



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND EIGHT

1 SECTION 1. To provide for supplementing certain items in the general
2 appropriation act and other appropriation acts for fiscal year 2008, the sum set forth in
3 section 2A is hereby appropriated from the General Fund unless specifically designated
4 otherwise in this act or in those appropriation acts, for the several purposes and subject to
5 the conditions specified in this act or in those appropriation acts and subject to laws
6 regulating the disbursement of public funds.

7

8 **No Section 2.**

9

10 SECTION 2A.

11 **EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE**

12 *Small Business Capital Access Program*

13 1599-7107 For a capital access reserve to provide loan guarantees to small businesses
14 pursuant to section 57 of chapter 23A of the General Laws.....

15 \$5,000,000

16 *University of Massachusetts*

17 7100-0205 For the nano and biomanufacturing facility at the University of
18 Massachusetts Lowell for a public/private program of matching funds; provided, that said

19 matching funds must provide at least a 100 percent
20 match..... \$5,000,000

21

22 SECTION 2B. To provide for a program of infrastructure development,
23 improvements and various capital investments, the sums set forth in this section for the
24 several purposes and subject to the conditions specified in this act, are hereby made
25 available, subject to the laws regulating the disbursement of public funds and approval
26 thereof.

27

28 **EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT**

29

Office of the Secretary

30 7007-9037 For grants related to site remediation, preparation and ancillary
31 infrastructure improvement projects; provided, that the local government body and an
32 entity involved in the project shall jointly submit a request for funding to the secretary of
33 housing and economic development; provided further, that the request shall include
34 sufficient documentation including, but not limited to, a project plan with specific goals
35 and objectives that fully details the proposed project and either: (i) that the businesses
36 associated with the project will generate substantial sales from outside the
37 commonwealth and will result in the creation of a net increase of at least 100 new
38 permanent full-time jobs in the commonwealth within 24 months after receipt of a grant
39 and that those jobs will continue for at least 5 years; or (ii) that it produces an economic
40 benefit that the secretary determines will be sufficiently exceptional; provided further,
41 that no grants shall be awarded unless the project is certified under section 63 of chapter

42 23A of the General Laws; provided further, that the grants authorized from this
43 appropriation shall not exceed \$12,500,000 in total in a given year; provided, however,
44 that notwithstanding the foregoing limitation on the grants that may be authorized in a
45 given year, not less than \$12,900,000 shall be used to assist in water and wastewater
46 infrastructure improvements for the proposed cell culture manufacturing facility and
47 purification plant containing office and lab facilities in the town of Framingham;
48 provided further, that notwithstanding the foregoing limitation on the grants that may be
49 authorized in a given year, not less than \$12,600,000 shall be used to assist in the
50 construction of supporting infrastructure, comprised of local arterial and connector roads
51 for the interstate highway route 93 interchange in the towns of Andover, Wilmington and
52 Tewksbury; and provided further, that the executive office of housing and economic
53 development shall not transfer any funds authorized in this item to the Massachusetts Life
54 Sciences Center established in chapter 23I of the General Laws unless specifically
55 authorized by the general court.....\$125,000,000

56

57 **EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT**

58 *Office of the Secretary*

59 7007-9038 For capital projects including the preparation of plans and
60 specifications, acquisition, construction, renovation, reconstruction, alteration,
61 improvement, demolition, expansion and repair of land and facilities and for the
62 acquisition of furnishings and equipment, as determined by the secretary, in consultation
63 with the Massachusetts Life Sciences Center, to carry out the public purposes of chapter
64 23I of the General Laws; provided further, that not less than \$6,500,000 shall be

65 expended for the design, construction and development for a life science incubator
66 building at the William Stanley Business Park in the city of Pittsfield; provided further,
67 that \$1,100,000 shall be expended for the costs associated with the purchase and
68 conversion of 3 vehicles into mobile science laboratories in support of biotechnology
69 education initiatives of the Massachusetts Academy for Life Sciences, established in
70 subsection (c) of section 2MMM of chapter 29 of the General Laws; provided further,
71 that the mobile science laboratories shall be used to advance the goal of the
72 Massachusetts Academy for Life Sciences; provided further, that funds for those
73 purposes shall be provided through a contract with the Massachusetts Biotechnology
74 Education Foundation to provide grants, in consultation with the board of higher
75 education, to public and private institutions of higher learning to purchase and convert
76 vehicles into mobile science laboratories; provided further, that each vehicle shall be
77 fueled with an alternative fuel, as defined by the Energy Policy Act of 1992; provided
78 further, that amounts expended shall include the cost of vehicles, equipment, furniture
79 and other costs associated with the conversion of the vehicles into mobile science
80 laboratories; provided further, that each of the 3 mobile science laboratories shall be
81 owned and managed by each participating institution of higher learning and assigned to a
82 specific region of the commonwealth, as designated by the Massachusetts Academy for
83 Life Sciences in consultation with each institution of higher learning; provided further,
84 that the designated regions shall not overlap; provided further, that not less than
85 \$10,000,000 from this appropriation shall be used to fund projects within the
86 commonwealth that have been placed on a priority funding list by the National Institutes
87 of Health but for which federal funding is not currently available; provided further, that

88 \$9,500,000 shall be expended for construction and capital improvements at the Tufts'
89 Cummings School of Veterinary Medicine New England Regional Biosafety Laboratory;
90 provided further, that those facilities shall improve public health, protect public safety,
91 improve science education, and stimulate economic development by providing the
92 opportunity to translate laboratory discoveries into viable vaccines, therapies and cures
93 for emerging infectious diseases and bioterrorist threats; provided further, that the grants
94 authorized in this appropriation shall not exceed \$12,500,000 in total in a given year; and
95 provided further, that the executive office of housing and economic development shall
96 not transfer any funds authorized in this item to the Massachusetts Life Sciences Center
97 established in chapter 23I of the General Laws unless specifically authorized by the
98 general court.....\$125,000,000

99

100 **EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE**

101 *Division of Capital Asset Management and Maintenance*

102 7100-0250 For costs associated with planning and studies, dispositions,
103 acquisition of land and buildings and interests therein by purchase or by eminent domain
104 under chapter 79 of the General Laws, for the preparation of plans and specifications,
105 repairs, construction, renovations, improvements, maintenance and repair, asset
106 management and demolition at the University of Massachusetts campus facilities and
107 grounds; provided, that all projects approved for design and construction by the division
108 of capital asset management and maintenance shall be consistent in priority and need
109 with a master plan approved by the president of the University of Massachusetts and by
110 the board of trustees of the University of Massachusetts; provided further, that any

111 maintenance and repair work funded by this item shall be included in the capital asset
112 management information system administered by the division of capital asset
113 management and maintenance; provided further, that \$95,000,000 shall be expended for
114 the design, construction, development and related infrastructure improvements of the life
115 sciences laboratory research center complex including a laboratory research facility with
116 state-of-the-art equipment offering research and development facilities for collaboration
117 with industry partners to develop methods and technologies that can be translated into
118 new commercial services and products at the University of Massachusetts at Amherst;
119 provided further, that the match for this building shall be the design, construction,
120 development and related infrastructure improvements of a centralized core animal facility
121 at Amherst; provided further, that not less than \$6,000,000 shall be appropriated to the
122 University of Massachusetts Building Authority for the purpose of executing a lease
123 agreement with Baystate Medical Center for costs associated with capital expansion of
124 the Pioneer Valley Life Sciences Institute in the city of Springfield; provided further, that
125 not less than \$10,000,000 shall be expended to the University of Massachusetts at
126 Boston for the purchase of state-of-the-art equipment, renovations and related expenses to
127 support the Center for Personalized Cancer Therapy, a collaboration of the university of
128 Massachusetts at Boston and the Dana Farber Harvard Cancer Center; provided further,
129 that the center shall be located in New Bedford, Taunton or Falmouth, as the secretary
130 and the University shall determine; provided further that \$10,000,000 shall be expended
131 for a marine biology laboratory in the village of Woods Hole, the regional technology
132 development corporation and the University of Massachusetts at Dartmouth for a
133 collaborative effort between the 3 institutions to create and support the center for

