

**SENATE . . . . . No. 01505**

The Commonwealth of Massachusetts

PRESENTED BY:

***Michael J. Rodrigues***

*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 encouraging a better business climate and job creation in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Michael J. Rodrigues</i>	<i>First Bristol and Plymouth</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>
<i>Barry R. Finegold</i>	<i>Second Essex and Middlesex</i>
<i>Thomas P. Kennedy</i>	<i>Second Plymouth and Bristol</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>David B. Sullivan</i>	<i>6th Bristol</i>
<i>Stephen R. Canessa</i>	<i>12th Bristol</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>
<i>Anne M. Gobi</i>	<i>5th Worcester</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Kevin Aguiar</i>	<i>7th Bristol</i>
<i>Steven Howitt</i>	<i>4th Bristol</i>
<i>George Ross</i>	<i>2nd Bristol</i>
<i>David M. Torrissi</i>	<i>14th Essex</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>
<i>Paul Schmid, III</i>	<i>8th Bristol</i>



# SENATE . . . . . No. 01505

By Mr. Rodrigues, petition (accompanied by bill, Senate, No. 1505) of Ayers, Torrissi, Hunt and other members of the General Court for legislation to encourage a better business climate and job creation in the Commonwealth [Joint Committee on Revenue].

## The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act encouraging a better business climate and job creation in the Commonwealth.

*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. Subsection (a) of section 2RR of chapter 29 of the General Laws, as  
2 appearing in the 2008 Official Edition is hereby amended by inserting after the word “Training”  
3 the following word:- Trust.

4 SECTION 2. Said section 2RR of chapter 29, as so appearing, is hereby further amended  
5 by striking out, in lines 6 and 7, the words “Subject to appropriation, the commissioner, which in  
6 this section shall have the meaning assigned by SECTION 1 of chapter 151A” and inserting in  
7 place thereof the following words:- The commissioner, which in this section shall have the  
8 meaning assigned by SECTION 1 of chapter 151A, shall be the trustee of the Fund and, without  
9 further appropriation.

10 SECTION 3. Section 2A of chapter 63, as appearing in the 2008 Official Edition, is  
11 hereby amended by striking out subsection (b) and inserting in place thereof the following new  
12 subsection:-

13 (b)(1) Except as provided by subsection (b)(2), if the financial institution has income  
14 from business activity which is taxable both within and without this commonwealth, its net  
15 income shall be apportioned to this commonwealth by multiplying its net income by the  
16 applicable apportionment percentage. For purposes of subsection (b)(1), the applicable  
17 apportionment percentage is determined by adding the taxpayer's receipts factor, property factor  
18 and payroll factor together and dividing the sum by three. If one of the factors is missing, the two  
19 remaining factors are added and the sum is divided by two. If two of the factors are missing, the  
20 remaining factor is the apportionment percentage. If all three factors are missing, the whole of  
21 the financial institution's net income shall be taxable under section two. A factor is missing if  
22 both its numerator and denominator are zero, but it is not missing merely because its numerator  
23 is zero.

24 (b)(2), Notwithstanding subsection (b)(1), a financial institution that has income from  
25 business activity which is taxable both within and without this commonwealth, may elect to have  
26 its net income apportioned to this commonwealth by multiplying said taxable net income by the  
27 resulting percentage as determined in the following formulas:

28 (i) For taxable years beginning on or after January 1, 2012 but before January 1, 2013,  
29 20 percent of the property factor plus 20 percent of the payroll factor plus 60 percent of the  
30 receipts factor.

31 (ii) For taxable years beginning on or after January 1, 2013 but before January 1, 2014,  
32 15 percent of the property factor plus 15 percent of the payroll factor plus 70 percent of the  
33 receipts factor.

34 (iii) For taxable years beginning on or after January 1, 2014 but before January 1,  
35 2015, 10 percent of the property factor plus 10 percent of the payroll factor plus 80 percent of the  
36 receipts factor.

37 (iv) For taxable years beginning on or after January 1, 2015 but before January 1,  
38 2016, 5 percent of the property factor plus 5 percent of the payroll factor plus 90 percent of the  
39 receipts factor.

