

**HOUSE . . . . . No. 4348**

---

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the Year Two Thousand Nine**  
\_\_\_\_\_

An Act IMPLEMENTING FISCAL STABILITY MEASURES FOR FISCAL YEAR 2010..

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

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

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

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

10           “Enhanced expansion project”, a facility that in its entirety and as of the project proposal  
11 date: (i) is located or will be located within the commonwealth; (ii) generates substantial sales  
12 from outside of the commonwealth; and (iii) generates a net increase of at least 100 full-time  
13 employees within 2 years after project certification, and which shall be maintained for a period

14 of not less than 5 years; provided, that in the case of a facility that as of the project proposal date  
15 is already located in the commonwealth, the term “enhanced expansion project” shall refer only  
16 to a facility at which the controlling business has proposed to expand the number of permanent  
17 full-time employees at such facility to occur after the project proposal date and the expansion  
18 shall represent: (i) an increase in the number of permanent full-time employees employed by the  
19 controlling business within the commonwealth; and (ii) not a replacement or relocation of  
20 permanent full-time employees employed by the controlling business at any other facility located  
21 within the commonwealth; and provided further, that in the case of a facility to be located within  
22 the commonwealth after the project proposal date, the term “enhanced expansion project” shall  
23 refer only to a facility that is: (i) the first facility of the controlling business to be located within  
24 the commonwealth; or (ii) (A) a new facility of such business and not a replacement or relocation  
25 of an existing facility of such controlling business located within the commonwealth; or (B) an  
26 expansion of an existing facility of the controlling business that results in an increase in  
27 permanent full-time employees.

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

37 meaning of subclauses (A) and (B) of clause (ii) of the definition of enhanced expansion project,  
38 such proposal shall include, in addition, the number of permanent full-time employees employed  
39 by the controlling business at other facilities located in the commonwealth.

40 “Expansion project”, a facility that in its entirety and as of the project proposal date: (i) is  
41 located or will be located within an EOA; (ii) generates substantial sales from outside of the  
42 commonwealth; and (iii) generates a net increase of full-time employees within 2 years after  
43 project certification, and which shall be maintained for a period of not less than 5 years;  
44 provided, that in the case of a facility that as of the project proposal date is already located in an  
45 EOA, the term “expansion project” shall refer only to a facility at which the controlling business  
46 has proposed to expand of the number of permanent full-time employees at such facility to occur  
47 after the project proposal date and the expansion shall represent: (i) an increase in the number of  
48 permanent full-time employees employed by the controlling business within the commonwealth;  
49 and (ii) not a replacement or relocation of permanent full-time employees employed by the  
50 controlling business at any other facility located within the commonwealth; and provided,  
51 further, that in the case of a facility to be located within an EOA after the project proposal date,  
52 the term “expansion project” shall refer only to a facility which is: (i) the first facility of the  
53 controlling business to be located within the commonwealth; or (ii) (A) a new facility of such  
54 business and not a replacement or relocation of an existing facility of such controlling business  
55 located within the commonwealth; or (B) expansion of an existing facility of the controlling  
56 business that results in an increase in permanent full-time employees.

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

59 “Expansion project ETA”, the ETA within which a expansion project is located or will be  
60 located, determined with reference to the project EOA.

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

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

78 “Facility”, the physical location, in real property, which may include one or more  
79 buildings, owned or leased by a business, of a commercial, manufacturing or industrial activity,  
80 division or component controlled by said business, or any real estate project which involves the

81 construction or renovation of real property to serve such purpose, or any combination of the  
82 foregoing, at which are employed, or are projected to be employed, permanent full-time  
83 employees of the controlling business.

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

87 “Manufacturing retention project”, a manufacturing facility that in its entirety and as of  
88 the project proposal date: (i) is located or will be located within a gateway municipality; (ii)  
89 generates a net increase or retention of a minimum of at least 100 permanent full-time positions;  
90 provided, however, that if the controlling business increases the number of full-time positions at  
91 the facility, it shall be within 2 years after certification of the project and the controlling business  
92 shall make a commitment that the positions created or retained are to be maintained for at least a  
93 5-year period; and (iii) generates substantial sales from outside of the commonwealth; provided,  
94 that in the case of a facility that as of the project proposal date is already located in the gateway  
95 municipality, the term “manufacturing retention project” shall refer only to a facility for which  
96 there is a proposed expansion or retention of the number of permanent full-time employees at  
97 such facility by the controlling business, to occur after the project proposal date and the  
98 expansion shall represent a retention or increase of at least 100 permanent full-time employees  
99 employed by the controlling business within the project and shall not represent a replacement or  
100 relocation of permanent full-time employees employed by the controlling business at any other  
101 facility located within the commonwealth; and provided further, that in the case of a facility to be  
102 located after the project proposal date, the term “manufacturing retention project” shall refer only  
103 to a facility that is: (1) the first facility of the controlling business to be located within the

