

HOUSE No. 4359

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act ESTABLISHING 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. Said section 3F of said chapter 23A, as so appearing, is hereby further
132 amended by striking out, in line 6, the word “receipt” the following words: - in the case of
133 expansion project proposals and manufacturing retention project proposals, receipt.

134 SECTION 8. Said section 3F of said chapter 23A, as so appearing, is hereby further
135 amended by striking out, in lines 7 and 33, the word “EOA”.

136 SECTION 9. Said section 3F of said chapter 23A, as so appearing, is hereby further
137 amended by inserting before the word “is”, in line 15, the following words: - if the proposal is
138 for an expansion project, that it.

139 SECTION 10. Said section 3F of said chapter 23A, as so appearing, is hereby further
140 amended by inserting after the word “EOA”, in line 19, the following words:- or municipality.

141 SECTION 10A. Said section 3F of said chapter 23A, as so appearing, is hereby further
142 amended by inserting after the word “same”, in line 19, the following word:- expansion.

143 SECTION 10B. Said section 3F of said chapter 23A, as so appearing, is hereby further
144 amended by inserting after the word “the”, in lines 33, 38, 46, 58, the following word:-
145 expansion.

146 SECTION 10C. Said section 3F of said chapter 23A, as so appearing, is hereby further
147 amended by inserting after the word “certified”, in line 104, the following word:- expansion.

148 SECTION 11. Clause (b) of subsection (1) of said section 3F of said chapter 23A, as so
149 appearing, is hereby further amended by striking out subclause (iii) and inserting in place thereof
150 the following subclause:-

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

156 SECTION 12. Said clause (b) of said subsection (1) of said section 3F of said chapter
157 23A, as so appearing, is hereby further amended by striking out subclause (v) and inserting in
158 place thereof the following new subclause:-

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

163 SECTION 13. Said section 3F of said chapter 23A, as so appearing, is hereby further
164 amended by striking out, in line 45, the word “the” the first time it appears, and inserting in
165 place thereof the following words:- if the designation is for an expansion project, the.

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

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

173 SECTION 15. Said section 3F of said chapter 23A, as so appearing, is hereby further
174 amended by striking out subsections (2) and (3) and inserting in place thereof the following 2
175 subsections:-

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

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

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

209 SECTION 16. Said section 3F of said chapter 23A, as so appearing, is hereby further
210 amended by adding the following 2 subsections:-

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

214 (a) for expansion projects:

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

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

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

222 for enhanced expansion projects:

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

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

228 (c) for manufacturing retention projects:

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

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

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

239 SECTION 17. Paragraph (a) of subsection (2) of section 7 of chapter 32 of the General
240 Laws, as so appearing, is hereby amended by striking out clause (ii) and inserting in place
241 thereof the following clause:-

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

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

261 SECTION 18. Chapter 62 of the General Laws is hereby amended by inserting after
262 section 5A the following section:-

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

271 SECTION 19. Subsection (g) of section 6 of said chapter 62, as appearing in the 2008
272 Official Edition, is hereby amended by striking out paragraph (1) and inserting in place thereof
273 the following paragraph: -

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

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

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

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

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

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

320 SECTION 20. Said subsection (g) of said section 6 of said chapter 62, as so appearing, is
321 hereby further amended by adding the following paragraph:-

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

328 SECTION 21. Section 38N of chapter 63 of the General Laws, as so appearing, is hereby
329 amended by striking out paragraphs (a) and (b) and inserting in place thereof the following 2
330 paragraphs:-

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

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

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

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

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

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

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

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

388 SECTION 22. Said section 38N of said chapter 63, as so appearing, is hereby further
389 amended by inserting after the word “of”,in line 66, the following words:- paragraph (a) or,- and
390 by inserting after the word “said”, in line 69, the following words:- paragraph (a) or said..