134 regenerative biology and medicine to develop commercial marine technology, provide
135 research and development for life sciences including, but not limited to marine-based
136 stem cell research, and expand life science and marine technology education; provided
137 further, that not less than \$10,000,000 shall be expended for a regional incubation center
138 for life science initiatives to be located in the city of New Bedford and operated in
139 conjunction with the University of Massachusetts at Dartmouth and Bristol Community
140 College; provided further, that \$10,000,000 shall be expended for the design,
141 construction, development and related infrastructure improvements for a life sciences
142 center which shall be managed by a board of directors to consist of 13 members as
143 follows: the chancellor of the University of Massachusetts at Dartmouth, the president of
144 Bridgewater State College, the president of the Massachusetts Maritime Academy, the
145 presidents of Massasoit Community College, Cape Cod Community College and Bristol
146 Community College, the president of Wheaton College, or their respective designees; the
147 commissioner of mental retardation, or his designee; the president of the Massachusetts
148 Federation of Teachers, or his designee; president of the Massachusetts Teachers
149 Association, or his designee and the president of the Massachusetts AFL-CIO or his
150 designee; the president of the Taunton Area Chamber of Commerce and the director of
151 Southeastern Regional Planning and Economic District or their designees; provided
152 further, that the life sciences center shall include, but not be limited to, an education and
153 training facility and a laboratory research facility with state-of-the-art equipment offering
154 research and development facilities for collaboration with industry partners; provided
155 further, that the center shall be located at the former Paul A. Dever State School in city of
156 Taunton; provided further, that not less than \$90,000,000 shall be expended for the

157 design, construction, development and related infrastructure improvements for an
158 advanced therapeutics cluster to be constructed at the University of Massachusetts
159 Medical School in Worcester, which shall be designated and known as the Albert “Albie”
160 Sherman center, and shall include an RNAi Institute, stem cell biology cluster, cord blood
161 bank and gene therapy cluster; provided further, that those funds shall not be used for
162 faculty salaries; provided further, that funds appropriated in this item may be transferred
163 to the University of Massachusetts Building Authority for these infrastructure
164 improvements and for design and construction; provided further, that no funds shall be
165 transferred from this item for a phase of construction until the secretary of administration
166 and finance certifies in writing to the house and senate committees on ways and means
167 that all sources of funding for that phase of the facility have been committed and are
168 available as necessary for commencement of design and construction; provided further,
169 that the written confirmation shall include copies of all business plans, letters of financial
170 commitment and other documentation as the secretary shall deem necessary to certify that
171 all other sources of funding have been secured; provided further, that the University of
172 Massachusetts Building Authority shall submit to the clerks of the senate and house of
173 representatives a report which shall include the following: (1) a detailed list of all private
174 donors and amounts donated for each facility; (2) a plan for design, construction,
175 operation and maintenance and all associated costs and revenues of the facility, including
176 the projected timeline for the completion of all phases of the project; and (3) a description
177 of the proposed title to the assets associated with each facility; provided further, that the
178 secretary shall not expend any funds until the report is filed with the house and senate
179 committees on ways and means; provided further, that the University of Massachusetts

180 Building Authority shall require the assurance of labor harmony during all phases of
181 development, including construction, reconstruction and capital and routine maintenance,
182 and shall provide adequate remedies to address the failure to maintain labor harmony
183 which shall include, but not be limited to, assessment of liquidated damages and contract
184 termination; and provided further, that the payment of prevailing wages shall be in
185 accordance with sections 26 to 27F inclusive, of chapter 149 of the General Laws for all
186 phases of these projects.....\$250,000,000.

187

188 SECTION 3. To meet the expenditures necessary in carrying out section 2B, the
189 state treasurer shall, upon request of the governor, issue and sell bonds of the
190 commonwealth in an amount to be specified by the governor from time to time but not
191 exceeding, in the aggregate, \$500,000,000. All bonds issued by the commonwealth as
192 aforesaid shall be designated on their face, Commonwealth Life Sciences Center Capital
193 Improvement Loan Act of 2007, and shall be issued for a maximum term of years, not
194 exceeding 20 years, as the governor may recommend to the general court from time to
195 time under section 3 of Article LXII of the Amendments to the Constitution. All such
196 bonds shall be payable not later than June 30, 2032. All interest and payments on
197 account of principal on these obligations shall be payable from the General Fund. Bonds
198 and interest thereon issued under this section shall be general obligations of the
199 commonwealth.

200

201 SECTION 4. Chapter 23A of the General Laws is hereby amended by adding the
202 following section:-

203 Section 63. (a) As used in this section, the following words shall, unless the
204 context clearly requires otherwise, have the following meanings:

205 “Affiliate”, any business which directly or indirectly controls or is controlled by
206 or is under direct or indirect common control with another business, including, but not
207 limited to, any business with which a business is merged or consolidated, or which
208 purchases all or substantially all of the assets of a business.

209 “Business”, a business corporation, partnership, firm, unincorporated association
210 or other entity engaging or proposing to engage in economic activity in the
211 commonwealth, and any affiliate thereof, which is, or of which the members are, subject
212 to taxation under chapter 62 or chapter 63.

213 “Business incubator”, a facility which: (i) provides small units of space, shared
214 support services or financing and management assistance to new and established
215 businesses; or (ii) is created and operated for the principal purpose of addressing
216 conditions of unemployment and economic distress by encouraging the creation of new
217 businesses and improving their ability to survive and grow.

218 “Center”, the Massachusetts Life Sciences Center established by section 3 of
219 chapter 23I.

220 “Certified life sciences project”, a project that has been given initial approval by
221 the center and thereafter certified by the department of business development for
222 participation in the LSSIP.

223 “Control”, the power to direct the management and policies of a business or a
224 facility thereof, directly or indirectly, through the exercise of voting rights, by contract or
225 otherwise.

226 “Facility”, the physical location, in real property owned or leased by a life
227 sciences sector business, of a commercial or industrial activity, division or component
228 controlled by a life sciences sector business, or any real estate project which involves the
229 construction or renovation of real property to serve such purpose, or any combination of
230 the foregoing, at which are employed, or are projected to be employed, permanent full-
231 time employees of a life sciences sector business.

232 “Life sciences”, advanced and applied sciences, including, but not limited to,
233 regenerative medicine, biotechnology, biopharmaceuticals, nanotechnology, medical
234 devices, marine technology, marine biology and chemistry technology.

235 “Life sciences sector business”, a life sciences business located in the
236 commonwealth and engaged in research, development, commercialization or
237 manufacturing.

238

239 “Life sciences project”, that portion of a life sciences sector business consisting of
240 a new, expanded or maintained facility that in its entirety, as of the project proposal date,
241 is located in the commonwealth and that: (i) shall increase or maintain the number of
242 permanent full-time employees employed by the life sciences sector business in the
243 commonwealth; and (ii) shall not result in a replacement or relocation of permanent full-
244 time employees employed by the life sciences sector business at any other facility in the
245 commonwealth; provided, however, that if a facility shall be located in the
246 commonwealth after the project proposal date, the term shall refer only to a facility
247 which: (1) shall be the first facility of the life sciences sector business to be located in the
248 commonwealth; (2) shall be a new facility of the life sciences sector business and shall

249 not be a replacement or relocation of an existing facility; or (3) shall be an expansion of
250 an existing facility which results in an increase in permanent full-time employees.

251 “LSSIP”, the life sciences sector incentive program that is designed to promote the
252 development and expansion of life sciences sector businesses in the commonwealth, to be
253 administered by the department of business development in conjunction with the center.

254 “Municipality”, a city or town or, when 2 or more cities or towns agree to act
255 jointly for some purpose hereunder, then, collectively, all cities and towns participating in
256 the collaborative agreement.

257 “Permanent full-time employee”, an individual who: (i) is in an employment
258 relationship which, at its inception, does not have a termination date which is a date
259 certain or which is determined with reference to the completion of some specified scope
260 of work; (ii) works a minimum number of weekly hours as the department may specify
261 by rule or regulation; and (iii) receives employee benefits at least equal to those provided
262 to other full-time employees of the life sciences sector business.

263 “Project proposal”, a proposal submitted by a life sciences sector business to the
264 center for initial approval and thereafter forwarded to the department of business
265 development for designation as a certified life sciences project that meets the following
266 requirements: (i) the proposal shall be timely submitted as determined by the center, in
267 the form and with the information as prescribed by the center and the department,
268 supported by independently verifiable information and signed under the penalties of
269 perjury by a person authorized to bind the life sciences sector business; (ii) the proposal
270 shall include specific targets by year of the number of newly hired or retained full-time
271 employees, the projected salaries for those employees and the projected taxes generated

272 under chapter 62 by those employees for each year for which the project may receive
273 benefits under chapters 62, 63 or 64H; (iii) if a project is already located in the
274 commonwealth as of the project proposal date, the projected increase in employees shall
275 not be less than 10 per cent over the subsequent 5-year period; and (iv) if a project is a
276 new facility within the meaning of clause (ii) of the definition of life sciences project, the
277 proposal shall include the number of permanent full-time employees employed by the life
278 sciences sector business at other facilities located in the commonwealth.

279 “Project proposal date”, the date on which a project proposal is received by the
280 center.