104 commonwealth; or (2) a new facility of such business and not a replacement or relocation of an  
105 existing facility of such controlling business located within the commonwealth.

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

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

121 “Project”, an expansion project, enhanced expansion project or a manufacturing retention  
122 project.

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

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

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

131 SECTION 7. Section 3F of said chapter 23A, as so appearing, is hereby amended by  
132 inserting before the word “projects,” the second time it appears in line 2, the following words: -  
133 expansion, enhanced expansion, or manufacturing retention.

134 SECTION 8. Said section 3F of said chapter 23A, as so appearing, is hereby further  
135 amended by inserting before the word “receipt,” in line 6, the following words: - in the case of  
136 expansion project proposals and manufacturing retention project proposals,.

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

139 SECTION 10. Said section 3F of said chapter 23A, as so appearing, is hereby further  
140 amended by inserting before the words “is consistent”, in line 15, the following words: - if the  
141 proposal is for an expansion project, that it.

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

144 SECTION 12. Subsection 1 of said section 3F of said chapter 23A, as so appearing, is  
145 hereby further amended by striking out subparagraph (iii) of paragraph (b) and inserting in place  
146 thereof the following subparagraph: -

147 (iii) the project proposal includes a workable plan, with precise goals and objectives, by  
148 which the controlling business proposes to realize the increased employment objectives for the  
149 project and the business' plan to employ aggressive affirmative action goals, objectives and  
150 identification and recruitment techniques and, in the case of an expansion project, the plan for  
151 increased employment from among residents of the project ETA; and

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

155 SECTION 14. Subsection 1 of said section 3F of said chapter 23A, as so appearing, is  
156 hereby further amended by striking out subparagraph (v) of paragraph (b) and inserting in place  
157 thereof the following new subparagraph:-

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

162 SECTION 15. Said section 3F of said chapter 23A, as so appearing, is hereby further  
163 amended by inserting before the words "the number of years", in line 45, the following words: -  
164 if the designation is for an expansion project,.



165 SECTION 16. Subsection 1 of said section 3F of said chapter 23A, as so appearing, is  
166 hereby further amended by striking out subparagraph (ii) of paragraph (d) and inserting in place  
167 thereof the following new subparagraph:-

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

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

175 (2) A certified project shall retain its certification for the period specified by the EACC in  
176 its certification decision; provided, however, that such specified period shall be not less than 5  
177 years from the date of certification nor more than: (i) 20 years from such date; or (ii) for an  
178 expansion project, the number of years remaining on the duration of designation of the project  
179 EOA, including any renewals thereof; or (iii) the number of years requested by the municipality  
180 approving the project proposal, whichever is less, unless such certification is revoked prior to the  
181 expiration of said specified period. The certification of a project may be revoked only by the  
182 EACC, and only upon: (a) the petition of the municipality that approved the project proposal, if  
183 applicable, if the petition satisfies the authorization requirements for a municipal application, or  
184 the petition of the director of economic development; and (b) the independent investigation and  
185 determination of the EACC that representations made by the controlling business in its project  
186 proposal are materially at variance with the conduct of the controlling business subsequent to the

187 certification and such variance is found to frustrate the public purposes that such certification  
188 was intended to advance; provided, that the EACC shall review such certified project at least  
189 once every 2 years; provided further, that for an expansion project where the actual number of  
190 permanent full-time employees employed by the controlling business at the project is less than  
191 50 per cent of the number of such permanent full-time employees projected in the project  
192 proposal, then this shall be deemed a material variance for the purposes of a revocation  
193 determination. Any such revocation shall only be applied prospectively and shall not apply to,  
194 nor revoke any benefits due to the project that relate to years prior to the year in which the  
195 revocation determination is made, unless the EACC determines that the controlling business of  
196 said project made a material misrepresentation in its project proposal, in which case both the  
197 commonwealth and the municipality shall have causes of action against the controlling business  
198 for the value of any economic benefits received subsequent to the date on which such material  
199 misrepresentation was made. Annually, on or before the first Wednesday in December, the  
200 EACC shall file a report detailing its findings of the review of all certified projects that it  
201 evaluated in the prior fiscal year to the commissioner of revenue, to the chairs of the joint  
202 committee on revenue and the chairs of the joint committee on economic development and  
203 emerging technologies.