40 (v) For taxable years beginning on or after January 1, 2016, 100 percent of the receipts  
41 factor.

42 SECTION 4. Subsection (d) of section 2A of chapter 63, as appearing in the 2008  
43 Official Edition, is hereby amended by inserting after paragraph (xiii) the following new  
44 paragraph:-

45 (xiv) Notwithstanding the foregoing, a financial institution that elects to apportion its  
46 taxable net income pursuant to subsection (b)(2) of this section shall apply the rules applicable to  
47 the receipts factor as set forth in this section, with the following exceptions:

48 (A) In lieu of sourcing receipts pursuant to paragraph (xi), receipts from services not  
49 otherwise apportioned under this section are sourced to this commonwealth if the gross receipts  
50 are derived from customers in this commonwealth or otherwise attributable to this  
51 commonwealth's marketplace.

52 (B) In lieu of sourcing receipts pursuant to paragraph (xii), the numerator of the receipts  
53 factor includes the income described in paragraph (xii)(A) multiplied by a fraction, the  
54 numerator of which is the total amount included in the numerator of the receipts factor pursuant  
55 to paragraphs (iii), (iv), (vi) and (xiv)(A) and the denominator of which is the taxpayer's total  
56 amount of (1) interest and fees or penalties in the nature of interest from loans, (2) interest and  
57 fees or penalties in the nature of interest from credit card receivables and receipts from fees  
58 charged to card holders, such as annual fees, and (3) receipts from services subject to  
59 apportionment pursuant to (xiv)(A).

60 SECTION 5. Subsection (i) of section 31A of Chapter 63 of the General Laws is hereby  
61 amended by striking out “three” and inserting in place thereof, in each instance, the following  
62 word:- five

63 SECTION 6. Subsection (j) of section 31A of said Chapter 63 is hereby amended by  
64 striking out “three” and inserting in place thereof the following word:- five

65 SECTION 7. Subsection (l) of Section 31A of said Chapter 63 is hereby amended by  
66 striking out said subsection and inserting in place thereof the following section:

67 (l) Paragraphs (i) and (j), as amended, shall be available only for the taxable years ending  
68 on or after December 31, 2011.

69 SECTION 8. Chapter 63 of the General Laws is hereby amended by inserting the  
70 following section:-

71 Section 31N: A manufacturing corporation, or a business corporation engaged primarily in  
72 research and development that is a certified project, enhanced expansion project or a

73 manufacturing retention and job growth project, as the terms are defined in section 3A of  
74 Chapter 23A of the general laws, which is located in a gateway municipality, as defined in  
75 section 3A of said Chapter 23A, shall be entitled a credit as hereinafter provided against its  
76 excise due pursuant to the section 39 of this chapter. The amount of such credit available shall be  
77 up to \$2500 per new, full-time employee as the term is defined in section 31C of chapter 63.

78 The credit allowed under this section for any taxable year shall not reduce the excise to less than  
79 the amount due under section thirty-two (b), thirty-nine (b) or sixty-seven and under any act in  
80 addition thereto.

81 Any corporation entitled to a credit for any taxable year in accordance with the provisions  
82 of this section may carry over and apply to its excise for any one or more of the next succeeding  
83 three taxable years, the portion, as reduced from year to year, of its credit which exceeds its  
84 excise for the taxable year.

85 SECTION 9. Said chapter 63 of the General Laws is hereby amended by inserting the  
86 following section:-

87 Section 31O: For the purposes of this section, the following words shall have the  
88 following meanings:

89 'Application year', the calendar year for which a qualifying small business submits the  
90 information required for a determination as to a jobs incentive payment.

91 'Commissioner', the commissioner of revenue.

92 'Eligible jobs', a number determined by first multiplying each of the local jobs created by  
93 a small business during a single calendar year by the job qualifier for that job, and then totaling  
94 the number for all the local jobs created.

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

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

105 'Local jobs created', the total number of direct jobs created by a small business during a  
106 single calendar year in which the new employees perform their duties in at least 1 in-state  
107 location, including jobs performed by persons that are transferred within the company to work at  
108 an in-state location from a location based outside the state.