281 “Real estate project”, real property at which, on a specified date after the project
282 proposal date, construction or renovation shall be initiated which, when completed, shall
283 result in an increase in the assessed value of the real property of at least 100 per cent over
284 its assessed value as of the project proposal date; provided, however, that if a real estate
285 facility is a business incubator facility and is designated as a certified life sciences
286 project, each business which executes a binding lease for space in that facility after the
287 date on which the construction or renovation activity begins shall be eligible for
288 designation in its own right as a certified life sciences project.

289 “Return on investment”, the tax under chapter 62 generated by permanent full-
290 time employees of a life sciences project, who have been hired or retained because of a
291 project, over the period for which project benefits are received.

292 (b) (1) The department, in conjunction with the center, shall administer the
293 LSSIP and shall: (i) promulgate rules and regulations and prescribe procedures to
294 effectuate the purposes of this section; provided, however, that the rules, regulations and

295 procedures shall be subject to a public hearing process; (ii) review applications from life
296 sciences sector businesses; (iii) certify projects for participation in the LSSIP that have
297 been given initial approval by the center and establish regulations for evaluating project
298 proposals; (iv) assist life sciences sector businesses in accessing state and federal
299 resources and obtaining assistance from such resources; (v) provide appropriate
300 coordination with other programs, agencies, authorities and public instrumentalities in the
301 commonwealth to enable activity within the life sciences sector to be more effectively
302 promoted by the commonwealth; (vi) monitor the implementation and operation of the
303 LSSIP; (vii) conduct an ongoing evaluation of the certified life sciences projects; and
304 (viii) promulgate in rules and regulations criteria for certification that favor projects that
305 are proposed in economically distressed areas, including, but not be limited to, projects
306 located in a municipality in which the unemployment rate is at least 1.5 per cent above
307 the statewide unemployment rate and projects located in a municipality in which the
308 median household income is not greater than 80 per cent of the statewide median
309 household income.

310 (2) The executive director of the center shall designate a staff person to serve as a
311 liaison to the department who shall regularly consult with the director of the department
312 of business development and coordinate the efforts of the center and department to
313 further the purposes of this section.

314 (3) The department shall annually submit to the governor, the house and senate
315 committees on ways and means and the joint committee on economic development and
316 emerging technologies, within 90 days after the end of its fiscal year, a complete report
317 detailing all projects certified under the LSSIP during that fiscal year. The report shall

318 identify every certified life sciences project and, for each project, shall include, but not be
319 limited to, the following information: (i) the number of jobs created for each year for
320 which the project was certified; (ii) the number of jobs projected to be certified at each
321 certification or renewal thereof; (iii) a comparison of the rate of actual job growth to the
322 job growth projected in the project proposal; (iv) the value of tax incentives authorized
323 under the LSSIP for each year for which the project was certified; (v) the value of tax
324 incentives actually used as a result of the project; and (vi) the status of construction of
325 any real estate project included in the project, including whether construction is on-time
326 and on-budget. Such report shall be posted on the internet in a manner accessible to the
327 public.

328 (4) Every 2 years after a project proposal is approved as a certified life sciences
329 project, the department shall prepare a report which evaluates the relative effectiveness of
330 the project and shall make recommendations to improve such effectiveness to the
331 secretary of housing and economic development. Each report shall be sent to the house
332 and senate committees on ways and means and to the joint committee on economic
333 development and emerging technologies.

334 (c) (1) The department may designate projects as certified life sciences projects,
335 and may take any action necessary or appropriate thereto, upon completion of the
336 following: (i) receipt and initial approval by the center of a project proposal, which
337 includes the following: (A) a workable plan, with precise goals and objectives, by which
338 the life sciences sector business proposes to achieve the projected return on investment,
339 including for each year an estimate of the number of permanent full-time employees
340 hired or retained, the average salaries of those employees, the projected taxable income

341 under chapter 62 generated by those employees, the year the business expects to hire or
342 retain the employees and the methods by which the business shall obtain new employees
343 and pursue a diverse workforce; (B) documentation regarding an agreement, if any,
344 between the life sciences sector business and area banking institutions by which the life
345 sciences sector business agrees to establish accounts in the banks and by which the banks
346 agree to commit a specified percentage of the funds deposited in the accounts for loans
347 made thereby to businesses under the small business capital access program established
348 by section 57; (C) if appropriate, documentation in the project proposal that the project is
349 a certified project, under section 3F; (D) request for a designation of the project as a
350 certified life sciences project for a specified number of years, which shall be not less than
351 5 years nor more than the lesser of 10 years and the years remaining on the project's
352 designation as a certified economic development incentive program project under section
353 3F; and (ii) findings made by the department, based on the project proposal, documents
354 submitted therewith, the initial approval by the center and any additional investigation by
355 the department, and incorporated in its approval, that: (A) the project meets all applicable
356 statutory requirements and any other criteria that the department may prescribe; and (B)
357 the project proposal, shall, if certified, achieve a projected return on investment, as
358 specified in the proposal, over the period for which it receives benefits as a certified
359 project.

360 (2)(A) A certified life sciences project shall retain its certification for the period
361 specified by the department in its certification decision unless the certification is revoked
362 before the expiration of the specified period; provided, however, that the specified period
363 shall be not less than 5 years, unless earlier revoked, from the date of certification nor

364 more than the lesser of 10 years from the date of certification and the years remaining on
365 the project's designation as a certified project, including any renewals thereof. Beginning
366 in the year after a project is certified and for every year for which the project receives
367 benefits, the department shall determine whether the project has satisfactorily met the
368 specific targets by year for the number of full-time employees hired or retained, the
369 projected salaries for those employees and the projected taxes generated under chapter 62
370 by those employees. The department shall include its determinations under this
371 paragraph in each report called for under paragraph (3) of subsection (b).

372 (B) The certification of a project may be revoked only by the secretary of housing
373 and economic development after an independent investigation and determination that
374 representations made by the life sciences sector business in its project proposal are
375 materially at variance with the conduct of the life sciences sector business after the
376 certification; provided, however, that the department of business development shall
377 review the certified life sciences project at least yearly; provided further, that a project
378 with an actual return on investment that is less than 70 per cent of the return on
379 investment projected in the project proposal shall be deemed to contain a material
380 variance for the purposes of a revocation determination. Whenever the secretary
381 determines not to revoke certification even though the actual return on investment for the
382 project is less than 70 per cent, the secretary shall state his reasons for the decision in
383 writing to the secretary of administration and finance, the commissioner of revenue, the
384 house and senate committees on ways and means, the chairs of the joint committee on
385 revenue and the chairs of the joint committee on economic development and emerging

386 technology and shall post these reasons on the internet in a manner that is accessible to
387 the public.

388 (C) A notice of decertification under this subsection shall specify the date on
389 which the decertification is effective, which may be the date of the notice or the date on
390 which the secretary of housing and economic development determined that the material
391 variance commenced. In the event of a decertification, the commissioner of revenue
392 shall, as of the effective date of the decertification, disallow any credits, exemptions or
393 other tax benefits as may have been allowed by the original certification of tax benefits
394 under this section. In addition, any credits allowed by the certification shall be
395 recaptured in a manner similar to that provided in section 31A of chapter 63 as would
396 apply when property is disposed of or ceased to be in qualified use before the end of its
397 useful life or, if applicable, before the end of the year in which the credit is to be taken.
398 If the original certification allowed sales and use tax exemptions under subsection (s) of
399 section 6 of chapter 64H, the purchaser shall accrue use tax as of the date of the
400 decertification on a portion of the sales price on which exemption was claimed that is
401 proportionate to the remaining useful life of the property.

402 (D) Nothing in this subsection shall limit any legal remedies available to the
403 commonwealth against any life sciences sector business.

404 (3) The department shall evaluate and either certify or deny a project proposal
405 that has been granted initial approval by the center within 30 days of the initial approval.
406 For any project proposal rejected by the department, a written statement detailing the
407 reasons set forth for the rejection shall accompany the decertification notice. The
408 statement shall include any assumptions or conclusions considered which contradict the

409 basis for the initial approval given by the center and shall detail the methodology utilized
410 to reach the decision to deny the proposal.

411 (d) A certified life sciences project may be eligible for the tax benefits made
412 available to life sciences projects under chapters 62, 63 and 64H only to the extent
413 specified in a certification from the secretary of housing and economic development and
414 the secretary of administration and finance. These tax benefits shall not be available to
415 any certified life sciences project unless expressly granted by the secretaries in writing.
416 The department of business development shall estimate in writing the tax cost of
417 extending benefits to a proposed project before certification, as approved in writing by
418 the commissioner of revenue, based on reasonable projections of project activities and
419 costs.

420 (e) Not more than a cumulative amount of \$25,000,000 of tax incentives under the
421 LSSIP, including incentives carried forward, refunded or transferred, and including the
422 current year cost of incentives allowed in previous years, shall be authorized in any year.

