

Senate, No. 2218

[November 19, 2009 - Text of the amendment (Senator Brewer) to the House Bill establishing fiscal stability measures for fiscal year 2010 H.4359, printed as amended]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND NINE

1 SECTION 1. Section 3A of chapter 23A of the General Laws, as appearing in the
2 2008 Official Edition, is hereby amended by striking out the definition of “Certified
3 project” and inserting in place thereof the following definition: -

4 “Certified project”, an expansion, enhanced expansion or manufacturing retention
5 project that has been approved by the economic assistance coordinating council for
6 participation in the economic development incentive program pursuant to section 3F.

7 SECTION 2. Said section 3A of said chapter 23A, as so appearing, is hereby
8 further amended by inserting after the definition of “Economic target area”, the following
9 6 definitions: -

10 “Enhanced expansion project”, a facility that in its entirety and as of the project
11 proposal date: (i) is located or will be located within the commonwealth; (ii) generates
12 substantial sales from outside of the commonwealth; and (iii) generates a net increase of
13 at least 100 full-time employees within 2 years after project certification, and which shall
14 be maintained for a period of not less than 5 years; provided, however, that in the case of
15 a facility that as of the project proposal date is already located in the commonwealth,
16 “enhanced expansion project” shall refer only to a facility at which the controlling
17 business has proposed to expand the number of permanent full-time employees at such

18 facility to occur after the project proposal date and the expansion shall represent: (1) an
19 increase in the number of permanent full-time employees employed by the controlling
20 business within the commonwealth; and (2) not a replacement or relocation of permanent
21 full-time employees employed by the controlling business at any other facility located
22 within the commonwealth; and provided further, that in the case of a facility to be located
23 within the commonwealth after the project proposal date, “enhanced expansion project”
24 shall refer only to a facility that is: (a) the first facility of the controlling business to be
25 located within the commonwealth; or (b) a new facility of such business and not a
26 replacement or relocation of an existing facility of such controlling business located
27 within the commonwealth; or an expansion of an existing facility of the controlling
28 business that results in an increase in permanent full-time employees.

29 “Enhanced expansion project proposal”, a proposal submitted by a controlling business to
30 the EACC pursuant to section 3F for designation of a project as an enhanced certified project,
31 provided that: (i) the proposal is submitted in a timely manner, in such form and with such
32 information as is prescribed by the EACC, supported by independently verifiable information and
33 signed under the penalties of perjury by a person authorized to bind the controlling business; (ii)
34 the proposal includes specific targets by year for the subsequent 5 calendar year period relative to
35 the projected increase in the number of permanent full-time employees of the controlling business
36 to be employed by and at the project from among residents of the commonwealth; provided
37 further, that in the case of a project that is a new facility within the meaning of clause (b) of the
38 definition of enhanced expansion project, such proposal shall include, in addition, the number of
39 permanent full-time employees employed by the controlling business at other facilities located in
40 the commonwealth.

41 “Expansion project”, a facility that in its entirety and as of the project proposal
42 date: (i) is located or will be located within an EOA; (ii) generates substantial sales from
43 outside of the commonwealth; and (iii) generates a net increase of full-time employees
44 within 2 years after project certification, and which shall be maintained for a period of
45 not less than 5 years; provided, however, that in the case of a facility that as of the project
46 proposal date is already located in an EOA, “expansion project” shall refer only to a
47 facility at which the controlling business has proposed to expand of the number of
48 permanent full-time employees at such facility to occur after the project proposal date

49 and the expansion shall represent: (1) an increase in the number of permanent full-time
50 employees employed by the controlling business within the commonwealth; and (2) not a
51 replacement or relocation of permanent full-time employees employed by the controlling
52 business at any other facility located within the commonwealth; and provided further,
53 that in the case of a facility to be located within an EOA after the project proposal date,
54 “expansion project” shall refer only to a facility which is: (a) the first facility of the
55 controlling business to be located within the commonwealth; or (b) a new facility of such
56 business and not a replacement or relocation of an existing facility of such controlling
57 business located within the commonwealth or an expansion of an existing facility of the
58 controlling business that results in an increase in permanent full-time employees.

59 “Expansion project EOA”, the EOA within which an expansion project is located or will
60 be located.

61 “Expansion project ETA”, the ETA within which an expansion project is located or will
62 be located, determined with reference to the project EOA.

63 “Expansion project proposal”, a proposal submitted by a controlling business to the
64 EACC pursuant to section 3F for designation of a project as a certified expansion project,
65 provided that: (i) the proposal is submitted in a timely manner, in such form and with such
66 information as is prescribed by the EACC, supported by independently verifiable information and
67 signed under the penalties of perjury by a person authorized to bind the controlling business; (ii)
68 the proposal includes specific targets by year for the subsequent 5 calendar year period relative to
69 the projected increase in the number of permanent full-time employees of the controlling business
70 to be employed by and at the project from among residents of the project ETA; and provided
71 further, that in the case of a project that as of the project proposal date is already located in the
72 project EOA, such projected increase shall not be less than 25 per cent over the subsequent 5-
73 year period; and (iii) in the case of a project that is a new facility within the meaning of clause (b)
74 of the definition of expansion project, such proposal shall include the number of permanent full-
75 time employees employed by the controlling business at other facilities located in the
76 commonwealth.

77 SECTION 3. Said section 3A of said chapter 23A, as so appearing, is hereby
78 further amended by striking out the definition of “Facility,” and inserting in place thereof
79 the following 4 definitions:-

80 “Facility”, the physical location, in real property, which may include multiple
81 buildings, owned or leased by a business of a commercial, manufacturing or industrial
82 activity, division or component controlled by that business, or any real estate project
83 which involves the construction or renovation of real property to serve such purpose, or
84 any combination of the foregoing, at which are employed, or are projected to be
85 employed, permanent full-time employees of the controlling business.

