THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE FOR
ADMINISTRATION AND FINANCE
STATE HOUSE ▪ ROOM 373
BOSTON, MA 02133

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

JAY GONZALEZ
SECRETARY

TEL: (617) 727-2040
FAX: (617) 727-2779
www.mass.gov/eoaf

April 30, 2012

William F. Welch
Clerk of the Senate
State House, Room 335
Boston, MA 02133

Steven T. James
Clerk of the House of Representatives
State House, Room 145
Boston, MA 02133

Dear Mr. Welch and Mr. James:

I have the honor to transmit to the General Court the report of the Tax Expenditure Commission, established by Section 160 of Chapter 68 of the Acts of 2011.

Thank you for your attention to this.

Sincerely,

Jay Gonzalez

The Commonwealth Of Massachusetts

REPORT OF THE TAX EXPENDITURE COMMISSION

April 30, 2012

Available online at:
http://www.mass.gov/dor/tax-professionals/news-and-reports/tax-expenditure-commission-materials/

Report of the Tax Expenditure Commission

Commonwealth of Massachusetts
April 30, 2012

I. Executive Summary

Last year, in its fiscal year 2012 budget, the Legislature established and Governor Patrick approved a Tax Expenditure Commission to study carefully for the first time the various exemptions, deductions, and credits in the Massachusetts tax code, and to recommend methods for measuring and reviewing their effectiveness. This Commission met publicly nine times from October 2011 until April 2012, reviewed reams of data and analysis assembled by the Department of Revenue and others, and now makes this report.

The Commission concluded that Massachusetts tax expenditures have become quite complicated, and are large when compared both with Massachusetts tax revenues collected and with other states' tax expenditures in proportion to their revenues. While many Massachusetts tax expenditures serve important public policy objectives, some may not, and there is a lack of adequate data and of opportunity for regular review and consideration of existing tax expenditures' cost and effectiveness by policymakers. Finally, certain types of tax expenditures are worthy of more intense oversight and review.

The Commission adopted formal findings and guiding principles, and ultimately several recommendations to the Governor and Legislature, including the following:

- The Legislature and Governor should work together to identify and publish for each tax expenditure a clearly articulated public policy purpose and desired outcome.

- The A&F Office of Commonwealth Performance, Accountability, and Transparency (CPAT), working with DOR, should identify metrics for assessing tax expenditures' effectiveness at achieving these purposes and outcomes, collect the necessary data, and report periodically to the Governor and Legislature with analysis (including analysis of Massachusetts tax payment obligations) and recommendations for elimination or modification of tax expenditures to meet these purposes and outcomes.

- Based on these reports, the Legislature should periodically review all tax expenditures (with consideration of Massachusetts' effective tax payment obligations relative to other states):
    - discretionarily awarded grant-like tax expenditures should periodically expire or "sunset" every 5 years unless affirmatively renewed by law;

- other business tax expenditures for specific industries or having clearly defined public policy objectives should receive enhanced periodic review every 5 years, but without sunsetting;
- all other tax expenditures should be reviewed every 10 years.

- Discretionarily awarded grant-like tax expenditures should be administered in accordance with certain best practices and be subject to specific enforcement mechanisms, including clear written conditions and commitments, and if those conditions are not met, thresholds for further review and enforcement, including the possibility of "clawbacks" where appropriate.

- In the interest of simplicity and equity, the Legislature and the Governor should work together to reduce the number of existing tax expenditures and the total amount of forgone revenue from the Tax Expenditure Budget, to the extent appropriate to ensure that tax expenditures are limited to those that are highly effective at achieving the identified public policy purpose.

- Before approving any new tax expenditure, the Legislature and the Governor should include in the formal legislative proposal:
  - the new tax expenditure's clearly specified public policy purpose and desired outcome;
  - a finding that the tax expenditure is expected to be highly effective at achieving the identified public policy purpose;
  - for discretionarily awarded grant-like tax expenditures, an overall annual dollar cap on forgone revenue;
  - estimates of the anticipated forgone revenue from any new tax expenditure such that these estimates can be considered by CPAT, the Legislature, and the Governor in the course of their subsequent periodic evaluations of tax expenditures;
  - for discretionarily awarded grant-like tax expenditures, criteria to be applied by the administering agency in making discretionary awards within the cap;
  - a provision requiring that the tax expenditure sunset or be reviewed periodically (see above);
  - for discretionarily awarded grant-like tax expenditures, provisions for administration in accordance with certain best practices and for specific enforcement mechanisms, including:
    - clear written conditions and commitments;
    - if conditions are not met, thresholds for further review and enforcement, including the possibility of "clawbacks" where appropriate;
    - public disclosure of recipients and tax benefits; and

- a competitive award process.

A reduction in size of the Tax Expenditure Budget provides the opportunity to reduce tax rates paid by everyone, or to generate more revenue to support government programs and services. The Tax Expenditure Commission is expressly not making recommendations on the extent to which revenue resulting from elimination of tax expenditures should be used to reduce rates, as opposed to being used for government programs and services. Such a discussion is outside the scope of the Tax Expenditure Commission and involves a policy decision for the Legislature and the Governor to determine.

II. The Tax Expenditure Commission

A. Genesis and Mandate of the Commission

The Tax Expenditure Commission (the "Commission") was established in 2011 pursuant to an "outside section" of the Massachusetts fiscal year 2012 General Appropriation Act (Acts of 2011, Chapter 68, Section 160). The Commission's mandate, mission, and composition are described in that legislation, as follows:

> "Notwithstanding any general or special law to the contrary, there shall be established a tax expenditure commission that shall review and evaluate the administration and fiscal impact of tax expenditures, as defined in section 1 of chapter 29 of the General Laws, and make recommendations to the General Court on the administrative efficiency and cost benefit of tax expenditures. The commission shall consider the public policy objectives behind the grant of any tax expenditure, the metrics for measuring success in meeting those objectives and the need for additional reporting, sunset or clawback provisions. A report of the commission's findings shall be filed with the general court on or before April 30, 2012, which shall include any recommendations regarding changes to the administration or evaluation of current tax expenditures and criteria for evaluating proposals for new tax expenditures.
>
> The commission shall be comprised of the secretary of administration and finance or the secretary's designee, who shall serve as chair; the state auditor or the auditor's designee; the state treasurer and receiver general or the treasurer's designee; the minority leader of the house of representatives or the house leader's designee; the minority leader of the senate or the senate leader's designee; the chair of the house committee on ways and means or the chair's designee; the chair of the senate committee on ways and means or the chair's designee; the house and senate chairs of the joint committee on revenue or their respective designees; and 2 members of the governor's council of economic

advisors, as designated by the governor, who shall have an expertise in economics or tax policy."

As described further in Part III of this Report, and in substantial detail in the minutes and other materials recording the discussions of, and presentations to, the Commission (and reflected in the various Appendices to this Report), the term "tax expenditures" generally refers to provisions of the tax laws -- including various exemptions, exclusions, deductions, credits, and other features -- that convey an economic benefit designed for particular taxpayers or classes thereof (e.g., one or more industries or types of business, students, lower-income taxpayers, etc.) or to incentivize particular economic, social, or other activities on the part of taxpayers or other institutions. As examples, the concept of a tax expenditure would generally include tax deductions or credits designed as a stimulus to encourage capital investment in machinery for manufacturing, the conduct of scientific research, the production of motion pictures, educational pursuits, or energy conservation. Tax expenditures would also encompass various exemptions from sales tax, such as those for groceries and items of clothing, or for certain medical devices.

Tax expenditures provide a form of governmental assistance to particular taxpayers, industries, or activities where such assistance is furnished through the tax system rather than by direct appropriations of government funds. Because the benefits accorded via tax expenditures may be substantial, and may not receive the same form of government attention in the budget process as do direct appropriations, the practice of preparing an annual tax expenditure budget developed, first at the federal level more than 40 years ago and more recently among 41 States and the District of Columbia (see Part III of this Report below). The practice of preparing and publishing a tax expenditure budget in Massachusetts is required by Massachusetts law, and dates back to 1986.

Tax expenditures do not generally include provisions of the tax law that are viewed as an inherent part of the "normative" structure of a particular tax. For example, in the context of business income taxes, a tax law provision that allows a deduction for ordinary and necessary business expenses, such as reasonable compensation of employees or depreciation of capital equipment, is generally not viewed as a tax expenditure, because it is part of the normative structure of a tax that in its very concept is designed to tax net income (gross income less deductions reasonably incurred in generating that income). On the other hand, tax law provisions allowing accelerated types of depreciation, or even expensing (essentially, 100% depreciation in the year of acquisition), of capital plant and equipment, for the purpose of stimulating investment in such capital assets, are generally viewed as tax expenditures designed to encourage a certain type of investment.

A tax expenditure budget is a technique to provide a compilation of the cost in forgone revenue to the government of all of the tax expenditures accorded to

taxpayers in a particular year or other stated period. After originating with the federal government in the late 1960's, tax expenditure budgets are now commonly compiled and published by most of the States as well, and are prepared and published in Massachusetts by the Department of Revenue pursuant to Massachusetts law. See Part III of this Report below.

B. Members and Staffing

Pursuant to the terms of the legislation establishing the Tax Expenditure Commission (above), the members of the Commission who have participated in the Commission's work are:

Jay Gonzalez, Secretary of Administration and Finance, *Chair of the Commission*
Hon. Suzanne Bump, State Auditor, or designee
Hon. Steven Grossman, State Treasurer and Receiver General, or designee
Sen. Katherine Clark, Senate Chair of Joint Committee on Revenue[1], or designee
Rep. Jay Kaufman, House Chair of Joint Committee on Revenue, or designee
Sen. Stephen Brewer, Chair of Senate Committee on Ways and Means, or designee
Rep. Brian Dempsey, Chair of House Committee on Ways and Means, or designee (often Rep. Stephen Kulik, Vice-Chair of House Committee on Ways and Means)
Sen. Michael Knapik, designee of Senate Minority Leader Bruce Tarr
Rep. Steven Levy, designee of House Minority Leader Bradley Jones
Alan Clayton-Mathews, Member of Governor's Council of Economic Advisors
James Stock, Member of Governor's Council of Economic Advisors

Staffing for the work of the Commission has been provided from several different sources. The Chair of the Commission, Secretary Gonzalez, has been assisted with respect to the organization of the Commission and the conduct of its meetings by David Sullivan, General Counsel of the Executive Office for Administration and Finance (A&F), and minutes of the meetings (described below and included in Appendix 12 to this report) have been prepared under the supervision of Mr. Sullivan by A&F legal interns Jennifer Mathews and Alexander Elder and by Paola Maynard-Moll of the Joint Committee on Revenue staff. Data and other information with respect to tax expenditures and the Tax Expenditure Budget (in Massachusetts, as well as at the federal level and in other States and foreign countries) has been compiled, analyzed, and presented by the Department of Revenue (DOR), primarily by and under the direction of Amy Pitter, Commissioner of Revenue, and Kazim Ozyurt, Director of DOR's Office of Tax Policy Analysis (OTPA). Mr. Ozyurt and the OTPA staff have been assisted in these endeavors by DOR's Legal Division, and in particular by the Rulings and Regulations Bureau of the Legal Division, led on these matters by

[1] For the first several meetings of the Commission, the Senate Chair of the Joint Committee on Revenue was Sen. Gale Candaras.

Elizabeth Moynihan, Deputy Chief of the Rulings and Regulations Bureau. DOR Deputy Commissioner and Senior Policy Counsel David Davenport was the lead drafter of this report. OTPA has also received technical and research assistance from staff of the Joint Committee on Revenue: Brendan Michael Greally (Chief Legal Counsel and Research Director), Jessica Whitman (Deputy Legal Counsel), Lexie Kuznick (Former Deputy Legal Counsel), Katherine Ryan (Senior Analyst), and legal interns Shudan Zhou, Greg Corbin, and Alyssa Holmes.

C. Meetings of the Commission; Areas of Study

The Commission conducted its work over a span of seven months, from October 2011 through April 2012. In the course of its work, the Commission held nine formal meetings, on the following dates:

October 12, 2011
November 2, 2011
December 7, 2011
February 6, 2012
March 6, 2012
March 21, 2012
March 27, 2012
April 3, 2012
April 23, 2012

Detailed minutes reporting on and recording the Commission's discussions and votes taken at these meetings, and various presentations made to the Commission, are set out in Appendix 12 to this Report.

D. Availability of Materials on the Tax Expenditure Commission, the Tax Expenditure Budget, and Tax Expenditures in Massachusetts and Elsewhere

In the course of the Commission's work, the Commission requested and reviewed extensive data and other information relating to, among other things, tax expenditures in Massachusetts (and the Tax Expenditure Budget) and tax expenditures at the federal level and in other States and countries. This information included a large body of literature relating to tax systems and tax expenditures in the Commonwealth and elsewhere.

In addition, a number of presentations were made to the Commission over the course of its deliberations, beginning with a presentation at the Commission's first meeting by Massachusetts Commissioner of Revenue Amy Pitter and OTPA Director Kazim Ozyurt concerning the nature of tax expenditures and the Massachusetts Tax Expenditure Budget (see part III.C. of this Report below). Presentations were also made to the Commission by representatives of the Executive Office of Housing and Economic Development (EOHED) and of the

Massachusetts Life Sciences Center (see Part III.F. of this Report below).

All of the data and other information, literature, reports, and presentations compiled and reviewed by and on behalf of the Commission are set out in the Appendices to this Report. An index of those Appendices immediately follows this summary of the Commission's work and its Recommendations.

Throughout the Commission's deliberations, most of these data, presentations, and reports, as well as the Commission's agendas and minutes, have been continuously available on a public website maintained by DOR.

III. Tax Expenditures and the Tax Expenditure Budget

A. Federal Origins of the "Tax Expenditure" concept and the Tax Expenditure Budget

The concept of "tax expenditures" was developed at the federal level by the U.S. Department of the Treasury in 1969 under the leadership of Harvard Law School Professor Stanley Surrey, who served as Assistant Secretary of the Treasury under Presidents Kennedy and Johnson. Professor Surrey championed and described the concept in a number of articles. See, e.g., Surrey, Tax Incentives as a Device for Implementing Government Policy: A Comparison with Direct Government Expenditures, 33 *Harvard L. Rev.* 705 (1970). As Surrey put it in that article:

> "[T]he present federal income tax is replete with tax incentive provisions. Some were adopted to assist particular industries, business activities, or financial transactions. Others were adopted to encourage non-business activities considered socially useful, such as contributions to charity . . . .
>
> The term 'tax expenditure' has been used to describe those special provisions of the federal income tax system which represent government expenditures made through that system to achieve various social and economic objectives. These special provisions provide deductions, credits, exclusions, exemptions, deferrals, and preferential rates, and serve ends similar in nature to those served by direct government expenditures or loan programs."

Surrey went on to describe the initial discussion and analysis of federal tax expenditures contained in the fiscal 1968 report to the Secretary of the Treasury, and the guidelines used in that report to try to distinguish between tax expenditures, i.e., "items that would be generally recognized as more or less intended use of the tax system to achieve results commonly obtained by government expenditures", and those items that are treated as part of the *structure* of the federal income tax based on ability to pay (such as personal exemptions) or

that are otherwise excluded from the concept of tax expenditures because of other factors, e.g., because the case for treatment as a tax expenditure would have been more "theoretical" in nature (as with the non-taxation of *imputed* rent on owner-occupied homes, which is traditionally not taxed, at least in American tax jurisdictions).

As described in a leading federal income tax casebook on which Professor Surrey had been the original and lead author, the development of the Tax Expenditure Budget was designed to permit

> "tax expenditure provisions [to] be analyzed under criteria applied to spending programs rather than under criteria employed to test the operation of provisions that are part of the normative component of the income tax. Thus, with respect to each tax expenditure, it is necessary to inquire whether federal spending is needed or desirable; if so, how the program should be designed to distribute its benefits fairly, effectively, and efficiently; what controls, if any, should be placed on the program, and, finally, whether the program should be run directly or through the tax system." Surrey, McDaniel, Ault, & Koppelman, *Federal Income Taxation – Cases & Materials* 70 (Successor ed., 1986).

B. Tax Expenditure Budget in Massachusetts; History and Scope of Statutory Requirement and Implementation

1. Statutory Foundation: Pursuant to Massachusetts statute, the Department of Revenue is directed to prepare an annual Tax Expenditure Budget reflecting "estimates of the tax expenditures which . . . will occur during the ensuing fiscal year". Specifically, Chapter 29 of the General Laws provides:

> "Section 1. [Definitions] . . . . "Tax expenditures", state tax revenue foregone as a direct result of the provisions of any general or special law which allows exemptions, exclusions, deductions from, or credits against, the taxes imposed on income, corporations, and sales. . . .
>
> * * *
>
> Section 5B. The commissioner, with the approval of the governor, shall annually on or before December fifteenth, prepare estimates of the tax expenditures which in his judgment will occur during the ensuing fiscal year. Such estimates of tax expenditures shall be prepared to facilitate a comparison of increases or decreases from actual

collections of the preceding fiscal year the estimates of such revenue for the then current fiscal year.

The commissioner shall transmit the estimates of total state revenue and the estimates of tax expenditures to the commissioner of capital asset management and maintenance, to every secretary, to every statutory officer of the commonwealth, who shall transmit to each subordinate agency such of the information which each such officer or secretary determines is appropriate to assist each such agency in its budget preparations, to the house and senate committees on ways and means, and to the joint committee on taxation.

* * *

In accordance with section twenty-one of chapter sixty-two C, the commissioner of revenue shall provide the commissioner of administration the data necessary to estimate tax expenditures."

2. 2008 Expansion of Public Reporting on Tax Expenditure Budget via the Internet. Beginning in 2008, the Patrick-Murray Administration has made the Tax Expenditure Budget reports available on the Massachusetts government website as part of the Governor's House 1 budget filings, with easily navigable features and options (e.g., the ability to drill down on details and to link to statutory material on each of the Tax Expenditure Budget items). See http://www.mass.gov/bb/h1/fy13h1/tax_13/hdefault.htm

3. 2010 Transparency Legislation Providing for Disclosure of Recipients of Benefits from those Tax Expenditures that involve Refundable or Transferable Tax Credits. Pursuant to General Laws, Chapter 62C, Section 89, enacted in 2010 (see Acts of 2010, Chapter 131), certain tax credits that are "refundable" or "transferable" (i.e., capable of being sold to a third party taxpayer) by a person or entity entitled to such credits have been made subject to new transparency and reporting rules. These new rules will result in annual public disclosure, beginning in May 2012, of the identity of the party entitled to the credit and the amount of the credit, among other information. Because these credits are refundable or transferable, the party entitled to the credit is able to monetize the tax benefit of the credit irrespective of whether that party owes any Massachusetts tax that could otherwise be reduced by the credit, and thus the credit operates more like a direct grant of funds from the government. See Appendix 7, describing the

credits that are subject to these new reporting and disclosure rules.

4. Expansion of Types of Massachusetts Taxes Included in the Tax Expenditure Budget. As noted in the definition of tax expenditures quoted in the preceding section, the legislation mandating the Tax Expenditure Budget directs DOR to provide information as to the impact of tax expenditures within the Commonwealth's taxes imposed on "income, corporations, and sales". Because traditionally the excise taxes on financial institutions, utilities, and insurance companies under Chapter 63 of the General Laws were viewed as separate from the general corporation excise, information as to tax expenditures that benefit financial institutions, utilities, and insurance companies has not historically been included in the Tax Expenditure Budget in the same manner as information relating to tax expenditures under the corporate tax, the personal income tax, or the sales tax. Nevertheless, DOR has historically supplemented the Tax Expenditure Budget with comparable data and information relating to financial institutions, utilities, and insurance companies.

   Taking into account the recent reforms to the Massachusetts tax structure that, beginning generally in 2009, treat all entities classified as corporations for tax purposes (including those that are financial institutions, utilities, or insurance companies) as business corporations, the Tax Expenditure Commission concluded, early in the course of its deliberations, that it would make sense to treat all such entities as corporations for purposes of the Tax Expenditure Budget, and that judgment has already been implemented by DOR and reflected in the Tax Expenditure Budget prepared for Fiscal Year 2013.

C. Presentation by Commissioner of Revenue Pitter and OTPA Director Ozyurt on the Massachusetts Tax Expenditure Budget as Implemented in the Commonwealth; and Commission Discussion

At the Commission's initial meeting in October 2011, Commissioner of Revenue Amy Pitter and OTPA Director Kazim Ozyurt presented an overview of the Massachusetts tax system and the Massachusetts Tax Expenditure Budget (TEB), covering, among other things, the legal requirement for the annual preparation by DOR of the Massachusetts TEB, and the extensive data and other information that is compiled for and reflected in the TEB. See Appendix 4.

The presentation explained the concept of tax expenditures as reflected in Massachusetts law and the Massachusetts TEB, and as generally understood and applied by economists and tax experts. Consistent with the federal origins of the TEB discussed in Part III.a. above, Commissioner Pitter and OTPA Director Ozyurt noted that defining what constitutes a tax expenditure and

determining particular tax expenditures within a specific tax type requires an exercise in distinguishing between *(a)* those provisions of the tax code that are part of the *basic structure* of a given tax and *(b)* those exclusions, exemptions, deductions, credits, and other provisions that represent *tax expenditures* designed to encourage or fulfill a desired public policy objective apart from simply raising revenue through imposition of a given tax type.

The DOR presentation also noted that a large number of the Massachusetts tax expenditures simply "piggy back" on federal tax expenditures, through adoption in Massachusetts law of provisions that are part of the federal Internal Revenue Code. One of the many examples of these would be the provisions for accelerated depreciation of capital equipment (but not so-called "bonus depreciation" as provided for in the federal Code, as Massachusetts legislation has specifically "decoupled" from that federal provision).

The DOR presentation showed the total Massachusetts tax expenditures for fiscal year 2011, broken down by tax type and categories within those types. The total tax expenditures of some $24.1 billion exceeded the total tax revenues in the Commonwealth for the corresponding period. The breakdown among tax types showed that roughly 71% of the aggregate tax expenditures in dollars were in the sales and use tax, about 23% in the personal income tax, and 6% in the corporate excise tax. A high percentage of the tax expenditures in the sales and use tax (about three-quarters) was related to the *non-taxation* of certain property and services.

It was noted that the non-taxation of most services under the sales tax represents a good example of the many instances where one can debate whether a particular legislative decision reflected in the tax law -- in this case not to tax most services -- should be viewed as a tax expenditure or as simply part of the structure of the tax in question. Those holding the former view take a relatively broad view of the sales tax as a retail sales tax on the consumption of goods and services, whereas those who would view this as simply part of the structure of the tax see the non-taxation of services as simply flowing from the fact that the Massachusetts sales tax has historically applied primarily to sales of tangible personal property. In this case, the Massachusetts Tax Expenditure Budget reflects the more inclusive view of tax expenditures. It was noted in this regard that the sales and use tax already applies to some services (primarily telecommunications) and that a great many States impose their sales taxes on a variety of types of services. Given those considerations, treatment of the non-taxation of services as a tax expenditure provides a means for policymakers and the public to at least be aware of the revenue forgone by not taxing various services. In the absence of that treatment, there would be no transparency as to the cost of the decisionmaking in determining what goods or services should be taxed.

A similar definitional issue arises from the exemption from the sales tax of certain inputs to the manufacture of goods. Arguably, without such exemptions, the sales tax would more closely resemble a "gross receipts tax." See the minutes of the Commission's December 7 meeting (in Appendix 12) for a discussion of this point. Again, the Massachusetts Tax Expenditure Budget shows these exemptions as tax expenditures for the sake of transparency.

