

SENATE No. 2218

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act Text of the amendment (Senator Brewer) to the House Bill establishing fiscal stability measures for fiscal year 2010 H.4359, printed as amended.

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

1
2
3
4
5
6
7
8
9
10

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

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

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

13 -

14 “Enhanced expansion project”, a facility that in its entirety and as of the project proposal
15 date: (i) is located or will be located within the commonwealth; (ii) generates substantial sales
16 from outside of the commonwealth; and (iii) generates a net increase of at least 100 full-time
17 employees within 2 years after project certification, and which shall be maintained for a period
18 of not less than 5 years; provided, however, that in the case of a facility that as of the project
19 proposal date is already located in the commonwealth, “enhanced expansion project” shall refer
20 only to a facility at which the controlling business has proposed to expand the number of
21 permanent full-time employees at such facility to occur after the project proposal date and the
22 expansion shall represent: (1) an increase in the number of permanent full-time employees
23 employed by the controlling business within the commonwealth; and (2) not a replacement or
24 relocation of permanent full-time employees employed by the controlling business at any other
25 facility located within the commonwealth; and provided further, that in the case of a facility to be
26 located within the commonwealth after the project proposal date, “enhanced expansion project”
27 shall refer only to a facility that is: (a) the first facility of the controlling business to be located
28 within the commonwealth; or (b) a new facility of such business and not a replacement or
29 relocation of an existing facility of such controlling business located within the commonwealth;
30 or an expansion of an existing facility of the controlling business that results in an increase in
31 permanent full-time employees.

32 “Enhanced expansion project proposal”, a proposal submitted by a controlling business to
33 the EACC pursuant to section 3F for designation of a project as an enhanced certified project,

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

44 “Expansion project”, a facility that in its entirety and as of the project proposal date: (i) is
45 located or will be located within an EOA; (ii) generates substantial sales from outside of the
46 commonwealth; and (iii) generates a net increase of full-time employees within 2 years after
47 project certification, and which shall be maintained for a period of not less than 5 years;
48 provided, however, that in the case of a facility that as of the project proposal date is already
49 located in an EOA, “expansion project” shall refer only to a facility at which the controlling
50 business has proposed to expand of the number of permanent full-time employees at such facility
51 to occur after the project proposal date and the expansion shall represent: (1) an increase in the
52 number of permanent full-time employees employed by the controlling business within the
53 commonwealth; and (2) not a replacement or relocation of permanent full-time employees
54 employed by the controlling business at any other facility located within the commonwealth; and
55 provided further, that in the case of a facility to be located within an EOA after the project
56 proposal date, “expansion project” shall refer only to a facility which is: (a) the first facility of

57 the controlling business to be located within the commonwealth; or (b) a new facility of such
58 business and not a replacement or relocation of an existing facility of such controlling business
59 located within the commonwealth or an expansion of an existing facility of the controlling
60 business that results in an increase in permanent full-time employees.

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

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

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

79 SECTION 3. Said section 3A of said chapter 23A, as so appearing, is hereby further
80 amended by striking out the definition of “Facility,” and inserting in place thereof the following
81 4 definitions:-

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

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

91 “Manufacturing retention project”, a manufacturing facility that in its entirety and as of
92 the project proposal date: (i) is located or will be located within a gateway municipality; (ii)
93 generates a net increase or retention of a minimum of at least 100 permanent full-time positions;
94 provided, however, that if the controlling business increases the number of full-time positions at
95 the facility, it shall be within 2 years after certification of the project and the controlling business
96 shall make a commitment that the positions created or retained are to be maintained for at least a
97 5-year period; and (iii) generates substantial sales from outside of the commonwealth; provided,
98 however, that in the case of a facility that as of the project proposal date is already located in the
99 gateway municipality, “manufacturing retention project” shall refer only to a facility for which
100 there is a proposed expansion or retention of the number of permanent full-time employees at