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

208 SECTION 18. Said section 3F of said chapter 23A, as so appearing, is hereby further  
209 amended by inserting after subsection (4) the following 2 subsections:-

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

213 (a) for expansion projects:

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

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

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

221 for enhanced expansion projects:

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

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

227 (c) for manufacturing retention projects:

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

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

234 (6) The EACC may, in consultation with the department of revenue, limit any incentive  
235 or credit available to a project pursuant to subsection (g) of section 6 of chapter 62 and section  
236 38N of chapter 63 to a specific dollar amount or time duration or in any other manner deemed  
237 appropriate by EACC.

238 SECTION 19. Paragraph (a) of subsection (2) of section 7 of chapter 32 of the General  
239 Laws, as amended by section 8 of chapter 21 of the acts of 2009, is hereby amended by striking  
240 out clause (ii) and inserting in place thereof the following clause:-

241 (ii) A yearly amount of pension equal to 72 per cent of the annual rate of his regular  
242 compensation on the date such injury was sustained or such hazard was undergone, or equal to  
243 72 per cent of the average annual rate of his regular compensation for the 12 month period for  
244 which he last received regular compensation immediately preceding the date his retirement  
245 allowance becomes effective, whichever is greater; provided, however, that if an individual was  
246 in a temporary or acting position on the date such injury was sustained or hazard undergone, the  
247 amount to be provided under this subdivision shall be based on the annual rate of regular  
248 compensation in his permanent position on the date such injury was sustained or such hazard was  
249 undergone, or the average annual rate of his regular compensation in his permanent position for

250 the 12 month period for which he last received regular compensation immediately preceding the  
251 date his retirement allowance becomes effective, whichever is greater; provided, however, that  
252 for any employee who was not a member in service on or before January 1, 1988 or who has not  
253 been continuously a member in service since that date, the total yearly amount of the sum of such  
254 pension and the annuity as determined in accordance with the provisions of clause (i) shall not  
255 exceed 75 per cent of the annual rate of regular compensation as determined in this paragraph  
256 and provided further, that no individual who is a member in service on January 1, 1988, whose  
257 allowance is limited by the 75 per cent limitation as established in this paragraph shall receive an  
258 amount of pension that is less than 72 per cent of such individual's regular compensation on said  
259 January 1, 1988; and

260 SECTION 20. Chapter 62 of the General Laws, as so appearing, is amended by inserting  
261 after section 5A the following section:-

262 Section 5C. An unincorporated association within the definition of, and electing to be  
263 treated as, a homeowners association under section 528(c) of the Code for a taxable year shall be  
264 subject to tax under this chapter on its income as a resident individual for the taxable year. Its  
265 gross income shall be calculated under subsection (a) of section 2, and its taxable income shall  
266 be defined as in section 528(d)(1), (3) of the Code, to the extent consistent with the laws of the  
267 commonwealth. Such associations shall not be allowed the deductions or exemptions under  
268 section 3. The modifications under section 528(d)(2) of the Code shall not apply in determining  
269 taxable income for purposes of this chapter.