There appeared to be general consensus among the Commission that this more inclusive approach – as illustrated by recording the cost of not taxing various services and of exempting certain business inputs -- would make sense for purposes of the Commission's examination of tax expenditures and the Massachusetts Tax Expenditure Budget. There was recognition both that the treatment of certain tax provisions as either a tax expenditure or an inherent part of the structure of a tax is a matter on which reasonable minds can disagree, and that the more inclusive approach would be helpful to the Commission so that it could examine the full range of decisions as to what items to tax or not, or for which to provide an exemption, exclusion, deduction, credit, income apportionment method, etc.

Finally, the DOR presentation focused on the more recent adoption in Massachusetts of provisions for making certain tax credits *refundable* or *transferable* (i.e., capable of being sold to a third party taxpayer that can use the tax credit to reduce its tax), irrespective of whether the original generator/recipient of the credit actually has any tax liability against which a credit could have been applied to reduce tax in the absence of the ability to obtain a refund of or to sell the credit. In 2010, legislation was enacted and signed by the Governor (Acts of 2010, Chapter 131) to require disclosure to the public of the recipients of these credits and of the amount awarded to each taxpayer for each qualifying project. See Part III.B.3 of this Report, above.

In addition to the greater transparency now provided as to these refundable and transferable credits, the DOR presentation to the Commission also focused on some other issues and trends with respect to these types of credits, which provide a benefit that is more like a direct government grant. Among these issues are whether to provide a limit on the dollar amount of credits awarded (whether to individual taxpayers or in the aggregate), and whether to provide specific "sunset" dates when particular credit programs would terminate unless specifically reauthorized by legislation.

D. <u>Assembly and Presentation of Data and other Information for Tax Expenditure Commission by DOR/OTPA</u>

In the course of the Commission's work, DOR (and, in particular, its Office of Tax Policy Analysis) was charged with compiling, analyzing, and presenting a wide variety of data and other information for review and discussion by the

Commission. This data and other information, analyses and presentations are referenced in the Appendices to this Report.[2] Among other things, DOR presented the Commission with charts and spreadsheets reflecting every tax expenditure in the Massachusetts Tax Expenditure Budget; the value of each such tax expenditure in forgone revenues; the statutory authority for the particular tax provision(s), including federal authority where applicable; the typical recipients or other beneficiaries of the various tax expenditures, including the estimated count of such beneficiaries; broad public policy categories in which various tax expenditures may be placed, such as "Fairness", "Economic Competitiveness", and "Targeted Policy Priorities" (more specifically, see Recommendation #2 in Part V. of this Report, below); more detailed descriptions of the stated or apparent public policy purpose of each tax expenditure (e.g., "promoting education" or the "protecting the environment", within the "Targeted Policy Priorities" category, or "job creation" within the "Economic Competitiveness" category); and whether particular tax expenditures are subject to clawbacks or sunset dates.

DOR also provided the Commission with material focused on tax expenditures and tax expenditure budgets, best practices, pertinent tax literature in other States and foreign countries, and the relative effectiveness of various tax expenditure "tools" (e.g., a generalized deduction versus a targeted credit) and other governmental means of encouraging a particular economic, social, or other activity. See Appendices 3 through 9. See also Part III.E., immediately below.

The data and other information assembled, made public, and reviewed by the Commission in the course of the Commission's work is believed to be more extensive and comprehensive than any body of similar tax material previously examined in a public review in this Commonwealth or in other States.

E. Tax Expenditures in Other Jurisdictions

As noted above, DOR provided the Commission with extensive material focused on tax expenditures and tax expenditure budgets in other States. Some forty-one other States and the District of Columbia also have tax expenditure budgets. While an examination of every tax expenditure provision in every other State would not have been feasible, DOR's examination covered a wide array of tax provisions in a number of other states considered to be useful jurisdictions for purposes of comparison, on the basis of their economies, geography, and competitive and other factors. See Appendices 8 and 9.

Among other things, the DOR's examination looked at the degree to which

[2] It should be noted that in accordance with standard practice on the part of OTPA and other state revenue estimators, DOR's estimates of forgone revenues, as with its estimates of tax revenues and impacts generally, are based on *static* as opposed to *dynamic* modeling.

many other states subject a variety of services to their sales and use taxes. See Appendix 9.

F. Presentations to Tax Expenditure Commission with respect to the EDIP Program and the Life Sciences Tax Incentive Program

At the Commission's 7th meeting, on March 27, 2012, the Commission heard presentations by Maureen Flynn, General Counsel of EOHED, and Bradley Rosenblum, Chief Financial Officer of the Massachusetts Life Sciences Center. Each presentation focused on a recent tax incentive program adopted in Massachusetts. Ms. Flynn's presentation described the new investment tax credit within the Economic Development Incentive Program (EDIP) administered by EOHED, and Mr. Rosenblum's presentation focused on the Life Sciences Tax Incentive Program administered by the Life Sciences Center.

The presentations and the Commission's discussion concentrated on practices that the Legislature and the administering agencies have sought to adopt in these relatively new programs, with an objective of considering how such practices might be considered and potentially implemented in the context of other tax expenditures. Commission members questioned the presenters on a wide range of topics, including their competitive processes in awarding tax credits and other incentives, transparency of the processes and reporting thereon, the pros and cons of credits being made refundable or transferable, periodic reviews of tax incentive programs and awards made thereunder, clawbacks, sunsets, and caps or other limitations on awards made.

IV. Commission's Adoption of Findings and Principles

Based on the Commission's examination and discussions at its first four meetings of the data and other information presented to it, both in presentations and in quantitative and qualitative compilations, analyses, and other materials, the Commission determined that it would be helpful to state certain principles and key findings that would serve as a guide for the Commission's subsequent deliberations and Recommendations, as well as for future review by the Legislature and the Governor.

In the course of the Commission's deliberations, members made several observations that informed the principles and recommendations adopted. Massachusetts tax expenditures are quite complicated, and are large when compared both with Massachusetts tax revenues collected and with other states' tax expenditures in proportion to their revenues. While many Massachusetts tax expenditures serve important public policy objectives, some may not and there is a lack of adequate data and of opportunity for regular review and consideration of

existing tax expenditures' cost and effectiveness by policymakers. Finally, certain types of tax expenditures are worthy of more intense oversight and review.

Accordingly, at its meeting on February 6, 2012, the Commission voted unanimously to approve a set of principles and findings, as follows:

1) The Tax Expenditure Budget is one element of a tax system that should, in its entirety:

    a. Provide adequate revenue to consistently support a desired level of government services;

    b. Promote economic growth and overall economic welfare and opportunity;

    c. Be as equitable as possible, including recognition of differences in taxpayers' capacity to pay taxes;

    d. Reflect our values and our public policy objectives;

    e. Be as simple and administratively efficient as possible.

2) Tax expenditures are a form of taxpayer spending and should be subject to the same scrutiny by government policymakers as direct expenditures.

3) In the interest of simplicity and equity, the total number of tax expenditures and the total amount of forgone revenues from the Tax Expenditure Budget (or the total cost of the Tax Expenditure Budget) should be limited to those that are highly effective at achieving the related public policy purpose.

4) There should be a comprehensive, rational, policy-driven, and analytic approach to our Tax Expenditure Budget. Each particular tax expenditure should meet the following criteria:

    a. Each tax expenditure should have a clearly identified public policy purpose and desired outcome for clearly identified beneficiaries;

    b. Each tax expenditure should be subject to a periodic, data-based, cost-benefit analysis that measures success in achieving the public policy

purpose and desired outcome for the intended beneficiaries;

c. Each tax expenditure should be subject to a periodic review by the Legislature and the Governor for the purpose of determining the effectiveness of the tax expenditure and taking any action to eliminate, modify or preserve the tax expenditure that may be warranted based on that determination;

d. Each tax expenditure, to the extent it is dependent on certain conduct of the tax beneficiary and/or is approved and awarded pursuant to the discretion of an administering agency, should be subject to well-articulated standards of accountability with appropriate enforcement mechanisms, such as clawbacks.

5) Relevant and useful data regarding the Tax Expenditure Budget should be subject to full disclosure for the benefit of policymakers and the public, consistent with longstanding principles of taxpayer confidentiality.

V. Specific Recommendations of the Commission

After extensive discussion over the span of its meetings, the Tax Expenditure Commission voted unanimously at a series of meetings in March and April 2012, to approve eight detailed Recommendations of the Commission. These Recommendations reflect, among other things, the Commission's conclusions that the current tax expenditures in Massachusetts, as recorded in the Tax Expenditure Budget, warrant a careful, modern, and periodic examination by the Legislature and the Administration together to determine:

- the particular public policy purposes of the various tax expenditures;
- whether existing tax expenditures are an effective means of accomplishing those public policy purposes;
- areas where tax expenditures can be simplified and made more effective, or in some cases eliminated;
- appropriate metrics for assessing the effectiveness of tax expenditures (e.g., effectiveness in creating jobs);
- whether particular tax expenditures are structured so as to utilize best practices developed in the Commonwealth and in other jurisdictions;
- a schedule for periodic review of all tax expenditures, and for potential sunsetting of discretionarily-awarded grant-like tax expenditures;
- a clear articulation of the public policy purpose and desired outcome of any new tax expenditure, specifying appropriate criteria, estimated revenue cost, provisions for review and potential sunset, enforcement mechanisms, and appropriate transparency provisions; and

- opportunities to work with other States on best practices for achieving effective tax expenditures.

Accordingly, the Commission recommends:

A. Recommendations for Determining Public Policy Purposes and Desired Outcomes for Existing Tax Expenditures

1) The Legislature and the Governor should work together to establish public policy purpose categories for tax expenditures to help articulate the various types of tax expenditures in the Tax Expenditure Budget in a more useful and effective way for policymakers and the public.

As an example of the process of establishing broad public policy purpose categories, the Commission approvingly cites the preliminary categorization presented to it by DOR's Office of Tax Policy Analysis (recognizing the limitations of time available for both this preliminary categorization and the Commission's discussion thereof), pursuant to which OTPA assigned the various items in the current Tax Expenditure Budget to one or more of five broad public purpose categories: (i) Fairness, (ii) Economic Competitiveness, (iii) Targeted Policy Priorities, (iv) Structural, and (v) Other.[3] This preliminary categorization is in Appendix 1.

---

[3] DOR describes these categories as follows:

1) Fairness: To address equity concerns, income distribution/redistribution.
Examples: Exemption for public assistance benefits, earned income tax credits, exemption for food, exemption for clothing, low income housing credit, etc.

2) Economic Competitiveness: To address competitiveness of MA businesses and the Commonwealth as a whole.
Examples: film tax credit, research credit, investment tax credit, five-year amortization of start-up costs, accelerated cost recovery system (ACRS) for equipment, unequal weighting of sales, payroll, and property in apportionment formula, small business corporation (S-corporations and their shareholders), etc.

3) Targeted Policy Priorities: To address market failures and externalities: eliminate/reduce negative externalities, increase positive externalities in housing, education, health, environment, energy (etc.), and promote market participation. Examples: renewable energy source credit, brownfields tax credit, expensing of certain expenditures for alternative energy sources, abandoned building renovation deduction, credit for removal of lead paint , exemption for medical expenses, septic system repair credit, historic buildings rehabilitation credit, exemption for textbooks, etc.

4) Structural: To avoid double taxation and tax pyramiding; structural decision not to tax certain activities, entities, individual, income. Examples: exemption for property subject to local taxation, exemption of credit union income, tax exempt organizations, [sales tax] exemption for motor fuels, exemption for materials, tools, fuels, and machinery used in furnishing power, water, and steam, exemption for items used in making clothing, exemption for materials, tools, fuels, and machinery used in manufacturing,

2) The Legislature and Governor should work together to identify and publish for each tax expenditure a clearly articulated public policy purpose and desired outcome. This process should begin with a recommendation by A&F's Office of Commonwealth Performance, Accountability and Transparency (CPAT), following consultation with DOR, A&F, appropriate stakeholders, and the Governor. The Legislature's Ways and Means Committees and Joint Committee on Revenue should then review these recommended purposes and outcomes. The Ways and Means Committees, the Joint Committee on Revenue, and the Secretary of Administration and Finance should then reach consensus on these tax expenditure purposes and outcomes, which could be adopted in joint resolution of the Legislature.

B. Recommendations for Tax Expenditure Process, Administration, and Enforcement

3) CPAT, working with DOR, should:

- identify metrics for assessing the effectiveness of tax expenditures at achieving identified purposes and outcomes – for example, the number of jobs created;
- collect the data necessary based on such metrics, including:
  - revenue forgone
  - beneficiaries and distribution of amounts received
  - other appropriate data depending on the metrics selected and the identified purposes and outcomes
- annually report such data to the Governor, the Legislature, and the public in a manner that allows for assessment of effectiveness of tax

---

Nontaxation of transfers of real property, Nontaxation of rentals of real property, Nontaxation of certain services, Nontaxation of capital gains at time of gift, etc.

5) Other: All other goals. Examples: exemption for funeral items, exemption for books used for religious worship, nontaxation of internet access and related services, exemption for sales to the federal government, exemption of interest from Massachusetts obligations, etc.

expenditures;

- include in the report the date the tax expenditure was enacted, the statutory citation or federal law reference, the public policy purpose and desired outcome, and an updated analysis of the effective tax payment obligations for individuals and businesses in Massachusetts relative to other states; and

- with its reports, and also based on studies and data from other states and academia, make any recommendations for elimination or modification of any tax expenditures to more effectively achieve their identified public policy purposes. Recommendations with respect to particular tax expenditures should be made on a schedule consistent with the anticipated periodic review of such tax expenditures by the Legislature and the Governor (see Recommendation #4 below), e.g., a recommendation would be made with the report for the year preceding the review period for the tax expenditure that is the subject of that recommendation.

4) The Legislature should periodically review all tax expenditures, based on the above annual CPAT reports, and may take appropriate action to renew, modify, or repeal them accordingly.

    - To facilitate this review, discretionarily-awarded grant-like tax expenditures[4] should periodically expire or "sunset" every 5 years unless affirmatively renewed by law. Expiration of a tax expenditure would not affect any already-awarded credit or other tax benefit, even if not yet realized.

    - CPAT and the Executive Office of Housing and Economic Development should assist the Legislature with enhanced periodic review every 5 years, but without sunsetting, of other business tax expenditures for specific industries or with clearly defined public policy objectives – including evaluation of the industry and the effects of the tax expenditure.

    - Other categories of tax expenditures, such as those on which taxpayers may rely for long-term financial planning or which derive from the

[4] There are currently six such discretionary "grant-like" tax credit programs: historic rehabilitation credits, life sciences credits, low-income housing tax credits, economic development incentive program (EDIP) credits, certified housing development credits, and donated land (conservation) credits.

federal tax code, should be periodically reviewed every 10 years.

- In reviewing the effectiveness of tax expenditures, the Legislature should consider the effective tax payment obligations for individuals and businesses in Massachusetts relative to other states.

5) To ensure that their purposes are actually being fulfilled, discretionary grant-like tax expenditures should be administered in accordance with certain best practices and subject to specific enforcement mechanisms, including:

a. Clear written conditions and commitments

b. If conditions are not met, thresholds for further review and enforcement, including the possibility of "clawbacks" where appropriate

c. Disclosure of beneficiaries of these discretionarily awarded grant-like tax expenditures

d. Awards of these tax expenditures on a competitive basis

e. New enforcement mechanisms, including clawbacks, should be prospective only; they should not apply to tax expenditures already awarded.

C. Recommendations for Reducing Existing Tax Expenditures and Limiting New Tax Expenditures

6) In the interest of simplicity and equity, the Legislature and the Governor should work together to reduce the number of existing tax expenditures and the total amount of forgone revenue from the Tax Expenditure Budget, to the extent appropriate to ensure that tax expenditures are limited to those that are highly effective at achieving the identified public policy purpose.

- In assessing opportunities to reduce tax expenditures consistent with these recommendations, the Legislature and the Governor should consider the following:

  - Tax expenditures demonstrated to be ineffective at achieving their purposes, as shown by analyses conducted by the Commonwealth

Performance, Accountability, and Transparency office (CPAT)

- Opportunities to simplify and more effectively target tax expenditures to achieve certain purposes (such as economic competitiveness or fairness)

- Exploring areas in which Massachusetts is an outlier among the states

- A reduction in size of the Tax Expenditure Budget provides the opportunity to reduce tax rates paid by everyone, or to generate more revenue to support government programs and services. The Tax Expenditure Commission is expressly not making recommendations on the extent to which revenue resulting from elimination of tax expenditures should be used to reduce rates, as opposed to being used for government programs and services. Such a discussion is outside the scope of the Tax Expenditure Commission and involves a policy decision for the Legislature and the Governor to determine.

7) Before approving any new tax expenditure, the Legislature and the Governor should include in the formal legislative proposal:

   a. the new tax expenditure's clearly specified public policy purpose and desired outcome;

   b. a finding that the tax expenditure is expected to be highly effective at achieving the identified public policy purpose;

   c. estimates of the anticipated forgone revenue from any new tax expenditure such that these estimates can be considered by CPAT, the Legislature, and the Governor in the course of their subsequent periodic evaluations of tax expenditures;

   d. for discretionarily awarded grant-like tax expenditures, an overall annual dollar cap on forgone revenue;

   e. as appropriate (see Recommendation #4 above), a provision requiring that the tax expenditure sunset or be reviewed periodically;

f. for discretionarily awarded grant-like tax expenditures, criteria to be applied by the administering agency in making discretionary awards within the cap;

g. for discretionarily awarded grant-like tax expenditures, provisions for administration in accordance with certain best practices and for specific enforcement mechanisms, including:

i. clear written conditions and commitments;

ii. if conditions are not met, thresholds for further review and enforcement, including the possibility of "clawbacks" where appropriate;

iii. public disclosure of recipients and tax benefits; and

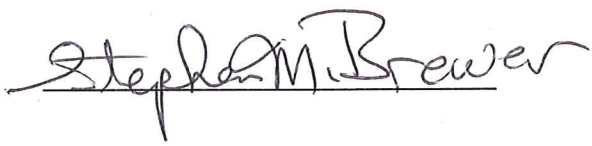
iv. a competitive award process.

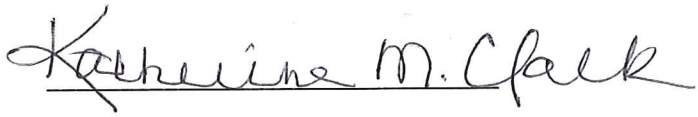
D. Working with Other States

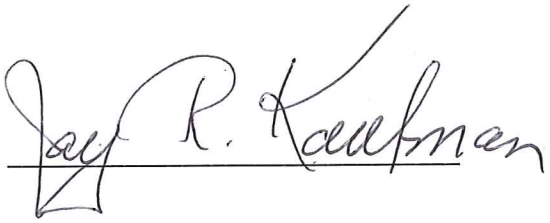
8) State officials should explore opportunities to engage and work with other states (and appropriate associations of state officials), regionally and nationally, on implementing best practices both for reviewing tax expenditures and in deciding which tax expenditures are appropriate.

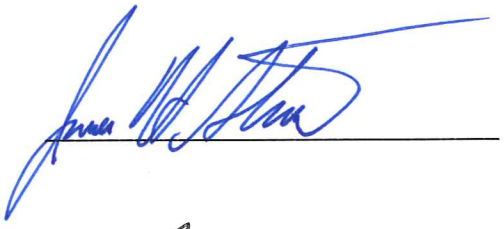
VI. Appendices

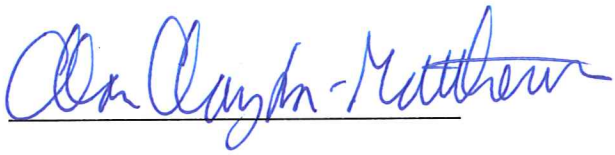
Appendix 1. Tax Expenditure Categories
Appendix 2. FY 2013 Tax Expenditure Budget
Appendix 3. Massachusetts Tax Expenditure Budget Master Database
Appendix 4. Commissioner's Presentation on Tax Expenditure Budget
Appendix 5. 1991 Tax Expenditure Budget
Appendix 6. Selected DOR Reports
Appendix 7. Transferable and Refundable Tax Credits
Appendix 8. Research/Literature
Appendix 9. Tax Expenditure Budgets of Other States
Appendix 10. Historical Massachusetts Tax Expenditure Budgets
Appendix 11. Agendas of Tax Expenditure Commission's meetings
Appendix 12. Minutes of Tax Expenditure Commission's meetings

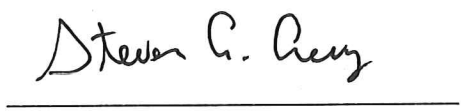


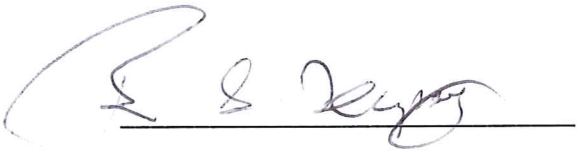


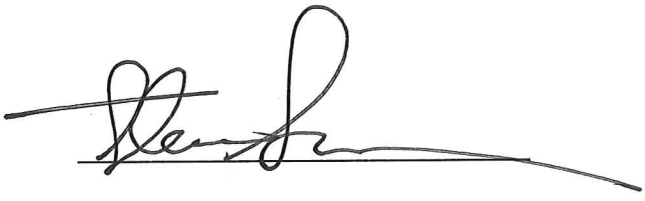


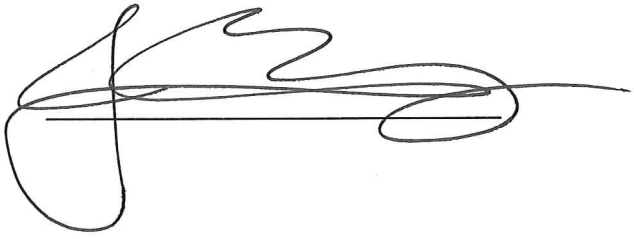












Appendix 1. Tax Expenditure Categories

	Public Policy Purpose: Main Categories					Public Policy Purpose Categories (Preliminary-3-21-2012)	Item #	Description	Tax Type	Typical Claimant / Beneficiary	Annualized Estimates	Based on IRC or MGL?	Enacting Statute
	Fairness	Economic Competitiveness	Targeted Policy Priorities	Structural	Other								
1									Income		$6,842.2		
2									Income		$4,286.1		
3	X		X			Promote Insurance	1.001	Exemption of Premiums on Accident and Accidental Death Insurance	Income	Employees whose employers provide accident and accidental death insurance	$23.7	I.R.C.	0
4	X		X			Promote Insurance	1.002	Exemption of Premiums on Group-Term Life Insurance	Income	Employees whose employers provide group-term life insurance	$11.5	I.R.C.	0
5			X			Promote Insurance	1.003	Exemption of Interest on Life Insurance Policy and Annuity Cash Value	Income	Persons with life insurance	$210.8	I.R.C.	0
6	X		X			Promote Insurance	1.004	Exemption of Employer Contributions for Medical Insurance Premiums and Medical Care	Income	Employees whose employers provide them with health insurance or pay for their medical care	$943.1	I.R.C.	0
7	X				X	Promote Public Safety	1.005	Exemption of Annuity or Pension Payments to Firemen and Policemen	Income	Certain retired fire and police personnel or their survivors	N/A	M.G.L.	St.1945, c. 658, § 1
8					X	Retirement	1.006	Exemp. of Distributions from Certain Contributory Pension and Annuity Plans	Income	Retired people receiving benefits under federal and Massachusetts government pension and annuity plans and certain similar plans of other states	$280.1	M.G.L.	St. 1973, c. 723, s. 2
9					X	Retirement	1.007	Exemption of Railroad Retirement Benefits	Income	Retired railroad workers	$4.6	M.G.L.	St. 1985, c. 593, s. 3
10	X					Promote Basic Necessities	1.008	Exemption of Public Assistance Benefits	Income	People on public assistance	$229.8	M.G.L.	0
11	X					Retirement	1.009	Exemption of Social Security Benefits	Income	Recipients of social security benefits	$839.0	M.G.L.	St. 1985, c. 593, s. 3
12	X					Promote Insurance and Health	1.010	Exemption of Workers' Compensation Benefits	Income	Employees with work-related disabilities or their survivors	$8.5	I.R.C.	0
13	X				X	Support Family	1.011	Exemption of Dependent Care Expenses	Income	Employees and their dependants whose employers pay for or provide day care.	$9.0	I.R.C.	0
14	X				X	Support Family	1.012	Exemption of Certain Foster Care Payments	Income	Foster parents and their children	$3.1	I.R.C.	0
15	X				X	Promote Insurance and Health	1.013	Exemption of Payments Made to Coal Miners	Income	Coal minors or their survivors	Negligible	I.R.C.	0
16					X	Religion	1.014	Exemption of Rental Value of Parsonages	Income	Clergy men and women	$2.1	I.R.C.	0
17			X			Promote Education	1.015	Exemption of Scholarships and Fellowships	Income	Students at educational institutions receiving scholarships or fellowships.	$19.1	I.R.C.	0
18	X				X	Promote Charity	1.016	Exclusion of Certain Prizes and Awards	Income	Recipients of prizes and awards who donate them to charities	NA	I.R.C.	0
19			X			Protect Environment	1.017	Exemption of Cost-Sharing Payments	Income	Persons receiving these payments	Negligible	I.R.C.	0
20		X				Fringe Benefit	1.018	Exemption of Meals and Lodging Provided at Work	Income	Certain employers and certain of their employees	$7.7	I.R.C.	0