391 SECTION 23. Section 68C of said chapter 63, as so appearing, is hereby amended by
392 striking out, in line 21, the word “or”,- and by striking out clause (9) and inserting in place
393 thereof the following 2 clauses:-

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

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

399 SECTION 24. The second paragraph of section 4 of chapter 64I of the General Laws, as
400 so appearing, is hereby amended by striking out the fourth and fifth sentences and inserting in
401 place thereof the following 2 sentences:-

402 For purposes of such determination, the sales price of any motor vehicle, except a motor
403 vehicle purchased from a vendor registered under this chapter who is regularly engaged in the

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

411 SECTION 25. Section 4A of said chapter 64I, as so appearing, is hereby amended by
 412 striking out the table, in lines 26 to 32, inclusive, and inserting in place thereof the following
 413 table:-

414	MA AGI Per Return	Use Tax Liability
415	\$0 - \$25,000	\$ 0.00
416	\$25,001 - \$40,000	\$20.00
417	\$40,001 - \$60,000	\$31.00
418	\$60,001 - \$80,000	\$44.00
419	\$80,001 - \$100,000	\$56.00
420	Above \$100,000	(Multiply MA AGI by .000625)

421 SECTION 26. Chapter 90 of the General Laws is hereby amended by inserting after
 422 section 30A the following section:-

423 Section 30A ½. Notwithstanding section 30A or any other general or special law to the
424 contrary, the registrar may, in the interest of seeking cost efficiencies, avoiding disruptions and
425 continuing to provide registry services for residents, enter into agreements with third party
426 entities based in the commonwealth to perform functions on behalf of the registry of motor
427 vehicles. The registrar shall enter into agreements only with an existing entity that provides
428 automobile-related services to the general public, including, but not limited to, automobile-
429 related associations, insurance companies and their authorized producers, producer associations
430 and service carriers, and that maintains business offices that are open to the public during hours
431 and at locations believed to be convenient for registry customers and in areas where a continuing
432 need exists to provide registry services; provided, however, that an entity entering into such an
433 agreement with the registrar shall only provide registry services to its own members or clients;
434 provided further, that agreements entered into by the registrar and insurance companies or their
435 authorized producers, producer associations and service carriers may authorize such entities to
436 perform registry services that do not require issuance of a new plate and that are currently
437 originated by those entities; and provided further, that as part of any such agreement described in
438 the preceding clause, the registrar shall provide each entity a secure password with which to
439 transact those services on behalf of members or clients.

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

446 services related to the agreement as a registry employee within the 30 days before the effective
447 date of the agreement.

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

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

459 SECTION 27. Section 68B of chapter 119 of the General Laws, as appearing in the 2008
460 Official Edition, is hereby amended by striking out the second sentence and inserting in place
461 thereof the following sentence:- Nothing in this section shall prevent the department from using
462 or providing alternative placements and employing alternative measures which in the
463 department's discretion will reasonably assure the appearance of the children before the court.

464 SECTION 28. Subsection (2) of section 44A of chapter 149 of the General Laws, as so
465 appearing, is hereby amended by striking out paragraph (A) and inserting in place thereof the
466 following paragraph:-

467 (A) Every contract or procurement for the construction, reconstruction, installation,
468 demolition, maintenance or repair of any building by a public agency estimated to cost: (i) less
469 than \$5,000 shall be obtained through the exercise of sound business practices; provided
470 however, that the public agency shall make and keep a record of each such procurement; and
471 provided, further, that said record shall, at a minimum, include the name and address of the
472 person from whom the services were procured; or (ii) \$5,000 or greater but less than \$10,000
473 shall be awarded to the responsible person offering to perform the contract at the lowest price
474 quotation; provided, further, that the public agency shall seek written price quotations from no
475 fewer than 3 persons customarily providing the work for which the contract is being made
476 available. When seeking written quotations pursuant to clause (ii), the public agency shall make
477 and keep a record of the names and addresses of all persons from whom price quotations were
478 sought, the names of the persons submitting price quotations and the date and amount of each
479 price quotation.

480 SECTION 29. The last paragraph of chapter 7 of the resolves of 2008 is hereby amended
481 by striking out the figure “2009” and inserting in place thereof the following figure:- 2010.