101 such facility by the controlling business, to occur after the project proposal date and the
102 expansion shall represent a retention or increase of at least 100 permanent full-time employees
103 employed by the controlling business within the project and shall not represent a replacement or
104 relocation of permanent full-time employees employed by the controlling business at any other
105 facility located within the commonwealth; and provided further, that in the case of a facility to be
106 located after the project proposal date, the “manufacturing retention project” shall refer only to a
107 facility that is: (1) the first facility of the controlling business to be located within the
108 commonwealth; or (2) a new facility of such business and not a replacement or relocation of an
109 existing facility of such controlling business located within the commonwealth.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

230 (a) for expansion projects:

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

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

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

238 for enhanced expansion projects:

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

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

244 (c) for manufacturing retention projects:

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

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

251 (6) The EACC may, in consultation with the department of revenue, limit any incentive
252 or credit available to a project pursuant to subsection (g) of section 6 of chapter 62 and section
253 38N of chapter 63 to a specific dollar amount or time duration or in any other manner deemed
254 appropriate by EACC.

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

258 (ii) A yearly amount of pension equal to 72 per cent of the annual rate of his regular
259 compensation on the date such injury was sustained or such hazard was undergone, or equal to
260 72 per cent of the average annual rate of his regular compensation for the 12-month period for
261 which he last received regular compensation immediately preceding the date his retirement
262 allowance becomes effective, whichever is greater; provided, however, that if an individual was
263 in a temporary or acting position on the date such injury was sustained or hazard undergone, the
264 amount to be provided under this paragraph shall be based on the annual rate of regular
265 compensation in his permanent position on the date such injury was sustained or such hazard was
266 undergone, or the average annual rate of his regular compensation in his permanent position for

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

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

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

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

289 (1) A credit shall be allowed against the tax liability imposed by this chapter, to the
290 extent authorized by the economic assistance coordinating council established in section 3B of
291 chapter 23A, up to an amount equal to 50 per cent of such liability in any taxable year; provided,
292 however, that the 50 per cent limitation shall not apply where the credit is refundable under
293 paragraph (5): (i) for certified expansion projects and certified enhanced expansion projects, as
294 defined in sections 3A and 3F of said chapter 23A, an amount up to 10 per cent, and (ii) for
295 certified manufacturing retention projects, as defined in said sections 3A and 3F of said chapter
296 23A, an amount up to 40 per cent of the cost of property that would qualify for the credit allowed
297 by section 31A of chapter 63 if the property were purchased by a manufacturing corporation or a
298 business corporation engaged primarily in research and development and used exclusively in a
299 certified project as defined in said sections 3A and 3F of said chapter 23A. A lessee may be
300 eligible for a credit pursuant to this subsection for real property leased pursuant to an operating
301 lease. If such property is disposed of or ceases to be in qualified use within the meaning of said
302 section 31A of said chapter 63 or if such property ceases to be used exclusively in a certified
303 project, as defined in said sections 3A and 3F of said chapter 23A, before the end of its useful
304 life, the recapture provisions of subsection (e) of said section 31A of said chapter 63 shall apply
305 and an amount determined thereunder shall be added to the tax imposed by this chapter.

306 The total amount of credits that may be authorized by the economic assistance
307 coordinating council in a calendar year pursuant to this section and section 38N of chapter 63
308 shall not exceed \$25,000,000 and shall include: (1) refundable credits granted during the year
309 pursuant to this section or said section 38N of said chapter 63; (2) nonrefundable credits granted
310 during the year pursuant to this section or said section 38N of said chapter 63, to the extent that
311 such nonrefundable credits are estimated by the commissioner to offset tax liabilities during the

312 year; and (3) carryforwards of credits from prior years pursuant to this section or said section
313 38N of said chapter 63, to the extent that such credit carryforwards are estimated by the
314 commissioner to offset tax liabilities during the year. Of the \$25,000,000 in allowable credits, the
315 economic assistance coordinating council may award not more than \$5,000,000 in a calendar
316 year to certified enhanced expansion projects as defined in sections 3A and 3F of chapter 23A,
317 and not more than \$5,000,000 for certified manufacturing retention projects as defined in said
318 sections 3A and 3F of said chapter 23A. Any portion of the \$25,000,000 annual cap not awarded
319 by the economic assistance coordinating council in a calendar year shall not be applied to awards
320 in a subsequent year. The economic assistance coordinating council shall provide the
321 commissioner of revenue with any documentation that the commissioner deems necessary to
322 confirm compliance with the annual cap and the commissioner shall provide a report confirming
323 compliance with the annual cap to the secretary of administration and finance and the secretary
324 of housing and economic development.