	Public Policy Purpose: Main Categories					Public Policy Purpose Categories (Preliminary-3-21-2012)	Item #	Description	Tax Type	Typical Claimant / Beneficiary	Annualized Estimates	Based on IRC or MGL?	Enacting Statute
	Fairness	Economic Competitiveness	Targeted Policy Priorities	Structural	Other								
21		X				Economic Competitiveness	1.019	Treatment of Business-Related Entertainment Expenses	Income	Businesses, their employees and their guests	N.A.	I.R.C.	0
22			X			Protect Environment	1.020	Exemption of Income from the Sale, Lease or Transfer of Certain Patents	Income	Massachusetts residents holding or having applied for such patents	N.A.	M.G.L.	St. 1979, c. 796, s. 8
23			X		X	Support Housing	1.021	Exemption of Capital Gains on Home Sale (formerly only for Persons 55 and Over)	Income	Taxpayers selling a principal residence	$239.6	I.R.C.	0
24				X		Special Treatment of Capital Gains and Losses	1.022	Nontaxation of Capital Gains at Death	Income	Decedents, their estates and their survivors	$1,217.0	I.R.C.	0
25					X	Local Government Finance	1.023	Exemption of Interest from Massachusetts Obligations	Income	Holders of Massachusetts bonds	$99.1	M.G.L.	St. 1973, c. 723, s. 2
26					X	Support Military/Veterans	1.024	Exemption of Benefits and Allowances to Armed Forces Personnel	Income	Armed Forces personnel	$24.5	I.R.C.	0
27					X	Support Military/Veterans	1.025	Exemption of Veterans' Pensions, Disability Compensation and G.I. Benefits	Income	Armed Forces personnel	$30.1	I.R.C.	0
28					X	Support Military/Veterans	1.026	Exemption of Military Disability Pensions	Income	Retired military personnel with disability pensions	$0.5	I.R.C.	0
29					X	Support Military/Veterans	1.027	Exemption of Compensation to Massachusetts Based Nonresident Military Personnel	Income	Non-resident military personnel stationed in Massachusetts	$9.5	M.G.L.	St. 1973, c. 723, s. 2
30					X	Support Military/Veterans	1.028	Exemption of Income Received by Persons Killed in Military Action or Terrorist Activity	Income	The survivors of these individuals	N.A.	M.G.L.	St. 1932
31					X	Support Military/Veterans	1.029	Exemption for Retirement Pay of the Uniformed Services	Income	Retired members of the Uniformed Services or their survivors	$26.5	M.G.L.	St.1997, c. 139, s. 1
32	X				X	Fringe Benefit	1.030	Exclusion from Gross Income of Parking, T-Pass and Vanpool Fringe Benefits	Income	Employees whose employers provide these benefits	$38.8	I.R.C.	0
33	X		X			Promote Health	1.031	Health Savings Accounts (exemption)	Income	Taxpayers with Health Savings Accounts	Included in 1.422	I.R.C.	0
34	X					Support Family	1.032	Employer-Provided Adoption Assistance	Income	Employees adopting children whose employers provide adoption assistance	$0.0	I.R.C.	0
35	X		X			Promote Education	1.033	Employer-Provided Education Assistance	Income	Employees whose employers have education assistance programs	$8.4	I.R.C.	0
36					X	Retirement	1.034	Qualified Retirement Planning Services	Income	Employees whose employers maintain qualified employer plans	NA	I.R.C.	0
37			X		X	Support Military/Veterans	1.035	Department of Defense Homeowners Assistance Plan	Income	Military personnel and civilian employees receiving these payments	NA	I.R.C.	0
38					X	Promote Public Safety	1.036	Survivor Annuities of Fallen Public Safety Officers	Income	Survivors of public service officers killed in the line of duty	NA	I.R.C.	0

	Public Policy Purpose: Main Categories					Public Policy Purpose Categories (Preliminary-3-21-2012)	Item #	Description	Tax Type	Typical Claimant / Beneficiary	Annualized Estimates	Based on IRC or MGL?	Enacting Statute
	Fairness	Economic Competitiveness	Targeted Policy Priorities	Structural	Other								
39					X	Support Family & Insurance/Fallen Astronauts	1.037	Survivor Annuities of Fallen Astronauts	Income	Survivors of astronauts who die in the line of duty	NA	I.R.C.	0
40	X				X	Support Family/Victims of Terrorism	1.038	Discharge of Indebtedness for Victims of Terrorism	Income	Victims of terrorism or their survivors	NA	I.R.C.	0
41			X			Promote Health	1.039	Discharge of Indebtedness for Health Care Professionals	Income	Health care professionals whose loans are forgiven or repaid	Negligible	I.R.C.	0
42	X		X			Promote Health	1.040	Archer Medical Savings Accounts (exemption)	Income	Taxpayers with Archer MSAs	Included in 1.420	I.R.C.	0
43									Income		$1,408.7		
44	X					Retirement	1.101	Net Exemption of Employer Contributions and Earnings of Private Pension Plans	Income	Employees whose employers contribute to private pension plans	$958.5	I.R.C.	St. 1973, c. 723, s.2
45		X				Economic Competitiveness	1.102	Treatment of Incentive Stock Options	Income	Employees whose employers provide stock options	N.A.	I.R.C.	0
46		X				Economic Competitiveness	1.103	Exempt of Earnings on Stock Bonus Plans or Profit Sharing Trusts	Income	Employees whose employers provide stock bonus plans or profit sharing trusts	N.A.	M.G.L.	St. 1973, c. 723, s.2
47					X	Retirement	1.104	Exemption of Earnings on IRA and Keogh Plans	Income	Taxpayers with IRA or Keogh plans	$326.2	M.G.L.	St. 1973, c. 723, s.2
48				X		Special Treatment of Gift	1.106	Nontaxation of Capital Gains at Time of Gift	Income	Donors and donees	$124.0	I.R.C.	0
49									Income		$4.5		
50				X		Special Treatment of Capital Gains	1.201	Capital Gains Deduction	Income	Taxpayers selling collectibles held for more than one year	N.A.	M.G.L.	St. 1979, c. 409, s. 2
51				X		Special Treatment of Capital Gains and Losses	1.202	Deduction of Capital Losses against Interest and Dividend Income	Income	Taxpayers having net capital losses and interest and dividend income	N.A.	M.G.L.	St. 1973, c. 723, s. 2
52			X			Energy Development	1.203	Excess Natural Resource Depletion Allowance	Income	Individuals or investors in extractive industries	$0.3	I.R.C.	0
53			X		X	Support Housing/Infrastructure Improvement	1.204	Abandoned Building Renovation Deduction	Income	Taxpayers renovating eligible buildings in Economic Opportunity Areas	$4.2	M.G.L.	St. 1993, c. 19, s. 15
54									Income		$86.6		
55					X	Support Housing	1.301	Accelerated Depreciation on Rental Housing	Income	Landlords and investors in rental housing	$20.0	I.R.C.	0
56		X				Infrastructure Improvement	1.303	Accelerated Depreciation on Buildings (other than Rental Housing)	Income	Taxpayers depreciating buildings	$6.1	I.R.C.	0
57		X				Economic Competitiveness	1.304	Accel. Cost Recovery System (ACRS) for Equipment	Income	Taxpayers depreciating tangible personal property	$46.8	I.R.C.	0
58		X				Economic Competitiveness	1.305	Deduction for Excess First-Year Depreciation	Income	Taxpayers electing to expense excess first year depreciation	$7.7	I.R.C.	0

	Public Policy Purpose: Main Categories					Public Policy Purpose Categories (Preliminary-3-21-2012)	Item #	Description	Tax Type	Typical Claimant / Beneficiary	Annualized Estimates	Based on IRC or MGL?	Enacting Statute
	Fairness	Economic Competitiveness	Targeted Policy Priorities	Structural	Other								
59		X				Economic Competitiveness	1.306	Five-Year Amortization of Start-Up Cost	Income	Taxpayers starting a business.	$4.5	I.R.C.	0
60		X	X			Energy Development	1.308	Expensing of Exploration and Development Costs	Income	Taxpayers investing in or in extractive industries	Negligible	I.R.C.	0
61		X	X			Economic Competitiveness	1.309	Expensing of Research and Development Expenditures in One Year	Income	Taxpayers investing in or in a trade or business incurring research and development expenditures	$1.2	I.R.C.	0
62			X			Protect Environment	1.310	Five-Year Amortization of Pollution Control Facilities	Income	Taxpayers investing in or in a trade or business with a certified pollution control facility	N.A.	I.R.C.	0
63			X			Protect Environment	1.311	Seven Year Amortization for Reforestation	Income	Taxpayers investing in or in the forestry business	N.A.	I.R.C.	0
64		X			X	Promote Agriculture	1.312	Expensing of Certain Capital Outlays of Farmers	Income	Farmers	$0.3	I.R.C.	0
65									Income		$814.4		
66	X				X	Retirement	1.401	Deduction for Employee Social Security and Railroad Retirement Payments	Income	Employees contributing to Social Security or Railroad Retirement	$299.6	M.G.L.	St. 1973, c. 723, s. 2
67	X				X	Retirement	1.402	Deduction for Employee Contributions to Public Pension Plans	Income	Employees contributing to federal and state contributory pension plans	Included in 1.401	M.G.L.	St. 1973, c. 723, s. 2
68	X				X	Support the Elderly	1.403	Additional Exemption for the Elderly	Income	Taxpayers age 65 or over	$25.9	M.G.L.	St. 1973, c. 723, s. 2
69	X					Support the Blind	1.404	Additional Exemption for the Blind	Income	Blind individuals	$1.3	M.G.L.	St. 1973, c. 723, s. 2
70	X				X	Promote Family	1.405	Dependents Exemption where the Child Earns Income	Income	Taxpayers with dependent children earning income	N.A.	M.G.L./I.R.C.	St. 1986, c. 488, s. 31
71	X				X	Promote Family	1.406	Deduction for Dependent Under 12	Income	Certain taxpayers with children under the age of 12	$135.8	M.G.L.	St. 1975, c. 684, s. 40
72	X		X			Promote Education	1.407	Personal Exemption for Students Aged 19 or Over	Income	Parents with children age 19 or over who are full-time students	$8.4	M.G.L./I.R.C.	St. 1986, c. 488, s. 31
73	X				X	Promote Family	1.408	Deduction for Adoption Fees	Income	Taxpayers adopting children	$0.5	M.G.L.	St. 1986, c. 488, s. 31
74	X				X	Promote Family	1.409	Deduction for Business-Related Childcare Expenses	Income	Taxpayers with business-related child care expenses	$15.4	M.G.L./I.R.C.	St. 1974, c. 848, s. 1
75	X		X			Promote Health	1.410	Exemption of Medical Expenses	Income	Taxpayers with high medical or dental expenses in relationship to federal adjusted gross income	$77.9	M.G.L./I.R.C.	St. 1986, c. 488, s. 31
76	X					Promote Housing	1.411	Rent Deduction	Income	Renters	$116.1	M.G.L.	St. 1980, c. 580, s. 12

	Public Policy Purpose: Main Categories					Public Policy Purpose Categories (Preliminary-3-21-2012)	Item #	Description	Tax Type	Typical Claimant / Beneficiary	Annualized Estimates	Based on IRC or MGL?	Enacting Statute
	Fairness	Economic Competitiveness	Targeted Policy Priorities	Structural	Other								
77	X		X			Promote Charity	1.412	Nontaxation of Charitable Purpose Income of Trustees, Executors or Administrators	Income	Recipients such as charitable organizations of monies in trusts or estates set aside for public charitable purposes	N.A.	M.G.L.	St. 1973, c. 723, s. 2
78					X	Promote Saving	1.413	Exemption of Interest on Savings in Massachusetts Banks	Income	Taxpayers with deposits in Massachusetts banks	$5.1	M.G.L.	St. 1973, c. 723, s. 2
79	X		X			Promote Education	1.414	Tuition Tax Deduction	Income	Taxpayers paying college tuition on their own behalf or that of a dependent	$35.9	M.G.L.	St. 1996, c. 151, s. 204
80	X		X		X	Promote Charity	1.415	Charitable Contributions Tax Deduction	Income	Taxpayers making charitable contributions and charitable organizations	NA	M.G.L.	0
81					X	Anti-discrimination	1.418	Deduction for Costs Involved in Unlawful Discrimination Suits	Income	Taxpayers bringing suits for unlawful discrimination	NA	I.R.C.	0
82					X	Support Military/Veterans	1.419	Business Exp of National Guard and Reserve Members	Income	Certain National Guard and Reserve Members	Negligible	I.R.C.	0
83	X		X		X	Retirement	1.420	Archer Medical Savings Accounts (deduction)	Income	Taxpayers with Medical Savings Accounts	Negligible	I.R.C.	0
84			X			Protect Environment/Energy Development	1.421	Clean-Fuel Vehicles and Certain Refueling Prop.	Income	Taxpayers purchasing clean fuel vehicles	Negligible	I.R.C.	0
85	X		X			Promote Health	1.422	Health Savings Accounts (deduction)	Income	Taxpayers with Health Savings Accounts	$12.3	I.R.C.	0
86			X			Promote Transportation	1.423	Commuter Deduction (NEW)	Income	Certain taxpayers who commute	$6.7	M.G.L.	St. 2006, c. 139, s. 42
87	X		X			Promote Health	1.424	Self-Employed Health Insurance Deduction	Income	Self-employed taxpayers with health insurance	$44.2	I.R.C.	0
88	X		X			Promote Education	1.425	Student Loan Interest Deduction	Income	Taxpayers paying interest on higher education loans	$29.5	M.G.L.	0
89			X		X	Promote Health	1.426	Expenses of Human Organ Transplant	Income	Organ donors	$0.5	M.G.L.	
90									Income		$241.8		
91			X			Protect Environment/Energy Development	1.601	Renewable Energy Source Credit	Income	Homeowners installing renewable energy systems	$1.3	M.G.L.	St. 1979, c. 796, s. 9
92			X			Promote Health	1.602	Credit for Removal of Lead Paint	Income	Publish health; Landlords de-leading apartments	$2.5	M.G.L.	St. 1987, c. 773, s. 4
93	X	X				Economic Competitiveness	1.603	EDIP/Economic Opportunity Area Credit	Income	Investors in Economic Opportunity areas	$2.9	M.G.L.	St. 1993, 19, s. 46
94		X			X	Job Creation	1.604	Credit for Employing Former Full-Employment Program Participants	Income	Employers	Expired	M.G.L.	St. 1995, c. 5 §110(m)
95	X					Support Low Income Workers	1.605	Earned Income Credit	Income	Low income, principally parents	$132.3	M.G.L.	St. 1997, c. 43, s. 63

	Public Policy Purpose: Main Categories					Public Policy Purpose Categories (Preliminary-3-21-2012)	Item #	Description	Tax Type	Typical Claimant / Beneficiary	Annualized Estimates	Based on IRC or MGL?	Enacting Statute
	Fairness	Economic Competitiveness	Targeted Policy Priorities	Structural	Other								
96			X			Protect Environment	1.606	Septic System Repair Credit	Income	Non-urban taxpayers with failing septic systems	$12.5	M.G.L.	St. 1997, c. 43, s. 63
97	X		X			Promote Housing	1.607	Low Income Housing Tax Credit	Income	Developers of residential real estate (only a small percentage claimed via personal income tax)	$2.0	M.G.L.	St. 1999, c. 127, s. 82
98			X			Protect Environment	1.608	Brownfields Credit	Income	Developers cleaning sites (only a small percentage claimed via personal income tax)	$3.2	M.G.L.	St.2003, c. 141, § 22
99	X					Support the Elderly	1.609	Refundable Credit Against Property Tax for Seniors ("Circuit Breaker")	Income	Relatively low income aged 65 or older	$77.6	M.G.L.	St. 1999, c. 127, s. 80
100			X			Protect Historic Buildings	1.610	Historic Buildings Rehabilitation Credit	Income	Owners / developers of historic buildings (only a small percentage claimed via personal income tax)	$2.5	M.G.L.	St.2003, c. 141, § 22
101		X				Economic Competitiveness/Film Industry/Job Creation	1.611	Film Credit, Payroll and Production	Income	Film makers, primarily out of state (only a small percentage claimed via personal income tax)	$2.6	M.G.L.	St. 2005, c. 158
102		X				Economic Competitiveness/Medical Device Manufacturing/Job Creation	1.613	Medical Device Credit	Income	Manufacturers of medical devices	$0.4	M.G.L.	St. 2006, c. 145

	Public Policy Purpose: Main Categories					Public Policy Purpose Categories (Preliminary-3-21-2012)	Item #	Description	Tax Type	Typical Claimant / Beneficiary	Annualized Estimates	Based on IRC or MGL?	Enacting Statute
	Fairness	Economic Competitiveness	Targeted Policy Priorities	Structural	Other								
103	X	X				Promote Agriculture	1.614	Dairy Farmer Tax Credit	Income	Dairy farmers	$0.4	M.G.L.	St. 2008, c. 310, s. 3
104			X			Protect Environment	1.615	Conservation Land Tax Credit	Income	Land owners	$1.5	M.G.L.	
105									Corp&Bus		$1,323.5		
106									Corp&Bus		$71.0		
107		X				Economic Competitiveness/S-corporations	2.001	Small Business Corporations	Corp&Bus	S corporations and their shareholders	$71.0	I.R.C	0
108			X			Energy Development	2.002	Exemption of Income from the Sale, Lease or Transfer of Certain Patents	Corp&Bus	Massachusetts corporations holding or having applied for such patents	negligible	M.G.L.	0
109									Corp&Bus		$1.1		
110		X				Economic Competitiveness/U.S.-Flag Shipping Companies	2.101	Deferral of Tax on Certain Shipping Companies	Corp&Bus	Eligible shipping Companies (Operators of U.S.-flag ships)	$1.1	I.R.C	0
111									Corp&Bus		$137.0		
112	X		X			Promote Charity	2.201	Charitable Deduction	Corp&Bus	Corporations making charitable contributions	$46.5	I.R.C	0
113		X				Economic Competitiveness	2.203	Net Operating Loss (NOL) Carryover	Corp&Bus	Business corporations with net operating losses	$90.6	I.R.C	0
114			X			Promote Mining	2.204	Excess Natural Resource Depletion Allowance	Corp&Bus	Corporations in extractive industries	Negligible	I.R.C	0
115		X				Economic Competitiveness/Cooperatives	2.205	Deduction for Certain Dividends of Cooperatives	Corp&Bus	Cooperatives	NA	I.R.C	0

	Public Policy Purpose: Main Categories					Public Policy Purpose Categories (Preliminary-3-21-2012)	Item #	Description	Tax Type	Typical Claimant / Beneficiary	Annualized Estimates	Based on IRC or MGL?	Enacting Statute
	Fairness	Economic Competitiveness	Targeted Policy Priorities	Structural	Other								
116	X		X			Infrastructure Improvement	2.206	Abandoned Building Renovation Deduction	Corp&Bus	Corporations renovating eligible buildings in Economic Opportunity Areas	Negligible	I.R.C	St.1993, c. 19, § 18, was approved Mar. 9, 1993, and by § 50 made effective upon passage.
117									Corp&Bus		$243.0		
118	X	X				Support Housing	2.301	Accelerated Depreciation on Rental Housing	Corp&Bus	Corporate builders and investors in rental housing	$1.6	I.R.C	0
119	X	X				Support the Elderly & the Disabled	2.303	Expensing for Removal of Barriers to the Handicapped	Corp&Bus	The handicapped and elderly and corporations that remove these barriers	$0.2	I.R.C	0
120		X				Economic Competitiveness/Start-up Businesses	2.304	Five-Year Amortization of Start-Up Cost	Corp&Bus	Corporations starting a business	$0.2	I.R.C	0
121		X				Economic Competitiveness	2.305	Accelerated Cost Recovery System (ACRS) for Equipment	Corp&Bus	Corporations depreciating tangible personal property	$171.5	I.R.C	0
122		X				Economic Competitiveness	2.306	Deduction for Excess First-Year Depreciation	Corp&Bus	Corporations electing to expense depreciable business assets	$3.4	I.R.C	0
123		X				Infrastructure Improvement	2.307	Accelerated Depreciation on Buildings (other than Rental Housing)	Corp&Bus	Corporations depreciating buildings other than rental housing	$4.4	I.R.C	0
124		X	X			Economic Competitiveness/R&D Companies	2.308	Expensing of Research and Development Expenditures in One Year	Corp&Bus	Corporations incurring research and experimental expenditures	$61.1	I.R.C	0
125		X	X			Economic Competitiveness/Extractive Industries	2.309	Expensing of Exploration and Development. Costs	Corp&Bus	Corporations investing in or engaged in extractive industries	Negligible	I.R.C	0
126			X			Protect Environment	2.311	Five-Year Amortization of Pollution Control Facilities	Corp&Bus	Corporations with certified pollution control facilities	NA	I.R.C	0
127			X			Energy Development	2.312	Expensing of Certain Expenditures for Alternative Energy Sources	Corp&Bus	Corporations investing in solar or wind systems to use in their business	$0.5	M.G.L.	Added by St.1976, c. 487, § 1.

