

**HOUSE . . . . . No. 04036**

The Commonwealth of Massachusetts

PRESENTED BY:

*Bradley H. Jones, Jr. and Bruce E. Tarr*

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

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

An Act relative to incentivizing job creation and reducing the burdens on small businesses.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>George N. Peterson, Jr.</i>	<i>9th Worcester</i>
<i>Bradford Hill</i>	<i>4th Essex</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>
<i>Viriato Manuel deMacedo</i>	<i>1st Plymouth</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>
<i>Geoff Diehl</i>	<i>7th Plymouth</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>
<i>Richard Bastien</i>	<i>2nd Worcester</i>
<i>Nicholas A. Boldyga</i>	<i>3rd Hampden</i>
<i>Peter J. Durant</i>	<i>6th Worcester</i>
<i>Donald F. Humason, Jr.</i>	<i>4th Hampden</i>
<i>Keiko M. Orrall</i>	<i>12th Bristol</i>
<i>John H. Rogers</i>	<i>12th Norfolk</i>
<i>Donald H. Wong</i>	<i>9th Essex</i>
<i>Matthew A. Beaton</i>	<i>11th Worcester</i>

<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>
<i>George T. Ross</i>	<i>2nd Bristol</i>
<i>Paul Adams</i>	<i>17th Essex</i>
<i>Ryan C. Fattman</i>	<i>18th Worcester</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>
<i>Marc T. Lombardo</i>	<i>22nd Middlesex</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>
<i>Daniel K. Webster</i>	<i>6th Plymouth</i>
<i>Kevin J. Kuros</i>	<i>8th Worcester</i>
<i>Steven L. Levy</i>	<i>4th Middlesex</i>
<i>James J. Lyons, Jr.</i>	<i>18th Essex</i>
<i>Shaunna O'Connell</i>	<i>3rd Bristol</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>Daniel B. Winslow</i>	<i>9th Norfolk</i>
<i>Robert L. Hedlund</i>	<i>Plymouth and Norfolk</i>
<i>Michael R. Knapik</i>	<i>Second Hampden and Hampshire</i>
<i>Michael J. Rodrigues</i>	<i>First Bristol and Plymouth</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol, and Middlesex</i>
<i>David T. Vieira</i>	<i>3rd Barnstable</i>

# HOUSE . . . . . No. 04036

By Representative Jones of North Reading and Senator Tarr, a joint petition (subject to Joint Rule 12) of Bradley H. Jones, Jr., Bruce E. Tarr and others relative to job growth. Revenue.

## The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act relative to incentivizing job creation and reducing the burdens on small businesses.

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

1 SECTION 1. Chapter 23B of the General Laws, as appearing in the 2010 Official Edition, is  
2 hereby amended by adding after section 30, the following section:-  
3 Section 31. The director of the department of housing and community development shall  
4 establish a closing costs assistance program for income-eligible first time homebuyers. The  
5 department, subject to appropriation, shall issue grants to qualifying homebuyers up to \$2,500  
6 for the purpose of assisting in paying closing costs and other similar fees associated with the  
7 purchase of a home. Said grant may not exceed greater than 100 percent of the documented  
8 closing costs in any transaction. The department shall publish any regulations necessary to  
9 achieve the purpose of this section.  
10 Income-eligible first-time homebuyers, for purposes of this section, shall be defined as any  
11 person, or persons for those persons purchasing a home jointly, who maintains a first-time home-

12 buying account as designated under section 5B of chapter 26, and then utilizes at minimum  
13 \$1,000 from said account for such a purchase; provided that said person shall have an income of  
14 90 percent of the median area income as estimated by the U.S. Department of Housing and  
15 Urban Development for metropolitan statistical areas or less.

16 SECTION 2. Chapter 26 of the General Laws, as appearing in the 2010 Official Edition, is  
17 hereby amended by adding after section 5A, the following new section: -

18 Section 5B. (a) The commissioner of banks shall establish a first-time home-buying program to  
19 be administered by financial institutions licensed to do business in the commonwealth. Such  
20 program shall require that new qualifying savings accounts, established by an individual to be  
21 designated as a first-time home-buying account, qualify for the benefits prescribed by this  
22 section. Individuals with existing qualifying savings accounts shall be entitled to convert and  
23 designate such account as a first-time home-buying account. The commissioner shall establish  
24 regulations defining a qualifying savings account as such an account suitably chosen by the  
25 commissioner from existing forms of savings and retirement accounts for the purpose of this  
26 section.