270 SECTION 21. Subsection (g) of section 6 of chapter 62 of the General Laws, as so  
271 appearing, is hereby amended by striking out paragraph (1) and inserting in place thereof the  
272 following paragraph: -

273 (1) A credit shall be allowed against the tax liability imposed by this chapter, to the  
274 extent authorized by the economic assistance coordinating council established by section 3B of  
275 chapter 23A, up to an amount equal to 50 per cent of such liability in any taxable year; provided,  
276 that the 50 per cent limitation shall not apply where the credit is refundable under paragraph (5)  
277 of this subsection; (i) for certified expansion projects and certified enhanced expansion projects,  
278 as defined in sections 3A and 3F of said chapter 23A, an amount up to 10 per cent, and (ii) for  
279 certified manufacturing retention projects, as defined by said sections 3A and 3F of said chapter  
280 23A, an amount up to 40 per cent of the cost of property that would qualify for the credit allowed  
281 by section 31A of chapter 63 if the property were purchased by a manufacturing corporation or a  
282 business corporation engaged primarily in research and development and is used exclusively in a  
283 certified project as defined in sections 3A and 3F of chapter 23A. A lessee may be eligible for a  
284 credit pursuant to this subsection for real property leased pursuant to an operating lease.

285 If such property is disposed of or ceases to be in qualified use within the meaning of said  
286 section 31A of said chapter 63 or if such property ceases to be used exclusively in such a  
287 certified project, as defined in said sections 3A and 3F of said chapter 23A, before the end of its  
288 useful life, the recapture provisions of subsection (e) of said section 31A of said chapter 63 shall  
289 apply and an amount determined thereunder shall be added to the tax imposed by this chapter.

290 The total amount of credits that may be authorized by the economic assistance  
291 coordinating council in any calendar year pursuant to this section and section 38N of chapter 63

292 shall not exceed \$25,000,000 and shall include: (1) refundable credits granted during the year  
293 pursuant to this section or section 38N of chapter 63; (2) non-refundable credits granted during  
294 the year pursuant to this section or section 38N of chapter 63, to the extent that such non-  
295 refundable credits are estimated by the commissioner to offset tax liabilities during the year; and  
296 (3) carryforwards of credits from prior years pursuant to this section or section 38N of chapter  
297 63, to the extent that such credit carryforwards are estimated by the commissioner to offset tax  
298 liabilities during the year. Of the \$25,000,000 in allowable credits, the economic assistance  
299 coordinating council may award not more than \$5,000,000 in any calendar year to certified  
300 enhanced expansion projects as defined in sections 3A and 3F of chapter 23A, and not more than  
301 \$5,000,000 for certified manufacturing retention projects as defined in said sections 3A and 3F  
302 of said chapter 23A. Any amount of the \$25,000,000 annual cap not awarded by the economic  
303 assistance coordinating council in a calendar year shall not be applied to awards in a subsequent  
304 year. The economic assistance coordinating council shall provide the commissioner of revenue  
305 with any documentation that the commissioner deems necessary to confirm compliance with the  
306 annual cap and the commissioner shall provide a report confirming compliance with the annual  
307 cap to the secretary of administration and finance and the secretary of the executive office of  
308 housing and economic development.

309 As used in this paragraph, "EACC" means the economic assistance coordinating council  
310 established by section 3B of chapter 23A. A credit allowed under this subsection may be taken  
311 only after the taxpayer completes a report signed by an authorized representative of the  
312 corporation, and files the report with the EACC within 2 years after the initial project  
313 certification by the EACC and annually thereafter. The report shall contain pertinent  
314 employment data needed to determine whether the taxpayer has reasonably satisfied the

315 employment projections set forth in its original project proposal granted pursuant to section 3F of  
316 said chapter 23A. The provisions of paragraph (3) of section 3F of chapter 23A shall apply to  
317 any tax benefits awarded under this section. Nothing in this subsection shall limit the authority  
318 of the commissioner to make adjustments to a corporation's liability upon audit.

319 SECTION 22. Said subsection (g) of said section 6 of said chapter 62, as so appearing, is  
320 hereby amended by inserting after paragraph (4), the following paragraph:-

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

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

330 (a) A corporation subject to tax under this chapter that participates in a certified project as  
331 defined in sections 3A and 3F of chapter 23A, may take a credit against the excise imposed by  
332 this chapter to the extent authorized by the economic assistance coordinating council established  
333 by section 3B of said chapter 23A, in an amount not to exceed 50 per cent of such liability in any  
334 taxable year; provided that the 50 per cent limitation shall not apply if the credit is refundable  
335 under subsection (b); (i) for certified expansion projects and certified enhanced expansion  
336 projects, as defined in sections 3A and 3F of said chapter 23A, an amount up to 10 per cent, and



337 (ii) for certified manufacturing retention projects, as defined by said sections 3A and 3F of said  
338 chapter 23A, an amount up to 40 per cent of the cost of any property that would qualify for the  
339 credit allowed by section 31A if the property were purchased by a manufacturing corporation or  
340 a business corporation engaged primarily in research and development and is used exclusively in  
341 a certified project as defined in sections 3A and 3F of said chapter 23A. A lessee may be eligible  
342 for a credit pursuant to this subsection for real property leased pursuant to an operating lease.