	Public Policy Purpose: Main Categories					Public Policy Purpose Categories (Preliminary-3-21-2012)	Item #	Description	Tax Type	Typical Claimant / Beneficiary	Annualized Estimates	Based on IRC or MGL?	Enacting Statute
	Fairness	Economic Competitiveness	Targeted Policy Priorities	Structural	Other								
128			X			Protect Environment	2.313	Seven-Year Amortization for Reforestation	Corp&Bus	Corporations investing in or engaged in the forestry business	$0.1	I.R.C	0
129									Corp&Bus		$262.2		
130		X				Economic Competitiveness	2.401	Unequal Weighting of Sales, Payroll, and Property in Apportionment Formula	Corp&Bus	Most corporations that apportion income	$262.2	M.G.L.	0
131									Corp&Bus		$191.0		
132			X			Energy Development	2.501	Nontaxation of Certain Energy Property	Corp&Bus	Corporations investing in alternative energy to use in their businesses	NA	M.G.L.	St.1976, c. 487, § 1
133				X		Avoid Double Taxation	2.502	Exemption for Property Subject to Local Taxation	Corp&Bus	Corporations whose tangible property is subject to local taxation	$191.0	M.G.L.	St. 1962, c. 756, §2
134									Corp&Bus		$415.6		
135		X	X			Economic Competitiveness/R&D & Manufacturing	2.602	Investment Tax Credit	Corp&Bus	Manufacturing corporations and corporations engaged primarily in research and development, agriculture or commercial fishing are allowed a credit of 3% of the cost of depreciable real and tangible property.	$56.5	M.G.L.	St.1970, c. 634, § 2
136			X			Protect Environment	2.603	Vanpool Credit	Corp&Bus	Business corporations are allowed a credit of 30% of the cost incurred during the taxable year for the purchase or lease of company shuttle vans used in the Commonwealth as part of an employer-sponsored ridesharing program.	Negligible	M.G.L.	St.1987, c. 736
137		X	X			Economic competitiveness/R&D companies	2.604	Research Credit	Corp&Bus	Corporations which made basic research payments and/or incurred qualified research expenses conducted in Massachusetts	$110.9	M.G.L.	St.1991, c. 138, § 130

	Public Policy Purpose: Main Categories					Public Policy Purpose Categories (Preliminary-3-21-2012)	Item #	Description	Tax Type	Typical Claimant / Beneficiary	Annualized Estimates	Based on IRC or MGL?	Enacting Statute
	Fairness	Economic Competitiveness	Targeted Policy Priorities	Structural	Other								
138	X	X				Economic Competitiveness	2.605	EDIP/Economic Opportunity Area Credit	Corp&Bus	Businesses investing in qualified property in an Economic Opportunity Area.	$21.7	M.G.L.	St.1993, c. 19, § 18
139		X			X	Job Creation	2.606	Credit for Employing Former Full-Employment Program Participants	Corp&Bus		Not active	M.G.L.	St. 1995, c. 5, § 110(m)
140			X			Infrastructure Improvement	2.607	Credit for Harbor Maintenance Taxes Paid	Corp&Bus	Corporations of which taxes paid are attributable to the shipment of break-bulk or containerized cargo by sea and ocean-going vessels through a Massachusetts harbor facility.	$1.0	M.G.L.	St.1996, c. 339, § 1
141			X			Protect Environment	2.608	Brownfields Credit	Corp&Bus	Corporations which expended to rehabilitate contaminated property owned or leased for business purposes and located within an economically distressed area.	$24.6	M.G.L.	St.1998, c. 206, § 35
142	X		X			Support Housing	2.609	Low Income Housing Credit	Corp&Bus	Corporations that claim a U.S. credit for the construction or development of low income housing.	$38.6	M.G.L.	
143			X			Protect Historic Buildings	2.610	Historic Buildings Rehabilitation Credit	Corp&Bus	Historic buildings rehabilitators	$47.5	M.G.L.	St.2003, c. 141, § 24
144		X				Economic Competitiveness/Film Industry/Job Creation	2.614	Film Credit (Payroll and Non-wage production)	Corp&Bus	Motion picture production companies who meet certain qualification requirements	$82.6	M.G.L.	St. 2005, c. 158

	Public Policy Purpose: Main Categories					Public Policy Purpose Categories (Preliminary-3-21-2012)	Item #	Description	Tax Type	Typical Claimant / Beneficiary	Annualized Estimates	Based on IRC or MGL?	Enacting Statute
	Fairness	Economic Competitiveness	Targeted Policy Priorities	Structural	Other								
145		X				Economic Competitiveness/Medical Device Manufacturing/Job Creation	2.615	Medical Device-User Fee Credit	Corp&Bus	Medical device companies	$3.6	M.G.L.	St. 2006, c. 144, 145
146		X				Economic Competitiveness/Infrastructure Improvement/Job Creation	2.616	Devens Refundable Tax Credit	Corp&Bus	A few developers	$0.0	M.G.L.	St.1993, c. 19, § 18
147		X				Economic Competitiveness/Life Sciences/Job Creation	2.617	Life Sciences Tax Incentive Program (3 different credits)	Corp&Bus	Life science corporations	$25.0	M.G.L.	St. 2008, c. 130, §§ 52-54
148		X				Economic Competitiveness/Life Sciences/job Creation		Life Sciences Investment Tax Credit	Corp&Bus	Life science corporations			
149		X				Economic Competitiveness/Life Sciences/Job Creation		Life Sciences User Fee Credit	Corp&Bus	Life science corporations			
150		X				Economic competitiveness/Life Sciences/Job Creation		Life Sciences Research Credit	Corp&Bus	Life science corporations			
151	X	X				Promote Agriculture	2.618	Dairy Farmer Tax Credit	Corp&Bus	Dairy farmers	$3.6	M.G.L.	St. 2008, c. 310, § 6
152			X			Protect Environment	2.619	Conservation Land Tax Credit	Corp&Bus		$0.5	M.G.L.	
153									Corp&Bus		$2.6		
154				X		Promote Chartered Credit Unions	2.701	Exemption of Credit Union Income	Corp&Bus	Chartered credit unions	$2.6	I.R.C	0
155				X		Promote Non-profit Organizations	2.702	Tax-Exempt Organizations	Corp&Bus		NA	I.R.C	0

	Public Policy Purpose: Main Categories					Public Policy Purpose Categories (Preliminary-3-21-2012)	Item #	Description	Tax Type	Typical Claimant / Beneficiary	Annualized Estimates	Based on IRC or MGL?	Enacting Statute
	Fairness	Economic Competitiveness	Targeted Policy Priorities	Structural	Other								
156				X		Economic Competitiveness/Mutual Funds	2.703	Exemption for Regulated Investment Companies	Corp&Bus		NA	M.G.L.	St.1935, c. 473, § 3
157									Sales		$18,396.9		
158									Sales		$408.4		
159			X		X	Support of Government Activities	3.001	Exemption for Sales to the Federal Government	Sales	U.S. government or any political subdivision thereof, or its respective agencies	N.A.	M.G.L.	1967
160			X		X	Support of Government Activities	3.002	Exemption for Sales to the Commonwealth	Sales	Commonwealth of Massachusetts, its political subdivisions or its respective agencies	N.A.	M.G.L.	1967
161				X		Promote Non-profit Organizations	3.003	Exemption for Sales to Tax-Exempt Organizations	Sales	Nonprofit corporations, foundations, organizations or institutions that are exempt under I.R.C. § 501(c)(3).	$407.8	M.G.L.	1967; 1970
162		X				Economic Competitiveness/Film Industry/Job Creation	3.004	Exemption for Sales to Motion Picture Production Companies	Sales	Qualifying motion picture production companies; qualifying film school students	$0.6	M.G.L.	2005
163									Sales		$1,511.6		
164	X					Basic Necessities	3.101	Exemption for Food	Sales	Purchasers of "food products for human consumption" as defined and limited by G.L. c. 64H § 6(h)	$682.7	M.G.L.	1967; 1986
165	X					Basic Necessities	3.102	Exemption for Certain Food and Beverages Sold in Restaurants	Sales	"Restaurants" that sell expressly excluded categories of food and beverages	N.A.	M.G.L.	1967
166	X					Basic Necessities	3.103	Exemption for Clothing	Sales	Purchasers of clothing generally designed for every day wear	$282.0	M.G.L.	1967

	Public Policy Purpose: Main Categories					Public Policy Purpose Categories (Preliminary-3-21-2012)	Item #	Description	Tax Type	Typical Claimant / Beneficiary	Annualized Estimates	Based on IRC or MGL?	Enacting Statute
	Fairness	Economic Competitiveness	Targeted Policy Priorities	Structural	Other								
167	X		X			Promote Health	3.104	Exemption for Medical and Dental Supplies and Devices	Sales	Purchasers of various medicine, medical and dental equipment and health care items	$448.8	M.G.L.	1967; 1973
168	X					Basic Necessities	3.105	Exemption for Water	Sales	Purchasers of water	$50.5	M.G.L.	1967
169		X	X		X	Economic Competitiveness/Newspapers	3.106	Exemption for Newspapers and Magazines	Sales	Sellers/purchasers of newspapers and magazines	$36.0	M.G.L.	1967
170					X	Promote patriotism	3.107	Exemption for the American Flag	Sales	Sellers/purchasers of the American Flag	N.A.	M.G.L.	1968
171		X		X		Promote Commerce in Rare Coins/Precious Metals	3.108	Exemption for Certain Precious Metals	Sales	Sellers/purchasers of certain rare coins and precious metals valued $1,000 or more	N.A.	M.G.L.	1987
172				X		Avoid Tax Pyramiding	3.109	Exemption for Cement Mixers	Sales	Sellers/purchasers of cement mixers	N.A.	M.G.L.	1971
173		X				Economic Competitiveness	3.112	Exemption for Aircraft and Aircraft Parts	Sales	Sellers/purchasers of aircraft and repair or replacement parts exclusively used in aircraft	$11.6	M.G.L.	2001
174	X		X			Promote Health/Support Family	3.113	Exemption for Breast Pumps	Sales	MA buyers of these products	included in 3.104	M.G.L.	2011
175									Sales		$994.9		
176				X		Structural Decision to Tax under Alternative Excise	3.201	Exemption for Alcoholic Beverages	Sales	Purchasers of alcoholic beverages that are taxed under the Alcoholic Beverages Excise, G.L. c. 138	$113.9	M.G.L.	1967
177				X		Structural Decision to Tax Under Alternative Excise	3.202	Exemption for Motor Fuels	Sales	Purchasers of motor fuels that are taxed under the Motor Fuels Excise	$725.9	M.G.L.	1967

	Public Policy Purpose: Main Categories					Public Policy Purpose Categories (Preliminary-3-21-2012)	Item #	Description	Tax Type	Typical Claimant / Beneficiary	Annualized Estimates	Based on IRC or MGL?	Enacting Statute
	Fairness	Economic Competitiveness	Targeted Policy Priorities	Structural	Other								
178				X		Structural Decision to Tax Under Alternative Excise	3.203	Exemption for Room Rentals	Sales	Operators/occupants of rooms in hotels, motels, lodging houses and bed and breakfast establishments	$155.1	M.G.L.	0
179									Sales		$894.8		
180	X			X		Avoid Tax Pyramiding/Basic Necessities	3.301	Exemption for Items Used in Making Clothing	Sales	Manufacturers/sellers of wearing materials and cloth used for clothing purposes	N.A.	M.G.L.	1967
181		X		X		Avoid Tax Pyramiding/Economic Competitiveness	3.302	Exemption for Materials, Tools, Fuels, and Machinery Used in Manufacturing	Sales	Manufacturers in MA	$615.0	M.G.L.	1967
182		X		X		Avoid Tax Pyramiding/Economic Competitiveness	3.303	Exemption for Materials, Tools, Fuels, and Machinery Used in Research and Development	Sales	R&D companies in MA	$86.3	M.G.L.	1977
183		X		X		Avoid Tax Pyramiding/Economic Competitiveness	3.304	Exemption for Materials, Tools, Fuels, and Machinery Used in Furnishing Power, water, and steam	Sales	Purchasers/sellers of materials, etc. and machinery used in furnishing gas, water, steam, or electricity to consumers if such materials are consumed and used directly and exclusively in furnishing the power	$106.4	M.G.L.	1967
184		X		X		Economic Competitiveness/Newspaper Manufacturing	3.306	Exemption for Materials, Tools, Fuels, and Machinery Used in Newspaper Printing	Sales	Sellers/purchasers of materials, etc. and machinery used in newspaper publishing	$62.3	M.G.L.	1967
185		X		X		Avoid Tax Pyramiding/Promote Agriculture	3.308	Exemption for Materials, Tools, Fuels, and Machinery Used in Agricultural Production	Sales	Entities engaged in agricultural production	$14.3	M.G.L.	1967
186		X		X		Avoid Tax Pyramiding/Promote Fishing	3.309	Exemption for Vessels, Materials, Tools, Fuels, and Machinery Used in Commercial Fishing	Sales	Sellers/purchasers of certain vessels and items used directly and exclusively in commercial fishing	$10.5	M.G.L.	1967; 1968
187		X		X		Economic Competitiveness/Broadcasting	3.310	Exemption for Materials, Tools, Fuels, and Machinery Used in Radio and TV Broadcasting	Sales	Media companies in MA	N.A.	M.G.L.	1967
188									Sales		$1,110.4		
189	X	X				Economic Competitiveness/Basic Necessities	3.401	Exemption for Electricity	Sales	Purchasers of electricity for residential use; small businesses; certain industrial users	$306.4	M.G.L.	1967; 1990
190	X	X				Economic Competitiveness/Basic Necessities	3.402	Exemption for Fuel Used for Heating Purposes	Sales	Purchasers of heating fuel for residential use; small businesses; certain industrial users	$84.2	M.G.L.	1967; 1990

	Public Policy Purpose: Main Categories					Public Policy Purpose Categories (Preliminary-3-21-2012)	Item #	Description	Tax Type	Typical Claimant / Beneficiary	Annualized Estimates	Based on IRC or MGL?	Enacting Statute
	Fairness	Economic Competitiveness	Targeted Policy Priorities	Structural	Other								
191	X	X				Economic Competitiveness/Basic Necessities	3.403	Exemption for Piped and Bottled Gas	Sales	Purchasers of natural gas for residential use; small businesses; certain industrial users	$180.2	M.G.L.	1967; 1990
192	X	X				Economic Competitiveness/Basic Necessities	3.404	Exemption for Steam	Sales	Purchasers of steam for residential use, small business; certain industrial users	$14.4	M.G.L.	1971; 1990
193			X			Energy Conservation	3.405	Exemption for Certain Energy Conservation Equipment	Sales	Purchasers of equipment relating to wind-powered or heat pump systems used for supplying energy or heating needs of principal residences in MA	N.A.	M.G.L.	1977
194					X	Support Survivors	3.406	Exemption for Funeral Items	Sales	Funeral directors and purchasers of caskets, coffins, burial garments, etc used in the funera directing business	$16.2	M.G.L.	1967
195	X					Support disabled/handicapped	3.407	Exemption for a Motor Vehicle for a Paraplegic	Sales	Specifically enumerated purchasers/users of motor vehicles for use by paraplegics	$1.3	M.G.L.	1967
196	X		X			Promote Education	3.408	Exemption for Textbooks	Sales	Purchasers of textbooks required for instruction in educational institutions	$26.0	M.G.L.	1967
197					X	Religion	3.409	Exemption for Books used for Religious Worship	Sales	Purchasers of bibles, prayer books and other books used for religious worship	N.A.	M.G.L.	1967
198				X		Avoid Tax Pyramiding	3.410	Exemption for Containers	Sales	Purchasers on specified returnable and non-refundable containers	$157.7	M.G.L.	1967
199		X				Economic Competitiveness	3.411	Exemption for Certain Sales by Typographers, Compositors and Color Separators	Sales	Printers, publishers and manufacturers of boxes used in printing	N.A.	M.G.L.	1979
200			X			Promote Public Projects and Non-profit Organizations	3.412	Exemption for Sales of Building Materials and Supplies to be Used in Connection with Certain Construction Contracts	Sales	Federal and Massachusetts governments, their political subdivisions and tax-exempt organizations	$222.9	M.G.L.	1967
201			X			Promote Transportation/Environment	3.417	Exemption for Commuter Boats	Sales	Purchasers of vessels, replacement or repair parts used exclusively to provide scheduled commuter passenger service	N.A.	M.G.L.	1990

	Public Policy Purpose: Main Categories					Public Policy Purpose Categories (Preliminary-3-21-2012)	Item #	Description	Tax Type	Typical Claimant / Beneficiary	Annualized Estimates	Based on IRC or MGL?	Enacting Statute
	Fairness	Economic Competitiveness	Targeted Policy Priorities	Structural	Other								
202		X			X	Economic Competitiveness	3.418	Exemption for Fuels, Supplies, and Repairs for Vessels Engaged in Interstate or Foreign Commerce	Sales	Purchasers of fuels, supplies and repairs for vessels engaged in interstate or foreign commerce	$0.7	M.G.L.	1967
203		X			X	Promote Transportation/Economic Competitiveness	3.419	Exemption for Fuel Used in Operating Aircraft and Railroads	Sales	Purchasers of fuels used in operation of aircraft or railroads	$59.4	M.G.L.	1967
204			X			Promote Transportation/Environment	3.420	Exemption for Sales of Certain New and Used Buses	Sales	Purchasers of buses, parts, and materials used in performing an essential government function (intra-city transportation)	N.A.	M.G.L.	1973
205		X				Economic Competitiveness	3.421	Exemption for Films	Sales	Purchasers of motion picture films for commercial exhibition	N.A.	M.G.L.	1967
206	X					Basic Necessities	3.422	Exemption for Telephone Services	Sales	Purchasers of residential telephone service (up to $30/mo.)	$41.1	M.G.L.	1967
207									Sales		$13,354.7		
208				X		Structural Decision to Tax Under Deeds Excise	3.501	Nontaxation of Transfers of Real Property	Sales	Purchasers of real property	$1,997.5	M.G.L.	
209				X		Structural Decision	3.502	Nontaxation of Rentals of Real Property	Sales	Renters of real property	$1,690.9	M.G.L.	
210				X		Structural Decision	3.503	Nontaxation of Certain Services	Sales	Purchasers of a wide range of services	$9,519.0	M.G.L.	
211				X	X	Federal Law	3.504	Nontaxation of Internet Access and Related Services	Sales	Purchasers of internet access services, email, electronic bulletin board, web hosting or similar on-line services	$147.2	M.G.L.	
212									Sales		$122.1		

	Public Policy Purpose: Main Categories					Public Policy Purpose Categories (Preliminary-3-21-2012)	Item #	Description	Tax Type	Typical Claimant / Beneficiary	Annualized Estimates	Based on IRC or MGL?	Enacting Statute
	Fairness	Economic Competitiveness	Targeted Policy Priorities	Structural	Other								
213				X		Structural Decision	3.601	Exemption for Casual or Isolated Sales	Sales	Sellers/purchasers of items not made in the course of the seller's regularly conducted trade or business	N.A.	M.G.L.	
214	X				X	Basic Necessities/Administrative Efficiency	3.602	Exemption for Vending Machine Sales	Sales	Sellers/purchasers of items from vending machines which exclusively sell items with a sales price of $3.50 or less	N.A.	M.G.L.	
215	X				X	Basic Necessities/Certain Organizations	3.603	Exemption for Certain Meals	Sales	Sellers/purchasers of meals served in certain organizations, e.g., hospitals, nursing homes, churches, synagogues, etc	$10.8	M.G.L.	
216	X				X	Basic Necessities/Certain Organizations	3.604	Exemption for Certain Bed and Breakfast Establishments from Sales Tax on Meals and Room Occupancy Excise	Sales	Operators of owner-occupied one, two, and three bedroom bed and breakfast homes and their guests	N.A.	M.G.L.	
217	X				X	Basic Necessities/Certain Organizations	3.605	Exemption for Certain Summer Camps from Sales Tax on Meals and Room Occupancy Excise	Sales	Summer camps for developmentally disabled individuals and children age 18 and under	$2.5	M.G.L.	
218				X		Structural Decision	3.606	Exemption for Trade-in Allowances for Motor Vehicles and Trailers	Sales	Taxpayers purchasing motor vehicles in conjunction with a trade-in	$95.7	M.G.L.	
219					X	Support Targeted Economic Activities/Promote Not for Profit Organizations	3.607	Exemptions for Publications of Tax-Exempt Organizations	Sales	Sellers/purchasers of publications of 501(c)(3) organizations	$13.2	M.G.L.	
220	X		X			Promote Education	3.608	Exemption for Gifts of Scientific Equipment	Sales	Public or private nonprofit educational institutions located in MA and their students; MA Technology Park Corporation; Bay State Skills Corporation	N.A.	M.G.L.	
221		X				Economic Competitiveness	3.609	Exemption for Vessels or Barges 50 Tons and Over	Sales	Sellers/purchasers of barges weighing 50 tons or over when constructed in MA and sold by the builder	N.A.	M.G.L.	
222				X		Structural Decision	3.610	Exemption for Rental Charges for Refuse Containers	Sales	Customers having service contracts with waste service firms that place refuse containers on the customer's premises	N.A.	M.G.L.	

	Public Policy Purpose: Main Categories					Public Policy Purpose Categories (Preliminary-3-21-2012)	Item #	Description	Tax Type	Typical Claimant / Beneficiary	Annualized Estimates	Based on IRC or MGL?	Enacting Statute
	Fairness	Economic Competitiveness	Targeted Policy Priorities	Structural	Other								
223				X		Structural Decision	3.611	Exemption for Honor Trays	Sales	Purchasers of items from honor trays selling items for less than $1	N.A.	M.G.L.	