423 (f) Capital funding may be revoked only by the secretary of housing and economic
424 development after an independent investigation and determination that representations
425 made by the life sciences sector business in its project proposal are materially at variance
426 with the conduct of the life sciences sector business after the certification; provided,
427 however, that the department of business development shall review the certified life
428 sciences project at least yearly; provided further, that a project with an actual return on
429 investment that is less than 70 per cent of the return on investment projected in the
430 project proposal shall be deemed to contain a material variance for the purposes of a
431 revocation determination. Whenever the secretary determines not to revoke certification

432 even though the actual return on investment for the project is less than 70 per cent, the
433 secretary shall state his reasons for the decision in writing to the secretary of
434 administration and finance, the commissioner of revenue, the house and senate
435 committees on ways and means, the chairs of the joint committee on bonding, capital
436 expenditures and state assets and the chairs of the joint committee on economic
437 development and emerging technology, and shall post these reasons on the internet in a
438 manner that is accessible to the public.

439 A notice of decertification under this subsection shall specify the date on which
440 the decertification is effective, which may be the date of the notice or the date on which
441 the secretary of housing and economic development determined that the material variance
442 commenced. In the event of a decertification, the commissioner of revenue shall, as of
443 the effective date of the decertification, disallow any loans, grants or other benefits as
444 may have been allowed by the original certification under this section. In addition, any
445 grants or loans allowed by the certification shall be recaptured in a manner similar to that
446 provided under section 31A of chapter 63 as would apply when property is disposed of or
447 ceased to be in qualified use before the end of its useful life.

448 (g) The secretary of housing and economic development shall revoke the
449 certification of a life sciences project when independent investigations conducted in 2
450 consecutive years determine that representations made by the life sciences sector business
451 in its project proposal are materially at variance with the conduct of the life sciences
452 sector business after the certification and the actual return on investment by the life
453 sciences sector business is less than 70 per cent of the return on investment projected in
454 the project proposal.

455

456 SECTION 5. Section 2 of said chapter 23I of the General Laws, as inserted by
457 section 24 of chapter 123 of the acts of 2006, is hereby amended by striking out the
458 definition of “Bonds”.

459

460 SECTION 6. Said section 2 of said chapter 23I, as so inserted, is hereby further
461 amended by inserting after the definition of “Fund”, the following definition:-

462 “Independent research institution”, a nonprofit research organization that holds
463 tax-exempt status granted under section 501(c)(3) of the Internal Revenue Code and is
464 organized and operated exclusively for scientific or educational purposes but is not a
465 hospital, college, university or private foundation.

466

467 SECTION 7. The definition of “Life sciences” in said section 2 of said chapter
468 23I, as so inserted, is hereby amended by adding the following words:- , medical devices
469 and chemistry technology.

470

471 SECTION 8. Section 3 of said chapter 23I, as so inserted, is hereby amended by
472 striking out subsection (b) and inserting in place thereof the following subsection:-

473 (b) The center shall be governed and its corporate powers exercised by a board of
474 directors consisting of: the secretary of administration and finance or his designee; the
475 secretary of housing and economic development or his designee; the president of the
476 University of Massachusetts or his designee; 4 members to be appointed by the governor,
477 1 of whom shall be a physician licensed to practice medicine in the commonwealth and

478 affiliated with an academic medical center, 1 of whom shall be a chief executive officer
479 of a Massachusetts-based life sciences corporation which is a member of the board of
480 directors of the Massachusetts Biotechnology Council, 1 of whom shall be a researcher
481 involved in the commercialization of biotechnology, pharmaceuticals or medical
482 diagnostic products, and 1 of whom shall have significant financial experience in the life
483 sciences sector. Each appointed member shall serve a term of 5 years. The secretary of
484 housing and economic development shall serve as chair of the board. Any person
485 appointed to fill a vacancy in the office of a member of the board shall be appointed in a
486 like manner and shall serve for only the unexpired term of the member. Any member
487 shall be eligible for reappointment. Any member may be removed from his appointment
488 by the governor for cause.

489 SECTION 9. Subsection (c) of said section 3 of said chapter 23I, as so inserted,
490 is hereby amended by striking out the first paragraph and inserting in place thereof the
491 following paragraph:-

492 (c) Four directors shall constitute a quorum and the affirmative vote of a majority
493 of directors present at a duly called meeting if a quorum is present shall be necessary for
494 any action to be taken by the board. Any action required or permitted to be taken at a
495 meeting of the directors may be taken without a meeting if all of the directors consent in
496 writing to such action and the consent is filed with the records of the minutes of the
497 meetings of the board. The consent shall be treated for all purposes as a vote at a
498 meeting. Each member shall make full disclosure, under subsection (d), of his financial
499 interest, if any, in matters before the board by notifying the state ethics commission, in

500 writing, and shall abstain from voting on any matter before the board in which he has a
501 financial interest, unless otherwise permissible under chapter 268A.

502

503 SECTION 10. Subsection (e) of said section 3 of said chapter 23I, as so inserted,
504 is hereby amended by adding the following sentence:- The board shall also have the
505 power to appoint and employ a treasurer, who shall be the chief financial and accounting
506 officer of the center and shall be in charge of its funds, books of accounts and accounting
507 records.

508

509 SECTION 11. The first sentence of subsection (g) of said section 3 of said
510 chapter 23I, as so inserted, is hereby amended by striking out the words “1 of its
511 members as chairperson,”.

512

513 SECTION 12. Said subsection (g) of said section 3 of said chapter 23I, as so
514 inserted, is hereby further amended by striking out the last sentence.

515

516 SECTION 13. Clause (14) of subsection (a) of section 4 of said chapter 23I, as so
517 inserted, is hereby amended by striking out the words “, issue bonds and apply the
518 proceeds thereof as provided in section 8,”.

519

520 SECTION 14. Said subsection (a) of said section 4 of said chapter 23I, as so
521 inserted, is hereby further amended by striking out clause (16).

522

523 SECTION 15. Clause (17) of said subsection (a) of said section 4 of said chapter
524 23I, as so inserted, is hereby amended by inserting after the word “nanotechnology” the
525 following words:- “, chemistry technology”.

526

527 SECTION 16. Said subsection (a) of said section 4 of said chapter 23I, as so
528 inserted, is hereby further amended by adding the following clause:-

529 (30) to review project proposals for certification as life sciences projects as
530 provided in subsection (c).

531

532 SECTION 17. Said section 4 of said chapter 23I, as so inserted, is hereby further
533 amended by adding the following 2 subsections:-

534 (b) There shall be a 23-member advisory committee to be appointed by the
535 governor to advise the center and the board. The members shall be appointed as follows:
536 10 shall be active members of the Massachusetts Life Sciences Collaborative, at least 2 of
537 whom shall represent small businesses; 5 shall represent regional councils of government,
538 chambers of commerce or regional economic development councils located in western,
539 central, northeastern and southeastern Massachusetts and metropolitan Boston; 5 shall be
540 chancellors at the University of Massachusetts, or other designees, at Amherst, Boston,
541 Dartmouth, Lowell and Worcester; and 3 shall be patient advocates with significant
542 interaction in the life sciences. The advisory committee shall have 3 ex-officio non-
543 voting members who shall include: the secretary of administration and finance, or his
544 designee, the secretary of housing and economic development, or his designee, and the
545 secretary of labor and workforce development, or his designee.

546

547 Each member shall serve for terms of 3 years. Any person appointed to fill a
548 vacancy in the office of a member of the committee shall be appointed in a like manner
549 and shall serve for only the unexpired term of the member who vacated. Members shall
550 be eligible for reappointment. Any member may be removed by the governor for cause.
551 The members of the committee shall serve without compensation, but each member shall
552 be entitled to reimbursement for his actual and necessary expenses incurred in the
553 performance of his official duties. The duties of the advisory board shall be to advise the
554 center and the board concerning issues related to: research in the life sciences;
555 development of products and the efficacy of the public and private initiatives to further
556 product development in the life sciences, marine technology and marine biology;
557 commercialization of biotechnology, pharmaceuticals, medical diagnostic products or
558 such other areas within the life sciences; and any other such area as is requested by the
559 board.

560

561 The advisory committee shall not be a state agency for the purposes of chapter
562 268A and shall not be subject to section 11A½ of chapter 30A or chapter 66.

563

564 (c) The center shall receive and review all project proposals for certification under
565 the Massachusetts Life Sciences Sector Incentive Program established in section 63 of
566 chapter 23A. The center shall, if it deems necessary and upon a majority vote of the
567 board, grant initial approval to those proposals meeting the certification criteria set forth
568 in said section 63 of said chapter 23A. The center shall recommend and forward any

569 proposals meeting its initial approval to the department of business development, and the
570 department shall be responsible for determining whether a project proposal shall be
571 deemed a certified life sciences project.