482 SECTION 30. Paragraph (c) of chapter 498 of the acts of 2008 is hereby amended by
483 striking out the words “March 1, 2010” and inserting in place thereof the following words:- July
484 1, 2010.

485 SECTION 31. Item 0321-1510 of section 2 of chapter 27 of the acts of 2009 is hereby
486 amended by striking out the figure “\$2,000,000” and inserting in place thereof the following
487 figure:- \$2,500,000.

488 SECTION 32. Item 0411-1000 of said section 2 of chapter said 27, as so appearing, is
489 hereby amended by striking out the figure “\$4,952,646” and inserting in place thereof the
490 following figure:- \$4,605,961.

491 SECTION 33. Item 0699-9100 of said section 2 of said chapter 27, as so appearing, is
492 hereby amended by striking out the figure “\$52,104,529” and inserting in place thereof the
493 following figure:- \$27,931,384.

494 SECTION 34. Item 7004-9024 of said section 2 of said chapter 27, as so appearing, is
495 hereby amended by striking out the figure “\$29,997,061” and inserting in place thereof the
496 following figure:- \$32,897,061.

497 SECTION 35. Item 7004-9316 of said section 2 of said chapter 27, as so appearing, is
498 hereby amended by striking out the figure “\$3,060,000” and inserting in place thereof the
499 following figure:- \$160,000.

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

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

506 4513-1010 For the department of public health; provided, that said department may
507 expend not more than \$2,000,000 in revenue received from the collection of federal financial
508 participation for early intervention services delivered to Medicaid-eligible children by

509 developmental educators and professionals in related disciplines; provided further, that nothing
510 in this item shall give rise to or shall be construed as giving rise to enforceable legal rights to any
511 such services or an enforceable entitlement to the services funded in this item; and provided
512 further, that the revenue may be used to pay for current and prior year claims

513 \$2,000,000

514 SECTION 36. Said section 2 of said chapter 27 is hereby further amended by striking out
515 item 8315-1020 and inserting in place thereof the following item:-

516 8315-1020 For the department of public safety, which may expend not more than
517 \$2,478,869 in revenues collected from fees for annual elevator and amusement park ride
518 inspections; provided, that funds shall be expended for the operation of the department and to
519 address the existing elevator inspection backlog; provided further, that the department shall make
520 efforts to employ inspectors who will perform overnight and weekend inspections as their
521 regular work shift; provided further, that the department may collect and retain reimbursement
522 for overtime costs associated with overnight and weekend inspections; provided further, that the
523 department shall provide a full waiver of the inspection fee for an individual who requires a
524 wheelchair lift as a medical necessity and whose annual income does not exceed the maximum
525 allowable federal SSI benefit, or \$7,236 a year, whichever is greater; and provided further, that
526 notwithstanding any general or special law to the contrary, for the purpose of accommodating
527 timing discrepancies between the receipt of retained revenues and related expenditures, the
528 department may incur expenses and the comptroller may certify for payment amounts not more
529 than the lesser of this authorization or the most-recent revenue estimate as reported in the state
530 accounting system \$2,478,869

531 SECTION 37. Section 10 of chapter 61 of the acts of 2009 is hereby amended by striking
532 out the last sentence, as amended by section 6 of chapter 102 of the acts of 2009, and inserting in
533 place thereof the following sentence:- Each county, and in the case of Suffolk county the city of
534 Boston, shall, not later than June 30, 2010, appropriate and pay to the commonwealth an amount
535 equal to 51.25 per cent of the minimum obligations to fund from its own revenues in fiscal year
536 2009 the operations of the office of the sheriff; provided, however, that said payment shall not
537 exceed one-half of the corrections share of the county's fiscal year 2010 retirement assessment.

538 SECTION 38. Clause (b) of chapter 64 of the acts of 2009 is hereby amended by striking
539 out the figure "\$7,000,000" and inserting in place thereof the following figure:- \$18,004,810.

