

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:

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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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 7. Said section 3F of said chapter 23A, as so appearing, is hereby further amended by striking out, in line 6, the word “receipt” the following words: - in the case of expansion project proposals and manufacturing retention project proposals, receipt.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) for expansion projects:

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

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

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

for enhanced expansion projects:

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

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

(c) for manufacturing retention projects:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The registrar may provide necessary inventories, equipment, electronic connections and training in regard to such agreements to provide for the provision of registry-related services by the third party. The registrar may help to defray the expenses of the third party as part of the agreement if necessary to provide such services, but only if the overall effect of such agreement results in cost efficiencies to the registry. The registrar shall not enter into an agreement that 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:-

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

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

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

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

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

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

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

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

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

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

4513-1010 For the department of public health; provided, that said department may expend not more than \$2,000,000 in revenue received from the collection of federal financial 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Notwithstanding any special or general law to the contrary, the provisions of this section 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.