572

573 SECTION 18. Subsection (c) of section 5 of said chapter 23I, as so inserted, is
574 hereby amended by striking out the first paragraph and inserting in place thereof the
575 following subsection:-

576 (c) The fund shall be held and applied by the center, subject to the approval of the
577 board, to make qualified investments, grants and loans designed to advance the following
578 public purposes: (1) to make targeted investments, including research funding, proof of
579 concept funding and funding for the development of devices and pharmaceuticals, in the
580 areas of life sciences, nano-technology, biotechnology and stem cell research and to spur
581 manufacturing activities for new or existing advanced technologies and life sciences in
582 the commonwealth; (2) to make matching grants to universities, colleges, independent
583 research institutions, nonprofit entities, public instrumentalities, companies and other
584 entities in connection with support from the federal government, industry and other grant-
585 funding sources related to the expansion of research and development in the areas of life
586 sciences, nano-technology, biotechnology and stem cell research in the commonwealth,
587 and to thereby serve to increase and strengthen the commercial and industrial base of the
588 commonwealth and the economic development and employment opportunities related
589 thereto; (3) to provide bridge financing to universities, colleges, independent research
590 institutions, nonprofit entities, public instrumentalities, companies and other entities in
591 anticipation of the receipt of grants of the type described in clause (1) awarded by, or to

592 be awarded by, the federal government, industry or other sources; (4) to provide
593 fellowships, co-ops, internships, loans and grants; (5) to provide funding for
594 development, coordination and marketing of higher education programs in life sciences
595 fields; (6) to provide work force training grants to prepare individuals for life sciences
596 fields; and (7) to otherwise further the public purposes set forth in this chapter.

597 The Massachusetts Life Sciences Center, in consultation with the University of
598 Massachusetts, the board of higher education and the secretary of labor and workforce
599 development, shall identify career opportunities for citizens of the commonwealth not
600 presently possessing postgraduate degrees and the educational programs necessary to
601 enable the pursuit of those opportunities through the attainment of specific skills and
602 competencies.

603 The center shall develop strategies for the development and operation of such
604 educational programs, and may provide funding in the amounts necessary to create,
605 advance or sustain the programs.

606 The center shall report annually to the clerks of the senate and the house of
607 representatives any opportunities identified under this section, any strategies identified to
608 capture those opportunities and the amounts of funding provided to support the
609 educational programs.

610 SECTION 19. Said chapter 23I, as so inserted, is hereby further amended by
611 striking out section 7 and inserting in place thereof the following section:-

612 Section 7. The center shall annually submit to the governor, the chair of the
613 senate committee on ways and means, the chair of the house committee on ways and
614 means, the co-chairs of the joint committee on economic development and emerging
615 technologies, the secretary of administration and finance and the comptroller, within 90
616 days after the end of each fiscal year, a complete and detailed report that includes
617 information about the center's operations and accomplishments, receipts and

618 expenditures during such fiscal year, its assets and liabilities at the end of such fiscal
619 year, the anticipated return on investment to the commonwealth from the investment of
620 funds administered by the center during such fiscal year, a complete list of grants
621 awarded by the center, a list of other funding activities, reports of patents or products
622 resulting from funded activities, and a tracking of job creation as a result of funded
623 projects. Such report shall be posted on the internet in a manner accessible to the public.

624

625 SECTION 20. Section 1 of chapter 32 of the General Laws, as appearing in the
626 2006 Official Edition, is hereby amended by inserting after the word “connector,” in line
627 211, the following words:- , the Massachusetts Life Sciences Center.

628

629 SECTION 21. Section 2 of chapter 32A of the General Laws is hereby amended
630 by inserting after the word “authority,” in line 12, as so appearing, the following words:- ,
631 the Massachusetts Life Sciences Center.

632

633 SECTION 22. Section 6 of chapter 62 of the General Laws is hereby amended by
634 inserting after subsection (l), as most recently amended by section 4 of chapter 63 of the
635 acts of 2007, the following 2 subsections:-

636 (m) (1) A taxpayer subject to tax under this chapter, which operates a certified life
637 sciences project as defined in section 63 of chapter 23A, may take a credit against the
638 taxes imposed by this chapter, to the extent provided in a certification under section 63 of
639 chapter 23A, in an amount equal to 10 per cent of the cost of qualifying property used
640 exclusively in the commonwealth for the project. Qualifying property shall be tangible

641 personal property and other tangible property, excluding property taxable under chapter
642 60A but including buildings and structural components of buildings acquired by
643 purchase, as defined under section 179(d) of the Code, as amended and in effect for the
644 taxable year, if the property is depreciable under section 167 of the Code and has a useful
645 life of 4 years or more. If such property is disposed of or ceases to be in qualified use
646 before the end of its useful life or before the end of the year in which the credit is to be
647 taken, the recapture and related provisions of subsection (e) of section 31A of chapter 63
648 shall apply. A taxpayer taking a credit allowed under this subsection may not take the
649 credit allowed by subsection (g) except to such extent, not to exceed 2 per cent of the cost
650 of any qualifying property, as may be provided in a certification under said section 63 of
651 said chapter 23A.

652 A credit is allowed under this section only to the extent that the taxpayer files the
653 application with the department of business development, in a form as may be determined
654 by the department, within 1 year after the initial project certification under said section 63
655 of said chapter 23A.

656 The department may certify that property eligible for the credit is a certified life
657 sciences project as defined in said section 63 of said chapter 23A and that the certified
658 life sciences project reasonably satisfies the return on investment projections specified in
659 the original project proposal as defined in said section 63 of said chapter 23A. Based
660 upon the information provided in the application and its own independent investigation,
661 the department shall determine whether the project meets the definition of certified life
662 sciences project and whether the project has a reasonable chance of completing the return
663 on investment as advanced in the project proposal as certified by the department. If the

664 department determines that the certified life sciences project is no longer in compliance,
665 the secretary of housing and economic development shall revoke certification of the
666 project as provided in said section 63 of said chapter 23A and shall provide notification
667 of decertification to the commissioner of revenue. Nothing in this section shall limit the
668 authority of the commissioner of revenue to adjust a taxpayer's liability upon audit.
669 Nothing in this section shall limit any other legal remedies available to the commissioner
670 of revenue or the commonwealth against a life sciences sector business.

671 (2) Any taxpayer entitled to a credit under this section for any taxable year may
672 carry over and apply to its tax for any of the next succeeding 10 taxable years, that
673 portion, as reduced from year to year, of those credits which exceed the tax for the
674 taxable year but the taxpayer shall not apply the credit to its tax for any taxable year
675 beginning more than 10 years after the certified life sciences project ceases to qualify as
676 such under chapter 23A.

677 (3) The commissioner of revenue shall adopt rules and regulations as are
678 necessary to implement this section. Such rules and regulations may provide the
679 adjustment of intercompany prices and elimination of intercompany transactions to
680 ensure that all amounts upon which the credit is based reasonably reflect fair market
681 value. In addition, such rules and regulations shall include provisions to prevent the
682 generation of multiple credits with respect to the same property.

683 (4) If a credit allowed to a certified life sciences project under this subsection, or
684 a credit as may be allowed under subsection (g) as limited in this subsection, exceeds the
685 tax otherwise due under chapter 62, 90 per cent of the balance of such credit shall, at the
686 option of the taxpayer, be refundable to the taxpayer for the taxable year in which

687 qualified property giving rise to that credit is placed in service. If such credit balance is
688 refunded to the taxpayer, the credit carryover provisions of paragraph (2) and of
689 paragraph (2) of subsection (g) shall not apply.

690 (n) (1) As used in this section, the following words shall, unless the context
691 clearly requires otherwise, have the following meanings:

692 “Primarily”, more than 50 per cent.

693 “Research and development costs”, in-house research expenses within the
694 meaning of section 41(b)(2) of the Internal Revenue Code.

695 “User fees”, the monetary amount actually paid by a certified life sciences project
696 to the U.S.F.D.A. that constitutes the fee due upon the submission of a human drug
697 application or supplement under 21 U.S.C. § 379h(a)(1) for a human drug, the research
698 and development costs of which, were primarily incurred in the commonwealth.

699 “U.S.F.D.A.”, the United States Food and Drug Administration.

700 (2) Except as otherwise limited by subsection (e) of section 31M of chapter 63,
701 there may be allowed to any certified life sciences project, as defined by section 63 of
702 chapter 23A, as a refundable credit against the tax liability imposed under this chapter an
703 amount equal to 100 per cent of the cost of user fees paid by such certified life sciences
704 project, to the extent provided in a certification under said section 63 of said chapter 23A.