540 SECTION 39. Notwithstanding any general or special law to the contrary, the secretary
541 of administration and finance may direct the comptroller to transfer not more than \$30,000,000
542 from the General Fund to the Medical Security Trust Fund, established under subsection (k) of
543 section 14G of chapter 151A of the General Laws, in fiscal year 2010, to be available to pay for
544 health insurance coverage provided under that section if the unemployment health insurance
545 contributions required under that section will be inadequate to fund the health insurance
546 coverage. The secretary of administration and finance may later direct the comptroller to
547 transfer not more than \$30,000,000 from the Medical Security Trust Fund to the General Fund to
548 repay the General Fund for the transfer authorized by the preceding sentence.

549 SECTION 40. Notwithstanding any general or special law to the contrary, the
550 comptroller shall, on or before June 30, 2010, transfer \$35,791,289 to the General Fund from the
551 Commonwealth Stabilization Fund, including portions of the amounts transferred to the
552 Commonwealth Stabilization Fund by clause (ii) of section 1 of chapter 56 of the acts of 2009,

553 but the comptroller shall instead transfer a lesser amount if the secretary of administration and
554 finance so requests in writing. The comptroller, in consultation with the secretary, may take the
555 overall cash flow needs of the commonwealth into consideration in determining the timing of
556 this transfer of funds. The comptroller shall provide a schedule of transfers to the secretary and
557 to the house and senate committees on ways and means.

558 SECTION 41. (a) Notwithstanding any general or special law to the contrary, the
559 commissioner of revenue shall establish a tax amnesty program during which all penalties that
560 could be assessed by the commissioner for the failure of the taxpayer to: (i) timely file any
561 proper return for any tax type and for any tax period; (ii) file proper returns which report the full
562 amount of the taxpayer's liability for any tax type and for any tax period; (iii) timely pay any tax
563 liability; or (iv) pay the proper amount of any required estimated payment toward a tax liability
564 shall be waived without the need for any showing by the taxpayer of reasonable cause or the
565 absence of willful neglect. The waiver of a taxpayer's liability under this section shall apply if
566 the taxpayer files returns, makes payments as required by the commissioner or otherwise comes
567 into compliance with the tax laws of the commonwealth as required by the commissioner
568 pursuant to the tax amnesty. The scope of the amnesty program in terms of the particular tax
569 types and periods covered, including any limited look-back period for unfiled returns, shall be
570 determined by the commissioner.

571 (b) The amnesty program shall be established for a period of 2 consecutive months within
572 fiscal year 2010 to be determined by the commissioner, such period to expire not later than June
573 30, 2010, and all required payments shall be made on or before June 30, 2010, in order for the
574 amnesty to apply. If a taxpayer fails to pay the full liability before June 30, 2010, the
575 commissioner shall retain any payments made and shall apply said payments against the

576 outstanding liability, and the provisions of the tax amnesty program, other than the additional
577 penalty authorized by section 2, shall not apply.

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

585 (d) To the extent that a taxpayer within the scope of the amnesty program as determined
586 by the commissioner and wishing to participate in the amnesty program has postponed the
587 payment of an assessment of tax, interest and penalty under the authority of subsection (e) of
588 section 32 of chapter 62C of the General Laws, the taxpayer shall waive in writing all rights
589 under said subsection (e) to further delay the payment of the tax and interest portions of the
590 assessment. The tax and interest portions of the assessment shall be payable in full from the date
591 of the commissioner's notice of assessment. Upon payment by the taxpayer of the tax and
592 interest of the outstanding assessment, the commissioner shall waive all penalties associated with
593 that assessment. The taxpayer and the commissioner shall then proceed with all administrative
594 appeal rights that the taxpayer wishes to pursue with respect to the assessment.

595 (e) Amnesty shall not apply to those penalties which the commissioner would not have
596 the sole authority to waive including, but not limited to, fuel taxes administered under the

597 International Fuel Tax Agreement or under the local option portions of taxes or excises collected
598 for the benefit of cities, towns or state governmental authorities.