343           The total amount of credits that may be authorized by the economic assistance  
344 coordinating council in any calendar year pursuant to subsection (g) of section 6 of chapter 62  
345 and this section shall not exceed \$25,000,000 and shall include: (1) refundable credits granted  
346 during the year pursuant to subsection (g) of section 6 of chapter 62 or this section; (2)  
347 nonrefundable credits granted during the year pursuant to said subsection (g) of said section 6 of  
348 said chapter 62 or this section, to the extent that such nonrefundable credits are estimated by the  
349 commissioner to offset tax liabilities during the year; and (3) carryforwards of credits from prior  
350 years pursuant to said subsection (g) of said section 6 of said chapter 62 or this section, to the  
351 extent that such credit carryforwards are estimated by the commissioner to offset tax liabilities  
352 during the year. Of the \$25,000,000 in allowable credits, the economic assistance coordinating  
353 council may award not more than \$5,000,000 in any calendar year to certified enhanced  
354 expansion projects as defined in sections 3A and 3F of chapter 23A and not more than  
355 \$5,000,000 for certified manufacturing retention projects as defined in said sections 3A and 3F  
356 of chapter 23A. Any amount of the \$25,000,000 annual cap not awarded by the economic  
357 assistance coordinating council in a calendar year shall not be applied to awards in a subsequent  
358 year. The economic assistance coordinating council shall provide the commissioner with any  
359 documentation that the commissioner deems necessary to confirm compliance with the annual

360 cap and the commissioner shall provide a report confirming compliance with the annual cap to  
361 the secretary of administration and finance and the secretary of the executive office of housing  
362 and economic development.

363           The credit allowed under this section may be taken by an eligible corporation; provided,  
364 however, that neither credit allowed by said section 31A or by section 31H is taken by such  
365 corporation. For purposes of this paragraph, the corporation need not be a manufacturing  
366 corporation or a business corporation engaged primarily in research and development. If such  
367 property is disposed of or ceases to be in qualified use within the meaning of section 31A or if  
368 such property ceases to be used exclusively in a certified project before the end of its useful life  
369 the recapture provisions of subsection (e) of section 31A shall apply.

370           As used in this paragraph, “EACC” means the economic assistance coordinating council  
371 established by section 3B of chapter 23A. A credit allowed under this section may be taken only  
372 after the taxpayer completes a report signed by an authorized representative of the corporation,  
373 and files the report with the EACC within 2 years after the initial project certification by the  
374 EACC and annually thereafter. The report shall contain pertinent employment data needed to  
375 determine whether the taxpayer has reasonably satisfied the employment projections set forth in  
376 its original project proposal granted pursuant to section 3F of said chapter 23A. The provisions  
377 of paragraph (3) of section 3F of said chapter 23A shall apply to any tax benefits awarded under  
378 this section. Nothing in this section shall limit the authority of the commissioner to make  
379 adjustments to a corporation’s liability upon audit.

380           (b) If a credit allowed to a taxpayer under clause (ii) of subsection (a) exceeds the excise  
381 otherwise due under this chapter, 100 per cent of the balance of such credit may, at the option of

382 the taxpayer and to the extent authorized by the economic assistance coordinating council, be  
383 refundable to the taxpayer for the taxable year in which qualified property giving rise to that  
384 credit is placed in service. If such credit balance is refunded to the taxpayer, the credit carryover  
385 provisions of subsection (d) shall not apply. The amount of credit eligible to be refunded shall  
386 be determined without regard to the limitations in subsections (a) and (c).