Appendix 2. FY 2013 Tax Expenditure Budget

See this link: http://www.mass.gov/dor/docs/dor/stats/teb/teb2013.pdf

Appendix 3. Massachusetts Tax Expenditure Budget Master Database

See this link: http://www.mass.gov/dor/docs/dor/stats/tax-expenditure-commission-materials/ma-teb-master-items-summary-updated-on-november-2-2011.xls

The database includes the following:

- *Master Summary* (tax expenditure data for each expenditure category, ranging from estimates, potential beneficiaries, statutory references, etc.)
- *Federal Tax Expenditure Budget Categories*
- *Refundable and Transferable Tax Credits* (list of refundable and transferable tax credits that are subject to reporting requirements)
- *Service Detail* (list of FY13 sales tax expenditures for services)

Appendix 4. Commissioner's Presentation on Tax Expenditure Budget

Massachusetts Tax System and

Tax Expenditure Budget

The Commonwealth of Massachusetts

Department of Revenue

Amy Pitter, Commissioner, Massachusetts Department of Revenue

October 12, 2011

Massachusetts Tax System and Tax Expenditure Budget

Topics:

-Background on taxation in Massachusetts

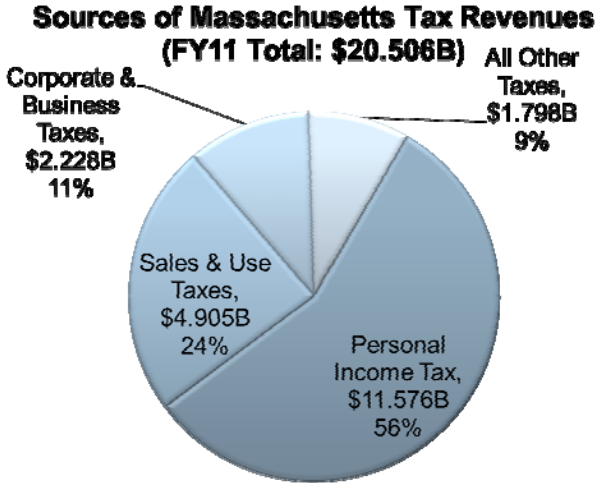
-Where the money comes from

-Tax Expenditures:
- -Overview
- -Details by tax type
- -Issues and Trends

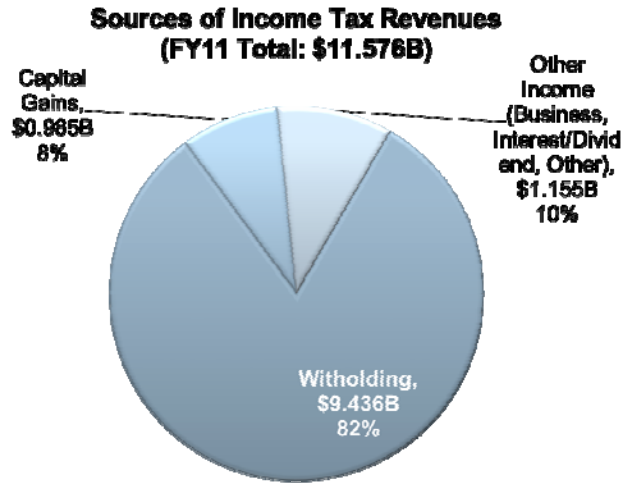
-Conclusion

Overview of Massachusetts Taxation

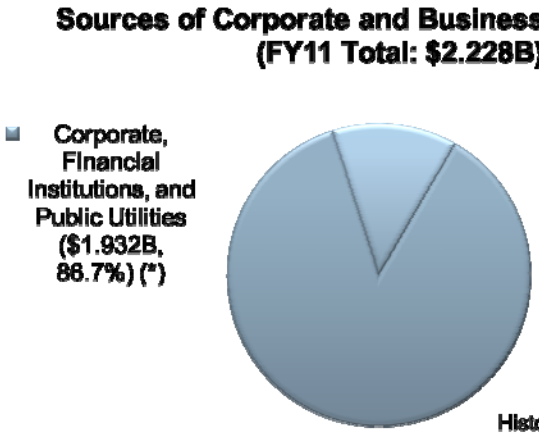
Overview: Sources of Massachusetts Tax Revenues



Personal Income Tax



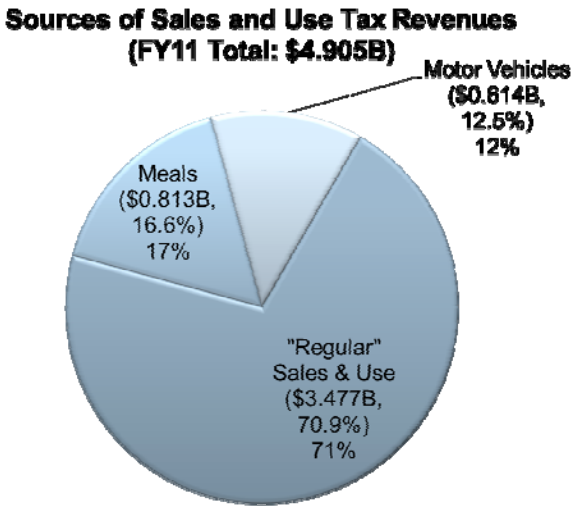
Corporate and Business Taxes



(*) Due to combined reporting, most payments from these companies recorded under corporate tax

Historical: Distribution of Corporate and Business Tax Collections by Type:
Corporate 59-64%
Insurance 13-17%
Financial Inst. 14-21%
Public Utilities 4-7%

Sales and Use Tax



All Other Taxes

All Other Taxes ($Millions)		$1,798
Other Budgetary DOR collections		$1,720
Motor Fuels	$661	
Cigarettes	$454	
Estate	$310	
Room Occupancy	$110	
Deeds	$99	
Alcoholic Beverages	$73	
Miscellaneous	$14	
Other Budgetary Non-DOR collections		$78
Deeds, Sec. of State	$31	
Division of Insurance	$24	
UI Surcharges	$20	
Beano 3/5ths	$1	
Raffles/Bazaars	$1	

Personal Income, Corporate, and Sales/Use Taxes
Recent & Current Developments

Income Tax:

- Status of the current rate (5.3%):
- Potential lowering of rate to 5.25% on January 2012
  - Statutory requirement
  - DOR Certification

Corporate Tax Reform:

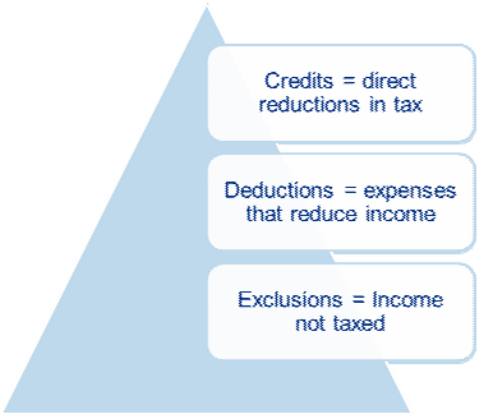
- Combined Reporting
- Phased-in Rate Reduction from 9.5% to 8% for 2012

Sales/Use Tax:

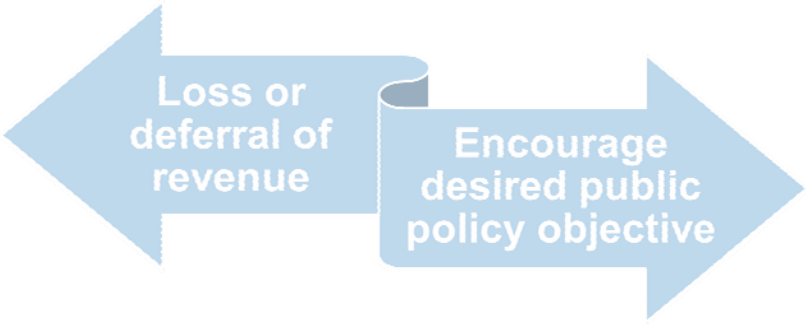
- Rate change (5.0% to 6.25%)
- Sales Tax on Alcohol–Instituted and then repealed

Tax Expenditures: Definition

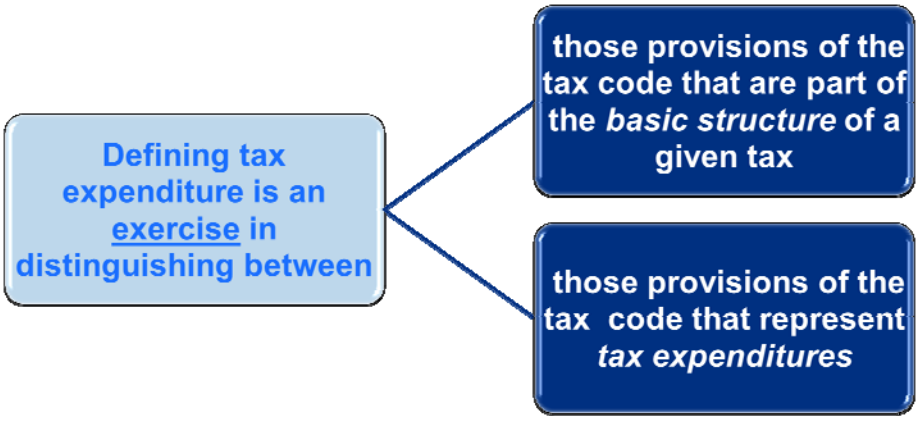
Tax expenditures are typically defined as *provisions in the tax code, including a wide variety of exclusions, deductions, credits, and deferrals, that are designed to encourage certain kinds of activities or investments or to aid certain taxpayers or industries in special circumstances*.



Tax Expenditures: Impact (Continue)



Tax Expenditures: Definition (Continue)



Tax Expenditures: Definition (Continue)

Basic Structure

- A taxable unit
- A base
- A rate
- Tax jurisdiction
- Provisions for administration

A tax expenditure is an exception to the rules defined by the basic structure

Tax Expenditures: Examples

Exclusions	• e.g., the personal income tax exemption for certain foster care payments, or the sales tax exemption for groceries
Deductions	• e.g., special income tax deduction for abandoned building renovation costs, or the deduction for rent
Credits	• e.g., investment tax credit, film credit\
Deferrals	• e.g., accelerated depreciation

Tax Expenditures: Examples (Continue)

……and also many Massachusetts tax expenditures in the personal income tax and corporate tax derive from federal income tax rules and thus piggy back on many but not all, federal tax expenditures (e.g., accelerated depreciation of equipment)

Tax Expenditures Reports

-Federal government prepares annual Tax Expenditure reports since the early 1970s

The congressional Joint Committee on Taxation (JCT) and the Office of Management and Budget (OMB) publishes estimates of federal tax expenditure

--The Center on Budget and Policy Priorities (CBPP) reports that

"Forty-two states (counting the District of Columbia as a state) produce tax expenditure reports."

http://www.cbpp.org/files/4-9-09sfp.pdf

-The State TEB practices widely vary state to state in terms of their coverage and content.

- Massachusetts has been preparing tax expenditure reports since FY1986.

-Since 2008, The Patrick-Murray Administration has made the TEB reports available on the web as a part of Governor's House 1 budget filings with an easy to navigate features and options (i.e., drill-down, short-links to statutory references for each of the TEB item, etc.).

Tax Expenditures Reports

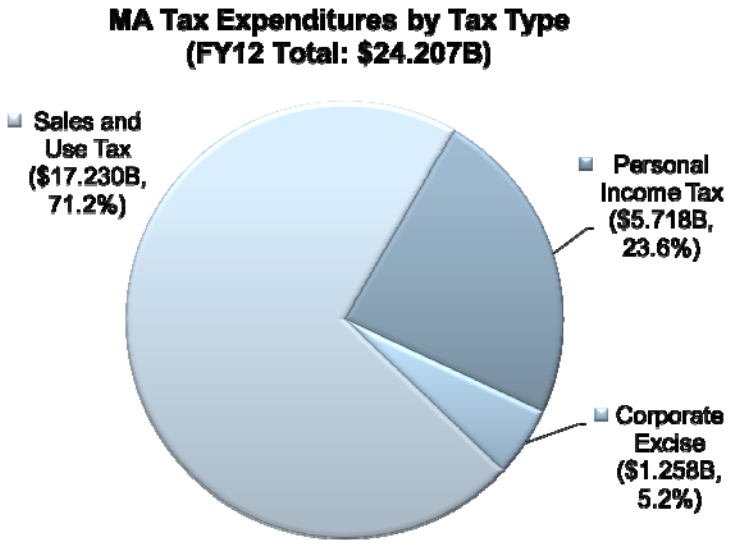
http://www.mass.gov/bb/h1/fy12h1/tax_12/hall.htm

Tax Expenditures Reports

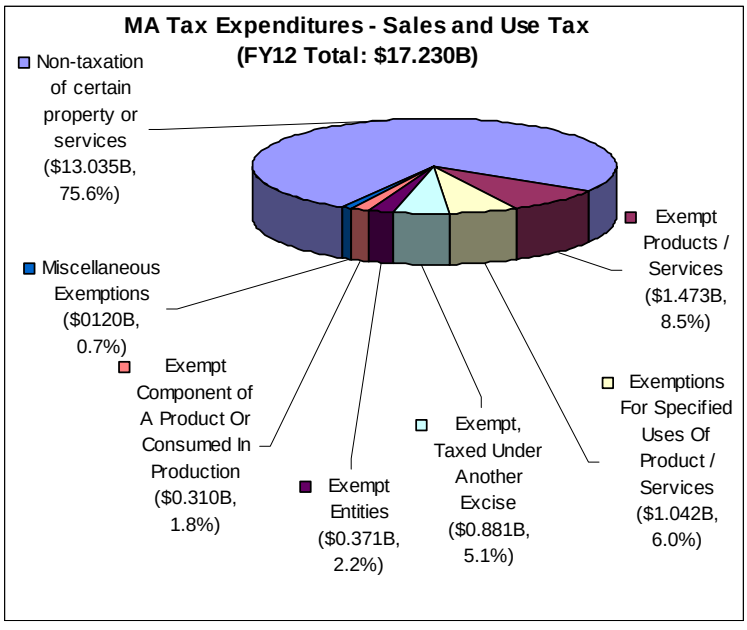
MGL (Ch 29, Sec 1) defines tax expenditures as

"State tax revenue foregone as a direct result of the provisions of any general or special law which allows exemptions, exclusions, deductions from, or credits against, the taxes imposed on income, corporations, and sales."

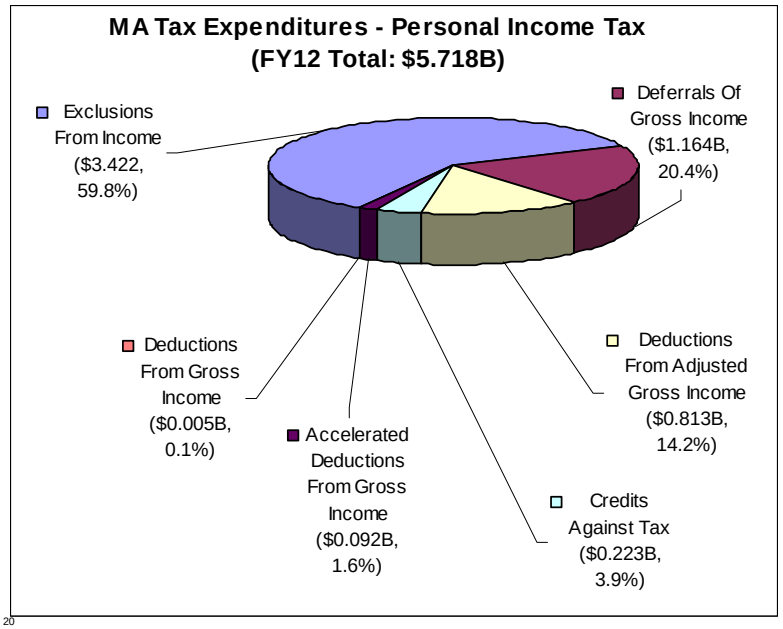
Massachusetts Tax Expenditure Budget



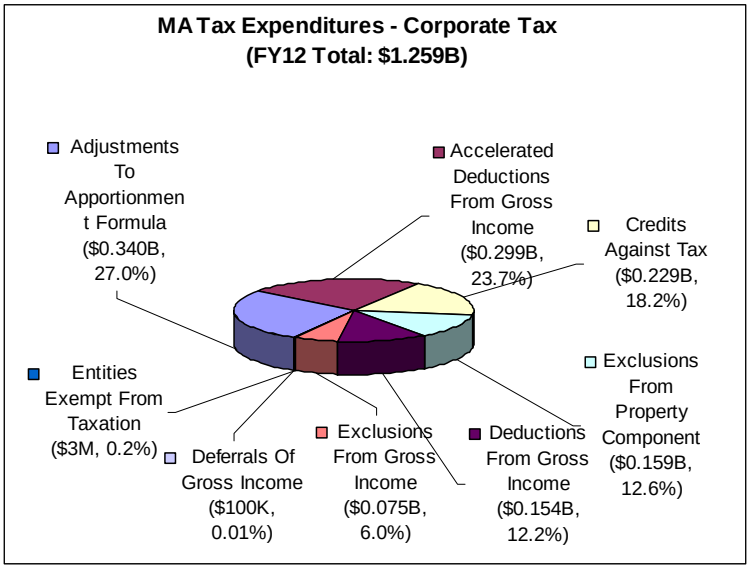
Massachusetts Tax Expenditure Budget



Massachusetts Tax Expenditure Budget



Massachusetts Tax Expenditure Budget



Transferable/Refundable Credits

- Over the recent years, many states (including Massachusetts) have enacted or extended provisions for certain credits and other incentives so that they are refundable or transferable.

- What are they?
  Refundable/Transferable credits are conceptually different from other tax credits because they do not require the taxpayer to have tax liability to obtain benefit from the credit.

Transferable/Refundable Credits – Reporting Requirements

-In 2010 Massachusetts enacted a tax transparency statute (Chapter 131 of the Acts of 2010), which requires DOR to gather and report relevant information from administering agencies on the transferable and refundable credits.

-First annual report will be for calendar year 2011

- Administering agencies will submit the information needed for this report to DOR by May 15, 2012

-Information will include:
(i) the identity of each taxpayer receiving an authorized tax credit and from which tax credit program the credit was received;
(ii) the amount of the authorized tax credit awarded and issued for each taxpayer and each project, if applicable; and
(iii) the date that the authorized tax credit was awarded and issued for each taxpayer and each project.

Transferable/Refundable Credits – Reporting Requirements

Tax Credit Programs That Are Subject to Reporting Requirements are:

1. Film tax credit
2. Historic rehabilitation tax credit
3. Low-income housing tax credit
4. Brownfields tax credit
5. Medical device tax credit
6. Dairy farm tax credit
7. Life sciences - investment tax credit
8. Life Sciences - user fees credit
9. Life Sciences - research credit
10. Economic development incentive program (EDIP)
11. Housing development credit (after July 1, 2010)
12. Conservation land tax credit (after July 1, 2010)
13. Life Sciences - Jobs credit (after July 1, 2010)

Tax Expenditures: Issues and Trends

-Allocation of awards by a Governmental Agency with oversight

- ***-Caps***
- ***-Clawbacks***

-Disclosure

-Sunsets

Appendix 5. 1991 Tax Expenditure Budget

See this link: http://www.mass.gov/dor/docs/dor/stats/tax-expenditure-commission-materials/teb-fy91.pdf

Appendix 6. Selected DOR Reports

See this link: http://www.mass.gov/dor/tax-professionals/news-and-reports/tax-expenditure-commission-materials/selected-dor-reports/

This link includes the following:

- A Report on the Massachusetts Film Industry Tax Incentives
- FY 2010 Environmental Response Action (Brownfields) Tax Credit Program
- FY 2011 Environmental Response Action (Brownfields) Tax Credit Program

Appendix 7. Transferable and Refundable Tax Credits

See this link: http://www.mass.gov/dor/tax-professionals/news-and-reports/tax-expenditure-commission-materials/transferable-refundable-credits/

This link includes the following:

- Tax Credit Programs That Are Subject to Reporting Requirements of Chapter 131 of the Acts of 2010 (PDF format)

- Tax Credit Programs That Are Subject to Reporting Requirements of Chapter 131 of the Acts of 2010 (Excel format)

Appendix 8. Research/Literature

See this link: http://www.mass.gov/dor/tax-professionals/news-and-reports/tax-expenditure-commission-materials/research-literature/

- Comparision of Different TEB Tools

  See this link: http://www.mass.gov/dor/tax-professionals/news-and-reports/tax-expenditure-commission-materials/research-literature/research/literature-comparision-of-different-teb-tools.html

  - Efficiency and Tax Incentives: The Case for Refundable Tax Credits
  - The Re-Examination of the Effects of Personal Deductions, Tax Credits and the Tax Rate Schedule on Income Tax Progressivity and Income Inequality
  - Tax Deductions and Credits, Direct Subsidies, and Efficiency in Public Expenditure
  - The Changing Composition of Tax Incentives
  - Deductions vs. Credits: A Comment
  - The Tax Allowance for Dependents: Deductions Versus Credits

- TEB-Related FTA Presentations

  See this link: http://www.mass.gov/dor/tax-professionals/news-and-reports/tax-expenditure-commission-materials/research-literature/research/literature-teb-related-fta-presentations.html

  - California Income Tax Expenditures
  - Iowa's Tax Credit Tracking and Analysis Program
  - Assessing the Effectiveness of Tax Expenditures: Lessons from Minnesota
  - Tax Exemptions & Tax Incidence: A Biennial Report Produced by the Texas Comptroller of Public Accounts
  - Tax Expenditures and the Subsidization of Homeownership
  - The Critical Link Between Tax Policy and Tax Expenditure Budgets: The Importance of Unresolved Issues for States

- Transparency, Accountability Studies

  See this link: http://www.mass.gov/dor/tax-professionals/news-and-reports/tax-expenditure-commission-materials/research-literature/transparency-accountability-studies.html

  - Money for Something: Job Creation and Job Quality Standards in State Economic Development Subsidy Programs

- Transparency, Accountability Studies Summary
- Tax Expenditure Budgets: Concepts and Challenges for Implementation
- Tax Expenditure Reporting to Improve Accountability
- Tax Expenditure Review Report: Bringing Tax Expenditures Into the Budget Process
- Reforms Needed to Bring Greater Scrutiny to "Tax Expenditures"
- Making Oklahoma's Tax Expenditures More Transparent and Accountable
- Getting the Best Bang for Your Buck: Transparency and Accountability Tools for Oregon Tax Subsidies
- Every Dollar Counts: Why It's Time for Tax Expenditure Reform
- A Reconsideration of Tax Expenditure Analysis
- Background Information on Tax Expenditure Analysis and Historical Survey of Tax Expenditure Estimates
- Government Performance and Accountability: Tax Expenditures Represent a Substantial Federal Commitment and Need to Be Reexamined
- Estimates of Federal Tax Expenditures for Fiscal Years 2010-2014
- Promoting State Budget Accountability Through Tax Expenditure Reporting
- Calls for Accountability: Will it Help the Overall Incentives Process?

