related to each data center:

(i) the effective date of the certification;

(ii) the total square footage of the qualified data center;

(iii) the total amount of land costs, construction costs, refurbishment costs and eligible data center equipment; and

(iv) the beginning and ending dates of the sales and use tax exemption for the first data center building, which shall begin on the effective date of the certification and be valid for qualification period, and for a qualified data center that is comprised of more than 1 data center building, the expected commercial operations dates and expected qualification periods for subsequent data center buildings expected to be located at the qualified data center.

(5) The secretary shall send a copy of the certification to the commissioner of revenue.

(e) The effective date of the certification shall be the date on which the application was submitted to the secretary or a prospective date stated in the application that does not exceed 5 years after the date on which the application was submitted; provided, that the certification shall be valid through the qualification period.

(f) The secretary and commissioner shall review the certification after 10 years.

(g)(1) For the purposes of this section, the term “material noncompliance” shall mean the failure of a qualified data center to substantially achieve the investment requirements and minimum number of jobs pursuant to paragraph (aaa) of section 6 of chapter 64H.

(2) The secretary may revoke the certification of a qualified data center after an investigation by the executive office of economic development, in consultation with the department of revenue, and a written determination that the qualified data center is in material noncompliance with this section, paragraph (aaa) of section 6 of chapter 64H or the certification.

(3) Revocation shall take effect on the first day of the tax year in which the executive office of economic development determines the qualified data center to be in material noncompliance. The commissioner of revenue shall, as of the effective date of the revocation, disallow any credits, exemptions or other tax benefits allowed by the original certification of tax benefits pursuant to paragraph (aaa) of section 6 of chapter 64H.

(h) Each qualified data center shall file a report with the secretary and commissioner prior to the end of the tenth year of the qualification period detailing whether it has met the specific investment requirements pursuant to paragraph (aaa) of section 6 of chapter 64H.

(i) The secretary, in consultation with the commissioner of revenue, shall promulgate regulations and shall issue instructions or forms necessary for the implementation of this section.

And further amend the bill in section 103 by striking out, in line 1387, the words “or (iii) a national tour launch” and inserting in place thereof the following words:- (iii) a national tour launch; or (iv) a regional professional theater production.

And further amend the bill in said section 103 by inserting after the definition “Qualified production facility” the following definition:-

“Regional professional theater production”, a live stage production that is performed in a qualified production facility with a professional cast and crew.

And further amend the bill in said section 103 by striking out, in line 1440, the figure “\$5,000,000” and inserting in place thereof the following figure:- \$7,000,000.

And further amend the bill in section 118 by striking out, in line 1759, the words “or (c) a national tour launch” and inserting in place thereof the following words:- (c) a national tour launch; or (d) a regional professional theater production.

And further amend the bill in said section 118 by inserting after the definition of “Qualified production facility” the following definition:-

“Regional professional theater production”, a live stage production that is performed in a qualified production facility with a professional cast and crew.

And further amend the bill in said section 118 by striking out, in line 1812, the figure “\$5,000,000” and inserting in place thereof the following figure:- \$7,000,000.

And further amend the bill in section 120 by striking out, in line 2084, the words “2 subsections” and inserting in place thereof the following words:- 3 paragraphs.

And further amend the bill in section 120 by adding the following paragraph:-

(aaa)(1) Sales of: (A) eligible data center equipment for use in a qualified data center; (B) computer software for use in a qualified data center; (C) electricity for use or consumption in the operation of a qualified data center; or (D) construction costs incurred for the construction, renovation or refurbishment of a qualified data center.

(2) If secretary revokes the certification of a qualified data center the commissioner shall, as of the effective date of the revocation, disallow any credits, exemptions or other tax benefits allowed by the original certification of tax benefits under this paragraph.

(3) If the qualified data center is sold to a new owner prior to the expiration of the exemption, tax benefits under this paragraph shall remain in effect and apply to a subsequent owner for the remaining duration of the 20-year qualification period.

(4) As used in this paragraph, the following words shall, unless the context clearly otherwise requires, have the following meanings:

“Colocation tenant”, a person, partnership, company, corporation or other entity that contracts with or leases from the owner or operator of a qualified data center to use or occupy all or part of a qualified data center.