27 (b) Such program shall allow contributions of up to \$4,000 to first-time home-buying accounts,  
28 designated as such and regulated by the commissioner; provided, that such contributions shall  
29 not be considered taxable income and shall be deducted under subsection (a) of section 3 of  
30 chapter 62.

31 (c) Under said program, balances of up to \$5,000 in qualifying savings accounts established  
32 prior to being designated as a first-time home-buying account shall be credited in the first taxable  
33 year following the designation under subsection (m) of section 6 of chapter 62.

34 (d) Qualifying distributions to an individual from a first-time home-buying account shall not be  
35 considered taxable income under section 2 of chapter 62. Qualifying distributions shall mean  
36 distributions for qualified first-time homebuyer expenses as defined by section 72(t)(8) of the  
37 Internal Revenue Code, as it may be amended from time to time.

38 Distributions to an individual that do not qualify under this subsection shall be considered  
39 taxable income under section 2 of chapter 62 and shall also subject to a penalty of not more than  
40 10 percent. Penalties shall be administered by the commissioner and shall be available to the  
41 closing cost assistance program fund created under section 31 of chapter 23B.

42 SECTION 3. Subdivision (1) of subsection (d) of section 2 of chapter 62, as so appearing, is  
43 hereby amended by adding after the words "section sixty-two" the following:- , two hundred and  
44 nineteen

45 SECTION 4. Subdivision (1) of subsection (d) of section 2 of chapter 62, as so appearing, is  
46 hereby amended by striking subparagraph (F) in its entirety.

47 SECTION 5. Subdivision (3) of subsection (a) of section 2 of chapter 62, as so appearing, is  
48 hereby amended by adding at the end thereof the following new subparagraph:-

49 (D) Effective on and after January 1, 2013, any qualifying distribution from a designated first-  
50 time home-buying account, as defined by section 5B of chapter 26, shall not be subject to taxes  
51 imposed by this chapter; provided however, that any distribution for expenses not exempt from  
52 taxation, as defined by section 5B of chapter 26, shall be considered taxable income under this  
53 chapter.

54 SECTION 6. Subparagraph (B) of section 3 of chapter 62, as so appearing, is hereby amended  
55 by adding at the end thereof the following new subdivision:-

56 (16) Amount expended by an individual for contributions to a qualifying savings account,  
57 designated as a first-time home-buying account, pursuant to section 5B of chapter 26, not to  
58 exceed \$4,000 for the taxable years beginning on or after January 1, 2013.

59 SECTION 7. Section 6 of chapter 62, as so appearing, is hereby amended by inserting at the end  
60 thereof the following new subsection:-

61 (m) A taxpayer shall be allowed a credit against the taxes imposed by this chapter equal to the  
62 taxes paid in any one year prior to January 1, 2013 for contributions up to \$5,000 into a  
63 qualifying savings account converted and designated as a first-time home-buying account,  
64 pursuant to section 5B of chapter 26.

65 SECTION 8. Section 6 of chapter 62 of the General Laws, as appearing in the 2010 Official  
66 Edition, is hereby amended by inserting after subsection (q) the following new subsection:-

67 (r) (1) As used in this subsection, the following words shall have the following meanings:--

68 “Angel investor”, a taxpayer who provides financing for the development, refinement, and  
69 commercialization of a product or process and other working capital needs.

70 “Small business”, a business entity physically located in Massachusetts and employing fewer  
71 than 100 workers; provided, not less than 51 per cent of the workers are residents of  
72 Massachusetts.

73 “Start-up expenses”, the expenses for the administration and operation of a business prior to the  
74 time the business becomes operational.

75 (2) An angel investor shall be allowed a credit against the taxes imposed by this chapter equal to  
76 15 per cent of the monetary amount provided to a small business for the start-up expenses  
77 associated with the small business; provided, the credit shall be equal to 25 per cent if the small  
78 business is physically located in an economic target area pursuant to section 3D of chapter 23A.

79 (3) Any amount of the credit that exceeds the tax due for a taxable year may be carried forward  
80 by the taxpayer to any of the 3 subsequent taxable years.