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

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

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

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

397 SECTION 26. The second paragraph of section 4 of chapter 64I of the General Laws, as  
398 so appearing, is hereby amended by striking out the fourth and fifth sentences and inserting in  
399 place thereof the following 2 sentences:-

400 For purposes of such determination, the sales price of any motor vehicle, except a motor  
401 vehicle purchased from a vendor registered under this chapter who is regularly engaged in the  
402 business of making sales at retail of such motor vehicles, shall be the actual amount paid by the

403 purchaser to the vendor for said motor vehicle or the clean trade-in value of said motor vehicle,  
404 whichever is greater regardless of the actual condition of the vehicle. "Clean trade-in value" for a  
405 motor vehicle shall mean the clean trade-in value or equivalent or successor values listed in the  
406 National Automobile Dealers Association used car guide or other value guides, whether  
407 published in print or electronically, or default values as determined jointly by the commissioner  
408 and registrar.

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

412	MA AGI Per Return	Use Tax Liability
413	\$0 - \$25,000	\$ 0.00
414	\$25,001 - \$40,000	\$20.00
415	\$40,001 - \$60,000	\$31.00
416	\$60,001 - \$80,000	\$44.00
417	\$80,001 - \$100,000	\$56.00
418	Above \$100,000	(Multiply MA AGI by .000625)

419 SECTION 28. Chapter 90 of the General Laws, as so appearing, is hereby amended by  
420 inserting after section 30A the following section:-

421 Section 30A ½. Notwithstanding section 30A or any other general or special law to the  
422 contrary, the registrar may, in the interest of seeking cost efficiencies, avoiding disruptions and

423 continuing to provide registry services for residents of the commonwealth, enter into agreements  
424 with third party entities based in the commonwealth to perform functions on behalf of the  
425 registry of motor vehicles. The registrar shall enter into agreements only with an existing entity  
426 that provides automobile-related services to the general public, including, but not limited to,  
427 automobile-related associations, insurance companies and their authorized producers and service  
428 carriers, and that maintains business offices that are open to the public during hours and at  
429 locations believed to be convenient for registry customers and in areas where a continuing need  
430 exists to provide registry services; provided, however, that an entity entering into such an  
431 agreement with the registrar shall only provide registry services to its own members or clients;  
432 provided further, that agreements entered into by the registrar and insurance companies or their  
433 authorized producers and service carriers may authorize such entities to perform registry services  
434 that do not require issuance of a new plate and that are currently originated by those entities; and  
435 provided further, that as part of any such agreement described in the preceding clause, the  
436 registrar shall provide each entity a secure password with which to transact those services on  
437 behalf of members or clients.

438           The registrar may provide necessary inventories, equipment, electronic connections and  
439 training in regard to such agreements to provide for the provision of registry-related services by  
440 the third party. The registrar may help to defray the expenses of the third party as part of the  
441 agreement if necessary to provide such services, but only if the overall effect of such agreement  
442 results in cost efficiencies to the registry. The registrar shall not enter into an agreement that  
443 results in the loss of employment with the commonwealth of any person who was performing  
444 services related to the agreement as a registry employee within the 30 days before the effective  
445 date of the agreement.

446 The registrar shall on an annual basis, or more frequently if required by the agreement,  
447 review the third party's most recent performance under the agreement and if the cost efficiencies  
448 and other purposes for which the agreement has been entered into are not being realized, the  
449 registrar may terminate the agreement and recover all inventories, equipment, monies due and  
450 other items provided to the third party. An agreement may be amended from time to time.

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

457 SECTION 29. Section 68B of chapter 119 of the General Laws, as so appearing, is  
458 hereby amended by striking out the second sentence and inserting in place thereof the following  
459 sentence:- Nothing in this section shall prevent the department from using or providing  
460 alternative placements and employing alternative measures which in the department's discretion  
461 will reasonably assure the appearance of the children before the court.

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

465 (A) Every contract or procurement for the construction, reconstruction, installation,  
466 demolition, maintenance or repair of any building by a public agency estimated to cost: (i) less  
467 than \$5,000 shall be obtained through the exercise of sound business practices; provided that the

468 public agency shall make and keep a record of each such procurement; and provided further that  
469 said record shall, at a minimum, include the name and address of the person from whom the  
470 services were procured; or (ii) \$5,000 or greater but less than \$10,000 shall be awarded to the  
471 responsible person offering to perform the contract at the lowest price quotation; provided,  
472 however, that the public agency shall seek written price quotations from no fewer than 3 persons  
473 customarily providing the work for which the contract is being made available. When seeking  
474 written quotations pursuant to clause (ii), the public agency shall make and keep a record of the  
475 names and addresses of all persons from whom price quotations were sought, the names of the  
476 persons submitting price quotations and the date and amount of each price quotation.