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

111 'Payment years', in the case of a small business that is determined to be eligible for a jobs  
112 incentive payment, the 3 calendar years following the application year.



113           ‘Small business’, a business that had total annual sales in its most recently completed  
114 fiscal year of less than five million dollars, or has less than 100 employees, and has a principal  
115 place of business in the commonwealth.

116           ‘Small business jobs incentive payment’, a business employment incentive payment for  
117 qualifying small businesses as provided for in this section.

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

123           (b) A small business that creates 5 or more eligible jobs in the commonwealth during a  
124 single calendar year shall be entitled to a small business jobs incentive payment if its weighted  
125 average employment for such year reflects a net increase of at least 5 jobs over the company’s  
126 weighted average employment for the previous calendar year. The jobs incentive payment shall  
127 be equal to 25 per cent of the amount paid by the company as salary attributable to eligible jobs  
128 created by the company in such year to the extent that the salary was subject to Massachusetts  
129 withholding pursuant to chapter 62B for such year, multiple by the applicable Massachusetts  
130 income tax rate for such salary. For the purposes of this provision, an eligible job shall be  
131 deemed created in the commonwealth on the first day for which Massachusetts withholding is  
132 required in connection with the compensation paid to the employee.

133           (c) The small business jobs incentive payment shall be paid to the small business in 3  
134 equal installments in each of the three calendar years commencing with the calendar year

135 subsequent to the application year. If, for the first or second payment year, the company's  
136 weighted average employment falls below its weighted average for the application year, the  
137 company shall be disqualified from receiving its second installment payment. It may still receive  
138 its third installment payment if its weighted average employment for its second payment year is  
139 above its weighted average employment for its application year.

140 (d) A small business that seeks a small business jobs incentive payment shall apply to the  
141 commissioner to receive such payment on a form to be prescribed by the commissioner. This  
142 form shall reference the necessary information concerning the eligible jobs created by the  
143 company in the commonwealth during the application year and also the company's weighted  
144 average employment for such year and the previous calendar year. The commissioner shall  
145 advise the company of his determination in writing.

146 (e) Not later than March 1 of each calendar year for which a small business has been  
147 approved to receive a small business jobs incentive payment, the company shall submit to the  
148 commissioner the information necessary to evaluate the company's previous year weighted  
149 employment average.

150 (f) A small business previously approved to receive a small business jobs incentive  
151 payment is entitled to re-apply for an additional payment for a second or third application year.  
152 In such cases, the company may be entitled to receive a small business jobs incentive payment  
153 that relates to a different application in the same calendar year. When a company had previously  
154 been granted a jobs incentive payment for 3 application years, it shall not request an additional  
155 small business jobs incentive payment.

156 (g) The commissioner shall issue payments, as authorized in subsection (b), without  
157 further appropriation. The commissioner may issue rules and regulations as necessary or helpful  
158 to implement this section, including rules and regulations to ensure compliance with this section.

159 SECTION 10. Said chapter 63 of the General Laws is hereby amended by inserting the  
160 following section: -

161 Section 31P: (a) As used in this section, the following words shall, unless the context otherwise  
162 requires, have the following meanings:

163 ‘Qualified veterans’, a Massachusetts resident who: (i) was a member of the Armed  
164 Forces of the United States, a member of the Massachusetts National Guard, or a member of any  
165 reserve component of the Armed Forces of the United States; (ii) served on active duty in  
166 connection with the Vietnam Conflict, Operation Desert Storm, Operation Enduring Freedom, or  
167 Operation Iraqi Freedom; (iii) who has provided the taxpayer with documentation showing  
168 honorable discharge; and (iv) was initially hired by the taxpayer on or after January 1, 2010.

169 ‘Sustained employment’, a period of employment that is at least 185 days during a  
170 taxable year.

171 (b) For each taxable year on or after January 1, 2010, each taxpayer is entitled to a credit  
172 against the excise due under this chapter in an amount equal to 5%, but in no event to exceed  
173 \$600, of the gross wages paid by the taxpayer to a qualified veteran in the course of that  
174 veteran’s sustained employment during the taxable year.

175 (c) If a taxpayer is subject to a minimum excise under this chapter, the amount of credit  
176 allowed shall not reduce the excise to an amount less than the minimum excise.