“Computer software”, software purchased, leased, utilized or loaded at a qualified data center, including, but not limited to, maintenance, licensing and software customization.

“Construction costs”, costs of materials, labor, services and equipment purchased or leased to construct a qualified data center facility, including, but not limited to, the cost of data center building, accessory building, building improvement, land development, site improvement, site utility infrastructure, building materials, steel, concrete, gravel, engineering services, heavy equipment, cranes, transportation equipment, excavation, storm water system and management, access roads, bridges, fencing, lighting, landscaping and other costs to construct the facility.

“Eligible data center equipment”, computers and equipment supporting computing, networking, data processing or data storage, including, but not limited to: (i) servers and routers, computer servers and routers, connections, chassis, networking equipment, switches, racks, fiber optic and copper cables, trays, conduits and other enabling machinery, equipment and hardware; (ii) component parts, replacement parts and upgrades; (iii) cooling systems, cooling towers, chillers, mechanical equipment, HVAC equipment, refrigerant piping, fuel piping and storage, adiabatic and free cooling systems, water softeners, air handling units, indoor direct exchange units, fans, ducting, filters and other temperature control infrastructure; (iv) power infrastructure for transformation, generation, distribution, or management of electricity used for the operations and maintenance of a qualified data center, including, but not limited to, substations, switchyards, transformers, generators, uninterruptible power supplies, backup power generation systems, battery systems, energy efficiency measures, supplies, fuel piping and storage, duct banks, switches, switchboards, testing equipment and related utility infrastructure; (v) monitoring and security equipment; (vi) water conservation systems, including, but not limited to, equipment designed to collect, conserve and reuse water; (vii) modular data center equipment and preassembled components of any item described in this paragraph, including, but not limited to, components used in the manufacturing of modular data centers; and (viii) any other personal property or equipment that is used or consumed in the operation and maintenance of the qualified data center.

“Qualified data center costs”, expenditures made for the construction, refurbishment, renovation or improvement of a facility to be used as a qualified data center, including, but not limited to, the cost of land, land development, site improvement, site utility infrastructure, construction, data center building, accessory building, building improvement and eligible data center equipment.

“Qualified data center”, a facility in the commonwealth that:

(A) is owned or leased by: (i) the operator of the data center facility; or (ii) a person, partnership, company, corporation or other entity under common ownership of the operator of the data center facility;

(B) is comprised of 1 or more data center buildings that consist in the aggregate of not less than 100,000 square feet, and that are located on a single parcel, or on contiguous parcels, where the total eligible qualified data center costs of the data center facility are at least \$50,000,000 within a 10-year period from the effective date of the certification by the secretary as a qualified data center facility;

(C) is constructed or substantially refurbished;

(D) maintains a minimum of 100 jobs in the commonwealth; and

(E) is used to house computer information technology equipment, networking, data processing or data storage, including, but not limited to, servers and routers for the storage, management, and dissemination of data and information where the facility has the following characteristics: (i) uninterruptible power supplies, generator backup power, or both; (ii) sophisticated fire suppression and prevention systems; and (iii) enhanced security; provided, that a qualified data center shall be considered to have enhanced security if it has restricted access to the facility to selected personnel, permanent security guards, video camera surveillance, an electronic system requiring pass codes, keycards or biometric scans or similar security features.

“Qualification period”, a 20-year period of time beginning on the effective date of the certification by the secretary of the qualified data center for the first data center building, and expiring at the end of the twentieth full calendar year following the calendar year in which the certification became effective; provided, that if the qualified data center is comprised of more than 1 data center building, the qualification period for each subsequent data center building that is constructed at the qualified data center facility shall start when each data center building begins commercial operations, as evidenced by receipt of a certificate of occupancy, and shall continue for a period of 20 full calendar years, expiring at the end of the twentieth full calendar year following the calendar year each respective data center building began commercial operations.

“Secretary”, the secretary of economic development.

“Substantially refurbished”, a rebuild, modification or construction of not less than 100,000 square feet of an existing facility that is a qualified data center where the total eligible qualified data center costs are not less than \$50,000,000 within a 10-year period from the effective date of the certification by the secretary as a qualified data center facility, including, but not limited to: (i) installation of computer information technology equipment, networking, data processing or data storage, including servers and routers, environmental control, computer software and energy efficiency improvements; and (ii) building improvements.