81 (4) The total cumulative amount of credits issued in a calendar year pursuant to this subsection  
82 shall not exceed an annual cap equal to \$10,000,000; provided, the cap will be equal to  
83 \$5,000,000 beginning January 1, 2015.

84 (A) Funding for the credit shall be from any remaining amount of consolidated net surplus after  
85 complying with clause (a) of section 5C of chapter 29.

86 (5) The credit authorized in this subsection shall expire on December 31, 2019.

87 (6) The commissioner shall promulgate regulations necessary for the administration of this  
88 subsection.

89 SECTION 9. Section 67D of chapter 62C of the General Laws, as appearing in the 2010 Official  
90 Edition, is hereby amended by inserting after subsection (g) the following new sections:-

91 (h) when used in section (i)-(n), the following words shall have the following meaning:

92 “Application year”, the calendar year for which a business submits the information required for a  
93 determination as to a jobs incentive credit.

94 “Business”, a corporation, sole proprietorship, partnership, limited liability company or any other  
95 form of business organization.

96 “Commissioner”, the commissioner of revenue.

97 “Eligible Jobs”, a number determined by first multiplying each of the local jobs created by a  
98 business during a single calendar year by the job qualifier for that job, and then totaling the  
99 number for all of the local jobs created.

100 “Full time employee”, a person who is employed for consideration for at least 35 hours per week  
101 and whose salary is subject to withholding as provided in chapter 62B.

102 “Job qualifier fraction”, in the case of either a full-time employee or a part-time employee of a  
103 business, the figure that determines the extent to which that employee is employed in the  
104 commonwealth during a single calendar year. The job qualifier fraction for each employer shall  
105 be determined by multiplying the following percentages together: (i) the percentage of time that  
106 an employee worked while employed by the company expressed as average hours worked per  
107 week out of 35 hours, not to exceed 100 per cent; (ii) that employee’s time attributable to work  
108 in the commonwealth, as a portion of that employee’s total work for the company; and (iii) the  
109 portion of the year the employee worked for the company.

110 “Jobs incentive credit”, a business employment incentive credit for companies as provided for in  
111 this section.

112 “Local jobs created”, the total number of jobs created by a business during a single calendar year  
113 in which the new employees perform qualified services in at least 1 in-state location, including



114 jobs performed by persons that are transferred within the company to work at an in-state location  
115 from a location based outside the state.

116 “Part-time employee”, a person who is employed for consideration for less than 35 hours a week  
117 and whose salary is subject to withholding as provided in chapter 62B.

118 “Credit years”, in the case of a business that is determined to be eligible for a jobs incentive  
119 credit, the 3 calendar years following the application year.

120 “Weighted, average employment”, for a calendar year, the total number of jobs maintained by a  
121 business in which the employees performed employment services in at least 1 in-state location.  
122 The number is to be determined by first multiplying each of the individual jobs maintained by  
123 the company for that year by the job qualifier fraction for that job and then totaling the number  
124 for all of these jobs.

125 (i) A business that creates an eligible job in the commonwealth during its application year shall  
126 be entitled to a jobs incentive credit, spread equally over three calendar years, if its weighted  
127 average employment for such application year reflects a net increase over the company’s  
128 weighted average employment for the prior calendar year. The total jobs incentive credit shall be  
129 equal to 50 per cent of the amount paid by the company as salary attributable to eligible jobs  
130 created by the company in such year to the extent that the salary was subject to Massachusetts  
131 withholding pursuant to chapter 62B for such year, multiplied by the applicable Massachusetts  
132 income tax rate for such salary, and such credit shall be applied toward the company’s liability  
133 imposed by Chapter 62B, Section 2. A company shall take a jobs incentive credit for no more  
134 than 50 jobs created over its weighted average employment for the prior calendar year. For  
135 companies creating greater than 50 jobs over the weighted average employment for the prior

136 calendar year, the total tax credit, which will be taken in three equal installments subject to the  
137 terms and conditions in the following sections, shall be determined by the salary of the first 50  
138 eligible jobs created. For the purposes of this provision, an eligible job shall be deemed created  
139 in the commonwealth on the first day for which Massachusetts withholding is required in  
140 connection with the compensation paid to the employee.