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

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

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

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

346 (a) A corporation subject to tax under this chapter that participates in a certified project as
347 defined in sections 3A and 3F of chapter 23A, may take a credit against the excise imposed by
348 this chapter to the extent authorized by the economic assistance coordinating council established
349 by section 3B of said chapter 23A, in an amount not to exceed 50 per cent of such liability in a
350 taxable year; provided, however, that the 50 per cent limitation shall not apply if the credit is
351 refundable under subsection (b): (i) for certified expansion projects and certified enhanced
352 expansion projects, as defined in said sections 3A and 3F of said chapter 23A, an amount up to
353 10 per cent; and (ii) for certified manufacturing retention projects, as defined in said sections 3A
354 and 3F of said chapter 23A, an amount up to 40 per cent of the cost of any property that would
355 qualify for the credit allowed by section 31A if the property were purchased by a manufacturing
356 corporation or a business corporation engaged primarily in research and development and is used

357 exclusively in a certified project as defined in said sections 3A and 3F of said chapter 23A. A
358 lessee may be eligible for a credit pursuant to this subsection for real property leased pursuant to
359 an operating lease.

360 The total amount of credits that may be authorized by the economic assistance
361 coordinating council in a calendar year pursuant to subsection (g) of section 6 of chapter 62 and
362 this section shall not exceed \$25,000,000 and shall include: (1) refundable credits granted during
363 the year pursuant to said subsection (g) of said section 6 of said chapter 62 or this section; (2)
364 nonrefundable credits granted during the year pursuant to said subsection (g) of said section 6 of
365 said chapter 62 or this section, to the extent that such nonrefundable credits are estimated by the
366 commissioner to offset tax liabilities during the year; and (3) carryforwards of credits from prior
367 years pursuant to said subsection (g) of said section 6 of said chapter 62 or this section, to the
368 extent that such credit carryforwards are estimated by the commissioner to offset tax liabilities
369 during the year. Of the \$25,000,000 in allowable credits, the economic assistance coordinating
370 council may award not more than \$5,000,000 in a calendar year to certified enhanced expansion
371 projects as defined in sections 3A and 3F of chapter 23A and not more than \$5,000,000 for
372 certified manufacturing retention projects as defined in said sections 3A and 3F of said chapter
373 23A. Any portion of the \$25,000,000 annual cap not awarded by the economic assistance
374 coordinating council in a calendar year shall not be applied to awards in a subsequent year. The
375 economic assistance coordinating council shall provide the commissioner with any
376 documentation that the commissioner deems necessary to confirm compliance with the annual
377 cap and the commissioner shall provide a report confirming compliance with the annual cap to
378 the secretary of administration and finance and the secretary of housing and economic
379 development.

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

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

397 (b) If a credit allowed to a taxpayer under clause (ii) of subsection (a) exceeds the excise
398 otherwise due under this chapter, 100 per cent of the balance of such credit may, at the option of
399 the taxpayer and to the extent authorized by the economic assistance coordinating council, be
400 refundable to the taxpayer for the taxable year in which qualified property giving rise to that
401 credit is placed in service. If such credit balance is refunded to the taxpayer, the credit carryover

402 provisions of subsection (d) shall not apply. The amount of credit eligible to be refunded shall
403 be determined without regard to the limitations in subsections (a) and (c).

