SENATE DOCKET, NO. 1363 FILED ON: 1/18/2013

SENATE . . . . . No. 1369

The Commonwealth of Massachusetts

PRESENTED BY:

Mark C. Montigny

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 passage of the accompanying:

An Act relative to economic development tax credits.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Mark C. Montigny	*Second Bristol and Plymouth*
Benjamin Swan	*11th Hampden*
Denise Provost	*27th Middlesex*
Patricia D. Jehlen	*Second Middlesex*

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SENATE . . . . . No. 1369

By Mr. Montigny, a petition (accompanied by bill, Senate, No. 1369) of Mark C. Montigny, Benjamin Swan, Denise Provost and Patricia D. Jehlen for legislation relative to economic development tax credits. Revenue.

The Commonwealth of Massachusetts

An Act relative to economic development tax credits.

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

Section 1. Section 1 of Chapter 62C, as appearing in the 2010 Official Edition, is hereby amended by inserting the following new subsections in the definition of "tax credit program" after subsection (xi):-

(xii) the investment tax credit in section 31A of chapter 63, (xiii) the devens refundable tax credit in section 38N of chapter 63 (xiv) the abandoned building renovation deduction in section 38O of chapter 63.

Section 2. Said Chapter 62C, as appearing in the 2010 Official edition, is amended by inserting after section 89 the following:-

Section 90. Sunsets for Tax Credit Programs

(a) Notwithstanding any general or special law to the contrary, all tax credit programs shall expire after a period of three years unless reauthorized by an act of the legislature after review and examination of the effectiveness of each such tax credit program by the department of revenue and the executive office of administration and finance's office of commonwealth performance, accountability and transparency.

(b) Notwithstanding any general or special law to the contrary, all tax credit programs existing and in effect at the time of the passage of this law, shall expire after one year of the date of the passage of this law unless reauthorized by an act of the legislature after review and examination of the effectiveness of each such tax credit program by the department of revenue and the executive office of administration and finance's office of commonwealth performance, accountability and transparency.

21 Section 3. Said chapter 62C, as appearing in the 2010 official edition, is hereby amended
22 by inserting after section 90 the following:-

23 Section 91. In any review and examination of a tax credit program, the
24 department of revenue and the office of commonwealth accountability, performance and
25 transparency shall, in addition to any other analysis deemed appropriate by the agencies, identify
26 and develop metrics for assessing the effectiveness of each tax credit program at achieving its
27 identified purposes and outcomes, identify revenue foregone, beneficiaries and distribution of
28 amounts received, and the number of jobs created ,if applicable. After completion of such
29 review and examination, the agencies shall issue a report to the governor and legislature's
30 committees on way and means and post audit and oversight. Except for the reports on the
31 examination of tax credit programs under section 90(b), the report shall be completed one year
32 before the expiration date of the tax credit program which is the subject of the report. In any
33 report issued by the agencies after the review and examination of any tax credit program, the
34 report, based on the agencies' examination of the tax credit program, studies and data from other
35 states and academia, shall make recommendations for elimination or modification of the tax
36 credit program to more effectively achieve the tax credit programs identified public policy
37 purposes.

38 Section 4. Said chapter 62C, as appearing in the 2010 official edition, is hereby amended
39 by inserting after section 91 the following;-

40 Section 92. Notwithstanding any general or special law to the contrary, all tax
41 credit programs shall contain and include a clawback provision, so called, that permits the
42 commonwealth to recoup foregone tax receipt from tax credit program recipients who fail to
43 achieve or meet stated goals and benchmarks, including but not limited to job creation goals set
44 forth in their tax credit program.

45 Section 5. Said chapter 62C, as appearing in the 2010 official edition, is hereby amended
46 by inserting after section 92 the following:-

47 Section 93. Before submitting any new tax credit program for legislative approval, the
48 governor shall include in the governor's legislative proposal or bill for the new tax credit
49 program the following: (a) the new tax credit program's clearly specified public policy purpose
50 and desired outcome, (b) a finding that the tax credit program is expected to be highly effective
51 at achieving the stated public policy purposes, (c) estimates of foregone revenue from the new
52 tax credit program, (d) for discretionary grant like tax credit programs an overall annual dollar
53 cap on foregone revenue, (e) for discretionary grant like tax credit programs, the criteria to be
54 applied by the administering agency in making discretionary awards of tax credit programs and
55 (f) for discretionary grant like tax credit programs, provisions for the tax credit program's
56 administration including, but not limited to, (i) clear written conditions and commitments,(ii)
57 public disclosure of recipients and tax benefits, (iii) if tax credit program conditions are not met

58 by the recipient, threshold for further review and enforcements including the use of the tax credit
59 program's clawback provision, and (iv) a competitive award process.