177 (d) A taxpayer entitled to a credit under this section for any taxable year may carry over  
178 and apply to its excise for any 1 or more of the next succeeding 5 taxable years, the portion, as  
179 reduced from year to year, of those credits which exceed the excise for the taxable year. The tax  
180 credit shall be applied to the earliest year for which there is a tax liability. If there are credits for  
181 more than one year that are available to offset a liability, the earlier credit shall be applied first.

182 (e) A taxpayer that has previously been approved to receive a credit under this section  
183 shall not be eligible to receive said payment for more than one calendar year. A taxpayer may  
184 apply to receive a credit under this section that relates to a different application in the same  
185 calendar year or a different application in a different calendar year.

186 SECTION 11. Section 38 of said chapter 63, as appearing in the 2008 Official Edition, is  
187 hereby amended by striking out subsection (c) and inserting in place thereof the following new  
188 subsection:-

189 (c)(1) Except as provided by subsection (c)(2), if a business corporation, other than a  
190 defense corporation as described in subsection (k), a manufacturing corporation as described in  
191 subsection (l), or a mutual fund service corporation to the extent of its mutual fund sales as  
192 described in subsection (m), has income from business activity which is taxable both within and  
193 without this commonwealth, its taxable net income, as determined under the provisions of  
194 subsection (a), shall be apportioned to this commonwealth by multiplying said taxable net  
195 income by a fraction, the numerator of which is the property factor plus the payroll factor plus  
196 twice times the sales factor, and the denominator of which is four.

197 (2) Notwithstanding subsection (c)(1), any business corporation, including a defense  
198 corporation as described in subsection (k), a manufacturing corporation as described in

199 subsection (l), or a mutual fund service corporation, as described in subsection (m), to the extent  
200 of its non-mutual fund sales, that has income from business activity which is taxable both within  
201 and without this commonwealth, may elect to have its taxable net income, as determined under  
202 the provisions of subsection (a), apportioned to this commonwealth by multiplying said taxable  
203 net income by the resulting percentage as determined in the following formulas:

204 (i) For taxable years beginning on or after January 1, 2012 but before January 1, 2013,  
205 20 percent of the property factor plus 20 percent of the payroll factor plus 60 percent of the sales  
206 factor.

207 (ii) For taxable years beginning on or after January 1, 2013 but before January 1, 2014,  
208 15 percent of the property factor plus 15 percent of the payroll factor plus 70 percent of the sales  
209 factor.

210 (iii) For taxable years beginning on or after January 1, 2014 but before January 1,  
211 2015, 10 percent of the property factor plus 10 percent of the payroll factor plus 80 percent of the  
212 sales factor.

213 (iv) For taxable years beginning on or after January 1, 2015 but before January 1,  
214 2016, 5 percent of the property factor plus 5 percent of the payroll factor plus 90 percent of the  
215 sales factor.

216 (v) For taxable years beginning on or after January 1, 2016, 100 percent of the sales  
217 factor.

218 SECTION 12. Subsection (f) of section 38 of said chapter 63, as appearing in the 2008  
219 Official Edition, is hereby amended by inserting after the third paragraph the following new  
220 paragraph:-

221 Notwithstanding the foregoing, a business corporation that elects to apportion its taxable net  
222 income pursuant to subsection (c)(2) of this section shall apportion such income using the sales  
223 factor rules set forth in this subsection, with the exception that (i) sales other than sales of  
224 tangible personal property are sourced to this commonwealth if the gross receipts are derived  
225 from customers in this commonwealth or otherwise attributable to this commonwealth's  
226 marketplace; and (ii) gross receipts from the licensing of intangible property are sourced to this  
227 commonwealth to the extent that the intangible property is used in the commonwealth.

228 SECTION 13. Section 38N(a) of said Chapter 63 of the General Laws is hereby  
229 amended by inserting after the words "taken by such corporation" the following words:- except  
230 that the corporation shall also be entitled to any credits earned pursuant to section thirty-one A of  
231 chapter sixty-three if the property were purchased by a manufacturing corporation or a business  
232 corporation engaged primarily in research and development and used exclusively in a certified  
233 project located in a Gateway City, as defined in Chapter 23A. Corporations leasing property  
234 located in a Gateway City to unrelated parties shall be entitled to the tax credit provided that the  
235 property is used exclusively in a certified project.