(3) The commissioner shall promulgate regulations necessary for the administration of this paragraph.

And further amend the bill by inserting after section 120 the following section:-

SECTION 120A. Section 1A of chapter 69 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

The commissioner shall require each district to: (i) notify students, prior to graduating from high school, of the availability of the free application for federal student aid, known as the FAFSA; (ii) provide students with information on financial aid options for post-secondary education; and (iii) provide students with instructions for completing the FAFSA. The commissioner shall provide guidance to districts related to the implementation of this paragraph regarding the distribution of information concerning the FAFSA and information to parents and guardians related to all options for financial assistance for high school students contemplating a post-secondary education.

And further amend the bill by inserting after section 146 the following section:-

SECTION 146A. Subsection (e) of section 9 of chapter 152 of the acts of 1997 is hereby amended by inserting after the word “Fund” the following words:- ; and provided further, that the surcharge shall not apply to rental

transaction contracts pursuant to section 32J of chapter 90 of the General Laws,.

And further amend the bill by inserting after section 147 the following section:-

SECTION 147A. (a) The department of elementary and secondary education shall, in consultation with relevant stakeholders, implement a 5-year pilot program to develop a process for granting educator certification that may be used as an alternative to the testing requirements in section 38G of chapter 71 of the General Laws. The program shall allow candidates for certification to earn an initial preliminary certification that may lead to permanent certification after 4 years of teaching experience during which the candidate for licensure demonstrates teacher proficiency as measured by student growth scores and other factors, as determined by the department.

(b) The alternative certification process may allow for a waiver of not more than 1 of the 2 testing requirements pursuant to said section 38G of said chapter 71, per candidate, and shall include consideration of factors, including, but not limited to, whether a candidate has: (i) obtained certification in another state approved by the department; (ii) completed a satisfactory portfolio of items that may include student feedback or competency-based projects; or (iii) obtained a master's degree or doctorate from an accredited institution.

(c) The department shall limit the hiring of candidates alternatively certified pursuant to this section to those public school districts and charter schools that the department certified as having demonstrated 1 of the following characteristics: (i) a demographic disparity between the district's student population and its teaching workforce; (ii) a shortage of teachers to serve English language learners; or (iii) a critical need to fill teacher vacancies. The department shall not allow any district to fill more than 10 per cent of its teaching positions with educators alternatively certified.

(d) The department may use the results of the alternative assessment pilot authorized by subsection (e) of 603 CMR 7.04 to inform the development of the alternative licensure process required by this section.

(e) The department shall conduct a comprehensive evaluation of the pilot program and the use of the alternative certification process during the pilot period. The evaluation shall include: (i) a measurement of student impacts as measured by student growth and other factors; (ii) an assessment of progress made in diversifying the educator workforce; and (iii) an assessment of the impacts on candidates of diverse backgrounds.

And further amend the bill by inserting after section 159 the following 4 sections:-

SECTION 159A. (a) Notwithstanding any general or special law to the contrary, each school district, as defined in section 2 of chapter 70 of the General Laws, and each charter school, as defined in section 89 of chapter 71 of the General Laws, shall establish a diversity plan that conforms with the guidelines established by the department of elementary and secondary education pursuant to subsection (b). Such plans shall set forth specific goals and timetables for achievement. The plans shall comply with all applicable state and federal laws and shall be updated after 3 years.

(b) To promote a racially and ethnically diverse educator workforce, the department of elementary and secondary education shall:

(i) establish guidelines for diversity plans that shall include, but not be limited to, the following goals: (A) identify and eliminate discriminatory barriers to hiring and learning in a school or district; (B) remedy the effects of past discriminatory practices; (C) identify, recruit and hire employees who are members of under-represented groups; (D) develop, promote and retain employees who are members of under-represented groups; and (E) ensure equal opportunity in employment for educators. In developing these guidelines, the department shall consult with experts and school leaders from public schools or school districts that have experienced significant increases in hiring and retaining racially and ethnically diverse educators;

(ii) establish a process for reviewing diversity plans based on clearly defined criteria. A public school district or charter school shall amend any plan deemed not to conform with the requirements of this section. A public school district or charter school shall be deemed to have satisfied the requirements of this section if it has prioritized diversity in its 3-year plan required by section 1S of chapter 69 of the General Laws or in any other strategic plan developed by the district;

