

SENATE No. 1522

The Commonwealth of Massachusetts

PRESENTED BY:

Mark C. Montigny

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to economic development tax credits.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---------------------------|------------------------------------|
| <i>Mark C. Montigny</i> | <i>Second Bristol and Plymouth</i> |
| <i>Jason M. Lewis</i> | <i>Fifth Middlesex</i> |
| <i>Patricia D. Jehlen</i> | <i>Second Middlesex</i> |
| <i>Denise Provost</i> | <i>27th Middlesex</i> |

SENATE No. 1522

By Mr. Montigny, a petition (accompanied by bill, Senate, No. 1522) of Mark C. Montigny, Jason M. Lewis, Patricia D. Jehlen and Denise Provost for legislation relative to economic development tax credits. Revenue.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1369 OF 2013-2014.]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to economic development tax credits.

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 1 of Chapter 62C, as appearing in the 2012 Official Edition, is hereby
2 amended by inserting the following new subsections in the definition of “tax credit program”
3 after subsection (xi):-

4 (xii) the investment tax credit in section 31A of chapter 63, (xiii) the abandoned building
5 renovation deduction in section 38O of chapter 63.

6 Section 2. Said Chapter 62C, as appearing in the 2012 Official edition, is amended by
7 inserting after section 89 the following:-

8 Section 90. Sunsets for Tax Credit Programs

9 (a) Notwithstanding any general or special law to the contrary, all tax credit programs
10 shall expire after a period of three years unless reauthorized by an act of the legislature after
11 review and examination of the effectiveness of each such tax credit program by the department
12 of revenue and the executive office of administration and finance's office of commonwealth
13 performance, accountability and transparency.

14 (b) Notwithstanding any general or special law to the contrary, all tax credit
15 programs existing and in effect at the time of the passage of this law, shall expire after one year
16 of the date of the passage of this law unless reauthorized by an act of the legislature after review
17 and examination of the effectiveness of each such tax credit program by the department of
18 revenue and the executive office of administration and finance's office of commonwealth
19 performance, accountability and transparency.

20 Section 3. Said chapter 62C, as appearing in the 2012 official edition, is hereby amended
21 by inserting after section 90 the following:-

22 Section 91. In any review and examination of a tax credit program, the department of
23 revenue and the office of commonwealth accountability, performance and transparency shall, in
24 addition to any other analysis deemed appropriate by the agencies, identify and develop metrics
25 for assessing the effectiveness of each tax credit program at achieving its identified purposes and
26 outcomes, identify revenue foregone, beneficiaries and distribution of amounts received, and the
27 number of jobs created ,if applicable. After completion of such review and examination, the
28 agencies shall issue a report to the governor and legislature's committees on way and means and
29 post audit and oversight. Except for the reports on the examination of tax credit programs under
30 section 90(b), the report shall be completed one year before the expiration date of the tax credit

31 program which is the subject of the report. In any report issued by the agencies after the review
32 and examination of any tax credit program, the report, based on the agencies' examination of the
33 tax credit program, studies and data from other states and academia, shall make
34 recommendations for elimination or modification of the tax credit program to more effectively
35 achieve the tax credit programs identified public policy purposes.

36 Section 4. Said chapter 62C, as appearing in the 2012 official edition, is hereby amended
37 by inserting after section 91 the following:-

38 Section 92. Notwithstanding any general or special law to the contrary, all tax credit
39 programs shall contain and include a clawback provision, so called, that permits the
40 commonwealth to recoup foregone tax receipt from tax credit program recipients who fail to
41 achieve or meet stated goals and benchmarks, including but not limited to job creation goals set
42 forth in their tax credit program.

43 Section 5. Said chapter 62C, as appearing in the 2012 official edition, is hereby amended
44 by inserting after section 92 the following:-

45 Section 93. Before submitting any new tax credit program for legislative approval, the
46 governor shall include in the governor's legislative proposal or bill for the new tax credit
47 program the following: (a) the new tax credit program's clearly specified public policy purpose
48 and desired outcome, (b) a finding that the tax credit program is expected to be highly effective
49 at achieving the stated public policy purposes, (c) estimates of foregone revenue from the new
50 tax credit program, (d) for discretionary grant like tax credit programs an overall annual dollar
51 cap on foregone revenue, (e) for discretionary grant like tax credit programs, the criteria to be
52 applied by the administering agency in making discretionary awards of tax credit programs and

53 (f) for discretionary grant like tax credit programs, provisions for the tax credit program's
54 administration including, but not limited to, (i) clear written conditions and commitments,(ii)
55 public disclosure of recipients and tax benefits, (iii) if tax credit program conditions are not met
56 by the recipient, threshold for further review and enforcements including the use of the tax credit
57 program's clawback provision, and (iv) a competitive award process.