

department shall revise the plan to reflect comments it receives and make it available to the public. Nothing in this section shall preclude the development of a public participation plan or the conducting of public meetings or hearings by the department in the absence of a petition.

(c) Subject to appropriation, the department may provide for limited grants to be given to any group of individuals who may be affected by oil or hazardous materials from any disposal site. Any recipient group shall use such grant to obtain advice and technical assistance on matters relating to handling of disposal sites pursuant to this chapter. The department shall promulgate by November 6, 1987 regulations specifying terms and conditions of eligibility for and use of such grant.

(d) The chief municipal officer of a city or town in which a disposal site is located may appoint from members of the potentially affected public an individual, or individuals, to inspect the site on behalf of the community. Such individual or individuals shall be given reasonable opportunities by the department and the site owner or operator to inspect such site prior to, during, and after the implementation of major response actions, and may bring with them on such inspections experts on oil or hazardous materials releases or responses.

Section 15. Citizen Enforcement.

In any suit by Massachusetts residents to enforce the requirements of this chapter, or to abate a hazard related to oil or hazardous materials in the environment, the court may award costs, including reasonable attorney and expert witness fees, to any party other than the commonwealth who advances the purposes of this chapter.

**SECTION 4.** The provisions of this act are severable, and if any of its provisions or an application thereof shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions or other applications thereof.

STATE ELECTION: NOVEMBER 4, 1986

CERTIFIED BY THE EXECUTIVE COUNCIL: DECEMBER 4, 1986

**Chapter 555. AN ACT PHASING OUT THE SURTAX ON THE STATE PERSONAL INCOME TAX AND LIMITING STATE TAX REVENUE GROWTH TO THE LEVEL OF GROWTH IN STATE WAGES AND SALARIES.**

Be it enacted by the People, and by their authority:

**SECTION 1. Repeal of Surtax on State Income Tax**

Section 1. Section eighty-eight of chapter six hundred and eighty-four of the Acts of nineteen hundred and seventy-five is hereby repealed.

Section 2. For taxable years commencing on or after January 1, 1986 and before January 1, 1987, there is hereby imposed, in addition to the taxes levied under the provisions of chapter sixty-two of the General Laws, a tax equal to three and seventy-five one hundredths percent of

the taxes levied under the provisions of said chapter. All provisions of law relative to the assessment, collection, payment, abatement, verification and administration of taxes, including penalties, levied under said chapter shall, so far as pertinent be applicable to the tax imposed by this section.

**SECTION 2. Limitation on the Growth of State Tax Revenues**

The General Laws are hereby amended by inserting after Chapter 62E, the following new chapter, Chapter 62F:

**Section 1. Preamble.** It is the intent of this chapter that there be established for each fiscal year a state tax revenue growth limit calculated on the basis of the level of growth in total wages and salaries of the citizens of the Commonwealth. Further, although not specifically required by anything contained in this chapter, it is assumed that from allowable state tax revenues as defined herein the Commonwealth will give priority attention to the funding of state financial assistance to local governmental units, obligations under the state governmental pension systems, and payment of principal and interest on debt and other obligations of the Commonwealth. Any other provisions of the general or special laws of the Commonwealth notwithstanding, the following provisions shall be effective.

**Section 2. Definitions.**

For the purposes of this chapter the following definitions apply:

"Allowable State Tax Revenues" means for any fiscal year beginning after June 30, 1986 an amount equal to the computed maximum state tax revenues, as defined herein, for said fiscal year. Provided, however, that if the computed maximum state tax revenues for a fiscal year are less than the amount of allowable state tax revenues for the immediately preceding fiscal year, then allowable state tax revenues for said fiscal year shall be equal to the allowable state tax revenues for the immediately preceding fiscal year. Provided further, that only for the fiscal year ending on June 30, 1986, allowable state tax revenues for said fiscal year shall be equal to the net state tax revenues for said fiscal year.

