

**HOUSE . . . . . No. 2789**

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The Commonwealth of Massachusetts

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**In the Year Two Thousand Nine**  
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An Act Relative to Stimulating the Economy Through Job Creation..

*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: Section 31M of chapter 63 of the General Laws, as appearing in the 2006  
2 Official Edition, is hereby amended by adding, at the end thereof, the following new section: -  
3 Section 31N: For the purposes of this section, the following words shall have the following  
4 meanings: -“Application year”, the calendar year for which a qualifying small business submits  
5 the information required for a determination as to a jobs incentive payment.“Commissioner”, the  
6 commissioner of revenue.“Eligible jobs”, a number determined by first multiplying each of the  
7 local jobs created by a small business during a single calendar year by the job qualifier for that  
8 job, and then totaling the number for all the local jobs created.“Full time employee”, a person  
9 who is employed for consideration for at least 35 hours per week and whose salary is subject to  
10 withholding as provided in chapter 62B.“Job qualifier fraction”, in the case of either a full-time  
11 employee or a part-time employee of a small business, the figure that determines the extent to  
12 which that employee is employed in the commonwealth during a single calendar year. The job  
13 qualifier fraction for each employer shall be determined by multiplying the following  
14 percentages together: (i) the percentage of time that an employee worked while employed by the

15 company expressed as average hours worked per week out of 35 hours, not to exceed 100 per  
16 cent; (ii) that employee's time attributable to work in the commonwealth, as a portion of that  
17 employee's total work for the company; and (iii) the portion of the year the employee worked for  
18 the company. "Local jobs created", the total number of direct jobs created by a small business  
19 during a single calendar year in which the new employees perform their duties in at least 1 in-  
20 state location, including jobs performed by persons that are transferred within the company to  
21 work at an in-state location from a location based outside the state. "Part-time employee", a  
22 person who is employed for consideration for less than 35 hours a week and whose salary is  
23 subject to withholding as provided in chapter 62B. "Payment years", in the case of a small  
24 business that is determined to be eligible for a jobs incentive payment, the 3 calendar years  
25 following the application year. "Small business", a business that had total annual sales in its most  
26 recently completed fiscal year of less than five million dollars, or has less than 100 employees,  
27 and has a principal place of business in the commonwealth. "Small business jobs incentive  
28 payment", a business employment incentive payment for qualifying small businesses as provided  
29 for in this section. "Weighted average employment", for a calendar year, the total number of jobs  
30 maintained by a small business in which the employees performed employment services at least  
31 1 in-state location. The number is to be determined by first multiplying each of the individual  
32 jobs maintained by the company for that year by the job qualifier fraction for that job and then  
33 totaling the number for all of these jobs. (b) A small business that creates 5 or more eligible jobs  
34 in the commonwealth during a single calendar year shall be entitled to a small business jobs  
35 incentive payment if its weighted average employment for such year reflects a net increase of at  
36 least 5 jobs over the company's weighted average employment for the previous calendar year.  
37 The jobs incentive payment shall be equal to 25 per cent of the amount paid by the company as

38 salary attributable to eligible jobs created by the company in such year to the extent that the  
39 salary was subject to Massachusetts withholding pursuant to chapter 62B for such year, multiple  
40 by the applicable Massachusetts income tax rate for such salary. For the purposes of this  
41 provision, an eligible job shall be deemed created in the commonwealth on the first day for  
42 which Massachusetts withholding is required in connection with the compensation paid to the  
43 employee.(c) The small business jobs incentive payment shall be paid to the small business in 3  
44 equal installments in each of the three calendar years commencing with the calendar year  
45 subsequent to the application year. If, for the first or second payment year, the company's  
46 weighted average employment falls below its weighted average for the application year, the  
47 company shall be disqualified from receiving its second installment payment. It may still receive  
48 its third installment payment if its weighted average employment for its second payment year is  
49 above its weighted average employment for its application year(d) A small business that seeks a  
50 small business jobs incentive payment shall apply to the commissioner to receive such payment  
51 on a form to be prescribed by the commissioner. This form shall reference the necessary  
52 information concerning the eligible jobs created by the company in the commonwealth during  
53 the application year and also the company's weighted average employment for such year and the  
54 previous calendar year. The commissioner shall advise the company of his determination in  
55 writing.(e) Not later than March 1 of each calendar year for which a small business has been  
56 approved to receive a small business jobs incentive payment, the company shall submit to the  
57 commissioner, in a form prescribed by the commissioner, the information necessary to evaluate  
58 the company's previous year weighted employment average.(f) A small business that has  
59 previously been approved to receive a small business jobs incentive payment is entitled to re-  
60 apply for an additional payment for a second or third application year. In such cases, the

61 company may be entitled to receive a small business jobs incentive payment that relates to a  
62 different application in the same calendar year. When a company had previously been granted a  
63 jobs incentive payment for 3 application years, it shall not request an additional small business  
64 jobs incentive payment.(g) The commissioner shall issue payments, as authorized in subsection  
65 (b), without further appropriation. The commissioner may issue rules and regulations as  
66 necessary or helpful to implement this section, including rules and regulations to ensure  
67 compliance with this section.SECTION 2: This act shall be effective as to small business jobs  
68 incentive payment requests made by small businesses for calendar years 2009 to 2013, inclusive.