236 SECTION 14. Section 52A of said chapter 63, as appearing in the 2008 Official Edition,  
237 is hereby amended by striking out subdivision (3) and inserting in place thereof the following  
238 new subdivision:-

239 (3)(a) The portion of net income derived from business carried on within the  
240 commonwealth by a corporation subject to tax under this section shall be determined under the  
241 provisions of sections thirty-eight and forty-two; provided, however, that under subsection (c)(1)  
242 of section 38 its taxable net income shall be multiplied by a fraction, the numerator of which is  
243 the property factor plus the payroll factor plus the sales factor, and the denominator is three.

244 (b) Notwithstanding subdivision(3)(a), any corporation subject to tax under this section  
245 that has net income derived from business carried on within the commonwealth may elect to  
246 determine the portion of such net income subject to tax in accordance with subsection (c)(2) of  
247 section 38.

248 SECTION 15. Subsection (c) of Section 3 of Chapter 63B of the General Laws, as  
249 appearing in the 2008 Official Edition, is hereby amended by striking said subsection and  
250 inserting in place thereof the following section:-

251 (c) For purposes of this chapter, there shall be four required installments for each taxable  
252 year, except as otherwise provided by this chapter. The first installment shall be paid on or  
253 before the fifteenth day of the third month of the taxable year; the second installment shall be  
254 paid on or before the fifteenth day of the sixth month of the taxable year; the third installment  
255 shall be paid on or before the fifteenth day of the ninth month of the taxable year; and the fourth  
256 installment shall be paid on or before the fifteenth day of twelfth month of the calendar year. The  
257 amount of any installment shall be twenty-five per cent of the required annual payment.

258 The term “required annual payment” means the lesser of (i) ninety percent of the tax  
259 shown on the return for the taxable year or, if no return is filed, ninety percent of the tax for such  
260 year, or (ii) one hundred percent of the tax shown on the return of the corporation for the

261 preceding taxable year, or (iii) ninety percent of the tax for the taxable year or, if no return is  
262 filed, ninety percent of tax for such year determined by using the income apportionment  
263 percentage, if any, applicable for the preceding taxable year in computing its net income subject  
264 to tax under chapter sixty-three.

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

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

275           SECTION 16. Section 4A of Chapter 63B of the General Laws, as so appearing, is  
276 hereby amended by striking the word “sixty-five” in line 4 and inserting in place thereof the  
277 following:- fifty.

278           SECTION 17. Section 4A of Chapter 63B of the General Laws, as so appearing, is  
279 hereby amended by striking the word “ten” in line 9 and inserting in place thereof the following:-  
280 twenty-five.



281 SECTION 18. Section 4A of Chapter 63B of the General Laws, as so appearing, is  
282 hereby amended by striking the word “ninety” in line 14 and inserting in place thereof the  
283 following:- twenty-five.

284 SECTION 19. Section 4A of Chapter 63B of the General Laws, as so appearing, is  
285 hereby amended by striking the word “ten” in line 16 and inserting in place thereof the  
286 following:- twenty-five.

287 SECTION 20. Section 148B of Chapter 149 of the General Laws, as appearing in the  
288 2008 Official Edition, is hereby amended by striking out the word “and,” in line 8, and inserting  
289 in place thereof the following word:- or.

290 SECTION 21. Section 188 of Chapter 149 of the General Laws, as appearing in the 2006  
291 Official Edition, is hereby amended by striking out, in line 18, the word “equivalent”.

292 SECTION 22. Section 188 of Chapter 149 of the General Laws, as appearing in the 2006  
293 Official Edition, is hereby amended by inserting under subsection (c) the following paragraph:

294 (11) For the purpose of the fair share contribution compliance test, an employer may  
295 count employees that have qualifying health insurance coverage from a spouse, a parent, a  
296 veteran’s plan, Medicare, Medicaid, or a plan or plans due to a disability or retirement towards  
297 their qualifying take-up rate as a “contributing employer”, as defined by the Division of Health  
298 Care Finance and Policy. The employer is still required to offer group medical insurance and  
299 must keep and maintain proof of their employee’s insurance status.