86 “Gateway municipality”, a municipality with a population greater than 35,000, a median
87 household income below the commonwealth’s average and educational attainment rates that are
88 below the commonwealth’s average.

89 “Manufacturing retention project”, a manufacturing facility that in its entirety and
90 as of the project proposal date: (i) is located or will be located within a gateway
91 municipality; (ii) generates a net increase or retention of a minimum of at least 100
92 permanent full-time positions; provided, however, that if the controlling business
93 increases the number of full-time positions at the facility, it shall be within 2 years after
94 certification of the project and the controlling business shall make a commitment that the
95 positions created or retained are to be maintained for at least a 5-year period; and (iii)
96 generates substantial sales from outside of the commonwealth; provided, however, that in
97 the case of a facility that as of the project proposal date is already located in the gateway
98 municipality, “manufacturing retention project” shall refer only to a facility for which
99 there is a proposed expansion or retention of the number of permanent full-time
100 employees at such facility by the controlling business, to occur after the project proposal
101 date and the expansion shall represent a retention or increase of at least 100 permanent
102 full-time employees employed by the controlling business within the project and shall not
103 represent a replacement or relocation of permanent full-time employees employed by the
104 controlling business at any other facility located within the commonwealth; and provided
105 further, that in the case of a facility to be located after the project proposal date, the

106 “manufacturing retention project” shall refer only to a facility that is: (1) the first facility
107 of the controlling business to be located within the commonwealth; or (2) a new facility
108 of such business and not a replacement or relocation of an existing facility of such
109 controlling business located within the commonwealth.

110 “Manufacturing retention project proposal”, a proposal submitted by a controlling
111 business to the EACC pursuant to section 3F for designation of a project as a certified
112 manufacturing retention project; provided that: (i) the proposal is submitted in a timely
113 manner, in such form and with such information as is prescribed by the EACC, supported
114 by independently verifiable information and signed under the penalties of perjury by a
115 person authorized to bind the controlling business; (ii) includes specific targets by year
116 for the subsequent 5 calendar year period relative to any projected increase in the number
117 of permanent full-time employees of the controlling business to be employed by and at
118 the project from among residents of the gateway municipality and the commonwealth;
119 provided further, that in the case of a project which is a new facility within the meaning
120 of clause (2) of the definition of manufacturing retention project, such proposal shall
121 include the number of permanent full-time employees employed by the controlling
122 business at other facilities located in the commonwealth.

123 SECTION 4. Said section 3A of said chapter 23A , as so appearing, is hereby
124 further amended by striking out the definition of “Project” and inserting in place thereof
125 the following definition:-

126 “Project”, an expansion project, enhanced expansion project or a manufacturing
127 retention project.

128 SECTION 5. Said section 3A of said chapter 23A , as so appearing, is hereby
129 further amended by striking out the definitions of “Project EOA” and “Project ETA”.

130 SECTION 6. Said section 3A of said chapter 23A, as so appearing, is hereby
131 further amended by striking out the definition of “Project proposal” and inserting in place
132 thereof the following definition: -

133 “Project proposal”, a proposal submitted by a controlling business to the EACC pursuant
134 to section 3F for designation as a certified expansion project, enhanced expansion project, or
135 manufacturing retention project.

136 SECTION 7. Section 3F of said chapter 23A, as so appearing, is hereby amended
137 by inserting after the word “certified”, in line 2, the following words: - expansion,
138 enhanced expansion or manufacturing retention.

139 SECTION 8. Said section 3F of said chapter 23A, as so appearing, is hereby
140 further amended by striking out, in line 6, the word “receipt” and inserting in place
141 thereof the following words: - in the case of expansion project proposals and
142 manufacturing retention project proposals, receipt.

143 SECTION 9. Said section 3F of said chapter 23A, as so appearing, is hereby
144 further amended by striking out, in line 7, the word “EOA”.

145 SECTION 10. Said section 3F of said chapter 23A, as so appearing, is hereby
146 further amended by striking out, in line 15, the word “is” and inserting in place thereof
147 the following words: - if the proposal is for an expansion project, that it is.

148 SECTION 10A. Said section 3F of said chapter 23A, as so appearing, is hereby
149 further amended by striking out, in lines 19, 33, 39, 46, 58 and 104, the word “project”
150 and inserting in place thereof the following words:- expansion project.

151 SECTION 11. Said section 3F of said chapter 23A, as so appearing, is hereby
152 further amended by inserting after the word “EOA”, in line 19, the following words:- or
153 municipality.

154 SECTION 12. Clause (b) of subsection (1) of said section 3F of said chapter
155 23A, as so appearing, is hereby amended by striking out subclause (iii) and inserting in
156 place thereof the following subclause:-

157 (iii) the project proposal includes a workable plan, with precise goals and
158 objectives, by which the controlling business proposes to realize the increased

159 employment objectives for the project and the business' plan to employ aggressive
160 affirmative action goals, objectives and identification and recruitment techniques and, in
161 the case of an expansion project, the plan for increased employment from among
162 residents of the expansion project ETA; and

163 SECTION 13. Said section 3F of said chapter 23A, as so appearing, is hereby
164 further amended by striking out, in line 33, the word "EOA" and inserting in place
165 thereof the following word:- area.

166 SECTION 14. Clause (b) of subsection (1) of said section 3F of said chapter
167 23A, as so appearing, is hereby amended by striking out subclause (v) and inserting in
168 place thereof the following subclause:-

169 (v) the expansion, enhanced expansion or manufacturing retention project as
170 described in the proposal, together with the municipal resources committed thereto, will,
171 if certified, have a reasonable chance of increasing or retaining employment opportunities
172 for residents of the project area, ETA or municipality as applicable, as advanced in said
173 proposal; and

174 SECTION 15. Said section 3F of said chapter 23A, as so appearing, is hereby
175 further amended by striking out, in line 45, the words "or (ii) the" and inserting in place
176 thereof the following words: - ; or (ii) if the designation is for an expansion project, the.