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

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

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

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

414 SECTION 26. The second paragraph of section 4 of chapter 64I of the General Laws, as
415 so appearing, is hereby amended by striking out the fourth and fifth sentences and inserting in
416 place thereof the following 2 sentences:- For purposes of such determination, the sales price of
417 any motor vehicle, except a motor vehicle purchased from a vendor registered under this chapter
418 who is regularly engaged in the business of making sales at retail of such motor vehicles, shall be
419 the actual amount paid by the purchaser to the vendor for the motor vehicle or the clean trade-in
420 value of the motor vehicle, whichever is greater, regardless of the actual condition of the vehicle.
421 “Clean trade-in value” for a motor vehicle shall mean the clean trade-in value or equivalent or
422 successor values listed in the National Automobile Dealers Association used car guide or other

423 value guides, whether published in print or electronically, or default values as determined jointly
424 by the commissioner and registrar.

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

428	MA AGI Per Return	Use Tax Liability
429	\$0 - \$25,000	\$ 0.00
430	\$25,001 - \$40,000	\$20.00
431	\$40,001 - \$60,000	\$31.00
432	\$60,001 - \$80,000	\$44.00
433	\$80,001 - \$100,000	\$56.00
434	Above \$100,000	(Multiply MA AGI by .000625)

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

437 Section 30A ½. Notwithstanding section 30A or any other general or special law to the
438 contrary, the registrar may, in the interest of seeking cost efficiencies, avoiding disruptions and
439 continuing to provide registry services for residents, enter into agreements with third party
440 entities based in the commonwealth to perform functions on behalf of the registry of motor
441 vehicles. The registrar shall enter into agreements only with entities existing as of November 1,
442 2009 that provide automobile-related services to the general public including, but not limited to,

443 automobile-related associations, insurance companies and their authorized producers and
444 producer associations and service carriers, and that maintains business offices that are open to
445 the public during hours and at locations convenient for registry customers and in areas where a
446 continuing need exists to provide registry services; provided, however, that an entity entering
447 into any such agreement with the registrar shall only provide registry services to its own
448 members or clients; provided further, that agreements entered into by the registrar and insurance
449 companies or their authorized producers and producer associations and service carriers may
450 authorize such entities to perform registry services that do not require issuance of new plates and
451 that are currently originated by those entities; and provided further, that as part of any such
452 agreement, the registrar shall provide each entity with a secure password to transact those
453 services on behalf of its members or clients.

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

462 The registrar shall annually or more frequently if required by the agreement, review the
463 third party's most recent performance under the agreement and if the cost efficiencies and other
464 purposes for which the agreement has been entered into are not being realized, the registrar may

465 terminate the agreement and recover all inventories, equipment, monies due and other items
466 provided to the third party. An agreement may be amended from time to time.

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

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

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

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

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

495 (A) Every contract or procurement for the construction, reconstruction, installation,
496 demolition, maintenance or repair of a building by a public agency estimated to cost: (i) less than
497 \$5,000, shall be obtained through the exercise of sound business practices; provided, however,
498 that the public agency shall make and keep a record of each such procurement; and provided
499 further, that the record shall, at a minimum, include the name and address of the person from
500 whom the services were procured; or (ii) \$5,000 or greater but less than \$10,000, shall be
501 awarded to the responsible person offering to perform the contract at the lowest price quotation;
502 provided, however, that the public agency shall seek written price quotations from not fewer than
503 3 persons customarily providing the work for which the contract is being made available. When
504 seeking written quotations pursuant to clause (ii), the public agency shall make and keep a record
505 of the names and addresses of all persons from whom price quotations were sought, the names of
506 the persons submitting price quotations and the date and amount of each price quotation.

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

509 SECTION 32. Subsection (c) of chapter 498 of the acts of 2008 is hereby amended by
510 striking out the words “March 1, 2010” and inserting in place thereof the following words:- July
511 1, 2010.

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

515 SECTION 34. Item 0411-1000 of said section 2 of chapter said 27 is hereby amended by
516 striking out the figure “\$4,952,646” and inserting in place thereof the following figure:-
517 \$4,605,961.

518 SECTION 35. Item 0699-9100 of said section 2 of said chapter 27 is hereby amended by
519 striking out the figure “\$52,104,529” and inserting in place thereof the following figure:-
520 \$27,931,384.