477 SECTION 31. Chapter 7 of the resolves of 2008 is hereby amended by striking out the  
478 number “2009” and inserting in place thereof the following number:- 2010.

479 SECTION 32. Chapter 498 of the acts of 2008 is hereby amended by striking out the  
480 words “March 1, 2010” and inserting in place thereof the following words:- July 1, 2010.

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

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

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

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

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

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

498 8315-1020 For the department of public safety, which may expend not more than  
499 \$2,478,869 in revenues collected from fees for annual elevator and amusement park ride  
500 inspections; provided, that funds shall be expended for the operation of the department and to  
501 address the existing elevator inspection backlog; provided further, that the department shall make  
502 efforts to employ inspectors who will perform overnight and weekend inspections as their  
503 regular work shift; provided further, that the department may collect and retain reimbursement  
504 for overtime costs associated with overnight and weekend inspections; provided further, that the  
505 department shall provide a full waiver of the inspection fee for an individual who requires a  
506 wheelchair lift as a medical necessity and whose annual income does not exceed the maximum  
507 allowable federal SSI benefit, or \$7,236 a year, whichever is greater; and provided further, that  
508 notwithstanding any general or special law to the contrary, for the purpose of accommodating  
509 timing discrepancies between the receipt of retained revenues and related expenditures, the  
510 department may incur expenses and the comptroller may certify for payment amounts not more



511 than the lesser of this authorization or the most-recent revenue estimate as reported in the state  
512 accounting system \$2,478,869

513 SECTION 39. Section 10 of chapter 61 of the acts of 2009, as amended by section 6 of  
514 chapter 102 of the acts of 2009, is hereby further amended by striking out the last sentence and  
515 inserting in place thereof the following sentence:- Each county, and in the case of Suffolk  
516 county the city of Boston, shall, not later than June 30, 2010, appropriate and pay to the  
517 commonwealth an amount equal to 51.25 per cent of the minimum obligations to fund from its  
518 own revenues in fiscal year 2009 the operations of the office of the sheriff; provided, however,  
519 that said payment shall not exceed one-half of the corrections share of the county's fiscal year  
520 2010 retirement assessment.

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

523 SECTION 41. Notwithstanding any general or special law to the contrary, the secretary  
524 of administration and finance may direct the comptroller to transfer not more than \$30,000,000  
525 from the General Fund to the Medical Security Trust Fund, established under subsection (k) of  
526 section 14G of chapter 151A of the General Laws, in fiscal year 2010, to be available to pay for  
527 health insurance coverage provided under that section if the unemployment health insurance  
528 contributions required under that section will be inadequate to fund the health insurance  
529 coverage. The secretary of administration and finance may later direct the comptroller to  
530 transfer not more than \$30,000,000 from the Medical Security Trust Fund to the General Fund to  
531 repay the General Fund for the transfer authorized by the preceding sentence.

532 SECTION 42. Notwithstanding any general or special law to the contrary, the  
533 comptroller shall, on or before June 30, 2010, transfer \$35,791,289 to the General Fund from the  
534 Commonwealth Stabilization Fund, including portions of the amounts transferred to the  
535 Commonwealth Stabilization Fund by clause (ii) of section 1 of chapter 56 of the acts of 2009,  
536 but the comptroller shall instead transfer a lesser amount if the secretary of administration and  
537 finance so requests in writing. The comptroller, in consultation with the secretary, may take the  
538 overall cash flow needs of the commonwealth into consideration in determining the timing of  
539 this transfer of funds. The comptroller shall provide a schedule of transfers to the secretary and  
540 to the house and senate committees on ways and means.

541 SECTION 43. (a) Notwithstanding any general or special law to the contrary, the  
542 commissioner of revenue shall establish a tax amnesty program during which all penalties that  
543 could be assessed by the commissioner for the failure of the taxpayer to: (i) timely file any  
544 proper return for any tax type and for any tax period; (ii) file proper returns which report the full  
545 amount of the taxpayer's liability for any tax type and for any tax period; (iii) timely pay any tax  
546 liability; or (iv) pay the proper amount of any required estimated payment toward a tax liability  
547 shall be waived without the need for any showing by the taxpayer of reasonable cause or the  
548 absence of willful neglect. The waiver of a taxpayer's liability under this section shall apply if  
549 the taxpayer files returns, makes payments as required by the commissioner or otherwise comes  
550 into compliance with the tax laws of the commonwealth as required by the commissioner  
551 pursuant to the tax amnesty. The scope of the amnesty program in terms of the particular tax  
552 types and periods covered, including any limited look-back period for unfiled returns, shall be  
553 determined by the commissioner.