177 SECTION 16. Clause (d) of subsection (1) of said section 3F of said chapter
178 23A, as so appearing, is hereby amended by striking out subclause (ii) and inserting in
179 place thereof the following subclause:-

180 (ii) the project as described in the proposal, and as further described in the written
181 determination of the municipality made pursuant to clause (b) will, if certified, have a
182 reasonable chance of increasing or retaining employment opportunities for residents of
183 the project area, ETA or municipality, as applicable; and.

184 SECTION 17. Said section 3F of said chapter 23A, as so appearing, is hereby
185 further amended by striking out subsections (2) and (3) and inserting in place thereof the
186 following 2 subsections:-

187 (2) A certified project shall retain its certification for the period specified by the
188 EACC in its certification decision; provided, however, that such specified period shall be
189 not less than 5 years from the date of certification nor more than: (i) 20 years from such
190 date; or (ii) for an expansion project, the number of years remaining on the duration of
191 the designation of the project EOA, including any renewals thereof; or (iii) the number of
192 years requested by the municipality approving the project proposal, whichever is lesser,
193 unless such certification is revoked prior to the expiration of the specified period. The
194 certification of a project may be revoked only by the EACC and only upon: (a) the
195 petition of the municipality that approved the project proposal, if applicable, if the
196 petition satisfies the authorization requirements for a municipal application, or the
197 petition of the director of economic development; and (b) the independent investigation
198 and determination of the EACC that representations made by the controlling business in
199 its project proposal are materially at variance with the conduct of the controlling business
200 subsequent to the certification and such variance is found to frustrate the public purposes
201 that such certification was intended to advance; provided, that the EACC shall review
202 such certified project at least once every 2 years; provided, however, that for an
203 expansion project where the actual number of permanent full-time employees employed
204 by the controlling business at the project is less than 50 per cent of the number of such
205 permanent full-time employees projected in the project proposal, then this shall be
206 deemed a material variance for the purposes of a revocation determination. Upon such a
207 revocation, the commonwealth, and the municipality, in the case of a certified expansion project,
208 shall have causes of action against the controlling business for the value of any economic benefit
209 received by the controlling business prior or subsequent to such revocation.

210 Under this section, revocation shall take effect on the first day of the tax year in which the EACC
211 determines that a material variance commenced. The commissioner of revenue may, as of the
212 effective date of the revocation, disallow any credits, exemptions or other tax benefits allowed by
213 the original certification under this section. The department shall issue regulations to recapture

214 the value of any credits, exemptions or other tax benefits allowed by the certification under this
215 section.

216 Any such revocation shall only be applied prospectively and shall not apply to,
217 nor revoke any benefits due to the project that relate to years prior to the year in which
218 the revocation determination is made, unless the EACC determines that the controlling
219 business of the project made a material misrepresentation in its project proposal, in which
220 case both the commonwealth and the municipality shall have causes of action against the
221 controlling business for the value of any economic benefits received subsequent to the
222 date on which such material misrepresentation was made. Annually, on or before the first
223 Wednesday in December, the EACC shall file a report detailing its findings of the review
224 of all certified projects that it evaluated in the prior fiscal year to the commissioner of
225 revenue, to the chairs of the joint committee on revenue and the chairs of the joint
226 committee on economic development and emerging technologies.

227 (3) The EACC shall evaluate and either grant or deny a project proposal within 90
228 days of its project proposal date and failure to do so by the EACC shall result in approval
229 of the project for a term of 5 years. Approval of a project under this section shall not
230 constitute an approval by the EACC of any tax incentives provided for under chapters 62
231 and 63.

232 SECTION 18. Said section 3F of said chapter 23A, as so appearing, is hereby
233 further amended by adding the following 2 subsections:-

234 (5) The EACC may award to a certified project tax credits available under subsection
235 (g) of section 6 of chapter 62 and section 38N of chapter 63. The amount and duration of
236 the credit awarded shall be based on the following factors:

237 (a) for expansion projects:

238 (i) the degree to which the project is expected to generate net new economic activity
239 within the commonwealth by generating substantial sales from outside of the
240 commonwealth, or otherwise;

241 (ii) the degree to which the project is expected to increase employment opportunities for
242 residents of the project ETA and of the commonwealth; and

243 (iii) the economic need of the project ETA as measured by the income and employment
244 levels of the ETA;

245 (b) for enhanced expansion projects:

246 (i) the degree to which the project is expected to generate net economic activity
247 within the commonwealth by generating substantial sales from outside of the
248 commonwealth, or otherwise; and

249 (ii) the degree to which the project is expected to increase employment opportunities
250 for residents of the commonwealth;

251 (c) for manufacturing retention projects:

252 (i) the degree to which the project is expected to generate economic activity
253 within the commonwealth by generating substantial sales from outside of the
254 commonwealth, or otherwise; and

255 (ii) the degree to which the project is expected to retain or increase
256 manufacturing employment opportunities for residents in the project gateway
257 municipality and the commonwealth.

258 (6) The EACC may, in consultation with the department of revenue, limit any incentive
259 or credit available to a project pursuant to subsection (g) of section 6 of chapter 62 and section
260 38N of chapter 63 to a specific dollar amount or time duration or in any other manner deemed
261 appropriate by EACC.

