SENATE DOCKET, NO. 2000 FILED ON: 2/19/2021

SENATE . . . . . No. 1925

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:
Mark C. Montigny	*Second Bristol and Plymouth*

SENATE DOCKET, NO. 2000 FILED ON: 2/19/2021

SENATE . . . . . No. 1925

By Mr. Montigny, a petition (accompanied by bill, Senate, No. 1925) of Mark C. Montigny for legislation relative to economic development tax credits. Revenue.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1721* OF 2019-2020.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

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:

SECTION 1. Chapter 62C, as appearing in the 2020 Official Edition, is hereby amended by inserting after section 89 the following:-

Section 90. Sunsets for Tax Incentive Programs

(a) For the purposes of Sections 90-92 inclusive, “Tax Incentive” is defined as

1. the tax credit in subsection (j) of section 6 of chapter 62 and section 38Q of chapter 63;

2. the dairy farmer tax credit in subsection (o) of said section 6 of said chapter 62 and the dairy farm tax credit in section 38Z of said chapter 63;

3. the U.S.F.D.A. user fees credit in section 31M of said chapter 63 and subsection (n) of said section 6 of said chapter 62;

4. the film tax credit in subsection (b) of section 38X of said chapter 63 and subsection (l) of said section 6 of said chapter 62;

5. the credit for cost of qualifying property in subsection (m) of said section 6 of said chapter 62 and section 38U of said chapter 63;

6. the life sciences refundable jobs credit in subsection (r) of said section 6 of said chapter 62 and section 38CC of said chapter 63;

7. the deductions for qualifying clinical testing expenses in section 38V of said chapter 63;

8. the credit for qualified research expenses in section 38W of said chapter 63;

9. the historic rehabilitation tax credit in section 38R of said chapter 63 and section 6J of said chapter 62;

10. the low-income housing tax credit in section 31H of said chapter 63 and section 6I of said chapter 62;

11. the medical device tax credit in section 31L of said chapter 63 and section 61/2 of said chapter 62;

12. the refundable research credit in subsection (j) of section 38M of said chapter 63;

13. the economic development incentive program in subsection (g) of said section 6 of said chapter 62 and section 38N of said chapter 63;

14. the donated land tax credit in subsection (p) of said section 6 of said chapter 62 and section 38AA of said chapter 63;

15. the abandoned building renovation deduction in section 38O of chapter 63;

16. the credit for company shuttle van purchase or lease expenses in section 31E of chapter 63; and

17. any transferrable or refundable credits under chapter 62 and 63 established on or after July 1, 2010.

(b) For the purposes of Sections 90-92 inclusive, “Sunset Provision” is defined as, text contained in law requiring the law to expire and lose force of law unless reauthorized by an act of the legislature.

(c) Notwithstanding any general or special law to the contrary, all tax incentive as defined in subsection (a) shall expire within one year of the passage of this act unless reauthorized by an act of the legislature after review and examination of each such tax incentive. Upon each reauthorization, the legislature shall include a sunset provision to take effect within 3 years of the date of reauthorization.

(d) Any future program that awards a transferable or refundable tax credit to any taxpayer shall include a sunset provision with an expiration date set up to 3 years after of the initial passage of the program. Upon each reauthorization, the legislature shall include a sunset provision to take effect within 3 years of the date of reauthorization.

(e) The Inspector General in consultation with the Department of Revenue shall:-

(1) review and evaluate each tax incentive with a sunset provision scheduled to take effect in a given year.

(2) Upon reviewing each tax incentive, recommend to continue the tax incentive without changes, amend the tax incentive, or eliminate the tax incentive.

(3) submit a written report containing an explanation of the recommendations to the legislature. The report shall include a detailed description of the committee's reasoning, analyses, and any data collected pursuant to paragraph (4) of this subsection.

(4) consider the following factors when evaluating and reviewing a tax incentive:

(i) Whether the tax incentive is achieving the policy goals and purposes that it was intended to address

(ii) The revenue forgone to administer the tax incentive

(iii) The benefit derived from the tax incentive

(iv)The extent to which the tax incentive is helping residents, businesses, or other entities within the commonwealth

(v) Number of jobs created by the tax incentive (if applicable)

(vi) Any other information the Inspector General deems valuable in considering whether or not the tax incentive program achieved its desired public policy outcome

(5) use any available resources to evaluate each tax incentive including, but not limited to, commissioning a report from any agency, such as the Department of Revenue, detailing the tax incentive program and consisting of any content that the subcommittee deems

necessary, referring to other states evaluations of similar tax incentives, or citing academic studies or surveys of similar tax incentive programs.

SECTION 2. Chapter 62C is hereby amended by inserting after section 90 the following:-

Section 91 Clawback Provision for Tax Incentives

(a) Any law containing a sunset provision pursuant to section 90 of chapter 62C shall include a clawback provision.

(1) The clawback provision, so called, which permits the commonwealth to recoup foregone tax receipt from tax incentives recipients who fail to achieve or meet stated goals and benchmarks, including but not limited to job creation goals set for in their tax credit programs.

(2) Whenever a benefit is claimed, awarded, or otherwise obtained pursuant to a law containing a sunset provision as defined in section 90 of chapter 62C, the awarding entity must include explicit goals and benchmarks to be achieved by the recipient tax payer.

(3) Whenever a benefit is claimed, awarded, or otherwise obtained pursuant to a law containing a sunset provision as defined in section 90 of chapter 62C, the awarding entity must inform the recipient about the clawback provision by providing a copy of this section and explaining ramifications of his or her failure to meet the stated goals and benchmarks.

SECTION 3. Chapter 62C is hereby amended by inserting after section 91 the following:-

Section 92

(a) Before submitting any new tax incentive program for legislative approval, the governor shall include in the governor's legislative proposal or bill for the new tax incentive the following:

(1) The new tax incentive's clearly specified public policy purpose, goals, and desired outcomes

(2) A finding that the tax credit incentive is expected to be highly effective at achieving the stated public policy purposes

(3) Estimates of forgone revenue from the new tax credit incentive

(4) For discretionary grant like tax incentives, an overall annual dollar cap on foregone revenue

(5) For discretionary grant like tax credit programs, the criteria to be applied by the administering agency in making discretionary awards of tax credit programs and

(6) For discretionary grant like tax credit programs, provisions for the tax credit program's administration including, but not limited to, clear written conditions and commitments, public disclosure of recipients and tax benefits, if tax incentive conditions are not met by the recipient, threshold for further review and enforcements including the use of the tax incentive's clawback provision, and a competitive award process.