➢ Service Taxation

See this link: http://www.mass.gov/dor/tax-professionals/news-and-reports/tax-expenditure-commission-materials/research-literature/research/literature-service-taxation.html

- Expanding Sales Taxation of Services: Options and Issues
- FTA - State Comparison of Sales Taxation of Services (including FTA Survey Data on Sales Taxation of Services: 2007 Update; Table 1a. Cross-State Comparison of Non-exempt Services by Major Categories (Sorted by State); Table 1b. Cross-State Comparison of Non-exempt Services by Major Categories (Sorted by Total Number of Non-Exempt Entries); Non-exempt Services in MA)
- Estimates of MA FY13 Sales Tax Expenditures for Services

➢ U.S. & International TEB Practices

See this link: http://www.mass.gov/dor/tax-professionals/news-and-reports/tax-expenditure-commission-materials/research-literature/research/literature-u-s-and-international-teb-practices.html

- Tax Expenditure Budgets: Concepts and Challenges for Implementation
- Tax Expenditures and Tax Reform: Issues and Analysis

- An Estimation of Tax Expenditures in Japanese Income Tax from the Viewpoint of Fiscal Transparency
- Tax Expenditures -- Shedding Light on Government Spending Through the Tax System

➢ Other TEB Studies

See this link: http://www.mass.gov/dor/tax-professionals/news-and-reports/tax-expenditure-commission-materials/research-literature/other-teb-studies.html

- Redistribution and Tax Expenditures: The Earned Income Tax Credit
- Tax Expenditures, the Size and Efficiency of Government, and Implications for Budget Reform

Appendix 9. Tax Expenditure Budgets of Other States

States		TEB report?	Links to Report
Alabama	(AL)		
Alaska	(AK)		
Arizona	(AZ)	√	http://www.azdor.gov/ReportsResearch/TaxExpenditures.aspx
Arkansas	(AR)	√	not available online
California	(CA)	√	http://www.ftb.ca.gov/aboutftb/plans_reports.shtml
Colorado	(CO)	√	http://www.colorado.gov/cs/Satellite/Revenue-Main/XRM/1213954095223
Connecticut	(CT)	√	http://www.cga.ct.gov/ofa/
District of Columbia	(DC)	√	http://cfo.dc.gov/cfo/lib/cfo/ora/032910_final_tax_expenditure_report.pdf
Delaware	(DE)	√	http://www.finance.delaware.gov/publications/taxpref.shtml
Florida	(FL)	√	
Georgia	(GA)	√	http://www.open.georgia.gov/reports/GeorgiaTaxExpenditures2012.pdf
Hawaii	(HI)	√	http://www.state.hi.us/tax/a5_4credits.htm
Idaho	(ID)	√	http://dfm.idaho.gov/cdfy2011/publications/gfrb/TaxStructure_Jan2010.pdf
Illinois	(IL)	√	http://www.ioc.state.il.us/index.cfm/resources/reports/tax-expenditure/
Indiana	(IN)		
Iowa	(IA)	√	http://publications.iowa.gov/7030/1/TaxExp2005.pdf
Kansas	(KS)	√	http://www.ksrevenue.org/pdf/taxexpreport.pdf
Kentucky	(KY)	√	http://www.osbd.ky.gov/publications/specialreports.htm
Louisiana	(LA)	√	http://www.rev.state.la.us/forms/publications/TEB(2010)WEB.pdf
Maine	(ME)	√	http://www.maine.gov/revenue/research/tax_expenditure_report_11.pdf
Maryland	(MD)	√	http://dbm.maryland.gov/agencies/operbudget/Documents/2010TaxExpendReport.pdf
Massachusetts	(MA)	√	http://www.mass.gov/bb/h1/fy12h1/tax_12/hall.htm
Michigan	(MI)	√	http://www.michigan.gov/documents/treasury/ExecBudgAppenTaxCreditsDedExempts_FY_2011_343232_7.pdf
Minnesota	(MN)	√	http://taxes.state.mn.us/legal_policy/pages/research_reports_content_expenditure.aspx
Mississippi	(MS)	√	http://www.mississippi.edu/urc/downloads/2010_TER_Full.pdf
Missouri	(MO)	√	http://eparc.missouri.edu/publication/TAXEXP/TaxExp.htm
Montana	(MT)	√	http://revenue.mt.gov/default.mcpx
Nebraska	(NE)	√	http://www.revenue.ne.gov/tax_exp/2010/contents.html
Nevada	(NV)		
New Hampshire	(NH)	√	http://www.itepnet.org/pdf/2010_NH_TER.pdf
New Jesey	(NJ)	√	http://www.state.nj.us/treasury/taxation/taxexpenditurereport.shtml
New Mexico	(NM)		
New York	(NY)	√	http://www.budget.ny.gov/generic/newDomainPublications.html
North Carolina	(NC)	√	http://www.dornc.com/publications/nc_tax_expenditure_report_09.pdf
North Dakota	(ND)	√	
Ohio	(OH)	√	http://obm.ohio.gov/
Oklahoma	(OK)	√	http://www.tax.ok.gov/TEreports.html
Oregon	(OR)	√	http://www.oregon.gov/DOR/STATS/tax-expenditure-report-2011-2013.shtml
Pennsylvania	(PA)	√	http://www.portal.state.pa.us/portal/server.pt/document/1049028/2011-2_budget_document_pdf
Rhode Island	(RI)	√	http://www.dor.ri.gov/taxexpenditure/2010 Tax Expenditures Report.pdf
South Carolina	(SC)	√	http://www.bcb.sc.gov/BCB/bea/exemptions.pdf
South Dakota	(SD)		
Tennessee	(TN)	√	http://tennessee.gov/finance/bud/documents/11-12BudgetVol1.pdf
Texas	(TX)	√	http://www.window.state.tx.us/finances/
Utah	(UT)	√	
Vermont	(VT)	√	http://www.leg.state.vt.us/jfo/reports/2011%20Tax%20Expenditure%20Report%2001-20-2011.pdf
Virginia	(VA)	√	http://www.tax.virginia.gov/Documents/2009SUTESStudy.pdf
Washington	(WA)	√	http://dor.wa.gov/Content/AboutUs/StatisticsAndReports/2008/Tax_Exemptions_2008/Default.aspx
West Virginia	(WV)	√	http://www.state.wv.us/taxrev/publications/taxExpenditureStudy.2011.pdf
Wisconsin	(WI)	√	http://www.revenue.wi.gov/ra/11sumrpt.pdf
Wyoming	(WY)		

Appendix 10. Historical Massachusetts Tax Expenditure Budgets

See this link: http://www.mass.gov/dor/tax-professionals/news-and-reports/tax-expenditure-commission-materials/historical-ma-tebs/

This link includes the following:

- *Historical TEB Estimates During FY1996-FY2013* (including "Historical TEB estimates by major categories", "Chart of historical TEB estimates vs. baseline tax collections", "Chart of historical TEB estimates as percentage of actual tax collections")

- *Count of MA TEB Items During FY1996-FY2013* (including "TEB details", "Chart of count of active TEB items over time")

Appendix 11. Agendas of Tax Expenditure Commission’s meetings

TAX EXPENDITURE COMMISSION

Wednesday, October 12, 2011 Meeting

State House, Room 157 9:30 – 11:00 a.m.

1. Introductions

2. Open Meeting Law briefing (David Sullivan)

3. Charge and agenda for the Commission (Secretary Gonzalez)

4. Tax expenditures overview (Commissioner Pitter)

5. Discussion of information requests

6. Discussion of next steps

TAX EXPENDITURE COMMISSION

Wednesday, November2, 2011 Meeting

Comptroller's Conference Room B, One Ashburton Place, 9th floor

3:00 p.m.

1. DOR briefing on response to data requests
2. Discussion of guiding principles for tax expenditures

TAX EXPENDITURE COMMISSION

Wednesday, December 7, 2011 Meeting

Comptroller's Conference Room B, One Ashburton Place, 9th floor

9:30 – 11:00 a.m.

1. DOR briefing on response to data requests

2. Discussion of defining tax expenditures

3. Continued discussion of guiding principles for tax expenditures

TAX EXPENDITURE COMMISSION

Monday, February 6, 2012 Meeting

Comptroller's Conference Room B, One Ashburton Place, 9th floor

11:30 a.m. – 1:00 p.m.

Continued discussion of, and vote on adopting, guiding principles for tax expenditures.

TAX EXPENDITURE COMMISSION

Tuesday, March 6, 2012 Meeting

Comptroller's Conference Room B, One Ashburton Place, 9th floor

11:30 a.m. – 1:00 p.m.

1. Vote whether to allow necessary remote participation by Commission members

2. Data update by DOR

3. Begin discussion of Commission recommendations for April 30 report, including process and schedule

Appendix 12. Minutes of Tax Expenditure Commission’s meetings

Tax Expenditure Commission – Initial Meeting
State House – Room 157
October 12, 2011

Members in Attendance
Jay Gonzalez, Secretary of Administration & Finance, Chair of Tax Expenditure Commission
Rep. Jay Kaufman, Chair of House Revenue Committee
Sen. Stephen Brewer, Chair of Senate Ways and Means Committee
Rep. Brian Dempsey, Chair of House Ways and Means Committee
Rep. Steven Levy, Designee of House Minority Leader Bradley Jones
Alan Clayton-Matthews, Member of Governor's Council of Economic Advisors
James Stock, Member of Governor's Council of Economic Advisors
Al Gordon, Designee of Treasurer Steven Grossman
Laura Marlin, Designee of Auditor Suzanne Bump

Minutes
Secretary Gonzalez: Welcome to the first meeting of the Tax Expenditure Commission. I want to first thank everyone for being here. I would like to go around the table and have the members of the Commission introduce themselves.

(Members of the Commission each said their name and professional title.)

Secretary Gonzalez: I would now like to have David Sullivan, the General Counsel of Administration & Finance, provide an overview of the Open Meeting Law, which governs the meetings of this Commission.

(David Sullivan provided a brief overview of the requirements of the Open Meeting Law, distributed the required materials to all of the Commission members, and obtained signed Certificates of Receipt from all members present.)

Secretary Gonzalez: Tax expenditures are a way of spending taxpayer money. Tax expenditures in the Commonwealth equal roughly $24B, which is more than total amount of tax revenue that we collect. If we were to eliminate every tax expenditure, we could lower the tax rates accordingly, income tax to 3.7% from 5.3%, sales tax to 1.4% from 6.25%, and the corporate tax to 5.0% from 8.0%, all while remaining revenue neutral. That gives you a sense of how significant these tax expenditures are.

I also want to point out that progress has been made over last few years. This Administration has an excellent track record in this regard. For example, this Administration has introduced a competitive process for receiving tax credits in the Life Sciences industry that includes aggressive clawback mechanisms if companies receiving those credits do not live up to their promised investments. In addition, last year Governor Patrick and the Legislature enacted legislation to increase transparency of ten specific refundable or transferable tax credit programs by making information about award recipients and amounts of awards available to the public on the web. Finally, the 2012 budget proposed by the Governor and passed by the Legislature creates a new Office of Commonwealth Performance, Accountability, and Transparency, whose

task it is to move the Commonwealth towards performance management. These are all positive steps, but there is certainly more that we can do. And, this Commission will help in that endeavor.

The tax expenditure budget has never been thoroughly and comprehensively reviewed by the Commonwealth. The tax expenditure system represents years and years of ad hoc decisions. There is no real, comprehensive rationale holding all the tax expenditures together. One goal of this Commission should be to start from the understanding that no tax expenditures are sacrosanct, in essence start from scratch. Some questions that this Commission should consider are: What is an appropriate purpose for using a tax expenditure for achieving certain goals and objectives? What are the right criteria to decide what is an appropriate use? What are the objectives of the entire tax expenditure system? How do we measure the success of individual tax expenditures, and whether or not they are accomplishing those goals? We need to take a fresh, comprehensive, and bold look at this system. We've got a group of smart, insightful people to do this. I'm optimistic about our ability to develop thoughtful policy recommendations for the Commonwealth.

I should also say that the Tax Expenditure Commission is not charged with deciding how any new revenues obtained through the possible elimination of any tax expenditures would be spent. Our goal is to develop a rationale regarding the tax expenditure budget. How do we make it more efficient and effective to be sure that we are stretching every taxpayer dollar as far as possible. Furthermore, the Governor has said that simplifying the tax code, in and of itself, is one of his goals. Right now, the tax code is too complicated. This discussion about tax expenditures will certainly be part of that solution as well.

That was an overview of the charge of this Commission. I would now like to get your thoughts and reactions.

Rep. Jay Kaufman: I agree that the tax expenditure system is a collection of ad hoc decisions, which are not collectively justifiable. I would also like to say that the creation of the Tax Expenditure Commission is very exciting. Like Secretary Gonzales said, this Administration has made some progress, but there is more to do. One question that I think we should ask is, What is rational public policy in regards to tax expenditures? I think it's safe to say that no other State has looked at this, and the federal government is grappling with this issue, too.

In addition to the Secretary's goals, I have two more to add. First, I think we should establish some quantifiable goal for a reduction in scale of the tax expenditure budget, whether it be an amount by which we want to reduce tax expenditures or a goal for the percentage of state tax revenue that tax expenditures should comprise. Some long-term goal or range is necessary. Second, I think we must make this Commission as public as possible. We are going to have to make some very difficult choices. Each tax expenditure has a constituency, and there will be political consequences to eliminating any of them.

Sen. Stephen Brewer: It's very true that many things in the tax code were pushed by specific individuals in a specific time. And, we haven't looked at tax credits or tax codes in a long time. However, there is a sense that we can do this. This is possible. We have made incredible strides in the past few years. But, we must also be realistic. Whatever we recommend has to be able to get the votes. The tax code should be kept in line with the changing times, with the technological

world that we live in. And, tax expenditures need a review from time to time. We must also keep in mind that some of them are very, very important. Not taxing food or clothing, for example. What we should strive for are reforms that are good for taxpayers, good for government, and good enough to get 81 votes in House. This is not about slogans; it's about real change. Let's get to it.

Rep. Brian Dempsey: Our goal should be to look at "ROI" for these credits. We need a deep assessment of what we're actually getting in return for these tax expenditures. It's a daunting task. But, we must do it to make structural change in challenging times.

Al Gordon: Nobody set out to create $24B in tax expenditures. The tax expenditures represent a host of ad hoc decisions. We have a very different economy today, and we must take a look at tax expenditures with that in mind.

Laura Marlin: The Auditor Suzanne Bump is most interested in bringing accountability to the entire system. We must have clearly identified goals and regular reviews of the effectiveness of this endeavor.

Rep. Steven Levy: I fully embrace the charge of the Tax Expenditure Commission. However, we should keep in mind that tax expenditures were put in place to address the shortcomings of the tax code itself. We have to keep in mind the effects that elimination of certain tax expenditures would have on people.

Jim Stock: I am really impressed with the House, Senate, and Governor's Administration in their efforts to create more efficient government. This Commission is just another step forward. I am very encouraged that you have invited people with more academic backgrounds into the process. Academic ideas will only help this process. I am very excited about the open-mindedness of process.

Alan Clayton-Matthews: I am less certain that we can actually recommend large reductions in tax expenditures. I think we should focus on creating a way to evaluate tax expenditures. I feel this way because many of these tax expenditures are the results of political decisions. We can focus on arguments for various tax expenditures, like efficiency. We should also focus on the allocation of resources, as well as redistribution and fairness. But, those topics, too, are subject to political considerations. I think we can do a lot to set a framework for evaluation, but we have to be realistic in the amount of recommendations in cuts of tax expenditures that we can actually propose.

Secretary Gonzalez: Thank you, everyone, for your thoughts. I want to thank Jim (Stock) and Alan (Clayton-Matthews), particularly, for agreeing to be on the Commission. They will bring their expertise.

Now, I want to turn it over to the new Commissioner of the Department of Revenue, Amy Pitter. She will provide a very high-level review of tax expenditures. Then, we will follow with a discussion of what information we would like DOR to gather to help the Commission in its efforts.

(Commissioner Pitter provided a high-level overview of the tax code and tax expenditures. Please see attached presentation document for more detailed information.)

Secretary Gonzalez: Thank you, Commissioner. Now, we should discuss what information we feel would be helpful for the Commission? Here are some preliminary thoughts that I had. We should have: 1) a list of all tax expenditures in the tax code 2) a description of the history or genesis for each tax expenditure. What were the goals or objectives of each when they were created? 3) a description of the intended beneficiaries of each expenditure, and how are they intended to benefit? We should also have some information about the quantitative implications on those beneficiaries if a particular tax expenditure were eliminated. 4) a description of the revenue impact of each tax expenditure on the budget 5) a comparison between our tax expenditures and those of other States and the Federal government 6) a description of how the ratio oftax expenditures to revenue in Massachusetts compares to that of other States and 7) descriptions of "accountability" best practices in other States and the Federal government in regards to tax expenditure budgets.

Rep. Dempsey: We should also have an account of what the tax credits have produced in terms of development, jobs, revenue, economic stimulation, etc.

Al Gordon: It would be great to have trend lines and time lines, represented in graphical terms, of information regarding the implementation of different policy decisions, for example, sunset provisions.

Representative Denise Andrews (from the audience): In addition to exploring what other States and the Federal government are doing, we should also explore what other countries are doing. Some are more progressive than us.

Secretary Gonzalez: Thank you for your thoughts. My assistant, Julissa Tavarez, will coordinate schedules for the next meeting. My goal is to meet every three weeks. We will try to get the materials from DOR before that next meeting. I would like to strive for building a consensus amongst ourselves regarding the adoption of general principles by December. Our ultimate goal is to complete our work in April of 2012. Are there any other questions?

Alan Clayton-Matthews: How will we get the information that DOR will be compiling?

Secretary Gonzalez: I will ask that DOR pass the information along as it becomes available, rather than waiting until they have compiled all of it. I must confess that I have no complete sense of how much work this will be for DOR. But, I know it will be an all-hands-on-deck effort.

Sen. Stephen Brewer: I also think that it's important in terms of messaging that we are not trying to increase tax burdens on citizens. This is more about looking at the history of tax expenditures. And, we need to be thinking well into the future.

Secretary Gonzalez: As was mentioned, many decisions to implement tax expenditures were made in a different economic time and reality. We need to develop a rationale for tax expenditures that we keep for this new economic world so that we can ensure that we are stretching every taxpayer dollar as far as possible.

Thank you! We are adjourned.

Tax Expenditure Commission – Second Meeting
Comptroller's Office
November 2, 2011

Members in Attendance
Jay Gonzalez, Secretary of Administration & Finance, Chair of Tax Expenditure Commission
Alan Clayton-Matthews, Member of Governor's Council of Economic Advisors
Jim Stock, Member of Governor's Council of Economic Advisors
Al Gordon, Designee of Treasurer Steven Grossman
Suzanne Bump, Auditor
Staff Members representing Sen. Stephen Brewer, Rep. Jay Kaufman, Rep. Brian Dempsey, Rep. Steven Levy, and Sen. Gale Canderas

Others in Attendance
Amy Pitter – Commissioner of Revenue
Kazim Ozyurt – Acting Director, Office of Tax Policy Analysis

Note: Any statements made by Amy Pitter or Kazim Ozyurt have been attributed to DOR.

Minutes
Secretary Gonzalez: Thanks everyone for being here. Both the House and Senate are in formal session today, so many of the legislators on the Commission are not here today, but we do have many staff here representing them. As a first order of business, I would like to ask if there is a motion to accept the minutes of our last meeting.

Al Gordon: I so move.

The motion was seconded, and the minutes were accepted by a unanimous vote.

Secretary Gonzalez: At our last meeting, we charged the Department of Revenue with gathering a lot of data that we thought would be helpful for our work, and I have asked them to walk us through what they have accomplished so far. They have done a lot of work, but there is a lot left to do. All of the data that they have gathered so far is available on DOR's website, accessible by everyone here, but also by the public. And, DOR will continue to post additional information as it becomes available. After DOR walks us through its progress, the Commission members will be able to ask questions about what's remaining or about what this data actually means. We will then start a discussion about the general principles that will guide this Commission with the hopes that by next month we will have a draft of those principles. With that, I will turn it over to the Commissioner of Revenue Amy Pitter.

DOR: Thank you, Mr. Secretary. As Secretary Gonzalez was saying, we have set up a website as a depository for this information. It's a living page, so we are going to be updating it very frequently as new information becomes available. For now, we are just going to walk you through what's currently available.

If you take a look at the roadmap that we've provided, the first thing of note is the list of every tax expenditure in the Tax Expenditure Budget. We'vealso created a database that you can search easily. It includes information for each expenditure, such as the value in foregone

revenue of each expenditure, the statutory authority for each, the typical beneficiaries, et cetera. We're going to continue developing this database as more information becomes available.

Suzanne Bump: How will you categorize the typical beneficiaryof each expenditure?

DOR: That's a good question. We will have to develop this as we go along based on institutional knowledge, reading legislation to try to uncover the original purpose of the expenditure, et cetera.As we do this, we will try to be as objective as possible.

Secretary Gonzalez: This is a key issue. And this is an area where DOR has much more work to do. Now, while we have made progress in reporting the expenditures and publishing the Tax Expenditure Budget, they are often categorized in ways that are unhelpful for policy makers. I am hoping that this Commission, with DOR's help, can strategize about how to best characterize these expenditures.

DOR: One important category to note is the non-taxation items. There is some disagreement about whether these should be labeled tax expenditures.

Secretary Gonzalez: The best example of that is the exclusion of the sales tax on services. That has been categorized by DOR as a tax expenditure. However, some people feel that it shouldn't be a tax expenditure, and there is an important conversation there. Another goal I have for this Commission is to agree on a definition of what constitutes a tax expenditure. That will help us as we move forward.

DOR: We have also gathered some information about how our tax expenditure budget compares with those of other states. We determined early that it would not be helpful to look in depth at every state, so we looked first only at those states that publish their tax expenditure budgets. We then narrowed it down to the most helpful states, those that are most like Massachusetts in a few key ways. Looking at every single state would be too resource intensive.

Secretary Gonzalez: However, if people think we should dig a layer deeper, we can do that.

Jim Stock: There is also a problem in that the states report their tax expenditure budgets differently. Some, like Delaware, don't have a sales tax, so the ratio of tax expenditures to revenue is not entirely comparable with ours.

DOR: This is a very high-level look, so we have to keep that in mind when using this data.

Al Gordon: What if the ratios were broken out by sales vs. income tax? That might get us a little closer to being able to compare across states.

Secretary Gonzalez: Maybe we could look at states that have similar tax systems and compare Massachusetts to those.

Jim Stock: I agree with Al's suggestion.

Al Gordon: We should also look at states that are competitive with Massachusetts in some ways. For instance, North Carolina would be a good example because a business looking to locate somewhere might compare Massachusetts to North Carolina in deciding where to locate.

DOR: The states that we have chosen so far are CA, CT, MI, NY, NC, OH, RI, TX, VA, WA.

At the last meeting, there was a request for some data regarding accountability best practices in other states. For example, the use of clawbacks or sunset provisions. We have done a survey of the literature and provided the literature on the website. But our next step is to go through it ourselves and summarize it.

Someone also asked for comparisons with other countries. We have provided some literature on this topic, but we are not going to perform in an in-depth analysis of this information ourselves. But, it is available on the site.

We've also compiled some literature regarding the relative effectiveness of different types of tax expenditure tools, such as tax credits, deductions, or even non-taxation, at accomplishing certain types of objectives. We have identified and compiled the literature, and now we must go through it and summarize.

Suzanne Bump: I have a suggestion. Could we somehow keep track of when this page is updated, so that we can be sure to use the most recent information?

DOR: Yes, we can probably set up a notification system by which you receive an email every time a change is made to the page.

We were also asked to compile a historical account of each tax expenditure. This involves sifting through the legislation and legislative histories of each expenditure, which is a daunting task. At this point, we have identified the statutory references, including amendments, and have also indicated where a certain expenditure is based on the federal Internal Revenue Code.

Jim Stock: Will it be clear which expenditures are adopted from the federal tax code and which are homegrown?

DOR: Yes.

Jim Stock: That is an important discussion because those two types may receive different levels of scrutiny.

DOR: We're also going to look much more deeply at the 10 states identified earlier. What do they do that we are not doing, and vice versa?

Jim Stock: We should also consider not just whether it comes from federal tax code, but also how it interacts with the federal tax code. Is something federally deductible or not? For example, if you reversed a particular tax expenditure, what would be the effect with tax deductibles at the federal level?

Secretary Gonzalez: Right. So you want to explore if there is a partial offsetting benefit, at the federal level, to getting rid of a tax expenditure?

Jim Stock: Yes. For example, if you got rid of a tax expenditure worth $100, there may be a $30 offsetting benefit at the federal level, so the state keeps $100, but your personal tax burden would only rise by $70. We should take this into account when we are looking at all of our expenditures.

DOR: We are also trying to compile a clear statement of goals and objectives that drove each tax expenditure when it was adopted. Again, we have totry to read the legislation neutrally to see if we're able to come up with a clear statement. Some of this should become available by the end of next week.

Secretary Gonzalez: For example, if the goals are specifically stated in the statute, like for the Life Sciences tax credits, we should note that.

Al Gordon: What if a purpose has changed? I could imagine this to be the case for a few of them.

DOR: It was also suggested at our first meeting that DOR should try to produce an account of what each tax expenditure has achieved in the way of job creation, revenues, et cetera. This may take some time and integration with other agencies, but we will work on this.

Secretary Gonzalez: We should also keep in mind that some tax expenditures were not meant to create something, but to help someone. Maybe what we are really looking for is data regarding whether the tax expenditure is furthering the objectives that it was created to further.

Suzanne Bump: I agree. Also, on some, like the film tax credit, there is a lack of agreement about how many jobs it has created. How are going to resolve those disputes?