262 SECTION 19. Paragraph (a) of subdivision (2) of section 7 of chapter 32 of the General
263 Laws, as so appearing, is hereby amended by striking out clause (ii) and inserting in place thereof
264 the following clause:-

265 (ii) A yearly amount of pension equal to 72 per cent of the annual rate of his regular
266 compensation on the date such injury was sustained or such hazard was undergone, or equal to 72
267 per cent of the average annual rate of his regular compensation for the 12-month period for which

268 he last received regular compensation immediately preceding the date his retirement allowance
269 becomes effective, whichever is greater; provided, however, that if an individual was in a
270 temporary or acting position on the date such injury was sustained or hazard undergone, the
271 amount to be provided under this paragraph shall be based on the annual rate of regular
272 compensation in his permanent position on the date such injury was sustained or such hazard was
273 undergone, or the average annual rate of his regular compensation in his permanent position for
274 the 12-month period for which he last received regular compensation immediately preceding the
275 date his retirement allowance becomes effective, whichever is greater; provided, however, that
276 for any employee who was not a member in service on or before January 1, 1988 or who has not
277 been continuously a member in service since that date, the total yearly amount of the sum of such
278 pension and the annuity as determined in accordance with clause (i) shall not exceed 75 per cent
279 of the annual rate of regular compensation as determined in this paragraph; and provided further,
280 that no individual who was a member in service on January 1, 1988, whose allowance is limited
281 by the 75 per cent limitation as established in this paragraph, shall receive an amount of pension
282 that is less than 72 per cent of such individual's regular compensation on January 1, 1988; and.

283 SECTION 20. Chapter 62 of the General Laws is amended by inserting after section 5A
284 the following section:-

285 Section 5C. An unincorporated association within the definition of and electing to be
286 treated as a homeowners' association under section 528(c) of the Code for a taxable year shall be
287 subject to tax under this chapter on its income as a resident individual for the taxable year. Its
288 gross income shall be calculated under subsection (a) of section 2, and its taxable income shall be
289 defined as in section 528(d)(1), (3) of the Code, to the extent consistent with the laws of the
290 commonwealth. No such association shall be allowed the deductions or exemptions under section
291 3. The modifications under section 528(d)(2) of the Code shall not apply in determining taxable
292 income for purposes of this chapter.

293 SECTION 21. Subsection (g) of section 6 of said chapter 62, as appearing in the 2008
294 Official Edition, is hereby amended by striking out paragraph (1) and inserting in place thereof
295 the following paragraph: -

296 (1) A credit shall be allowed against the tax liability imposed by this chapter, to
297 the extent authorized by the economic assistance coordinating council established in
298 section 3B of chapter 23A, up to an amount equal to 50 per cent of such liability in any

299 taxable year; provided, however, that the 50 per cent limitation shall not apply where the
300 credit is refundable under paragraph (5): (i) for certified expansion projects and certified
301 enhanced expansion projects, as defined in sections 3A and 3F of said chapter 23A, an
302 amount up to 10 per cent, and (ii) for certified manufacturing retention projects, as
303 defined in said sections 3A and 3F of said chapter 23A, an amount up to 40 per cent of
304 the cost of property that would qualify for the credit allowed by section 31A of chapter
305 63 if the property were purchased by a manufacturing corporation or a business
306 corporation engaged primarily in research and development and used exclusively in a
307 certified project as defined in said sections 3A and 3F of said chapter 23A. A lessee may
308 be eligible for a credit pursuant to this subsection for real property leased pursuant to an
309 operating lease. If such property is disposed of or ceases to be in qualified use within the
310 meaning of said section 31A of said chapter 63 or if such property ceases to be used
311 exclusively in a certified project, as defined in said sections 3A and 3F of said chapter
312 23A, before the end of its useful life, the recapture provisions of subsection (e) of said
313 section 31A of said chapter 63 shall apply and an amount determined thereunder shall be
314 added to the tax imposed by this chapter.

315 The total amount of credits that may be authorized by the economic assistance
316 coordinating council in a calendar year pursuant to this section and section 38N of
317 chapter 63 shall not exceed \$25,000,000 and shall include: (1) refundable credits granted
318 during the year pursuant to this section or said section 38N of said chapter 63; (2)
319 nonrefundable credits granted during the year pursuant to this section or said section 38N
320 of said chapter 63, to the extent that such nonrefundable credits are estimated by the
321 commissioner to offset tax liabilities during the year; and (3) carryforwards of credits
322 from prior years pursuant to this section or said section 38N of said chapter 63, to the
323 extent that such credit carryforwards are estimated by the commissioner to offset tax
324 liabilities during the year. Of the \$25,000,000 in allowable credits, the economic
325 assistance coordinating council may award not more than \$5,000,000 in a calendar year
326 to certified enhanced expansion projects as defined in sections 3A and 3F of chapter 23A,
327 and not more than \$5,000,000 for certified manufacturing retention projects as defined in
328 said sections 3A and 3F of said chapter 23A. Any portion of the \$25,000,000 annual cap

329 not awarded by the economic assistance coordinating council in a calendar year shall not
330 be applied to awards in a subsequent year. The economic assistance coordinating council
331 shall provide the commissioner of revenue with any documentation that the
332 commissioner deems necessary to confirm compliance with the annual cap and the
333 commissioner shall provide a report confirming compliance with the annual cap to the
334 secretary of administration and finance and the secretary of housing and economic
335 development.

336 As used in this paragraph, "EACC" shall mean the economic assistance
337 coordinating council established in section 3B of chapter 23A. A credit allowed under
338 this subsection may be taken only after the taxpayer completes a report signed by an
339 authorized representative of the taxpayer, and files the report with the EACC within 2
340 years after the initial project certification by the EACC and annually thereafter. The
341 report shall contain pertinent employment data needed to determine whether the taxpayer
342 has reasonably satisfied the employment projections set forth in its original project
343 proposal granted pursuant to section 3F of said chapter 23A. Paragraph (3) of section 3F
344 of chapter 23A shall apply to any tax benefits awarded under this section. Nothing in this
345 subsection shall limit the authority of the commissioner to make adjustments to a
346 taxpayer's liability upon audit.

347 SECTION 22. Said subsection (g) of said section 6 of said chapter 62, as so appearing, is
348 hereby further amended by adding the following paragraph:-

349 (5) If a credit allowed under clause (ii) of paragraph (1) for certified
350 manufacturing retention projects exceeds the tax otherwise due under this chapter, 100
351 per cent of the balance of such credit may, at the option of the taxpayer and to the extent
352 authorized pursuant to the economic assistance coordinating council, be refundable to the
353 taxpayer for the taxable year in which qualified property giving rise to that credit is
354 placed in service. If such credit balance is refunded to the taxpayer, the credit carryover
355 provisions of paragraph (2) shall not apply.