300 SECTION 23. Subsection (2) of paragraph (a) of section 14 of Chapter 151A, as so  
301 appearing, is hereby amended by striking the words “employer’s total taxable payroll for the

302 period of twelve consecutive months ending on” and inserting in place thereof the following  
303 words:- average of the employer’s total taxable payroll for the three years prior to

304 SECTION 24. Said subsection is hereby further amended by striking the words “total  
305 taxable payrolls reported by all employers whose experience rate is determined under paragraph  
306 (1) of subsection (i), for the period of twelve consecutive months ending on” and inserting in  
307 place thereof the following words:- average of the total taxable payrolls reported by all  
308 employers whose experience rate is determined under paragraph (1) of subsection (i), for the  
309 three years preceding

310 SECTION 25. Said subsection is hereby further amended by striking the words “total  
311 payrolls reported by all employers liable for contributions under section fourteen for the calendar  
312 year” and inserting in place thereof the following words:-the average of the total payrolls  
313 reported by all employers liable for contributions under section fourteen for the three years

314 SECTION 26. Subsection (1) of paragraph (h) of said section 14 is hereby amended by  
315 striking the words “The commissioner shall determine each employer’s total taxable wages for  
316 the twelve months” and inserting in place thereof the following words:- The commissioner shall  
317 determine the average of each employer’s total taxable wages for the three-year

318 SECTION 27. Subsection (2) of paragraph (h) of section 14 of said chapter 151A of the  
319 General Laws, as so appearing, is hereby amended by striking the words “commissioner shall  
320 determine the total taxable wages of all employers in the commonwealth, whose experience rate  
321 is determined under paragraph (1) of subsection (i) during the calendar year” and inserting in  
322 place thereof the following words:- commissioner shall determine the average of the total

323 taxable wages of all employers in the commonwealth, whose experience rate is determined under  
324 paragraph (1) of subsection (i) for the three-year period

325 SECTION 28. Section 24 of said chapter 151A, as so appearing, is hereby amended in  
326 subparagraph (a) by striking the words “Have been paid wages in the base period amounting to at  
327 least thirty times the weekly benefit rate” and inserting in place thereof the following words:-  
328 Have been paid wages in at least two quarters of the base period amounting to at least thirty  
329 times the weekly benefit rate.

330 SECTION 29. Subsection (i) of section 14 of said chapter 151A, as appearing in the  
331 2006 Official Edition, is hereby amended by striking out paragraph (1) and inserting in place  
332 thereof the following:-

333 With respect to calendar years beginning on or after January 1, 2011, the experience rate  
334 of an employer qualifying therefor under subsection (b) shall be the rate which appears in the  
335 column headed by the unemployment compensation reserve percentage as of the applicable  
336 computation date and on the line with the applicable employer account reserve percentage as set  
337 forth in the experience rate table:

338 SECTION 30. Paragraph (2) of subsection (i) of section 14 of said chapter 151A of the  
339 General Laws, as so appearing, is hereby repealed.

340 SECTION 31. Said chapter 151A of the General Laws, as appearing in the 2006 Official  
341 Edition, is hereby amended by deleting Section 14G.

342 SECTION 32. All proceeds accumulated in the Medical Security Trust Fund on the date  
343 of dissolution shall be deposited in the unemployment insurance trust fund.

344 SECTION 33. Chapter 231 of the General Laws, as appearing in the 2008 Official  
345 Edition, is hereby amended by inserting after section 85Z the following new section:-

346 Section 85AA. A product supplier shall not be liable in any product liability action for  
347 harm caused by failure to provide adequate warning or instruction, unless the plaintiff proves by  
348 a preponderance of the evidence that, at the time the product left the control of the supplier, and  
349 in light of the technical, medical, and scientific knowledge available at the time the product left  
350 the control of the supplier, the supplier knew or reasonably should have known of the danger that  
351 caused the plaintiff's harm and failed to provide adequate warning or instruction concerning such  
352 danger.