705 (3) A certified life sciences project shall claim the credit in the taxable year in
706 which its application for the licensure of an establishment to manufacture the human drug
707 in the commonwealth is approved by the U.S.F.D.A.

708 (4) A credit allowed under this section may be taken only after the taxpayer
709 completes an application signed by an authorized representative of the applicant and files

710 the application with the department of business development within 1 year after the initial
711 project certification under section 63 of chapter 23A.

712 (5) In the event that such credit allowed to a certified life sciences project
713 exceeds the tax otherwise due under chapter 62, 90 per cent of the balance of that credit
714 shall be refundable to the taxpayer for the taxable year in which the credit is claimed.

715 (6) The deduction from gross income that may be taken with respect to any
716 expenditures qualifying for the credit under this section shall be disallowed to the extent
717 of the credit.

718 (7) Only user fees paid by a certified life sciences project to the U.S.F.D.A. on or
719 after the effective date of this section shall be eligible for the credit.

720

721 SECTION 23. Said section 6 of said chapter 62 is hereby further amended by
722 striking out subsections (m) and (n), as inserted by section 22 of this act.

723

724 SECTION 24. Chapter 63 of the General Laws is hereby amended by adding
725 after section 31L the following section:-

726 Section 31M. (a) As used in this section, the following words shall, unless the
727 context clearly requires otherwise, have the following meanings:

728 “Primarily”, more than 50 per cent.

729 “Research and development costs”, in-house research expenses within the
730 meaning of section 41(b)(2) of the Internal Revenue Code.

731 “User fees”, the monetary amount actually paid by a certified life sciences project
732 to the U.S.F.D.A. that constitutes the fee due upon the submission of a human drug

733 application or supplement under 21 U.S.C. § 379h(a)(1) for a human drug, the research
734 and development costs of which, were primarily incurred in the commonwealth.

735 “U.S.F.D.A.”, the United States Food and Drug Administration.

736 (b) Except as otherwise limited by subsection (e), there shall be allowed to any
737 certified life sciences project, as defined by section 63 of chapter 23A, as a refundable
738 credit against the tax liability imposed under this chapter an amount equal to 100 per cent
739 of the cost of user fees paid by such certified life sciences project, to the extent provided
740 in a certification under said section 63 of said chapter 23A.

741 (c) A certified life sciences project shall claim the credit in the taxable year in
742 which its application for the licensure of an establishment to manufacture the human drug
743 in the commonwealth is approved by the U.S.F.D.A.

744 (d) A credit allowed under this section may be taken only after the taxpayer
745 completes an application signed by an authorized representative of the applicant, and files
746 the application with the department of business development within 1 year after the initial
747 project certification under section 63 of chapter 23A.

748 (e) The credit allowed may reduce the excise due under subsection (b) of section
749 32 or subsection (b) of section 39. The credit allowed to a certified life sciences project
750 is not subject to section 32C. If the credit allowed to a certified life sciences project
751 exceeds the excise otherwise due under said subsection (b) of said section 32 or said
752 subsection (b) of said section 39, 90 per cent of the balance of that credit shall be
753 refundable to the taxpayer for the taxable year in which the credit is claimed.

754 If a certified life sciences project files as a member of a combined group and
755 applies its excess credit against the excise of another group member, the credit as applied

756 to corporations other than the certified life sciences project is not subject to section 32C
757 and may reduce to zero the excise due under subsection (b) of section 32 or subsection
758 (b) of section 39. If the credit allowed to a certified life sciences project that is applied
759 against the excise liability of such other corporations exceeds the excise otherwise due to
760 such corporations under this chapter, 90 per cent of the balance of that credit shall be
761 refundable to the taxpayer for the taxable year in which the credit is claimed.

762 (f) For purposes of section 30, the deduction from gross income that may be
763 taken with respect to any expenditures qualifying for the credit under this section is
764 disallowed to the extent of the credit.

765 (g) Only user fees paid by a certified life sciences project to the U.S.F.D.A. shall
766 be eligible for the credit.

767

768 SECTION 25. Said chapter 63 is hereby amended by striking out section 31M, as
769 inserted by section 24 of this act.

770

771 SECTION 26. Section 38 of said chapter 63, as appearing in the 2006 Official
772 Edition, is hereby amended by striking out, in line 162, the word “and”.

773

774 SECTION 27. Said section 38 of said chapter 63, as so appearing, is hereby
775 further amended by inserting after the word “contracts”, in line 169, the following
776 words:- ; and (6) To the extent provided in a certification under section 63 of chapter
777 23A, a certified life sciences project, as defined in section 63 of chapter 23A, is deemed

778 to be taxable in the state of the purchaser if the property of the project is delivered or
779 shipped to a purchaser in another state.

780

781 SECTION 28. The third paragraph of subsection (f) of said section 38 of said
782 chapter 63 is hereby amended by striking out clause (6), inserted by section 27 of this act.

783

784 SECTION 29. The second paragraph of section 38C of said chapter 63, as
785 appearing in the 2006 Official Edition, is hereby amended by adding the following
786 sentence:- A certified life sciences project shall, to the extent provided in a certification
787 under section 63 of chapter 23A, be deemed to be a research and development
788 corporation for purposes of exemptions under chapters 64H and 64I.

789

790 SECTION 30. The second paragraph of said section 38C of said chapter 63 is
791 hereby amended by striking out the last sentence, inserted by section 29 of this act.

792

793 SECTION 31. Section 38M of said chapter 63, as appearing in the 2006 Official
794 Edition, is hereby amended by adding the following subsection:-

795 (j) To the extent provided in a certification under section 63 of chapter 23A, if
796 the credit allowed under this section is allowed with respect to a certified life sciences
797 project and the credit that may be claimed by a taxpayer under this section exceeds the
798 amount that may otherwise be allowed under this section for a taxable year, 90 per cent
799 of the balance of that credit attributable to a certified life sciences project shall, at the
800 option of the taxpayer and, to the extent provided in such certification, be refundable to

801 the taxpayer for the taxable year. If such credit balance is refunded to the taxpayer, the
802 credit carryover provision in subsection (f) shall not apply.

803 SECTION 31A. Said chapter 63 is hereby further amended by inserting after section 38P
804 the following new section:-

805 Section 38P½ . (a) For the purposes of this section, “qualified life science
806 company” shall mean an affiliated group, as defined in section 1504(a) of the Internal
807 Revenue Code of 1986, that derives at least 70 per cent of its revenue from the sale or
808 license of life science products or intellectual property, or from the rendering of contract
809 life science services, or from the combination of the 2; provided, however, that either (1)
810 greater than 70 per cent of all commercial employees, excluding sales representatives,
811 shall be Massachusetts-based employees; or (2) greater than 70 per cent of all tangible
812 leased or owned property, excluding inventory, shall be apportionable to the
813 commonwealth in the fiscal year, notwithstanding the company’s ability to qualify for
814 single sales factor apportionment.

815 (b) For a qualified life science company, research and development costs, within
816 the meaning of section 4(b) of the Internal Revenue Code, shall include, to the extent
817 they relate to legally mandated clinical trial activities, those qualified research
818 expenditures that are performed both inside and outside of the commonwealth. (c) A
819 qualified life science company shall be allowed a credit against its excise due under this
820 chapter equal to the sum of 10 per cent of the excess, if any, of the qualified research
821 expenses for the taxable year, over the base amount, and 15 per cent of the basic research
822 payments determined under section 41(e)(1)(A) of the Internal Revenue Code. The terms
823 “qualified research expenses”, “base amount”, “qualified organization base period

824 amount”, “basic research” and any other terms affecting the calculation of the credit
825 shall, unless the context otherwise requires or unless otherwise stated in this section, have
826 the same meanings as under said section 41 of said Code, as amended and in effect on
827 August 12, 1991. In determining the amount of the credit allowable under this section,
828 the commissioner of revenue may aggregate the activities of all corporations that are
829 members of a controlled group of corporations, as defined by 41(f)(1)(A) of said Code,
830 and may aggregate the activities of all entities, whether or not incorporated, that are under
831 common control, as defined in section 41(f)(1)(B) of said Code.

832 (d) For purposes of section 30, the deduction from gross income that may be
833 taken with respect to any expenditures qualifying for a credit under said section 41 of
834 said Code, as amended and in effect on August 12, 1991 shall be based upon its cost less
835 the credit allowable under this section; provided, however, that section 280C(c) of said
836 Code shall not apply.

837 (e) The credit allowed hereunder for any taxable year shall not reduce the excise
838 to less than the amount due under subsection (b) of section 32, subsection (b) of section
839 39, section 67 or under any other general or special law.