141 (j) The jobs incentive credit shall be taken by a business in 3 equal installments in each of the 3  
142 calendar years commencing with the calendar year subsequent to the application year. If, for the  
143 first or second credit year, the company's weighted average employment falls below its weighted  
144 average for the application year, the company shall be disqualified from taking its second  
145 installment credit. It may nonetheless take its third installment credit if its weighted average  
146 employment for its second credit year is above its weighted average employment for the  
147 application year.

148 (k) A company that seeks a jobs incentive credit shall apply to the commissioner to receive  
149 permission to take such a credit on a form prescribed by the commissioner. This form shall  
150 reference the necessary information concerning the eligible jobs created by the company in the  
151 Commonwealth during the application year and also the company's weighted average  
152 employment for such year and the prior calendar year. The commissioner shall advise the  
153 company of the determination in writing.

154 (l) Not later than March 1 of each calendar year for which a company has been approved to take  
155 a job incentives credit, the company shall submit to the commissioner, in a form prescribed by  
156 the commissioner, the information necessary to evaluate the company's prior year weighted  
157 employment average.

158 (m) A company that has previously been approved to take a job incentive credit is entitled to re-  
159 apply for an additional credit for a second or third application year. In such cases, the company  
160 may be entitled to take a job incentive credit that relates to different application years in the same  
161 calendar year. When a company has previously been granted permission to take a jobs incentive  
162 credit for 3 application years, it shall not request an additional jobs incentive credit. In no case  
163 shall a company take a jobs incentive credit after June 30, 2016, when all provisions in (i)-(m)  
164 shall sunset and no longer be in effect.

165 (n) Following the termination of the job creation tax credit program, the commissioner of the  
166 department of revenue, in consultation with one or more institutes of higher learning, shall  
167 conduct a cost benefit analysis of said program, which shall take into consideration the total  
168 number of permanent in-state jobs created under the program, the total amount of tax credits  
169 provided, and any other factors that would be useful in measuring the success of the program.  
170 The commissioner shall prepare a report on the findings, which shall be filed with the clerk of  
171 the house of representatives and the clerk of the senate, the chairs of the house and senate  
172 committees on ways and means, and the house and senate chairs of the joint committee on  
173 revenue no later than September 30, 2016. Said report shall include the commissioner's findings  
174 as to the feasibility of extending the job creation tax credit program beyond the sunset date,  
175 along with any recommendations for revising the program to make it more effective in enhancing  
176 the creation of jobs.

177 SECTION 10. Subsection (a) of section 2 of chapter 63 of the General Laws, as appearing in the  
178 2010 Official Edition, is hereby amended by striking out, in lines 15 through 17, the following  
179 language:

180 ; provided, however, that the excise imposed hereunder shall be no less than \$456.

181 SECTION 11. Subsection (b) of Section 2 of said chapter 63, as so appearing, is hereby further  
182 amended by striking out, in lines 25 through 27, the following language:-

183 ; provided, however, that in no case shall the excise imposed under this section amount to less  
184 than \$456.

185 SECTION 12. Subsection (c) of section 3 of chapter 63B of the General Laws, as appearing in  
186 the 2010 Official Edition, is hereby amended by striking said subsection and inserting in place  
187 thereof the following:—

188 (c) For purposes of this chapter, there shall be four required installments for each taxable year,  
189 except as otherwise provided by this chapter. The first installment shall be paid on or before the  
190 fifteenth day of the third month of the taxable year; the second installment shall be paid on or  
191 before the fifteenth day of the sixth month of the taxable year; the third installment shall be paid  
192 on or before the fifteenth day of the ninth month of the taxable year; and the fourth installment  
193 shall be paid on or before the fifteenth day of twelfth month of the taxable year. The amount of  
194 any installment shall be twenty-five per cent of the required annual payment.

195 The term “required annual payment” means the lesser of (i) ninety percent of the tax shown on  
196 the return for the taxable year or, if no return is filed, ninety percent of the tax for such year, or  
197 (ii) one hundred percent of the tax shown on the return of the corporation for the preceding  
198 taxable year, or (iii) ninety percent of the tax for the taxable year or, if no return is filed, ninety  
199 percent of tax for such year determined by using the income apportionment percentage, if any,  
200 applicable for the preceding taxable year in computing its net income subject to tax under  
201 chapter sixty-three.