353 A product supplier shall not be liable in any product liability action for harm caused by  
354 the design or formulation of a product, unless the plaintiff proves by a preponderance of the  
355 evidence that, at the time the product left the control of the supplier, an alternative design or  
356 formulation was commercially and technically feasible that would have prevented the harm for  
357 which the claimant seeks to recover compensatory damages without substantially impairing the  
358 utility of the product.

359 For purposes of this section the term "product liability action" shall mean any action  
360 brought for, or on account of, death, personal injury or injury to property caused by a product  
361 which is claimed to be defectively designed, or for which it is claimed that an adequate warning  
362 or instruction was not provided, irrespective of whether such action is based on negligence, strict  
363 liability, breach of warranty, or any other legal theory.

364 This section applies to all causes of action pending on or commenced on or after the date  
365 of the enactment. This section shall take effect upon enactment.

366 SECTION 34. Chapter 231B of the General Laws, as appearing in the 2008 Official  
367 Edition, is hereby amended by inserting the following new section:-

368 Section 5. (a) In any civil action, the court, unless otherwise agreed by all parties to the  
369 action, shall instruct the jury to answer special interrogatories or, if there is no jury, shall make  
370 findings indicating both (1) the total amount of each plaintiff's damages, and (2) the percentage  
371 of the total fault of all persons that contributed to the plaintiff's damages, including any plaintiff,  
372 defendant or other person not named as a party to the action.

373 (b) In determining the percentages of fault under subsection (a), the trier of fact shall  
374 consider both the nature of the conduct of each person at fault and the extent of the causal  
375 relation between the conduct and the damages. (c) The court shall determine the award of  
376 damages to each plaintiff in accordance with the findings under subsection (a), and shall enter  
377 judgment against each party, including any third-party defendant, except that a person shall not  
378 be required to pay non-economic damages in an amount greater than his or her percentage of  
379 fault as found under subsection (a) (2). (d) The term "non-economic damages" means  
380 subjective, non-monetary loss resulting from harm, including pain, suffering, inconvenience,  
381 mental suffering, emotional distress, loss of society or companionship, loss of consortium, injury  
382 to reputation, and humiliation. (e) This section shall not apply to actions for intentional torts, or  
383 to judgments against two or more defendants who are found to have consciously acted in a  
384 concerted effort.

385 SECTION 35. Chapter 260 of the General Laws, as appearing in the 2008 Official  
386 Edition, is hereby amended by inserting the following new section:-

387           Section 20A. (a) A products liability action shall not be commenced more than ten years  
388 after the initial date of sale or lease of the product for use or consumption.

389           (b) The limitation provided for in subsection (a) shall not apply to the following  
390 situations:

391           (1) where a manufacturer or seller of a product provides any express written warranty  
392 that the product can be used for a period longer than ten years. In such case the limitation shall  
393 be extended pursuant to the terms of the express written warranty.

394           (2) if the harm, caused within ten years after the time of delivery, did not manifest  
395 itself until after that time.

396           SECTION 36. Sections 3A, 20A and 25 of chapter 175 of the acts of 1998 are hereby  
397 repealed.

398           SECTION 37. Notwithstanding any general or special law to the contrary, subsection (b)  
399 of section 39 of chapter 7 of the General Laws, as appearing in the 2008 Official Edition, is  
400 hereby suspended, beginning January 1, 2012, and ending December 31, 2014.

401           SECTION 38. Notwithstanding any general or special act to the contrary, the operational  
402 services division within the executive office for administration and finance shall endeavor to  
403 ensure that in any fiscal year no less than 15% of statewide procurement contracts are entered  
404 into with small businesses. For the purposes of this section, small business shall mean a business  
405 entity, including its affiliates, that (i) is independently owned and operated; (ii) has a principal  
406 place of business in the commonwealth; and (iii) would be defined as a small business under  
407 applicable federal law.

408 SECTION 39. Sections 3, 4, 11, 12, 14 and sections 15 to 19, inclusive, shall be effective  
409 for tax years beginning on or after January 1, 2012.

410 SECTION 40. Section 9 shall be effective for calendar years 2011 to 2015, inclusive.

411 SECTION 41. Sections 23 through 30, inclusive, shall take effect January 1, 2012.