554 (b) The amnesty program shall be established for a period of 2 consecutive months within  
555 fiscal year 2010 to be determined by the commissioner, such period to expire not later than June  
556 30, 2010, and all required payments shall be made on or before June 30, 2010, in order for the  
557 amnesty to apply. If a taxpayer fails to pay the full liability before June 30, 2010, the  
558 commissioner shall retain any payments made and shall apply said payments against the  
559 outstanding liability, and the provisions of the tax amnesty program, other than the additional  
560 penalty authorized by section 2, shall not apply.

561 (c) The commissioner's authority to waive penalties during the amnesty period shall not  
562 apply to any taxpayer who, before the start date of the amnesty program selected by the  
563 commissioner, was the subject of a tax-related criminal investigation or prosecution. The  
564 amnesty program shall not authorize the waiver of interest or any amount treated as interest. The  
565 commissioner may offer tax amnesty to those taxpayers who have either any unpaid self-  
566 assessed liability or who have been assessed a tax liability, whether before or after their filing of  
567 a return, which assessed liability remains unpaid.

568 (d) To the extent that a taxpayer within the scope of the amnesty program as determined  
569 by the commissioner and wishing to participate in the amnesty program has postponed the  
570 payment of an assessment of tax, interest and penalty under the authority of subsection (e) of  
571 section 32 of chapter 62C of the General Laws, the taxpayer shall waive in writing all rights  
572 under said subsection (e) to further delay the payment of the tax and interest portions of the  
573 assessment. The tax and interest portions of the assessment shall be payable in full from the date  
574 of the commissioner's notice of assessment. Upon payment by the taxpayer of the tax and  
575 interest of the outstanding assessment, the commissioner shall waive all penalties associated with

576 that assessment. The taxpayer and the commissioner shall then proceed with all administrative  
577 appeal rights that the taxpayer wishes to pursue with respect to the assessment.

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

582 (f) The commissioner shall maintain records of the amnesty provided under this section  
583 including, but not limited to: (i) the number of taxpayers provided with amnesty; (ii) the types of  
584 tax liability, for which amnesty was provided and, for each type of liability, the amount of tax  
585 liability collected and the amount of penalties foregone by virtue of the amnesty program; and  
586 (iii) the total outstanding tax liability for amnesty eligible taxpayers at the conclusion of this  
587 program, after the collection of all funds under this section. The commissioner shall file a report  
588 detailing such information with the clerks of the house of representatives and the senate, the joint  
589 committee on revenue, the house and senate committees on ways and means, the minority leader  
590 of the house and the minority leader of the senate, not later than September 1, 2010; provided,  
591 however, that such report shall not contain information sufficient to identify an individual  
592 taxpayer or the amnesty that an individual taxpayer was provided under this section.

593 (g) A taxpayer who is eligible for the amnesty program based upon the criteria  
594 established by the commissioner and who fails to come forward under this program and make  
595 payments before June 30, 2010 shall, in addition to all other penalties provided by chapter 62C,  
596 be subject to an additional penalty not to exceed \$500 per taxpayer, which shall be calculated  
597 and assessed according to rules determined by the commissioner and which may be subject to de

598 minimis or other exceptions that the commissioner may consider appropriate. This penalty shall  
599 be subject to chapter 62C and shall be added to and become part of the tax due. The  
600 commissioner may waive the penalty provided by this subsection for reasonable cause as  
601 provided in subsection (f) of section 33 of chapter 62C.

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

605 SECTION 45. Sections 20 and 25 shall be effective for tax years beginning on January 1,  
606 2009.

607 SECTION 46. Section 19 shall take effect on July 1, 2009.

608 SECTION 47. Sections 21 through 24, inclusive, and section 27 shall be effective for tax  
609 years beginning on January 1, 2010.