"Allowable State Tax Growth Factor" for a fiscal year means a number which equals one-third of the sum derived by adding together for each of the three calendar years ending immediately prior to said fiscal year the quotients which result for each of said calendar years from dividing total Massachusetts wages and salaries for each of said calendar years by total Massachusetts wages and salaries for the calendar year immediately preceding each of said calendar years. Provided, however, that in calculating the allowable state tax growth factor for any fiscal year, the same total for Massachusetts wages and salaries for a calendar year utilized in prior calculations involving said calendar year shall be utilized in subsequent calculations involving said calendar year, notwithstanding periodic adjustments by the Bureau of Economic Analysis of the United States Department of Commerce made in total Massachusetts wages and salaries for said calendar year.

"Commissioner" means the Commissioner of Revenue as defined in section four (a) of chapter seven of the general laws.

"Computed Maximum State Tax Revenues" means for any fiscal year

beginning after June 30, 1986 an amount determined by multiplying the computed maximum state tax revenues for the immediately preceding fiscal year by the allowable state tax growth factor, as defined herein, for the then current fiscal year. Provided, however, that only for the fiscal year ending on June 30, 1986, computed maximum state tax revenues for said fiscal year shall be equal to the net state tax revenues for said fiscal year.

"Excess State Tax Revenues" means the amount by which net state tax revenues, as defined herein, for a fiscal year exceed the allowable state tax revenues, as defined herein, for said fiscal year.

"Local Governmental Unit" means any city, town, county, district or other political subdivision of the Commonwealth.

"Massachusetts Wages and Salaries" means the most current data on annual wages and salaries of citizens of the Commonwealth for the most recently completed calendar year as compiled by the Bureau of Economic Analysis of the United States Department of Commerce, or its successor agency.

"Net State Tax Revenues" means state tax revenues, as defined herein, as decreased by the amount of state tax revenues abated or refunded.

"State Tax Revenues" means the revenues of the Commonwealth from every tax, surtax, receipt, penalty and other monetary exaction, and interest in connection therewith, including but not limited to, taxes and surtaxes on personal income, excises and taxes on retail sales and use, meals, motor vehicle fuels, businesses and corporations, public utilities, alcoholic beverages, tobacco, inheritances, estates, deeds, room occupancy and pari-mutuel wagering; but excluding federal reimbursements, proceeds from bond issues, earnings on investments, tuitions, fees, service charges and other departmental revenues, and revenues directly attributable to the additional taxes levied pursuant to section eighty-eight of chapter six hundred and eighty-four of the Acts of nineteen hundred and seventy-five.

"Taxable Year" means the taxable year as defined in the Internal Revenue Code of the United States as from time to time amended.

### **Section 3. Limitation on Growth of Allowable State Tax Revenues.**

Except as otherwise specifically provided herein, the governor and the general court in exercising their respective constitutional and statutory duties shall endeavor in each fiscal year to establish and approve a budget for the Commonwealth and set rates of taxation for the citizens of the Commonwealth such that net state tax revenues for said fiscal year shall not exceed allowable state tax revenues for said fiscal year.

**Section 4. Adjustments to Allowable State Tax Revenues.** Allowable state tax revenues for a fiscal year shall be reduced, if, after the effective date of this chapter, by an enactment of the general court, authority is granted to local governmental units by local option or otherwise to impose or levy a new, or to increase an existing, tax or excise. The amount by which allowable state tax revenues for such fiscal year shall be reduced shall be as nearly as possible equal to the additional amount of revenues to be derived by local governmental units by the tax or excise as determined by the Commissioner. Provided, however, that any reduction in allowable state tax revenues for a fiscal year required by this subsection shall first occur in the allowable state

tax revenues for the fiscal year beginning immediately after the effective date of the enactment of the general court which gives rise to the reduction herein required.