840 (f) The credit allowed under this section is limited to 100 per cent of a
841 corporation’s first \$25,000 of excise, as determined before the allowance of any credits,
842 plus 75 per cent of the corporation’s excise, as so determined in excess of \$25,000. The
843 commissioner of revenue shall promulgate regulations similar to those authorized under
844 section 38(c)(2)(B) of the Internal Revenue Code for purposes of apportioning the

845 \$25,000 amount among members of a controlled group. Nothing in this section shall alter
846 the provisions of section 32C, as it affects other credits under this chapter.

847 (g) If a corporation files a combined return of income under section 32B, a credit
848 generated by an individual member corporation under this section shall first be applied
849 against the excise attributable to that company under section 32 or 39, subject to the
850 limitations of subsections (c) and (d). A member corporation with an excess research and
851 development credit may apply its excess credit against the excise of another group
852 member if such other member corporation may use additional credits under the
853 limitations of said subsections (c) and (d). Unused, unexpired credits generated by a
854 member corporation shall be carried over from year to year by the individual corporation
855 that generated the credit and shall not be refundable. Nothing in this section shall alter the
856 provisions of subsection (h) of section 31A.

857 (h) Any corporation entitled to a credit under this section for any taxable year may
858 carry over and apply to its excise for any of the next succeeding 15 taxable years that
859 portion, as reduced from year to year, of its credit which exceeds its excise for the taxable
860 year. Any corporation may carry over and apply to its excise for any subsequent taxable
861 year that portion, as reduced from year to year, of those credits which were not allowed
862 by subsection (f).

863 (i) The commissioner of revenue shall promulgate such regulations as are
864 necessary to implement this section.

865 SECTION 31B. Said section 38M of said chapter 63 is hereby amended by
866 striking out subsection (j), inserted by section 31.

867

868 SECTION 32. Said chapter 63 is hereby further amended by inserting after

869 section 38T the following 2 sections:-

870 Section 38U. (a) As used in this section and section 38V the following words

871 shall, unless the context clearly requires otherwise, have the following meanings:

872 “Life sciences”, basic and applied sciences, including the research and
873 applications from core scientific fields such as biology, chemistry, engineering,
874 information technology, mathematics and physics that may be integrated to expand the
875 understanding of human physiology and have the potential to lead to medical advances or
876 therapeutic applications.

877 “Life sciences company”, a business corporation, partnership, firm, nonprofit
878 entity, unincorporated association or other entity engaged in life sciences research,
879 development, manufacturing or commercialization in the commonwealth, and any
880 affiliate thereof, which is, or of which the members are, subject to taxation under this
881 chapter.

882 “Person”, a natural person, corporation, association, partnership or other legal
883 entity.

884 “Taxpayer”, a life sciences company or person subject to taxation under this
885 chapter or chapters 62, 64H or 64I.

886 (b)(i) A taxpayer may, to the extent authorized under the life sciences tax
887 incentive program established in section 63 of chapter 23A, take a credit against the taxes
888 imposed under this chapter in an amount equal to 10 per cent of the cost of qualifying
889 property used exclusively in the commonwealth. Qualifying property shall be tangible

890 personal property and other tangible property, excluding property that is taxable under
891 chapter 60A but including buildings and structural components of buildings acquired by
892 purchase, as defined under section 179(d) of the Internal Revenue Code, as amended and
893 in effect for the taxable year, if the property is depreciable under section 167 of the Code
894 and has a useful life of 4 years or more. If such property is disposed of or ceases to be in
895 qualified use before the end of its useful life or before the end of the year in which the
896 credit is to be taken, the recapture and related provisions of subsection (e) of section 31A
897 shall apply.

898 (ii) A credit shall be allowed under this section only to the extent that the taxpayer
899 files an application with the department of business development, in a form as may be
900 determined by the department, within 1 year after the project certification under section
901 63 of chapter 23A.

902 (iii) The credit allowed under this section may be taken by an eligible corporation
903 if neither credit allowed by section 31A nor section 31H is taken by such corporation.
904 The credit allowed by section 38N shall not be taken except as may be provided in a
905 certification under section 63 of chapter 23A and shall not exceed 2 per cent of the cost
906 of any qualifying property.

907 (iv) Nothing in this section shall limit the authority of the commissioner to make
908 adjustments to a taxpayer's liability upon audit or limit any other legal remedies available
909 to the commissioner or the commonwealth against said taxpayer.

910 (c) The credit allowed by this section shall not be subject to section 32C.

911 (d) If a taxpayer is subject to a minimum excise under this chapter, the amount of
912 the credit allowed by this section shall not reduce the excise to an amount less than such
913 minimum excise.

914 (e) A taxpayer entitled to a credit under this section for any taxable year may, to
915 the extent authorized under the life sciences tax incentive program established in section
916 63 of chapter 23A, carry over and apply to its excise for any of the next succeeding 10
917 taxable years, that portion, as reduced from year to year, of those credits which were not
918 allowed by subsection (d) or which exceed the excise for the taxable year.

919 (f) In the case of corporations filing a combined return of income under section
920 32B, a credit generated by an individual member corporation under this section shall first
921 be applied against the separately determined excise attributable to that member, subject to
922 the limitations of said subsection (d). A member corporation with an excess credit may
923 apply its excess credit against the excise of another group member, to the extent that such
924 other member corporation can use additional credits under the limitation of said
925 subsection (d). Unused, unexpired credits generated by member corporations shall be
926 carried over from year to year by the individual corporation that generated the credit.

927 (g) The commissioner shall adopt regulations necessary to implement this
928 section. The regulations may provide for the adjustment of intercompany prices and
929 elimination of intercompany transactions to ensure that all amounts upon which the credit
930 is based reasonably reflect fair market value. In addition, such rules and regulations shall
931 include provisions to prevent the generation of multiple credits with respect to the same
932 property.

933 (h) If a credit allowed to a taxpayer under this section or a credit as may be
934 allowed under section 38N as limited in this subsection, exceeds the excise otherwise due
935 under this chapter, 90 per cent of the balance of such credit may, at the option of the
936 taxpayer and to the extent authorized under the life sciences tax incentive program
937 established in section 63 of chapter 23A, be refundable to the taxpayer for the taxable
938 year in which qualified property giving rise to that credit is placed in service. If such
939 credit balance is refunded to the taxpayer, the credit carryover provision in subsection (d)
940 and in said section 38N shall not apply.

941 Section 38V. A taxpayer which is a certified life sciences company under section
942 63 of chapter 23A shall be allowed a deduction under paragraph (4) of section 30 for that
943 portion of qualified clinical testing expenses paid or incurred for the taxable year equal to
944 the amount of the credit allowable for the taxable year under section 45C of the Internal
945 Revenue Code and otherwise disallowed as a deduction under section 280C(b) of said
946 Code.

947

948 SECTION 33. Said chapter 63 is hereby further amended by striking out sections
949 38U and 38V, inserted by section 32 of this act.

950

951 SECTION 34. The first paragraph of section 42B of said chapter 63, as appearing
952 in the 2006 Official Edition, is hereby amended by adding the following sentence:- A
953 certified life sciences project shall, to the extent provided in a certification under section
954 63 of chapter 23A, be deemed to be a research and development corporation for purposes
955 of exemptions under chapters 64H and 64I.

956

957 SECTION 35. Said section 42B of said chapter 63 is hereby further amended by
958 striking out the last sentence, inserted by section 34 of this act.

959

960 SECTION 36. Section 6 of chapter 64H of the General Laws is hereby amended
961 by inserting after paragraph (ww), as amended by section 12 of chapter 63 of the acts of
962 2007, the following paragraph:-

963 (xx) Sales of tangible personal property purchased for a certified life sciences
964 project, as defined by section 63 of chapter 23A, for use in connection with the
965 construction, alteration, remodeling, repair or remediation of the research, development
966 or manufacturing facilities and the utility support systems if the facilities and utility
967 support systems are constructed, altered, remodeled, repaired or remediated in
968 furtherance of a certified life sciences project. This section shall apply only to the extent
969 provided in a certification under said section 63 of said chapter 23A. For purposes of this
970 paragraph, the term “utility support systems” means all areas of utility support systems
971 including, but not limited to, site, civil, mechanical, electrical and plumbing systems.

972

973 SECTION 37. Said section 6 of said chapter 64H is hereby further amended by
974 striking out paragraph (xx), inserted by section 36 of this act.

975

976 SECTION 37A. Only certified life sciences projects authorized under section 63
977 of chapter 23A of the General Laws shall be eligible for the available capital funding
978 provided in items 7007-0937 in section 2B of this act.

979 SECTION 37B. There shall be a community college life sciences training council, for
980 the purposes of developing and implementing a life sciences training program at the
981 community colleges in the commonwealth's system of public institutions of higher
982 education, in this act called the community college system, including: Berkshire
983 Community College; Bristol Community College; Bunker Hill Community College;
984 Cape Cod Community College; Greenfield Community College; Holyoke Community
985 College; Massachusetts Bay Community College; Massasoit Community College;
986 Middlesex Community College; Mount Wachusett Community College; Northern Essex
987 Community College; North Shore Community College; Quinsigamond Community
988 College; Roxbury Community College; and Springfield Technical Community College.