356 SECTION 23. Section 38N of chapter 63 of the General Laws, as so appearing, is hereby
357 amended by striking out subsections (a) and (b) and inserting in place thereof the following 2
358 subsections:-

359 (a) A corporation subject to tax under this chapter that participates in a certified
360 project as defined in sections 3A and 3F of chapter 23A, may take a credit against the
361 excise imposed by this chapter to the extent authorized by the economic assistance
362 coordinating council established by section 3B of said chapter 23A, in an amount not to
363 exceed 50 per cent of such liability in a taxable year; provided, however, that the 50 per
364 cent limitation shall not apply if the credit is refundable under subsection (b): (i) for
365 certified expansion projects and certified enhanced expansion projects, as defined in said
366 sections 3A and 3F of said chapter 23A, an amount up to 10 per cent; and (ii) for certified
367 manufacturing retention projects, as defined in said sections 3A and 3F of said chapter
368 23A, an amount up to 40 per cent of the cost of any property that would qualify for the
369 credit allowed by section 31A if the property were purchased by a manufacturing
370 corporation or a business corporation engaged primarily in research and development and
371 is used exclusively in a certified project as defined in said sections 3A and 3F of said
372 chapter 23A. A lessee may be eligible for a credit pursuant to this subsection for real
373 property leased pursuant to an operating lease.

374 The total amount of credits that may be authorized by the economic assistance
375 coordinating council in a calendar year pursuant to subsection (g) of section 6 of chapter
376 62 and this section shall not exceed \$25,000,000 and shall include: (1) refundable credits
377 granted during the year pursuant to said subsection (g) of said section 6 of said chapter 62
378 or this section; (2) nonrefundable credits granted during the year pursuant to said
379 subsection (g) of said section 6 of said chapter 62 or this section, to the extent that such
380 nonrefundable credits are estimated by the commissioner to offset tax liabilities during
381 the year; and (3) carryforwards of credits from prior years pursuant to said subsection (g)
382 of said section 6 of said chapter 62 or this section, to the extent that such credit
383 carryforwards are estimated by the commissioner to offset tax liabilities during the year.
384 Of the \$25,000,000 in allowable credits, the economic assistance coordinating council
385 may award not more than \$5,000,000 in a calendar year to certified enhanced expansion

386 projects as defined in sections 3A and 3F of chapter 23A and not more than \$5,000,000
387 for certified manufacturing retention projects as defined in said sections 3A and 3F of
388 said chapter 23A. Any portion of the \$25,000,000 annual cap not awarded by the
389 economic assistance coordinating council in a calendar year shall not be applied to
390 awards in a subsequent year. The economic assistance coordinating council shall provide
391 the commissioner with any documentation that the commissioner deems necessary to
392 confirm compliance with the annual cap and the commissioner shall provide a report
393 confirming compliance with the annual cap to the secretary of administration and finance
394 and the secretary of housing and economic development.

395 The credit allowed under this section may be taken by an eligible corporation;
396 provided, however, that the credit allowed by section 31A or section 31H shall not be
397 taken by such corporation. For purposes of this paragraph, the corporation need not be a
398 manufacturing corporation or a business corporation engaged primarily in research and
399 development. If such property is disposed of or ceases to be in qualified use within the
400 meaning of said section 31A or if such property ceases to be used exclusively in a
401 certified project before the end of its useful life, the recapture provisions of subsection (e)
402 of said section 31A shall apply.

403 As used in this paragraph, “EACC” shall mean the economic assistance
404 coordinating council established in section 3B of chapter 23A. A credit allowed under
405 this section may be taken only after the taxpayer completes a report signed by an
406 authorized representative of the corporation and files the report with the EACC within 2
407 years after the initial project certification by the EACC and annually thereafter. The
408 report shall contain pertinent employment data needed to determine whether the taxpayer
409 has reasonably satisfied the employment projections set forth in its original project
410 proposal granted pursuant to section 3F of said chapter 23A. Paragraph (3) of section 3F
411 of said chapter 23A shall apply to tax benefits awarded under this section. Nothing in
412 this section shall limit the authority of the commissioner to make adjustments to a
413 corporation’s liability upon audit.

414 (b) If a credit allowed to a taxpayer under clause (ii) of subsection (a) exceeds the
415 excise otherwise due under this chapter, 100 per cent of the balance of such credit may, at
416 the option of the taxpayer and to the extent authorized by the economic assistance
417 coordinating council, be refundable to the taxpayer for the taxable year in which qualified
418 property giving rise to that credit is placed in service. If such credit balance is refunded to
419 the taxpayer, the credit carryover provisions of subsection (d) shall not apply. The
420 amount of credit eligible to be refunded shall be determined without regard to the
421 limitations in subsections (a) and (c).

422 SECTION 24. Said section 38N of said chapter 63, as so appearing, is hereby
423 further amended by inserting after the word “paragraph”, in lines 56, 66 and 69, each
424 time it appears, the following words:- (a) or paragraph (c).

425 SECTION 25. Section 68C of said chapter 63, as so appearing, is hereby amended by
426 striking out clause (9) and inserting in place thereof the following 2 clauses:-

427 (9) an unincorporated entity within the definition of, and electing to be treated as, a
428 homeowners’ association under section 528(c) of the Code and subject to tax for the taxable year
429 as provided in section 5C of chapter 62; or

430 (10) a business corporation otherwise expressly exempted from the excise under this
431 chapter by any other general law.