Alan Clayton-Matthews: On many of these, there will be disagreements about how successful they have been. So, perhaps we can agree on some standards for measurements. That would be very useful.

Jim Stock: Things like jobs created ordollars brought into this state.

Secretary Gonzalez: Based on this discussion, maybe DOR should focus on developing any information at all about goals and objectives and hold off on whether or not we are furthering those goals and objectives.

Alan Clayton-Matthews: It would be useful if they were able to identify studies that estimated the number of jobs created, if they are easy to get. That would be useful.

Jim Stock: We will need some quantitative measures, either dollars spent or jobs created.

Secretary Gonzalez: DOR should compile that.

DOR: We have to say that we were a little confused by this last request for graphical trendlines or something to that effect.

Al Gordon: That was my request. It's basically just that we have some visual depictions of the data that you are collecting in your database, such as the value of the tax expenditures over time.

Secretary Gonzalez: Knowing the change in value over time may help us understand what's going on behind it.

Suzanne Bump: One more dimension that would be helpful in interpreting a chart like that would be the number of beneficiaries of each expenditure because the change won't say much without knowing how many people it affects.

Secretary Gonzalez: Is there any more information that we need? Thank you, Commissioner Pitter and Kazim.

We have about 15 minutes left, and I would like to at least begin a conversation about the overarching, general principles that should be guiding our work as we strive to fulfill our statutory charge.Having clear objectives will only help us.

One of my goals is that I want us to take a big step back, and start from the ground up. I want to really think about the ways in which we are using our tax expenditure budget and ask "when shouldwe be using this form of taxpayer spending?"We should also strive to have clear data showing whether tax expenditures are furthering their objectives. In addition, transparency in this process is very important.

As we begin to think about our guiding principles, I want to keep this part of the discussion very high level for now. For example, is there some consensus around whether there should be enforcement mechanisms in our tax expenditures, like clawback provisions, or should there be a regular review of our tax expenditure budget? How should we think about what our tax expenditure budget should be? How we should manage it, and what should we use it for?

Suzanne Bump: I just want to clarify, are your goals exclusively around the tax expenditure budget or are we thinking about the goals of the overall tax code? There are all kinds of value that we can bring to the tax code. Or is it only related to tax expenditures?

Secretary Gonzalez: Well, you are right that they are certainly linked. But, our specific charge is related to the tax expenditure budget. One reason for that is that it is a whole area of spending which we have never examined in a systematic and intentional way, and for which there is no overarching rationale. The Tax Expenditure Commission is charged with looking at the tax expenditure budget and providing recommendations.

Suzanne Bump: Perhaps the more realistic goalis to focus on standards for the tax expenditure budget rather than making policy recommendations about the values we want our tax code to achieve.

Al Gordon: However, there might be some policy objectives that are not so political as to be outside the scope of this Commission. For instance, growing the economy might be a big picture goal. Everyone would likely agree with that.

Alan Clayton-Matthews: To the extent feasible, we should also apply a cost-efficiency test to every tax expenditure. This goal is not that political. We should also look at the original objective of each expenditure and see if there is a better way to accomplish that goal than through the tax expenditure. If so, we should do it in that better way. In other words, is there some other way to further a specific goal than through the tax expenditure? For example, one alternative may be not having the tax expenditure at all.

Brendan Grealey (representingRep. Jay Kaufman): One thing that I know that the Chairman was hoping would come out of this process is a commitment to look at the tax expenditure budget on a regular basis, maybe every three years or so.

Secretary Gonzalez: That relates to the high level of transparency around the tax expenditure budget. This is the firsttime that this has been done, and that is great. But this Commission should continue to further that goal.

Jim Stock: At the federal level, it's simpler because there is a large participation rate. Much can be achieved by base broadening. However for Massachusetts, it's much more complicated because we are just a small player. Unlike the federal government, we have the risk of exporting jobs to other states. We must also undertake a stringent cost-benefit analysis. We have to realize that the actual costs may be higher than value of the individual tax expenditure.

Secretary Gonzalez: This is a helpful conversation. In preparation for the next meeting, we will try to synthesize this conversation and get something toyou beforehand, so that we will have a starting point for the next phase of this discussion. Our next goal will be to have a more in depth discussion of principles. Maybe we will also consider at our next meeting how DOR has defined tax expenditures for our purposes.

I will ask my assistant to keep in mind legislative calendars so that legislators can attend the next meeting.

If there is nothing else, we are adjourned.

Tax Expenditure Commission – Third Meeting
Comptroller's Office
December 7, 2011

Members in Attendance
Jay Gonzalez, Secretary of Administration & Finance, Chair of Tax Expenditure Commission
Alan Clayton-Matthews, Member of Governor's Council of Economic Advisors
Jim Stock, Member of Governor's Council of Economic Advisers
Rep. Steven Levy, Designee of House Minority Leader Bradley Jones
Suzanne Bump, Auditor
Marita Callahan, Designee of Rep. Brian Dempsey, Chair of House Ways and Means Committee
Jennifer Saubermann, Designee of Sen. Stephen Brewer, Chair of Senate Ways and Means Committee
Rep. Jay Kaufman, Chair of House Revenue Committee
Al Gordon, Designee of Treasurer Steven Grossman
Staff Members representing Senator Gale Candaras and Senator Michael Knapik

Others in Attendance
Amy Pitter, Commissioner of Revenue
Kazim Ozyurt, Acting Director, Office of Tax Policy Analysis
David Sullivan, General Counsel, Executive Office for Administration & Finance
Kevin Brown, General Counsel, Department of Revenue

Note: Any statements made by Commissioner Pitter or Kazim Ozyurt have been attributed to DOR.

Minutes
David Sullivan: Good morning everyone. I know you probably weren't expecting me to start things off, but since Sec. Gonzalez is going to be a little late we are going to go ahead and begin. Why don't we start by going around the table and noting everyone here today.

(Members of the Commission and designees give their names.)

David Sullivan: Our agenda today is threefold. First, we're going to hear a data update from DOR regarding various requests from our previous meeting. Then, we will discuss the definition of a tax expenditure, and finally we will resume the discussion of our principles relating to tax expenditures mentioned in the last meeting. Is there a motion to approve the minutes from our last meeting?

A motion was made and seconded, and the minutes were accepted by a unanimous vote.

David Sullivan: So with no further ado, I will turn this over to DOR for their report.

Commissioner Pitter: I think that Kazim will give updates on the previous requests, and then I'll discuss the definitions.

Kazim Ozyurt: After working on the requests for data from the last meeting, most of the requested work has been done. Some areas were easy, others require some progress and others require further review, but we wanted to share with you what we have so far. We have identified certain areas about which information was requested. I'd also like to point out that this information is currently being updated on our website. We had a glitch yesterday and were unable to post it, but it should be up shortly. I can also email this for easier sharing.

DOR areas and brief overview of discussion with regard to each:

1) Ensuring that materials are posted with an "updated as of" date.
2) Categorizing whether a particular tax expenditure is based on Massachusetts General Laws or the Internal Revenue Code.
3) Creating an expenditure per capita basis and comparing it with other states.
4) Inserting a category indicating whether current beneficiaries of tax expenditure items would face offsetting tax effects with expenditure elimination.
5) Creating a historical account of Massachusetts tax expenditures. There are currently charts demonstrating various amounts thatwill be adapted to reflect major case law changes within the historical timeline.
6) Inserting a category of the goals of certain tax expenditures as indicated by statute. It seems few statutes actually include specifically identified goals, however the title of most statutes still provides a reasonable explanation.
7) Inserting categories indicating whether or not a particular tax expenditure requires approval, and if so, approval by whom; whether it includesclawback provisions; and whether it includes sunset provisions.
8) Generating an account of what certain tax credits have created in terms of jobs, revenue, etc. This is currently in progress but may require extensive studies in order to complete.
9) Introducing a category that indicates not only a tax expenditure's amount but also its budget function with regard to its beneficiaries and a brief description of those identified beneficiaries.

Following DOR's presentation:

Alan Clayton-Matthews: I have a question. When you say estimated beneficiary count, is this a number of companies or a total number of beneficiaries? It seems that you mean, for example, forty is forty tax filers?

DOR: Yes, this is what we mean when we say beneficiaries, but again this will all be double-checked. We have other categories like this, for example most of the legal references and

enacting statutes here will all be double-checked. As you remember, there were also requests about accrued credits. I'm just moving around here to show you some credit programs, what the agency approving it would be, and to explain certain groups.

Secretary Gonzalez: Kazim, I know at one point we had talked about this column "administering agency," and what we are trying to identify is when there is a state agency which has some discretion as to who gets a credit as opposed to when an agency, such as DOR for example, just approves or qualifies based on criteria. I think we should use this column to identify that.

Auditor Bump: Recently, we were talking to a tax policy expert, and his way to distinguish was between tax expenditures that may be entitlements rather than those that might be discretionary. So, that may be helpful.

Secretary Gonzalez: Right, so for example, I would take DOR out of that column.

Kazim Ozyurt: Right. So as I had also mentioned, there is the clawback question. Some of these expenditures require clawbacks. We have a clawback statute, but there are also questions about sunsets. Are there any tax expenditures with caps or sunset provisions? We've identified several of these.

Also, we asked if there are some areas that we don't tax. Are there some types of goods we don't tax? Also, are there any offsetting tax considerations? There may be some ramifications on the corporate side that we'll have to work through, but on the income side they're relatively easy to identify. So, we indicated that here as well as a description of how this expenditure is going to work its way through the system.

Are there any other questions, requests, or updates? This is supposed to be on the website. One other thing I would mention, the charts. These have to do with the historical account of the tax expenditures, and how many expenditures historically have come in and out. As to the amount, we have created two charts, one with services and one without. We are happy to answer any questions or suggestions you might have for these charts.

Secretary Gonzalez: First, let me apologize for being late, but Kazim and the team at DOR have obviously done a great amount of work in a short amount of time. This product in and of itself is amazing. You know, this is an area that hasn't been evaluated in this way before, and I want to thank DOR for informing us more on what we're talking about.

Chairman Kaufman: I want to add my congratulations and thanks. We've been looking at other states, and this blows it away with the level of detail and specificity.

Alan Clayton-Matthews: Can I take a moment to have you explain the nature of the tax expenditures in these charts? I'm thinking about the first chart here with sales tax.

Kazim Ozyurt: [Explaining some details of the charts and sizes of exemptions and breaks.]

Secretary Gonzalez: Auditor, did you have a question?

Auditor Bump: So, with regard to this cart, it doesn't include the value of income lost because of the way we define the business materials exception. Because they are not part of the tax code, we don't have a group for them?

Commissioner Pitter: You know, because it's a retail and sales tax, it's supposed to be overall. But, you get into gradations and taxes within there that are grey areas. What you'll find is there is disparate treatment. Some are exempt and some are not exempt. Of the ones that are exempt, where clearly not a part of the tax base structurally, we include as an exemption.

Alan Clayton-Mathews: So, like a dumpster? It's captured here because it is an exemption.

Kazim Ozyurt: Yes, you see here we include all these exemptions, identified by exemption, and then we try to estimate them. They are exempt for whatever purpose, but the attempt has been to estimate the [financial] impact if they are specified.

Auditor Bump: I have one other question, and this one goes to the description of beneficiaries. I think it's one thing to identify the intended typical beneficiary and another to make clear, in the interest of evaluating tax equity or effectiveness, who the actual recipients are. Maybe by size, geographic location, industry type, is this something it's possible to do?

Commissioner Pitter: So you're saying categorize what these corporations look like, or are you asking to get to the secondary level of beneficiaries?

Auditor Bump: No, an analysis of who the beneficiaries are. Is it predominately benefitting one industry more than another or one group more than other groups?

Kazim Ozyurt: You know, we do capture data from certain items and for certain ones its less possible to do. Many come from federal statute, so the category is broad. We may know the profile but not the actual distributionary patterns. So yes, some could be done, but it may be impossible to do for all of them. It still may not answer your question of effectiveness yet.

Auditor Bump: Yes, I fully understand that this isn't quite a cost/benefit analysis. But, is there a way to see more clearly if it has achieved its goals or benefits?

Secretary Gonzalez: I really want to move on to these other topics, so maybe this is a good segue to how we should be defining tax expenditures from this commission.

I'd like to first ask Amy Pitter to please discuss how DOR is interpreting this, per our statute. Since it is sometimes a little unclear as to what we include, I'd like Amy to walk through one more time how we approach it and get a sense of whether this is something the commission wants to debate. To the extent that it's not, we can quickly move on to the guiding principles we want to adopt. However, if there is some difference of opinion, we can bring it back.

Commissioner Pitter: I'd like to refresh everyone's memory from the first meeting. As you recall, the general definition is that any exclusion, deduction or deferral that reduces the theoretical maximum and its revenue forgone is a tax expenditure.

There are a couple of things to point out. Here, we looked specifically at three things. The way we've looked at it further is broken down from this, but there are other areas we certainly note. A few other things, the Massachusetts definition talks about exclusions, exemptions and deductions but not about deferrals. However, deferrals are examined more by economists, and we do use these. Are there any questions in general?

Chairman Kaufman: I have a quick question. If we used the term "business" as opposed to "corporation" does that still cover it? Is shifting here a downside or complication?

Commissioner Pitter: No, we can do that. If in the future we want to bring financial institutions into the budget, we don't have to change anything.

Secretary Gonzalez: So in this number, exemptions for some of these businesses that are not corporations, the value of this lost revenue is not included?

Kazim Ozyurt: Some are and some are not. For example insurance companies, we now just try to put it in the corporate category and use it generally, but if this is extended we can modify it.

Secretary Gonzalez: Does anyone feel like we shouldn't be including this? If the reason we aren't is just a statutory definition, we can possibly change it. But for now, I think we should include it.

Representative Levy: Another question, when you talk about general provisions, are you talking about a separate act that creates them? If you exclude something particularly, it was never intended to be a part of the base. Are you considering this as well, or are you just talking about different changes in the base?

Commissioner Pitter: Well, there's a debate about this.

Secretary Gonzalez: But the fact we don't tax our services, is that defined in the original code establishing it or is that a separate regulation that says we want to exclude this? If it's in the original law is it still considered an expenditure?

Jim Stock: I think it's useful not to get too bogged down in the details but focus on broad concepts. You have the taxation of individuals and then those expenditures. You have taxation of income of businesses, and any deduction from that would be an expenditure. Then, on sales there's a question of whether you go on the VAT concept, and that's where there's some confusion. I believe we have a retail tax concept rather than a VAT concept with regard to the end consumer. I think the first two are consistent with the broader concepts, and then sidestep all these minor statutory definitions. We don't want to get too bogged down in the legislative history.

Secretary Gonzalez: I think this makes a lot of sense, and it's consistent with the way DOR approaches this.

Jim Stock: Well yes and no. I do want to focus on the sales tax concept. With a VAT, the exemption would be treated differently.

Secretary Gonzalez: If it's okay, let's have Amy go through a few other things.

Commissioner Pitter: Yes. So, for the most part, we do take a more theoretical view. We do consider the non-taxation of services, rental property, etc., to be tax expenditure items.

Jim Stock: If final consumer?

Commissioner Pitter: Yes. Again, we want to categorize this, but you get into shades of grey. You get into pyramiding.

Jim Stock: Yes, I think that is quite clear. But, for example the exemption in the dumpster case is for the garbage collection services not the dumpster itself.

Commissioner Pitter: Yes, I think sales and retail is a bright line. But, if you take two things and put them together and that becomes the manufactured item for sale, then you get into other questions of exemption.

We wanted to mention the grey areas again and then move on. We talked about personal expenditures and exemptions. Things like no tax status, we don't consider this. We consider it structural and progressive not a tax expenditure.

Moving on to federal, as we've discussed before some tax expenditures are just piggybacks. We do still quantify these, but they don't lose their qualification. A related issue, as I've mentioned before, is the concept of a deferral, which note. The final thing, again we talked about this before, is noting tax expenditure items that benefit organizations and not strictly corporations.

Chairman Kaufman: In anticipation of the next conversation, it seems we ought to adopt as a principle that any deviation from 100 percent collection seems to be agreed on as a tax expenditure.

Auditor Bump: I agree with that, but I have a historical question. You're working off a definition from when, 1984? Has there been a change in the DOR's approach to this over time? The last really detailed tax expenditure budget is from 1991, and they go into some discussion for the layperson. I found it pretty valuable. Has this approach been consistent over time?

Kazim Ozyurt: Yes, I think for the most part it has been consisted with regard to definitions and treatment. I don't have specific studies or statistics, but we have tried to be as inclusive as possible with our groups and these have been consistent.

Secretary Gonzalez: Chairman?

Chairman Kaufman: Quickly, I just want to confirm that sales is definitely retail sales and not VAT. We may want to revisit this, but not now. One other question, do we capture lost sales due to internet sales in this definition?

Kazim Ozyurt: We have certain estimates, but that's not complete. Those forgone revenues are not currently included.

Alan Clayton-Matthews: I'm still confused about this retail sales thing. Certain items are taxed and certain items are not taxed with regard to goods versus final goods. What do we count as an expenditure?

Kevin Brown [from the audience]: I think I may be able to address this. I would say that if you're talking about retail sales, there are retail sales to businesses. I think this is where you get to the line with the VAT as I understand it. Sales to a business, again, can be retail. They are the final user. With a VAT, it's more of a pyramid.

Alan Clayton-Matthews: So retail sales is as to final use.

Jim Stock: So, I think the logic is right. The retail sales idea is falling on the last consumer and VAT is breaking this up along the way.

Kevin Brown: Another way to view it might be that yes, these are tax expenditures but it's good policy. There's a certain level of pyramiding built into this. But it just may be there are some tax expenditures that are appropriate to avoid multiplication.

Chairman Kaufman: So we may just have to live with the grey zone.

Secretary Gonzalez: If people are a little uncomfortable, I think we can just look at it as DOR has been defining it with the grey areas and proceed on this basis, except for including all businesses not only corporations. To the extent people want to revisit this, or as we get into it if people think we should take an affirmatively different definition of tax expenditures we can revisit it. I think just for the purposes of having something to work with, we should go with the more inclusive definition and work from there.

Jim Stock: Yes, I think with one caveat that if we're looking at this with a different tax concept than what we have now, we can recognize that. I think this is different from a tax expenditure.

Secretary Gonzalez: I'm not sure that this is exactly the case, but I think all of you who consider this a lot, if you're really focusing on the theory behind it and inconsistencies, please bring it to our attention.

Auditor Bump: I encourage you all to look at this. I found it provided a really good presentation of the issues that may be helpful to walk us through it.

Auditor Bump distributed copies of the 1991 tax expenditure budget.

Secretary Gonzalez: I think our report, rather we resolve all this or not, should point out these issues.

So, we can move on to our third item of the day. Looking at these principles, I think we've been charged with something new. I hope this commission can make thoughtful recommendations to the legislature and governor about what we can do differently within our budget. The composition of this commission really says something about the type of work that the legislature is trying to get at the end of the day.

Secretary Gonzalez distributes his proposed list of principles.

Secretary Gonzalez: I think that this list has been informed by the discussions we've already had. I put this out just as a starting point for discussion, and I want to dedicate the entire following meeting to really discussing this and hopefully putting to a vote some final recommendations as to what our principles are.

Secretary Gonzalez discusses his list of proposed principles:

1) The tax expenditure budget is one element of a tax system that should, in its entirety:
    a. Provide adequate revenue to consistently support a desired level of government services
    b. Be as equitable as possible while recognizing differences in taxpayers' capacity to pay taxes
    c. Reflect our values and our public policy objectives
    d. Be as simple and efficient as possible
2) Tax expenditures are a form of taxpayer spending and should be treated as such by government policymakers
3) There should be a comprehensive, rational, policy-driven and analytic approach to our tax expenditure budget. Each particular tax expenditure should:
    a. Have a clearly identified public policy purpose
    b. Be subject to a regular, data-based, cost-benefit analysis
    c. Be subject to a regular review by the Legislature and the Governor
    d. To the extent the tax expenditure is dependent on certain conduct of the tax beneficiary and/or is approved and awarded pursuant to the discretion of an administering agency, it should be subject to well-articulated standards of accountability with appropriate enforcement mechanisms
4) Ideally, in the interest of simplicity and equity, the total number of tax expenditures and the total amount of foregone revenues from the tax expenditure budget (or the total cost of the tax expenditure budget) should be reduced
5) Policymakers should not be beholden to the status quo – a fresh look at how to achieve desired objectives through a tax expenditure budget is warranted
6) Policymakers and the public need and deserve transparent, well-developed data regarding the tax expenditure budget

Al Gordon: One point I'd certainly like to suggest is the need for efficiency and efficacy for the tax code. I think this should also be done for the tax expenditure idea. I'd like to think about goals for both strategy and tactics. For example, growing jobs, tactics could be breaks in those specific industries. I think these will change as the economy evolves, but our principles will stand much longer. Maybe we can think about these goals broadly.

Chairman Kaufman: First of all, I like this very much. I might quibble a bit with the wording. I think the priorities will require periodic reviews of both the particular expenditures and the goals we want to achieve. I think we should really have a conversation about what our priorities are and make that a part of the principles. I think we should include as a set of principles a little more specificity about what a good report and transparency really mean. We could put this into some sort of list or even legislation if necessary. We might include, as a principle, a definition of a tax expenditure that will evolve. Lastly, I don't know if we want to adopt this or not, but in many conversations there's a preference for tax expenditures that have a broad impact as opposed to those with very specific ones. We might want to say that we have a priority for expenditures with a very broad impact. I think we might want to make that a sort of rule and then highlight possible exceptions.

Secretary Gonzalez: I think these are great comments. We will reflect them in the minutes and come back to them in the next meeting.

Jim Stock: I would add a general item that we promote economic efficiency and economic growth, and I think that's consistent with what we are all saying. We can come back to that.

Representative Levy: You know, just a philosophical issue to note. This is taxpayer money. I think that tax expenditures as a form of taxpayer spending could be reworded to tax revenue spending.

Alan Clayton-Matthews: I think some helpful suggestions for thinking about the policy purpose and primary role of a tax expenditure could by one of three things. It's either addressing efficiency for some market failure, addressing goals of distribution or fairness, or address allocation. By allocation, I mean what types of activities are undertaken that we want to promote in the state and how intensively do we want to promote them. I think this helps you think about the rationale of a tax expenditure. I'd like to point out that we can always ask if tax expenditures are the most effective way to meet these goals.

Secretary Gonzalez: Well, we're at the end of our time. I think that in recognition of demand on certain members of this commission between now and January 25th, we'll try to hold the next meeting very soon after January 25th. That will give everyone a little more time to think about this then dedicate ourselves to discussion and action on these principles.

Chairman Kaufman: Would you like to get our comments and edits?

Secretary Gonzalez: Yes, send those to David. I think it will help us get a modified version of this for the next meeting. Thank you everyone.

Tax Expenditure Commission – Fourth Meeting
Comptroller's Office
February 6, 2012

Members in Attendance
Jay Gonzalez, Secretary of Administration & Finance, Chair of Tax Expenditure Commission
Alan Clayton-Matthews, Member of Governor's Council of Economic Advisors
Jim Stock, Member of Governor's Council of Economic Advisers
Suzanne Bump, Auditor
Sen. Stephen Brewer, Chair of Senate Committee on Ways and Means
Sen. Katherine Clark, Senate Chair of Joint Committee on Revenue
Rep. Brian Dempsey, Chair of House Committee onWays and Means
Rep. Jay Kaufman, House Chair of Joint Committee on Revenue
Rep. Steven Levy, Designee of House Minority Leader Bradley Jones
Sen. Michael Knapik, Designee of Senate Minority Leader Bruce Tarr
Steven Grossman, Treasurer and Receiver General

Minutes

Secretary Gonzalez: Alright everyone, I think we will get started. I want to thank everyone for coming. I think this is our first Commission meeting since December, and I thank you for giving my staff and me time to work on other things last month.