989 In developing a training program, the council shall consider the number of job
990 vacancies in the commonwealth's life sciences industry, the technical expertise that is
991 required for community college system students to compete for these jobs, the need for
992 developing mentorship and internship components to the program and the impact of the
993 program on retaining manufacturing and research and development jobs in the
994 commonwealth.

995 The council shall consist of the presidents of the institutions comprising the
996 community college system or their respective designees; the secretary of education, or his
997 designee; and five members appointed by the governor, each of whom shall be a chief
998 executive officer, or his designee, of a Massachusetts-based life sciences corporation
999 which is a member of the Massachusetts Biotechnology Council. The chair of the
1000 Council shall be the secretary of education or his designee.

1001 The council shall report its progress in developing and implementing the program,
1002 together with any recommendations for legislative action, to the clerks of the senate and
1003 the house of representatives, and to the joint committee on higher education, not later
1004 than 1 year after the effective date of this act. By December 31 of each year, the council
1005 shall submit an annual report to the joint committee on higher education detailing the
1006 program, including a description of the program, the number of students participating in
1007 the program, the number of permanent job and internship placements made through the
1008 program and any recommendations for improving the program.

1009

1010 **SECTION 37C.** All records including, but not limited to, documents in the custody or
1011 control of the Life Sciences Center, all documents required to be prepared or maintained
1012 under this act, all documents provided to the Life Sciences Center by an private entity
1013 including, but not limited to, application materials relative to certifying a life sciences
1014 project, all progress reports, recapture notices and any other records or proceedings
1015 relating thereto shall be subject to disclosure under chapter 66 of the General Laws. All
1016 meetings of the Life Sciences Center shall be subject to the open meeting laws.

1017

1018 **SECTION 37D.** The Massachusetts Life Sciences Center shall, within 1 year of the
1019 passage of this act and every 5 years thereafter, file a report which analyzes any regions
1020 and specific municipalities in the commonwealth with the potential for the development
1021 of clusters in at least 1 of the life sciences as defined in subsection (a) of section 63, as
1022 inserted by section 4. For the purposes of this section, a cluster shall be an area where
1023 many life science businesses could be developed in close proximity to each other. The
1024 report shall contain a strategy developed by the center to facilitate the development of
1025 clusters in a timely and cost-effective manner. The report shall be filed with the secretary
1026 of housing and economic development, the clerks of the house of representatives and the
1027 senate, and the house and senate committees on ways and means.

1028 **SECTION 37E.** All private entities, including subcontractors, involved in
1029 the design, engineering, construction, maintenance or operation of the certified life
1030 sciences project shall include in its application to the appointing authority whether the
1031 developer has contracts with labor organizations or a provision assuring labor harmony
1032 during all phases of construction, renovation or reconstruction of the development.

1033 All private entities, including subcontractors, involved in the design, engineering,
1034 construction, maintenance or operation of the certified life sciences project shall furnish
1035 to the secretary of administration and finance and to the chairs of the senate and house
1036 committees on ways and means, documentation showing all employees employed on the

1037 project have hospitalization and medical benefits that meet the minimum requirements of
1038 the board of the commonwealth health insurance connector.

1039 All private entities, including subcontractors, involved in the design, engineering,
1040 construction, maintenance or operation of the certified life sciences project shall classify
1041 individuals employed on the project as employees rather than independent contractors
1042 and shall comply with all laws concerning workers' compensation insurance coverage,
1043 unemployment insurance, social security taxes and income taxes as respects all
1044 employees.

1045

1046 SECTION 38. Section 63 of chapter 23A of the General Laws, inserted by
1047 section 4 of this act, and subsection (c) of section 4 of chapter 23I of the General Laws,
1048 as appearing in section 4 shall take effect on January 1, 2009 and shall expire on
1049 December 31, 2018.

1050 SECTION 38A. Section 38Q of chapter 63 of the General Laws shall apply to
1051 expenditures incurred on or after January 1, 1991; provided, however, that in the case of
1052 any taxable year which began before January 1, 1991, and ended before December 31,
1053 1991, the base amount and the qualified organization base period amount with respect to
1054 such taxable year shall be the amount which bears the same ratio to the base amount and
1055 the qualified organization base period amount for such year, determined without regard to
1056 this section, as the number of days in such taxable year on or after January 1, 1991, bears
1057 to the total number of days in that taxable year.

1058 SECTION 38B. Said section 38Q of said chapter 63, as so appearing, shall take
1059 effect for taxable years beginning on January 1, 2008 and before January 1, 2011.

1060

1061

1062 SECTION 39. The sales tax exemption in paragraph (xx) in section 6 of chapter
1063 64H shall apply to sales of tangible personal property purchased for a certified life
1064 sciences project on or after the effective date of this act.

1065

1066 SECTION 40. Eligibility for tax credit on user fees under paragraph (2) of
1067 subsection (n) of section (6) of chapter 62 of the General Laws and under subsection (g)
1068 of section 31M of chapter 63 of the General Laws shall apply to user fees paid on or after
1069 the effective date of this act.

1070

1071 SECTION 41. The terms of all members appointed to the board of directors of
1072 the Life Sciences Center in 2006, under of chapter 123 of the acts of 2006, shall terminate
1073 on the effective date of this act. All appointed board members terminated under this
1074 section shall be eligible to be reappointed by the governor. Such appointments shall be
1075 made in accordance with section 3 of chapter 23I of the General Laws.

1076

1077 SECTION 42. Notwithstanding any general or special law to the contrary, the
1078 Massachusetts Life Sciences Center, established in section 3 of chapter 23I of the General
1079 Laws, in collaboration with the Massachusetts international trade council shall, subject to
1080 appropriation, facilitate and support joint academic and industrial research and
1081 development and commercial business exchanges between the commonwealth and Israel
1082 in the area of life sciences; provided further, that, subject to appropriation, there shall be

1083 established a trade and incubator facility in Israel and a trade and incubator facility in
1084 Massachusetts facilitated by the Massachusetts international trade council in consultation
1085 with the Massachusetts office of international trade and investment, established in section
1086 24 of chapter 23A of the General Laws, for collaborative, joint and pilot projects with the
1087 Government of the State of Israel, the Boston Haifa International Life Sciences Institute
1088 and other organizations working with Israel.

1089 SECTION 42A. Notwithstanding any general or special law to the contrary, the
1090 University of Massachusetts at Dartmouth may acquire from the Massachusetts
1091 Development Finance Agency the land and improvements thereon located at 151 Martine
1092 Street in the city of Fall River, together with an accessory parking lot owned by the
1093 Massachusetts Development Finance Agency located on the north side of Martine Street,
1094 hereinafter collectively referred to as the Advanced Technology Manufacturing Center,
1095 for an amount not to exceed \$11,400,000 and pursuant to such other terms as the parties
1096 may mutually agree; provided, however, that the conveyance shall be approved by the
1097 board of trustees of the University of Massachusetts and the board of directors of the
1098 Massachusetts Development Finance Agency. The conveyance shall be subject to
1099 restrictive covenant prohibiting the University of Massachusetts at Dartmouth from
1100 occupying more than 60 per cent of the total square footage of the Advanced Technology
1101 Manufacturing Center at any time. The University of Massachusetts at Dartmouth may
1102 retain any rent, license fees, appropriations, grants, fees or other monies earned in
1103 connection with owning and operating the Advanced Technology manufacturing Center
1104 and shall apply such revenues solely to offset the costs associated with owning,

1105 operating, improving, leasing, licensing, managing and maintaining the land and
1106 improvements that constitute the Advanced Technology Manufacturing Center.

1107 SECTION 42B. The value of any tax incentive award under the life sciences
1108 sector incentive program that may extend beyond December 31, 2018, including carry-
1109 forwards of losses or credits, shall be taken into account during the year awarded and the
1110 full amount of such tax benefits potentially realized in periods after December 31, 2018
1111 shall be counted against the annual ceilings for years ending prior to January 1, 2019.
1112 Tax incentives authorized by the LSSIP shall count toward this \$25,000,000 annual
1113 ceiling only if they are not otherwise available to a taxpayer.

1114

1115

1116 SECTION 43. Sections 22, 24, 27, 29, 31, 32 and 34 shall take effect for taxable
1117 years beginning on or after January 1, 2009 and before January 1, 2019.

1118 SECTION 44. Sections 23, 25, 28, 30, 31B, 33, 35 and 37 shall take effect on
1119 December 31, 2018.