432 SECTION 26. The second paragraph of section 4 of chapter 64I of the General Laws, as
433 so appearing, is hereby amended by striking out the fourth and fifth sentences and inserting in
434 place thereof the following 2 sentences:- For purposes of such determination, the sales price of
435 any motor vehicle, except a motor vehicle purchased from a vendor registered under this chapter
436 who is regularly engaged in the business of making sales at retail of such motor vehicles, shall be
437 the actual amount paid by the purchaser to the vendor for the motor vehicle or the clean trade-in
438 value of the motor vehicle, whichever is greater, regardless of the actual condition of the vehicle.
439 “Clean trade-in value” for a motor vehicle shall mean the clean trade-in value or equivalent or
440 successor values listed in the National Automobile Dealers Association used car guide or other
441 value guides, whether published in print or electronically, or default values as determined jointly
442 by the commissioner and registrar.

443 SECTION 27. Section 4A of said chapter 64I, as so appearing, is hereby
444 amended by striking out the table, in lines 26 to 32, inclusive, and inserting in place
445 thereof the following table:-

446	MA AGI Per Return	Use Tax Liability
447	\$0 - \$25,000	\$ 0.00
448	\$25,001 - \$40,000	\$20.00
449	\$40,001 - \$60,000	\$31.00
450	\$60,001 - \$80,000	\$44.00
451	\$80,001 - \$100,000	\$56.00
452	Above \$100,000	(Multiply MA AGI by .000625)

453 SECTION 28. Chapter 90 of the General Laws is hereby amended by inserting after
454 section 30A the following section:-

455 Section 30A ½. Notwithstanding section 30A or any other general or special law to the
456 contrary, the registrar may, in the interest of seeking cost efficiencies, avoiding disruptions and
457 continuing to provide registry services for residents, enter into agreements with third party
458 entities based in the commonwealth to perform functions on behalf of the registry of motor
459 vehicles. The registrar shall enter into agreements only with entities existing as of November 1,
460 2009 that provide automobile-related services to the general public including, but not limited to,
461 automobile-related associations, insurance companies and their authorized producers and
462 producer associations and service carriers, and that maintains business offices that are open to the
463 public during hours and at locations convenient for registry customers and in areas where a
464 continuing need exists to provide registry services; provided, however, that an entity entering into
465 any such agreement with the registrar shall only provide registry services to its own members or
466 clients; provided further, that agreements entered into by the registrar and insurance companies or
467 their authorized producers and producer associations and service carriers may authorize such
468 entities to perform registry services that do not require issuance of new plates and that are
469 currently originated by those entities; and provided further, that as part of any such agreement,
470 the registrar shall provide each entity with a secure password to transact those services on behalf
471 of its members or clients.

472 The registrar may provide necessary inventories, equipment, electronic connections and
473 training in regard to such agreements to provide for the provision of registry-related services by
474 the third party. The registrar may help to defray the expenses of the third party as part of the
475 agreement if necessary to provide such services, but only if the overall effect of such agreement

476 results in cost efficiencies to the registry. The registrar shall not enter into an agreement that
477 results in the loss of employment with the commonwealth of any person who was performing
478 services related to the agreement as a registry employee within the 30 days before the effective
479 date of the agreement.

480 The registrar shall annually or more frequently if required by the agreement, review the
481 third party's most recent performance under the agreement and if the cost efficiencies and other
482 purposes for which the agreement has been entered into are not being realized, the registrar may
483 terminate the agreement and recover all inventories, equipment, monies due and other items
484 provided to the third party. An agreement may be amended from time to time.

485 All employees of a third party performing registry-related functions or having access to
486 registry data or equipment shall be subject to all state and federal laws and regulations governing
487 the protection of personal information. Fees collected by the third party on behalf of the registrar
488 shall be deposited in the treasury of the commonwealth pursuant to section 34. An agreement
489 shall ensure that the third party's performance of registry-related functions is subject to periodic
490 audits by registry staff and the state auditor.

491 SECTION 29. Chapter 111 of the General Laws, as appearing the 2008 Official Edition,
492 is hereby amended by striking out section 25I and inserting in place thereof the following
493 section:-

494 Section 25I. The commissioner shall promulgate regulations requiring that either a
495 resident or consultant pharmacist in a health care facility shall return all unused medication to the
496 pharmacy from which it was purchased provided that such medication is sealed in unopened,
497 individually-packaged units and within the recommended period of shelf life and provided that
498 such medication is not a schedule I or II controlled substance as defined in chapter 94C.
499 Medication returned pursuant to this section shall be accepted by such pharmacies regardless of
500 whether such medications are included on any list of unit-dose drugs issued by the department or
501 by the division of medical assistance. The rules and regulations promulgated by the
502 commissioner shall permit the pharmacy to which such medication is returned to restock and
503 redistribute that medication. The pharmacy shall be required to reimburse or credit the purchaser
504 for any such returned medication.

505 SECTION 29A. Section 68B of chapter 119 of the General Laws, as so appearing, is
506 hereby amended by striking out the second sentence and inserting in place thereof the following
507 sentence:- Nothing in this section shall prevent the department from using or providing
508 alternative placements and employing alternative measures which, in its discretion, will
509 reasonably assure the appearance of the children before the court.

510 SECTION 30. Subsection (2) of section 44A of chapter 149 of the General Laws, as so
511 appearing, is hereby amended by striking out paragraph (A) and inserting in place thereof the
512 following paragraph:-

513 (A) Every contract or procurement for the construction, reconstruction, installation,
514 demolition, maintenance or repair of a building by a public agency estimated to cost: (i) less than
515 \$5,000, shall be obtained through the exercise of sound business practices; provided, however,
516 that the public agency shall make and keep a record of each such procurement; and provided
517 further, that the record shall, at a minimum, include the name and address of the person from
518 whom the services were procured; or (ii) \$5,000 or greater but less than \$10,000, shall be
519 awarded to the responsible person offering to perform the contract at the lowest price quotation;
520 provided, however, that the public agency shall seek written price quotations from not fewer than
521 3 persons customarily providing the work for which the contract is being made available. When
522 seeking written quotations pursuant to clause (ii), the public agency shall make and keep a record
523 of the names and addresses of all persons from whom price quotations were sought, the names of
524 the persons submitting price quotations and the date and amount of each price quotation.