202 Clause (ii) shall not apply if the preceding taxable year was not a taxable year of twelve months  
203 or the corporation did not file a return for such preceding taxable year showing a liability for tax.

204 Clause (ii) shall not apply in the case of a large corporation, as defined in section sixty-six  
205 hundred and fifty-five (g) of the Internal Revenue Code of the United States, as amended on  
206 January first, nineteen hundred and eighty-nine and in effect for the taxable year except for  
207 purposes of determining the amount of the first required installment for any taxable year;  
208 provided, however that any reduction in such first installment by reason of this provision shall be  
209 recaptured by increasing the amount of the next required installment by the amount of such  
210 reduction.

211 SECTION 13. Section 4A of chapter 63B of the General Laws, as so appearing, is hereby  
212 amended by striking, in line 4, the word “sixty-five” and inserting, in place thereof, the  
213 following:-- 50

214 SECTION 14. Section 4A of chapter 63B of the General Laws, as so appearing, is hereby  
215 amended by striking, in line 9, the word “ten” and inserting in place thereof the following:-- 25

216 SECTION 15. Section 4A of chapter 63B of the General Laws, as so appearing, is hereby  
217 amended by striking, in line 14, the word “ninety” and inserting in place thereof the following:--  
218 25

219 SECTION 16. Section 4A of chapter 63B of the General Laws, as so appearing, is hereby  
220 amended by striking, in line 16, the word “ten” and inserting in place thereof the following:-- 25

221 SECTION 17. Section 4B of chapter 63B of the General Laws, as so appearing, is hereby  
222 amended by striking, in line 7, the word “thirty” and inserting in place thereof the following:-- 25

223 SECTION 18. Section 4B of chapter 63B of the General Laws, as so appearing, is hereby  
224 amended by striking, in line 10, the word “twenty-five” and inserting in place thereof the  
225 following:-- 25

226 SECTION 19. Section 4B of chapter 63B of the General Laws, as so appearing, is hereby  
227 amended by striking, in line 13, the word “twenty-five” and inserting in place thereof the  
228 following:-- 25

229 SECTION 20. Section 4B of chapter 63B of the General Laws, as so appearing, is hereby  
230 amended by striking, in line 15, the word “twenty” and inserting in place thereof the following:--  
231 25

232 SECTION 21. Section 38B of said chapter 63, as so appearing, is hereby amended by striking,  
233 in lines 12 through 13, and in lines 25 through 26, the following language:-  
234 or \$456, whichever is greater

235 SECTION 22. Section 5 of Chapter 90 of the General Laws, as appearing in the 2010 Official  
236 Edition, is hereby amended by adding at the end thereof the following new subsections:

237 (i) Notwithstanding any general or specific law to the contrary, the registrar shall not  
238 increase any individual fee by more than 2.5 percent in a calendar year.

239 (j) The registrar shall offer a discount for any person registering 5 or more units in a  
240 calendar year. For the purposes of this section, a unit shall include: any vehicle subject to a  
241 commercial normal, commercial reserved, commercial, vanity, snow removal, hearse, limited  
242 use, auto home normal, auto home reserved, auto home vanity, bus normal, bus reserved, bus  
243 vanity, livery normal, livery limited use, livery reserved, livery vanity, semi trailer normal, semi

244 trailer reserved, trailer normal, trailer reserved, taxi normal, taxi limited used, taxi reserved, or  
245 van pool normal registration. This discount shall be in an amount of no less than 10 percent of  
246 each registration fee they would otherwise incur.

247 (k) The registrar shall issue a report to the legislature within 90 days of the acceptance of this  
248 act. This report shall offer recommendations to reduce the cost of operating a commercial  
249 vehicle or unit in Massachusetts in order to promote competition with neighboring states. This  
250 report shall be submitted to the chairs of the Joint Committee on Transportation.

251 SECTION 23. Section 12 of chapter 156C of the General Laws, as appearing in the 2010  
252 Official Edition, is hereby amended by striking subsection (d) and inserting in place thereof the  
253 following:-

254 (d) No fee shall be issued for the filing of the certificate of organization required by subsection  
255 (a). The fee for the filing of the annual report required by subsection (c) shall be \$125. Said fee  
256 shall be paid to the state secretary at the time the annual report is filed.