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

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

619 SECTION 42. Notwithstanding any general or special law to the contrary, the office of
620 the state comptroller shall continue to process all payroll deductions authorized by employees
621 who are members of the State Police Commissioned Officers Association of Massachusetts, Inc.

622 SECTION 42A. Any information transmitted to the state comptroller regarding
623 expenditures made by the general court shall be made available by the state comptroller to the
624 public unless otherwise privileged or confidential pursuant to any law, rule or regulation.

625 SECTION 43. Sections 18 and 23 shall be effective for tax years beginning on or after
626 January 1, 2009.

627 SECTION 44. Section 17 shall take effect on July 1, 2009.

628 SECTION 45. Sections 19 to 22, inclusive, and section 25 shall be effective for tax years
629 beginning on or after January 1, 2010.

630 SECTION 46. Sections 53, 56, 57, and 59 of chapter 27 of the acts of 2009 are hereby
631 repealed.

632 SECTION 47. Notwithstanding any special or general law to the contrary section 46
633 shall not take effect until such time as the executive office for administration and finance and the
634 department of revenue has furnished a study of its impact on the state's economy and revenue
635 cost to the commonwealth, including, but not limited to, a distributional analysis showing the
636 impact on taxpayers of varying income levels, the current practice of other states, any anticipated
637 change in employment and ancillary economic activity to the house and senate committees on
638 ways and means and until legislation has been filed and passed pursuant to Part 2, Chap. 1, Sec.
639 1, Art. II of the Constitution.

640 SECTION 48. Section 55 of chapter 27 of the acts of 2009 is hereby repealed.

641 SECTION 49. Notwithstanding any special or general law to the contrary, the provisions
642 of section 48 shall not take effect until such time as the executive office for administration and
643 finance and the department of revenue has furnished a study of its impact on the state's economy
644 and revenue cost to the commonwealth, including, but not limited to, a distributional analysis
645 showing the impact on taxpayers of varying income levels, the current practice of other states,
646 any anticipated change in employment and ancillary economic activity to the house and senate
647 committees on ways and means and until legislation has been filed and passed pursuant to Part 2,
648 Chap. 1, Sec. 1, Art. II of the Constitution.

649 SECTION 50. Notwithstanding any general or special law to the contrary, salaries
650 payable by the commonwealth shall be reduced by one per cent; provided, the reduction will
651 apply to each full time employee or officer, whether or not elected, in all branches, offices,
652 departments, agencies and authorities of the commonwealth, whose compensation is partially or
653 fully funded by (i) state appropriation; (ii) receipts from bond revenues; (iii) federally funded or
654 reimbursed programs; (iv) trust funds as defined in section 1 of chapter 29 of the General Laws;
655 or (v) authority expenditures; provided further, if certain collective bargaining agreements
656 prevent the salary reduction from applying to certain officers and employees who have rights
657 under such collective bargaining agreements, a number of officers and employees whose
658 aggregate salaries equal one percent of total salaries covered under such collective bargaining
659 agreements shall be laid off.

660 Notwithstanding any special or general law to the contrary, the provisions of this section
661 shall not take effect until such time as the executive office for administration and finance has

662 furnished a study of its impact on the state's economy and revenue cost to the commonwealth,
663 including, but not limited to, a distributional analysis showing the impact on taxpayers of varying
664 income levels, the current practice of other states, any anticipated change in employment and
665 ancillary economic activity to the house and senate committees on ways and means and until
666 legislation has been filed and passed pursuant to Part 2, Chap. 1, Sec. 1, Art. II of the
667 Constitution.

668 SECTION 51. Notwithstanding any general or special law to the contrary not less than
669 \$19,044,046 shall be appropriated to item 4190-0100 in fiscal year 2010.

670 SECTION 52. Notwithstanding any general or special law to the contrary not less than
671 \$25,401,925 shall be appropriated to item 4180-0100 in fiscal year 2010.