525 SECTION 31. The last paragraph of chapter 7 of the resolves of 2008 is hereby amended
526 by striking out the figure “2009” and inserting in place thereof the following figure:- 2010.

527 SECTION 32. Subsection (c) of chapter 498 of the acts of 2008 is hereby amended by
528 striking out the words “March 1, 2010” and inserting in place thereof the following words:- July
529 1, 2010.

530 SECTION 33. Item 0321-1510 of section 2 of chapter 27 of the acts of 2009 is hereby
531 amended by striking out the figure “\$2,000,000” and inserting in place thereof the following
532 figure:- \$2,500,000.

533 SECTION 34. Item 0411-1000 of said section 2 of chapter said 27 is hereby amended by
534 striking out the figure “\$4,952,646” and inserting in place thereof the following figure:-
535 \$4,605,961.

536 SECTION 35. Item 0699-9100 of said section 2 of said chapter 27 is hereby amended by
537 striking out the figure “\$52,104,529” and inserting in place thereof the following figure:-
538 \$27,931,384.

539 SECTION 35A. Item 4403-2000 of said section 2 of said chapter 27 is hereby amended
540 by striking out the words “60 days before promulgating any eligibility or benefit changes” and
541 inserting in place thereof the following:- 90 days before promulgating any eligibility or benefit
542 changes.

543 SECTION 35B. Said section 2 of said chapter 27 is hereby further amended by inserting
544 after the item 4513-1002 the following item:-

545 4513-1010 For the department of public health; provided, that said department may
546 expend not more than \$2,000,000 in revenue received from the collection of federal financial
547 participation for early intervention services delivered to Medicaid-eligible children by
548 developmental educators and professionals in related disciplines; provided further, that nothing in
549 this item shall give rise to or shall be construed as giving rise to enforceable legal rights to any
550 such services or an enforceable entitlement to the services funded in this item; and provided
551 further, that the revenue may be used to pay for current and prior year claims \$2,000,000

552 SECTION 36. Item 7004-9024 of said section 2 of said chapter 27 is hereby amended by
553 striking out the figure “\$29,997,061” and inserting in place thereof the following figure:-
554 \$32,897,061.

555 SECTION 37. Item 7004-9316 of said section 2 of said chapter 27 is hereby amended
556 by striking out the figure “\$3,060,000” and inserting in place thereof the following figure:-
557 \$160,000.

558 SECTION 38. Said section 2 of said chapter 27 is hereby further amended by striking out
559 item 8315-1020 and inserting in place thereof the following item:-

560 8315-1020 For the department of public safety, which may expend not more than
561 \$2,478,869 in revenues collected from fees for annual elevator and
562 amusement park ride inspections for the operation of the department and to
563 address the existing elevator inspection backlog; provided, that the
564 department shall make efforts to employ inspectors to perform overnight and
565 weekend inspections as their regular work shift; provided further, that the
566 department may collect and retain reimbursement for overtime costs
567 associated with overnight and weekend inspections; provided further, that the
568 department shall provide a full waiver of the inspection fee for an individual
569 who requires a wheelchair lift as a medical necessity and whose annual
570 income does not exceed the maximum allowable federal Supplemental
571 Security Income benefit, or \$7,236 a year, whichever is greater; and provided
572 further, that notwithstanding any general or special law to the contrary, for
573 the purpose of accommodating timing discrepancies between the receipt of
574 retained revenues and related expenditures, the department may incur
575 expenses and the comptroller may certify for payment amounts not to exceed
576 the lesser of this authorization or the most recent revenue estimate as
577 reported in the state accounting system..... \$2,478,869

578 SECTION 39. Section 10 of chapter 61 of the acts of 2009 is hereby amended by striking
579 out the last sentence, added by section 6 of chapter 102 of the acts of 2009, and inserting in place
580 thereof the following sentence:- Each county, and in the case of Suffolk county the city of
581 Boston, shall, not later than June 30, 2010, appropriate and pay to the commonwealth an amount
582 equal to 51.25 per cent of the minimum obligations to fund from its own revenues in fiscal year
583 2009 the operations of the office of the sheriff; provided, however, that such payment shall not
584 exceed one-half of the correction's share of the county's fiscal year 2010 retirement assessment.

585 SECTION 40. Clause (b) of chapter 64 of the acts of 2009 is hereby amended by striking
586 out the figure "\$7,000,000" and inserting in place thereof the following figure:- \$18,004,810.

587 SECTION 41. Notwithstanding any general or special law to the contrary, the secretary
588 of administration and finance may direct the comptroller to transfer not more than \$30,000,000
589 from the General Fund to the Medical Security Trust Fund, established in subsection (k) of
590 section 14G of chapter 151A of the General Laws, in fiscal year 2010, to be available to pay for
591 health insurance coverage provided under said section 14G of said chapter 151A if the

592 unemployment health insurance contributions required under said section 14G of said chapter
593 151A will be inadequate to fund the health insurance coverage. The secretary of administration
594 and finance may later direct the comptroller to transfer not more than \$30,000,000 from the
595 Medical Security Trust Fund to the General Fund to repay the General Fund for the transfer
596 authorized by the preceding sentence.

597 SECTION 42. Notwithstanding any general or special law to the contrary, the
598 comptroller shall, on or before June 30, 2010, transfer \$35,791,289 to the General Fund from the
599 Commonwealth Stabilization Fund, including portions of the amounts transferred to the
600 Commonwealth Stabilization Fund by clause (ii) of subsection (a) of section 1 of chapter 56 of
601 the acts of 2009, but the comptroller shall instead transfer a lesser amount if the secretary of
602 administration and finance requests in writing. The comptroller, in consultation with the
603 secretary, may take the overall cash flow needs of the commonwealth into consideration in
604 determining the timing of such transfer. The comptroller shall provide a schedule of transfers to
605 the secretary and to the house and senate committees on ways and means.