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

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

527 4513-1010 For the department of public health; provided, that said department may
528 expend not more than \$2,000,000 in revenue received from the collection of federal financial
529 participation for early intervention services delivered to Medicaid-eligible children by

530 developmental educators and professionals in related disciplines; provided further, that nothing
531 in this item shall give rise to or shall be construed as giving rise to enforceable legal rights to any
532 such services or an enforceable entitlement to the services funded in this item; and provided
533 further, that the revenue may be used to pay for current and prior year claims \$2,000,000

534 SECTION 36. Item 7004-9024 of said section 2 of said chapter 27 is hereby amended by
535 striking out the figure “\$29,997,061” and inserting in place thereof the following figure:-
536 \$32,897,061.

537 SECTION 37. Item 7004-9316 of said section 2 of said chapter 27 is hereby amended
538 by striking out the figure “\$3,060,000” and inserting in place thereof the following figure:-
539 \$160,000.

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

542 8315-1020 For the department of public safety, which may expend not more than
543 \$2,478,869 in revenues collected from fees for annual elevator and amusement park ride
544 inspections for the operation of the department and to address the existing elevator inspection
545 backlog; provided, that the department shall make efforts to employ inspectors to perform
546 overnight and weekend inspections as their regular work shift; provided further, that the
547 department may collect and retain reimbursement for overtime costs associated with overnight
548 and weekend inspections; provided further, that the department shall provide a full waiver of the
549 inspection fee for an individual who requires a wheelchair lift as a medical necessity and whose
550 annual income does not exceed the maximum allowable federal Supplemental Security Income
551 benefit, or \$7,236 a year, whichever is greater; and provided further, that notwithstanding any

552 general or special law to the contrary, for the purpose of accommodating timing discrepancies
553 between the receipt of retained revenues and related expenditures, the department may incur
554 expenses and the comptroller may certify for payment amounts not to exceed the lesser of this
555 authorization or the most recent revenue estimate as reported in the state accounting system
556 \$2,478,869

557 SECTION 39. Section 10 of chapter 61 of the acts of 2009 is hereby amended by striking
558 out the last sentence, added by section 6 of chapter 102 of the acts of 2009, and inserting in place
559 thereof the following sentence:- Each county, and in the case of Suffolk county the city of
560 Boston, shall, not later than June 30, 2010, appropriate and pay to the commonwealth an amount
561 equal to 51.25 per cent of the minimum obligations to fund from its own revenues in fiscal year
562 2009 the operations of the office of the sheriff; provided, however, that such payment shall not
563 exceed one-half of the correction's share of the county's fiscal year 2010 retirement assessment.

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

566 SECTION 41. Notwithstanding any general or special law to the contrary, the secretary
567 of administration and finance may direct the comptroller to transfer not more than \$30,000,000
568 from the General Fund to the Medical Security Trust Fund, established in subsection (k) of
569 section 14G of chapter 151A of the General Laws, in fiscal year 2010, to be available to pay for
570 health insurance coverage provided under said section 14G of said chapter 151A if the
571 unemployment health insurance contributions required under said section 14G of said chapter
572 151A will be inadequate to fund the health insurance coverage. The secretary of administration
573 and finance may later direct the comptroller to transfer not more than \$30,000,000 from the

574 Medical Security Trust Fund to the General Fund to repay the General Fund for the transfer
575 authorized by the preceding sentence.

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

585 SECTION 43. (a) Notwithstanding any general or special law to the contrary, the
586 commissioner of revenue shall establish a tax amnesty program during which all penalties that
587 could be assessed by the commissioner shall be waived without the need for any showing by the
588 taxpayer of reasonable cause or the absence of willful neglect for the failure of the taxpayer to:
589 (i) timely file any proper return for any tax type and for any tax period; (ii) file proper returns
590 which report the full amount of the taxpayer's liability for any tax type and for any tax period;
591 (iii) timely pay any tax liability; or (iv) pay the proper amount of any required estimated payment
592 toward a tax liability. The waiver of a taxpayer's liability under this section shall apply if the
593 taxpayer files returns, makes payments as required by the commissioner or otherwise comes into
594 compliance with the tax laws of the commonwealth as required by the commissioner pursuant to
595 the tax amnesty program. The scope of the program, including the particular tax types and

596 periods covered, including any limited look-back period for unfiled returns, shall be determined
597 by the commissioner.