**Section 5. State Auditor; Oversight.**

(a) Within thirty days of the end of the fiscal year ending June 30, 1987 and within thirty days of the end of each subsequent fiscal year, the Commissioner shall prepare a report of the net state tax revenues and the allowable state tax revenues of the Commonwealth for said fiscal year, and shall submit the report to the State Auditor. The Auditor shall review the report for completeness and accuracy, and may make or request the Commissioner to make any necessary adjustments or modifications to assure its completeness and accuracy.

(b) The State Auditor shall also on or before August 15, 1987, and on or before August 15 of each succeeding year, independently determine whether net state tax revenues for the immediately preceding fiscal year exceeded the allowable state tax revenues for said fiscal year. If the State Auditor determines that the allowable state tax revenues for the immediately preceding fiscal year were exceeded, except as otherwise specifically authorized herein, he shall report that determination and the amount by which allowable state tax revenues were exceeded to the Governor, the President of the Senate, the Speaker of the House, the respective Chairpersons of the Committees on Ways and Means of the Senate and the House, and the Commissioner. Thereafter, the Commissioner shall take all necessary action to effectuate the provisions of section six of this chapter.

(c) Except as otherwise provided herein, the determination of the State Auditor both as to the existence and the amount of an excess of net state tax revenues over the allowable state tax revenues in a fiscal year shall be conclusive for purposes of section six of this chapter.

**Section 6. Effect of Net State Tax Revenues in Excess of Allowable State Tax Revenues; Tax Credit.**

If net state tax revenues in any fiscal year exceed allowable state tax revenues for said fiscal year the amount of such excess, as determined by the State Auditor and reported to the Commissioner pursuant to section five of this chapter, shall result in a credit equal to the total amount of such excess. The credit shall be applied to the then current personal income tax liability of all taxpayers on a proportional basis to the personal income tax liability incurred by all taxpayers in the immediately preceding taxable year.

The Commissioner shall take such action and shall have the authority to issue such rules and regulations as are necessary to effectuate the requirements of this section.

**Section 7. Taxpayer Suits**

The Supreme Judicial Court or Superior Court may, upon the petition of not less than twenty-four taxable inhabitants of the Commonwealth, not more than six of whom shall be from any one county, enforce the provisions of this chapter. If successful, said taxable inhabitants shall be entitled to recover reasonable attorneys' fees and other costs from the Commonwealth incurred in maintaining such suit.

**Section 8. Severability**

The provisions of this law are severable, and if any clause, sentence, paragraph, or section of this chapter or an application thereof shall be

adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, or section adjudged invalid.

**STATE ELECTION: NOVEMBER 4, 1986**

**CERTIFIED BY THE EXECUTIVE COUNCIL: DECEMBER 4, 1986**

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**Chapter 556. AN ACT AUTHORIZING THE LICENSING AUTHORITY OF THE CITY OF NEW BEDFORD TO ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES OF THE ZEITERION THEATRE, INC.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of section seventeen of chapter one hundred and thirty-eight of the General Laws, the licensing authority of the city of New Bedford is hereby authorized to issue a license for the sale of all alcoholic beverages to be drunk on the premises under the provision of section twelve of said chapter one hundred and thirty-eight to the Zeiterion Theatre, Inc. Said license shall be subject to all the provisions of said chapter one hundred and thirty-eight, except said section seventeen; provided, however, that the licensing authority shall not approve the transfer of said license to any other person, organization, corporation or location; and provided, further, that the issuing of this license shall reduce by one any increase in licenses issued due to census reapportionment under said section seventeen.

**SECTION 2.** This act shall take effect upon its passage.

Approved December 8, 1986.

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**Chapter 557. AN ACT MAKING CERTAIN CORRECTIVE CHANGES IN CERTAIN GENERAL AND SPECIAL LAWS.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to make certain corrective changes in certain general and special laws, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

**SECTION 1.** The second paragraph of section 63 of chapter 3 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:– The committees shall have the power to summon witnesses, administer oaths, take testimony and compel the