606 SECTION 43. (a) Notwithstanding any general or special law to the contrary, the
607 commissioner of revenue shall establish a tax amnesty program during which all penalties that
608 could be assessed by the commissioner shall be waived without the need for any showing by the
609 taxpayer of reasonable cause or the absence of willful neglect for the failure of the taxpayer to: (i)
610 timely file any proper return for any tax type and for any tax period; (ii) file proper returns which
611 report the full amount of the taxpayer's liability for any tax type and for any tax period; (iii)
612 timely pay any tax liability; or (iv) pay the proper amount of any required estimated payment
613 toward a tax liability. The waiver of a taxpayer's liability under this section shall apply if the
614 taxpayer files returns, makes payments as required by the commissioner or otherwise comes into
615 compliance with the tax laws of the commonwealth as required by the commissioner pursuant to
616 the tax amnesty program. The scope of the program, including the particular tax types and
617 periods covered, including any limited look-back period for unfiled returns, shall be determined
618 by the commissioner.

619 (b) The amnesty program shall be established for 2 consecutive months within fiscal year
620 2010 to be determined by the commissioner, such period to expire not later than June 30, 2010,
621 and all required payments shall be made on or before June 30, 2010, in order for the amnesty to
622 apply. If a taxpayer fails to pay the full liability before June 30, 2010, the commissioner shall
623 retain any payments made and shall apply those payments against the outstanding liability, and

624 the provisions of the tax amnesty program, other than the additional penalty authorized by section
625 2, shall not apply.

626 (c) The commissioner's authority to waive penalties during the amnesty period shall not
627 apply to any taxpayer who, before the start date of the amnesty program selected by the
628 commissioner, was the subject of a tax-related criminal investigation or prosecution. The
629 amnesty program shall not authorize the waiver of interest or any amount treated as interest. The
630 commissioner may offer tax amnesty to those taxpayers who have either an unpaid self-assessed
631 liability or who have been assessed a tax liability, whether before or after the filing of a return,
632 which assessed liability remains unpaid.

633 (d) To the extent that a taxpayer within the scope of the amnesty program as determined
634 by the commissioner and wishing to participate in the amnesty program has postponed the
635 payment of an assessment of tax, interest and penalty under the authority of subsection (e) of
636 section 32 of chapter 62C of the General Laws, the taxpayer shall waive in writing all rights
637 under said subsection (e) to of said section 32 of said chapter 62C further delay the payment of
638 the tax and interest portions of the assessment. The tax and interest portions of the assessment
639 shall be payable in full from the date of the commissioner's notice of assessment. Upon payment
640 by the taxpayer of the tax and interest of the outstanding assessment, the commissioner shall
641 waive all penalties associated with that assessment. The taxpayer and the commissioner shall
642 then proceed with all administrative appeal rights that the taxpayer wishes to pursue with respect
643 to the assessment.

644 (e) Amnesty shall not apply to those penalties which the commissioner would not have
645 the sole authority to waive including, but not limited to, fuel taxes administered under the
646 International Fuel Tax Agreement or under the local option portions of taxes or excises collected
647 for the benefit of cities, towns or state governmental authorities.

648 (f) The commissioner shall maintain records of the amnesty provided under this section
649 including, but not limited to: (i) the number of taxpayers provided with amnesty; (ii) the types of
650 tax liability for which amnesty was provided and, for each type of liability, the amount of tax
651 liability collected and the amount of penalties foregone by virtue of the amnesty program; and
652 (iii) the total outstanding tax liability for amnesty-eligible taxpayers at the conclusion of the tax
653 amnesty program after the collection of all funds under this section. The commissioner shall file
654 a report detailing such information with the clerks of the house of representatives and the senate,

655 the joint committee on revenue, the house and senate committees on ways and means, the
656 minority leader of the house and the minority leader of the senate not later than September 1,
657 2010; provided, however, that such report shall not contain information sufficient to identify an
658 individual taxpayer or the amnesty that an individual taxpayer was provided under this section.

659 (g) A taxpayer who is eligible for the amnesty program based upon the criteria
660 established by the commissioner and who fails to come forward under the tax amnesty program
661 and make payments before June 30, 2010 shall, in addition to all other penalties provided by
662 chapter 62C of the General Laws, be subject to an additional penalty not to exceed \$500 per
663 taxpayer, which shall be calculated and assessed according to rules determined by the
664 commissioner and which may be subject to de minimis or other exceptions that the commissioner
665 may consider appropriate. This penalty shall be subject to said 62C and shall be added to and
666 become part of the tax due. The commissioner may waive the penalty provided by this
667 subsection for reasonable cause as provided in subsection (f) of section 33 of chapter said 62C.

668 SECTION 44. Notwithstanding any general or special law to the contrary, the office of
669 the state comptroller shall continue to process all payroll deductions authorized by employees
670 who are members of the State Police Commissioned Officers Association of Mass., Inc.

671 SECTION 44A. Notwithstanding any general or special law to the contrary, not
672 less than \$25,401,925 shall be appropriated to item 4180-0100 of section 2 of chapter 27
673 of the acts of 2009 in fiscal year 2010.

674 SECTION 44B. Notwithstanding any general or special law to the contrary, not
675 less than \$19,044,046 shall be appropriated to item 4190-0100 of section 2 of chapter 27
676 of the acts of 2009 in fiscal year 2010.

677 SECTION 44C. Notwithstanding any general or special law to the contrary, not
678 less than \$2,503,336 shall be appropriated to item 4510-0810 of section 2 of chapter 27
679 of the acts of 2009 in fiscal year 2010.

680 SECTION 45. Section 19 shall take effect as of July 1, 2009.

681 SECTION 46. Sections 20 and 25 shall be effective for tax years beginning on or after
682 January 1, 2009.

683 SECTION 47. Sections 21 to 24, inclusive, and section 27 shall be effective for
684 tax years beginning on and after January 1, 2010.