598 (b) The amnesty program shall be established for 2 consecutive months within fiscal year
599 2010 to be determined by the commissioner, such period to expire not later than June 30, 2010,
600 and all required payments shall be made on or before June 30, 2010, in order for the amnesty to
601 apply. If a taxpayer fails to pay the full liability before June 30, 2010, the commissioner shall
602 retain any payments made and shall apply those payments against the outstanding liability, and
603 the provisions of the tax amnesty program, other than the additional penalty authorized by
604 section 2, shall not apply.

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

612 (d) To the extent that a taxpayer within the scope of the amnesty program as determined
613 by the commissioner and wishing to participate in the amnesty program has postponed the
614 payment of an assessment of tax, interest and penalty under the authority of subsection (e) of
615 section 32 of chapter 62C of the General Laws, the taxpayer shall waive in writing all rights
616 under said subsection (e) to of said section 32 of said chapter 62C further delay the payment of
617 the tax and interest portions of the assessment. The tax and interest portions of the assessment

618 shall be payable in full from the date of the commissioner's notice of assessment. Upon payment
619 by the taxpayer of the tax and interest of the outstanding assessment, the commissioner shall
620 waive all penalties associated with that assessment. The taxpayer and the commissioner shall
621 then proceed with all administrative appeal rights that the taxpayer wishes to pursue with respect
622 to the assessment.

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

627 (f) The commissioner shall maintain records of the amnesty provided under this section
628 including, but not limited to: (i) the number of taxpayers provided with amnesty; (ii) the types of
629 tax liability for which amnesty was provided and, for each type of liability, the amount of tax
630 liability collected and the amount of penalties foregone by virtue of the amnesty program; and
631 (iii) the total outstanding tax liability for amnesty-eligible taxpayers at the conclusion of the tax
632 amnesty program after the collection of all funds under this section. The commissioner shall file
633 a report detailing such information with the clerks of the house of representatives and the senate,
634 the joint committee on revenue, the house and senate committees on ways and means, the
635 minority leader of the house and the minority leader of the senate not later than September 1,
636 2010; provided, however, that such report shall not contain information sufficient to identify an
637 individual taxpayer or the amnesty that an individual taxpayer was provided under this section.

638 (g) A taxpayer who is eligible for the amnesty program based upon the criteria
639 established by the commissioner and who fails to come forward under the tax amnesty program

640 and make payments before June 30, 2010 shall, in addition to all other penalties provided by
641 chapter 62C of the General Laws, be subject to an additional penalty not to exceed \$500 per
642 taxpayer, which shall be calculated and assessed according to rules determined by the
643 commissioner and which may be subject to de minimis or other exceptions that the commissioner
644 may consider appropriate. This penalty shall be subject to said 62C and shall be added to and
645 become part of the tax due. The commissioner may waive the penalty provided by this
646 subsection for reasonable cause as provided in subsection (f) of section 33 of chapter said 62C.

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

650 SECTION 44A. Notwithstanding any general or special law to the contrary, not less than
651 \$25,401,925 shall be appropriated to item 4180-0100 of section 2 of chapter 27 of the acts of
652 2009 in fiscal year 2010.

653 SECTION 44B. Notwithstanding any general or special law to the contrary, not less than
654 \$19,044,046 shall be appropriated to item 4190-0100 of section 2 of chapter 27 of the acts of
655 2009 in fiscal year 2010.

656 SECTION 44C. Notwithstanding any general or special law to the contrary, not less than
657 \$2,503,336 shall be appropriated to item 4510-0810 of section 2 of chapter 27 of the acts of 2009
658 in fiscal year 2010.

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

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

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