(iii) establish periodic reporting requirements for public school districts and charter schools concerning the implementation of their diversity plans and all actions taken to ensure compliance with this section and applicable state and federal laws. These reporting requirements shall be incorporated into existing reporting mechanisms and schedules where feasible;

(iv) assist public school districts and charter schools in complying with their diversity plans and applicable federal and state laws; and

(v) require approved educator preparation programs to implement diversity plans to increase the racial and ethnic diversity of program completers. These plans shall be required as part of the educator preparation program approval process and the department shall make each program's plan publicly available. The department shall establish guidelines for educator preparation program diversity plans.

(c) The board of elementary and secondary education shall review compliance with these diversity plans and policies on a regular basis and may provide further recommendations regarding educator diversity.

SECTION 159B. (a) Notwithstanding any general or special law to the contrary, each school district, as defined in section 2 of chapter 70 of the General Laws, and each charter school as defined in section 89 of chapter 71 of the General Laws, shall have a diversity, equity and inclusion officer or shall establish a diversity team, referred to in this section as a diversity officer or team. The role and responsibilities of a diversity officer or team may be assigned to an existing school employee or existing school entity. Diversity officers and teams shall report directly to the superintendent. Diversity officers and teams shall coordinate their school district or school's compliance with the requirements of this section and applicable federal and state laws.

(b) Each school district and charter school shall establish a process for advising the school committee or board of trustees on matters of diversity, equity and inclusion in the school district. The process may include establishing an educator diversity council consisting of educators, administrators and students, which shall meet regularly with the superintendent or the diversity officer or team and the school committee or board of trustees. The school committee or board of trustees may appoint 1 of its members to serve as an ex-officio member of the educator diversity council.

(c) Pursuant to guidelines established by the department of elementary and secondary education, all superintendents, school committee members, boards of trustees, district leaders, principals and school district employees shall complete a diversity and implicit bias training course, the frequency of which shall be established by the department.

SECTION 159C. (a) Notwithstanding any general or special law to the contrary, the department of elementary and secondary education shall set measurable educator diversity goals for the commonwealth and shall collect and report publicly statewide educator diversity data. The data shall be reported in an online dashboard established in consultation with the board of elementary and secondary education. The data shall include, but not be limited to, (i) the number of educators hired and retained who meet the department's educator diversity goals; (ii) racial demographics of educators who complete Massachusetts state educator preparation programs, and (iii) teacher qualification data from school and district report cards. The department shall report on the success of the 5-year pilot program developed pursuant to section 147A, diversity plans implemented pursuant to section 159A and the diversity, equity and inclusion officers or diversity teams implemented pursuant to section 159B. The department shall report annually to the board of elementary and secondary education on state educator diversity data and goals. The department shall also submit a report on the state of educator diversity to the clerks of the house of representatives and the senate not later than June 30.

(b) Each public school district and charter school shall collect and report educator diversity data publicly in a manner prescribed by the department; provided, that the department shall utilize existing reporting mechanisms and schedules to collect educator diversity data and outcomes and shall annually present both to the school committee or board of trustees. The data reported pursuant to this paragraph shall include information regarding the achievement of goals set pursuant to clause (i) of subsection (b) of section 159A.

SECTION 159D. The department of elementary and secondary education shall promulgate rules and regulations for sections 147A, 159A, 159B and 159C to implement the requirements. Such regulations shall include a schedule for public school districts and charter schools to meet the planning and reporting requirements; provided, that such schedule shall prioritize implementation for school districts and charter schools that have significant race and ethnicity disparities between educator and student demographics.

And further amend the bill by inserting after section 160 the following section:-

SECTION 160A. Sections 147A, 159A, 159B, 159C and 159D are hereby repealed.

And further amend the bill by inserting after section 167 the following 3 sections:-

SECTION 167A. The exemptions authorized in paragraph (aaa) of section 6 of chapter 64H of the General Laws, inserted by section 103, shall be effective for costs incurred after the effective date of this act.

SECTION 167B. Section 147A shall take effect 90 days after the effective date of this act.

SECTION 167C. Section 160A shall take effect 5 years after the effective date of this act.