HOUSE DOCKET, NO. 1090 FILED ON: 1/16/2013

HOUSE . . . . No. 2549

The Commonwealth of Massachusetts

PRESENTED BY:

Carolyn C. Dykema

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 adoption of the accompanying bill:

An act to promote economic stimulus in small businesses based on natural resources.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Carolyn C. Dykema	*8th Middlesex*	*1/16/2013*
Sarah K. Peake	*4th Barnstable*	
Chris Walsh	*6th Middlesex*	
Peter V. Kocot	*1st Hampshire*	
Anne M. Gobi	*5th Worcester*	
Paul A. Schmid, III	*8th Bristol*	
Bruce E. Tarr	*First Essex and Middlesex*	*2/1/2013*
John W. Scibak	*2nd Hampshire*	*1/30/2013*
Frank I. Smizik	*15th Norfolk*	*1/30/2013*
Stephen Kulik	*1st Franklin*	*1/30/2013*
Denise Andrews	*2nd Franklin*	*2/1/2013*
Denise Provost	*27th Middlesex*	*1/30/2013*
Matthew A. Beaton	*11th Worcester*	*1/31/2013*
Kate Hogan	*3rd Middlesex*	*1/31/2013*
Paul W. Mark	*2nd Berkshire*	*1/29/2013*
Ann-Margaret Ferrante	*5th Essex*	*1/29/2013*
Thomas A. Golden, Jr.	*16th Middlesex*	*1/29/2013*
Linda Dorcena Forry	*12th Suffolk*	*1/29/2013*

Kay Khan	*11th Middlesex*	
Kenneth I. Gordon	*21st Middlesex*	
Patricia A. Haddad	*5th Bristol*	
James E. Timilty	*Bristol and Norfolk*	
Rhonda Nyman	*5th Plymouth*	

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HOUSE . . . . No. 2549

By Ms. Dykema of Holliston, a petition (accompanied by bill, House, No. 2549) of Carolyn C. Dykema and others relative to the taxation of persons primarily engaged in agriculture, farming or commercial fishing. Revenue.

[SIMILAR MATTER FILED IN PREVIOUS SESSION SEE HOUSE, NO. *3554* OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An act to promote economic stimulus in small businesses based on natural resources.

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

SECTION 1. Section 6 of chapter 62 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding the following subsection:-

(r) (1) A taxpayer primarily engaged in agriculture or farming, as defined in section 1A of chapter 128, on land zoned according to the first paragraph of section 3 of chapter 40A, or in commercial fishing, which shall include only those landing a minimum of 5,000 pounds of fish per year and possessing either a state or federal fishing permit, shall be allowed a credit as provided in this paragraph against the tax liability imposed by this chapter. The amount of the credit shall be 3 per cent of the cost or other basis for federal income tax purposes of qualifying property acquired, constructed, reconstructed, or erected during the taxable year, after deduction therefrom of any federally authorized tax credit taken with respect to that property. Qualifying property shall be tangible personal property and other tangible property, including buildings and structural components of buildings: (i) acquired by purchase, as defined under 26 U.S.C. section 179(d), as amended and in effect for the taxable year; (ii) used solely in agriculture, farming or fishing; (iii) not taxable under chapter 60A; (iv) used by the taxpayer in the commonwealth; (v) situated in the commonwealth on the last day of the taxable year; and (vi) depreciable under 26 U.S.C. section 167 and with a useful life of 4 years or more.

(2) A taxpayer primarily engaged in agriculture or farming, as defined in section 1A of chapter 128, on land zoned according to the first paragraph of section 3 of chapter 40A, or in commercial fishing, which shall include only those landing a minimum of 5,000 pounds of fish per year and possessing either a state or federal fishing permit, shall be allowed a credit as provided in this paragraph against the tax liability imposed by this chapter. The amount of the credit shall be 3 per cent of the lessor's adjusted basis in qualifying property for federal income tax purposes at the beginning of the lease term, multiplied by a fraction, the numerator of which shall be the number of days of the taxable year during which the lessee leases the qualifying property and the denominator of which shall be the number of days in the useful life of the property. The useful life shall be the same as that used by the lessor for depreciation purposes when computing federal income tax liability. An operating lease shall be any contract or agreement to lease or rent or for a license to use qualifying property. Qualifying property shall be tangible personal property and other personal property, including buildings and structural components of buildings: (i) leased, and not a purchase as defined under 26 U.S.C. section 179(d), as amended and in effect for the taxable year, (ii) used solely in agriculture, farming or fishing, (iii) not taxable under chapter 60A, (iv) used by the lessee in the commonwealth, (v) situated in the commonwealth throughout the entire lease term, and (vi) depreciable by the lessor under 26 U.S.C. section 167 and with a useful life of 4 years or more. The credit shall not be available to a lessee if the lessor has previously received a credit with respect to the leased tangible personal property.

(3) The commissioner shall by regulation require documentation of the lessor and lessee as to substantiate a credit claimed under paragraph (2).

(4) A taxpayer shall not be allowed a credit under paragraphs (1) or (2) with respect to tangible personal property and other tangible property, including buildings and structural components of buildings, which it leases as a lessor. For the purposes of the preceding sentence, any contract or agreement to lease or rent or for a license to use such property shall be considered a lease. This paragraph shall not apply to equine-based businesses where care and boarding of horses is a function of the agricultural activity.

(5) With respect to property which is disposed of or ceases to be in qualified use prior to the end of the taxable year in which the credit is to be taken, the amount of the credit shall be that portion of the credit provided for in paragraphs (1) or (2) which represents the ratio which the months of qualified use bear to the months of useful life. If property on which credit has been taken is disposed of or ceases to be in qualified use prior to the end of its useful life, the difference between the credit taken and the credit allowed for actual use must be added back as additional taxes due in the year of disposition; provided, however, if such property is disposed of or ceases to be in qualified use after it has been in qualified use for more than 12 consecutive years, it shall not be necessary to add back the credit, as provided in this subsection. The amount of credit allowed for actual use shall be determined by multiplying the original credit by the ratio which the months of qualified use bear to the months of useful life. For the purposes of this

subsection, useful life of property shall be the same as that used by the individual for depreciation purposes.

(6) A taxpayer entitled to a credit for any taxable year in accordance with paragraphs (1) to (5), inclusive, may carry over and apply to its tax liability imposed by this chapter for any 1 or more of the next succeeding 3 taxable years, the portion, as reduced from year to year, of its credit which exceeds its tax liability imposed by this chapter for the taxable year.

SECTION 2. Section 1 shall be effective for tax years beginning on or after January 1, 2012.