As we discussed at the last meeting, I want to focus this meeting completely on finalizing the proposed principles. My hope is that we can vote on these principles today and have them as a guide for our next meetings going forward. As a reminder, we spent the first few meetings doing a lot of work on just the information and data related to our tax expenditure budget. I'm told now that we have one of the most robust compilations of information of any state at this time. This is thanks in large part to all the work that DOR (Department of Revenue) has done, and that data is available for anyone who wants to see it on the DOR website. This data is also something that we will continue to update and come back to.

I want to send a copy of this (proposed Tax Expenditure Commission principles) down to Senator Knapik and Treasurer Grossman. After the last meeting, I solicited comments from Commission members on the draft principles distributed last meeting. I got a number of different suggestions from all the members, and what I've done in the interest of having a functional process for getting principles which we can have a consensus around…

(Brief interruption while Senator Clark enters)

Secretary Gonzalez: Welcome Senator Clark. For those of you who don't know, Senator Clark was recently appointed Senate Chair of the Revenue Committee.

So, what I've done is taken pieces from all the suggestions I received, and what I'm hoping to do now is walk through the changes I've made to the last draft and point out some suggestions I received from Commission members that were either incorporated here or not and what my

thinking was behind that. I think it will be helpful just to go through this to understand and then process wise take up each principle one by one and allow members to bring up any substantive material changes they have to any of the principles. I would ask that these be substantive edits and not technical corrections or changes. I hope to have a vote at the end of the meeting and then deal with any technical edits later. To the extent that any of you have opinions that are different than my substantive draft, or if you have changes or additions, please bring them up when we go through the specific point.

[Secretary Gonzalez's revised draft Tax Expenditure Commission Principles

1) The tax expenditure budget is one element of a tax system that should, in its entirety:
    a. Provide adequate revenue to consistently support a desired level of government services
    b. Promote economic growth and overall economic welfare
    c. Be as equitable as possible while recognizing differences in taxpayers' capacity to pay taxes
    d. Reflect our values and our public policy objectives
2) Tax expenditures are a form of taxpayer spending and should be subject to the same scrutiny by government policymakers as direct expenditures
3) Ideally, in the interest of simplicity and equity, the total number of tax expenditures and the total amount of foregone revenues from the tax expenditure budget (or the total cost of the tax expenditure budget) should be reduced and limited to those that are highly effective at achieving the related public policy purpose
4) There should be a comprehensive, rational, policy-driven and analytic approach to our tax expenditure budget. Each particular tax expenditure should:
    a. Have a clearly identified public policy purpose and desired outcome for clearly identified beneficiaries
    b. Be subject to a periodic, data-based, cost-benefit analysis that measures success in achieving the public policy purpose and desired outcome for the intended beneficiaries
    c. Be subject to a periodic review by the Legislature and the Governor for the purpose of determining the effectiveness of the tax expenditure and taking any action to eliminate, modify or preserve the tax expenditure hat may be warranted based on such determination
    d. To the extent the tax expenditure is dependent on certain conduct of the tax beneficiary and/or is approved and awarded pursuant to the discretion of an administering agency, it should be subject to well-articulated standards of accountability with appropriate enforcement mechanisms
5) Policymakers and the public need and deserve transparent, well-developed data regarding the tax expenditure budget]

Secretary Gonzalez: Okay, I will quickly walk through changes to the last draft and then go through comments I received and whether they are reflected or not.

In principle 1, I added a new sub-point (b). This was based on comments by Jim Stock as well as comments we received from the Chamber and others.

In number 2, I revised how the principle was written just to make it clear that tax expenditures should be treated the same way as general expenditures, in line with comments from the Auditor and others.

I changed the order of numbers 3 and 4 just for logistical reasons. Number 3, based on some input from Rep. Kaufman and others, was changed to say that tax expenditures themselves – not only the number and amount – should be related to high effectiveness. Really meaning something more to a high rate of return, and I think high rate of return suggests financial return to the state. But, many of our expenditures aren't directly related to this generation of money – for example, the sales tax exemption on clothes – but are very progressive. I think this phrasing reflects that.

Number 4, what was previous number three, was a point from a few people, but the Auditor in particular suggests we not only outline the policy behind each expenditure but also the desired outcome and intended beneficiaries of each expenditure. We have done a lot of work with DOR to explain these points, although many times these aren't reflected explicitly in the statute and we are surmising. But, we've got a much better idea about these points now.

In number 4(b), I changed the term regular to periodic. I didn't see that as too substantive a change, so I made that. Also, I included the discussion of not only what the goal of each expenditure is, but also assessing how well we're doing with relation to each goal and its helping who we are intending to help. This makes clear that there should not only be a periodical review, but also suggests what the purpose of the periodical review should be. So, I added language to make sure that the legislature and Governor should have an analysis going forward for how to review these and then determine whether to reserve or modify.

4(d), I didn't make any changes to this one, although there were some comments.

What was previously number 5, some had suggested changing some language, some had suggested taking out the language altogether. I think going back to the former number 5, we decided to take it out and have it as some sort of introductory language in our statement on what we are doing as a whole in the Commission and what our purposes are.

The last principle (now number 5) has not changed really since the last draft. There were some suggestions in the comments, and I'll come back to that.

From Al Gordon, on behalf of Treasurer Grossman, he suggested we build in some efficiency language. I believe we did that in number 4. He had also suggested distinguishing between broader long term goals and specific tactics. I didn't build anything into this draft language for the larger discussion, because I saw this as a more detailed level of analysis; and, I think it's built into our principles, such as 1(e). But, I tried to draw a line between high level principles and where we may go ultimately with specific recommendations. Al had suggested reworking number 2, and this draft does that. He also suggested modifying number 3 to adjust tax base policy as well as reducing tax expenditures, and I think his point is if we get to the point where any tax requirement has more exceptions to it than it does those paying it as originally intended,

maybe we should reconsider the whole thing. I also see this as incorporated in number 1 and what is now number 3, so I didn't add a more specific point.

Jim Stock, I mentioned his recommendation, which is now reflected in number 1.

Representative Kaufman, I tried to capture your suggested change in what is now number 3. In addition, he suggested regular reviews of each expenditure, and that we should also have a review every 5 years of the priorities of the Tax Expenditure Commission overall. I didn't include this, but I feel like we can agree that this is an overarching statement about the Commission. I also didn't know if we could specifically say this, because of all the moving pieces requiring review of different things in different ways. But, we can come back to this. There was also a suggestion that there should be a clear or competitive policy advantage to any tax expenditure. I thought that since we have modified number 3 to show that all expenditures should be achieving certain policy objectives, this was covered in number 3. Another suggestion from the Chairman that we should include a listing of any and all policies that include less than 100% collection, I thought this was more applicable to how we were actually defining a tax expenditure and not a general principle.

Chairman Kaufman: That point came out of the last meeting, and a conversation on how we would be dealing with this going forward.

Secretary Gonzalez: My suggestion is that maybe be a part of our final report.

There was another discussion or suggestion by the Auditor and others that I think included a principle that we need to be reporting good data to policymakers and the public. But, at this point, I didn't want to get into specifics. I mentioned this at a higher level in number 5, but I think this can be more specific in our final reports.

The Chamber submitted some comments, some of which I've mentioned. They suggested adding in what is now principle 3, that to the extent we are reducing our tax expenditure budget, we need to show exact figures on what the burden change will be and how it compares to similar taxes in other states. I think most of this is taken into account by number 2, but it may not be that in every case we want to have a comparison to other states, just as a policy matter. It is certainly a factor we will want to consider. They also recommended adding, to the point on transparency, some language with concern over tax payer confidentiality. I didn't make this point specifically. I think that it goes without saying that we want to recognize this. It may be, however, that certain expenditures that function differently would mean disclosing certain information under varying circumstances. Maybe we can discuss how and where this line is drawn, because ether is a strong policy interest in protecting confidentiality. However, there are grounds for disclosure on these points, as the legislature has already said.

The last comments were from Auditor Bump, making clear that we think about desired outcomes and intended beneficiaries, as reflected in number 4. I did not add in a suggestion that policymakers should be guided by the principle that if the expenditure was not one we would treat in the same way as an appropriation from the general fund, it is inappropriate. I think this may not be true in all circumstances. For example, in competitiveness review, we may want to

do something from a tax credit perspective – to give a break to certain industries or businesses – that we would not want to fund from certain appropriations in the budget.

Auditor Bump: I think you captured, through other language, the issues that were most important to me, and I appreciate your earlier comments about avoiding too great a level of specificity about the kinds of expenditures we address. I think you did a great job with this.

Secretary Gonzalez: A few other points were on the measurability of success, the details of what should be disclosed. I think you had a number of specific points related to [what will be] later discussions.

So, I think what I'd like to do now is just open it up to any discussion and any recommended material – again not technical – changes.

Treasurer Grossman: Jay, just 4 quick comments. First, and perhaps minor, I like the term "economic growth" in 1(b), or maybe saying "economic opportunity" and not "welfare". That's just a minor comment, but there are three specific things. First, you know we put the state's checkbook online on December 5, 2011, and although we haven't captured everything within that yet, on balance the idea is that all spending of taxpayer money should be disclosed to the taxpayer. It's their money. I'd like to suggest we use the same principle here, and that consistent with confidentiality, we try to disclose in open checkbook format. Just as with open checkbook, we're writing a check every time we make one of these tax preferences, and the public has a right to know. So, I'd love to suggest this approach.

Secretary Gonzalez: That's a great point. As you know, our teams have been talking with the comptroller a lot about this, and this is actually my next goal for information to be put on open checkbook. That's something we've been working on together and are trying to get off as quickly as possible. Representative Kaufman, do you agree with this?

Chairman Kaufman: Yes, absolutely, although I don't know if I want to do this in exactly the same way. I think on this high level recommendation idea, just keeping as high a level as possible, I'm not sure. There is all sorts of detail I would like to eventually see, but where do we draw the line.

Treasurer Grossman: I just think that full disclosure, this is a high level principle we can all agree on. The burden has to be on something, such as unless we're violating a statute or impacting an ongoing legal dispute, then as a principle we should be disclosing as much as possible for public comment.

Number two, I know that you're working a lot with UMass Boston on performance measurement, or metrics, and I think that terminology may want to find its way in here.

Finally, some of the language in 4(d), I think we may want to use terminology suggesting recourse. My short form is that we do believe in clawbacks, and that we won't hesitate to seek every award of tax breaks inappropriately awarded or sought. I know that Suzanne has been a warrior on this issue, so I think that it could be reflected here.

Secretary Gonzalez: Okay, I think just moving through each of these one by one may be helpful, and then if we can talk about the Chairman's comment on the level of detail and what we should be putting in or not. I'm just thinking in terms of process, if we get higher level principles agreed on today, maybe next meeting we can establish some groups – maybe subcommittees – that can really flesh out more detail on those issues important to them. I think this may be helpful as we talk about it.

So, principle 1, aside from the Treasurer's terminology suggestion, are there other comments?

Alan Clayton-Matthews: Yes. I understand the Treasurer's comment on terminology, but how about "well-being" as opposed to "economic opportunity". I think economic well-being has the meaning you're intending.

Secretary Gonzalez: Maybe I can suggest, "well-being and opportunity?"

Jim Stock: Let me be clear what I'm getting at on terminology. It's clear that this is an economist term, and it's difficult to get at. You know, it's discussing what we tax relative to other items; for example, groceries verses clothes verses other goods. And, this is a distortion. There are policy reasons to have these, but it is a distortion. One of the guiding principles for taxation is just to minimize distortion in general and allow the market to self-regulate more. Some people have said they want to eliminate expenditures just to eliminate these distortions and then allow other rates to change. I understand not wanting to use terminology that gets too confusing, but "welfare" does have a real economic meaning that is focused on the reduction of distortion.

Secretary Gonzalez: So what do you suggest?

Jim Stock: Well, you know I thought this problem might come up, but I don't have a clear solution. The statement "minimizing distortion" isn't going to help in this regard. I don't know. I've struggled with this, and I don't have a clear solution.

Chairman Dempsey: Secretary, this discussion of "well-being and opportunity" doesn't quite do it?

Auditor Bump: Why doesn't equity get you at last part of the way? Maybe equity and stability make it more complete?

Jim Stock: Well, equity is loaded right?

Auditor Bump: Yes.

Chairman Kaufman: Public welfare. I mean, I use the term loosely to mean the health of the overall economy. It may not be specific, but it gets at the overall idea that we want to help the overall economy. It's a political term of art that works.

Secretary Gonzalez: Okay, I'm going to say public welfare and opportunity.

Chairman Brewer: Okay, 1(c). I know we're talking about higher level principles, but I think this could be seen as supporting a graduated income tax at some point in time.

Secretary Gonzalez: It could. Again, this is high level, and if you look at our tax system now, our income tax is actually very progressive where we have other taxes that are not. I think this isn't about a particular fix, just that we should be looking at the tax system as a whole as being progressive.

Chairman Brewer: Well, we've had this battle before. Not in the last few years, but this graduated income tax is something we've battled before. I just think this may give our seal of approval to the graduated income tax idea, and I think that's best left to the referendum process.

Chairman Kaufman: I accept that this could be used to frame it like that. But, I don't see this as advancing the argument that we ought to that any more than any other forms of tax reform we're considering that are in part motivated by reconsidering how taxes are constructed.

Senator Knapik: Mr. Chairman, I think that people could construe this principle as something that leads us down a different road than just – looking at this with a common sense approach for 2012, do these expenditures make sense? I think this may be a little over where we want this Commission to be. I think people are already looking at this Commission with – what is its purpose? What are they trying to do? I just don't know if we want this as a guiding principle.

Representative Levy: You know, just to the extent of Senator [Brewer's] comments, maybe we just say "be as equitable as possible" and leave "capacity to pay" to a more specific discussion.

Auditor Bump: But you know, capacity to pay comes up in almost every discussion you have in comparisons of policy, and it figures into the corporate side just as much as it does the personal side. When we say it's "loaded," we need to understand that, because this language applies to both sides.

Alan Clayton-Matthews: You know, I think "capacity to pay," we're really talking about the capacity to pay once taxes are taken out. Maybe go with terminology about "capacity" with regard to cost of living.

Chairwoman Clark: You know, I think this is a suggestion about being as equitable as possible, and this is inherently going to include "capacity to pay" considerations.

Secretary Gonzalez: You know, "equitable" could mean taxing the same rate uniformly. If we didn't have an expenditure for lower income, it might be "equitable" with regard to application but not with regard to "ability to pay." My own personal opinion on this is, just like everyone may agree to the principle that there must be adequate revenue for a desired level of government, we're going to have a difference of opinion on what the level of government actually is. I think we need to take this into account. All I think is suggested by 1(c) is not that we should have any

specific rule, but that simply in addressing the tax system as a whole – taking these concepts of "equity" and "ability to pay" into account – this is something we can work from.

So, in light of the discussion, does anyone feel as if this needs to be changed?

Chairman Brewer: As long as you're on record saying we're not advocating a graduated income tax with this principle, I'm okay with it.

Secretary Gonzalez: Yes, and I think we can add that clarification to the introduction of our final recommendation.

Representative Levy: You know, I just think taking out the word "while" may help.

Chairwoman Clark: We could say "including recognition of" rather than "while recognizing."

Secretary Gonzalez: Okay, so taking that language into account, can we move on to number 2?

Chairman Kaufman: Oh, I'm sorry, one more. I wonder if you could clarify what is meant by the word "efficient" in 1(d). Are we talking about simplicity and efficiency for the taxpayer or about administrative collection efficiency?

Secretary Gonzalez: I think it's talking about both.

Chairman Kaufman: So, "efficiency" may be targeting administrative efficiency?

Senator Knapik: You know, in the statute it does say "administrative efficiency." It does reference this as an end goal of the Commission.

Secretary Gonzalez: So yes, as simple and "administratively efficient" as possible.

Chairman Kaufman: Well, I think certainly any tax code or tax policy will certainly include efficiency in both the economic and administrative sense of the word. You don't want any mixed signals with relation to the policy behind all this.

Senator Knapik: You know, it's pretty simple what the legislature asked the Commission to do around tax expenditures and not necessarily the tax code in general. I mean, number one – we need to make it realistic and as understandable for the public as possible. I don't think we should over-think either the charge of the statute or our guiding principles.

Chairman Kaufman: You know, by definition – as I understand it – any tax expenditure violates the rule of simplicity. So, that being the case, it creates complications in administration and arguable economic inefficiencies. So, I don't want us – as a matter of general principle – to preclude the simplicity of just wiping out tax expenditures overall. I mean, we aren't going to do that, but if we're looking at simplicity, we have to look at it like this.

Secretary Gonzalez: You know, I think this is picked up by point 4(b), that if something we're doing isn't economically efficient, we're going to look at it. So maybe, Representative Kaufman, if we just say "administrative efficiency," will you be okay with that?

Chairman Kaufman: Yes.

Secretary Gonzalez: Okay, so I know there are comments on number 1, but moving on to number 2.

Treasurer Grossman: Jay, I would love to see us add that this should be subject to the same scrutiny and public disclosure as direct expenditures, and recognizing that this is key to bringing the people of the Commonwealth into what we're doing and why we're doing it.

Secretary Gonzalez: You know, I think we tried to bring this into number 5. If you feel that 5 doesn't address this accurately when we get there, we can kind of tighten it up with your concerns; because, we were trying to use that for a principle of disclosure.

Treasurer Grossman: I'm just trying to find a way to put in this certain basic principle – that this is full public disclosure. Yes, there are confidentiality issues, and I understand this concern. But, I still think public disclosure in anything is going to enhance trust for what we're doing here.

Chairman Kaufman: Secretary, to your point, if the words "public disclosure" could be added to number 5, right after "need," it's just an alternate place to put it. But, I agree that it should be there.

Treasurer Grossman: Yes, just if the phrase "public disclosure" is somewhere, number 5 is probably an okay place to put it.

Secretary Gonzalez: Any other suggested changes to number 2?

Okay, number 3?

Chairman Kaufman: I have a couple things. Since these are designed to be enduring principles, we could consider including wording about a time frame – maybe something about "five years from now."

Also, I think there were thoughts from others about adding to number 3 the notion that tax expenditures are to be, in general, aimed at a broad number of tax payers. And, when they are targeted more narrowly, they should be very pointedly explained. I think just as a broad principle, maybe saying that these should be broadly applicable expenditures.

Alan Clayton-Matthews: I think this is a very political concept. I mean, there may be a purpose to excluding a particular group.

Jay Kaufman: I don't necessarily think we should as a rule proscribe it, but let me read my possible wording.

Secretary Gonzalez: Just as a reminder, my point in this draft is that it should be limited to a targeted group of beneficiaries, but that any tax expenditure – regardless of its applicability to a certain class or constituency – should be highly effective.

Chairman Dempsey: I think we want the flexibility as policymakers to capture the idea of economic growth and overall impact, and not be too proscriptive by capturing all of this in our principles. We still need the flexibility to debate these issues without being constrained by our set of principles.

Secretary Gonzalez: Any other reactions?

Treasurer Grossman: So, if this is to reduce, limit, and make more effective, the expenditures have to be demonstrated as effective for certain identified policy objectives and goals.

Secretary Gonzalez: Representative Kaufman, do you think we should be distinguishing the level of review between tax expenditures for a broad class and those for a specific group of people?

Chairman Kaufman: No, I'm not saying different levels of review, just that the tax expenditures as a whole should be broad based if possible.

Auditor Bump: I thought [Secretary Gonzalez] had addressed the words well, because it speaks to principle and not specific action. I think for this reason, I would argue against the specific language you're suggesting because it deviates from principle and goes toward a specific attitude of action toward tax expenditures present or future. And, that is a limiting principle, as Representative Dempsey said.

Chairman Kaufman: Okay, well as we get to recommendations, I would like to reserve this point and say maybe it should be included in a more detailed discussion.

Secretary Gonzalez: Okay, well based on this conversation, I will strike the words "reduced and."

Senator Knapik: Do you need the word "ideally?" It's a strong word.

Secretary Gonzalez: I'm comfortable striking this.

No other comments on 3? Comments or concerns on 4? Okay, hearing none…

Auditor Bump: I think this goes to Steven [Grossman]'s point earlier, in 4(d), that maybe we want to suggest more language with how we enforce and recover.

Secretary Gonzalez: Yes, this was written generally, but may I suggest we add the final language "such as clawbacks?"

There were other language changes that I made to 4(a), (b), and (c), setting forth actual experience analysis against the purported goals. So, this concept is here.

Chairman Brewer: Just on 4(c), the periodic review. Just, with your articulation of this, are you implying that every tax expenditure would be subject to a sunset clause?

Secretary Gonzalez: We aren't saying how this should be done. I know some people think yes, all sunset clauses. Some people think no sunset clauses, but periodic review. I think the means by which this is done is something we can make a later recommendation on. But, I think the point is that on some basis we need to be evaluating this differently than it has previously been done.

Okay, number 5. I suggest revising this to say something about disclosing relevant information regarding the ax expenditure budget based on public need.

Chairwoman Clark: My alternative suggestion would be the language "should" or "would be public" and "well developed data." You know, emphasizing the public need as one of our principles and using the language "should" or "would."

Secretary Gonzalez: What if we said, "There should be public disclosure of well-developed data regarding the tax expenditure budget." Period. Or maybe "useful data."

Treasurer Grossman: It's a little less about full disclosure of the data and more about finding a way to show the public what we're doing and why we're doing it, as well as what we didn't do. The data, the metrics, that's the vehicle for creating full disclosure.

Jim Stock: What about saying "transparency?"

Chairman Kaufman: Or saying, "The same transparency and disclosure as other elements of the budget?"

Auditor Bump: So, are you looking for information on this tax expenditure budget, are you looking at or wanting disclosure of the effects on individual beneficiaries? What is it that you're actually getting at – individual beneficiaries? Open checkbook is very much about individual beneficiaries of direct expenditures, but if so, we have confidentiality issues that Mike [Knapik] was talking about.

Treasurer Grossman: Right, there are certain things that have to be consistent with statute and public policy, and we've always been comfortable with that without being explicit about what we disclose and what we don't. I just think if this is a tax expenditure that helps certain economic growth and opportunity – fine. But, we should disclose enough detail with data and metrics, as to what we're doing, that the public can look at it and make a cost benefit analysis about it.

Senator Knapik: Right, but there are some things we are entitled to know or not know. From the point of view that the taxpayer has rights and the taxpayer is going to be hugely scrutinized here, why not throw in that language that it is in relation to the principles on long-standing taxpayer confidentiality?

Auditor Bump: Yes, I think this enhances its clarity.

Secretary Gonzalez: So, "Relevant and useful data regarding the tax expenditure budget should be subject to full disclosure for the benefit of policymakers and the public, consistent with longstanding principles of taxpayer confidentiality?"

Chairman Brewer: I just want to make sure this is consistent with the law.

(David E. Sullivan, General Counsel for the Executive Office for Administration and Finance, confirms that this is consistent)

Secretary Gonzalez: Are there any principles anyone really wants to discuss or add that are not on this sheet? If so, we can discuss it.

Okay, so the changes are, to 1(e), making the language, "Promote economic growth and overall economic welfare and opportunity." Changes to 2, the words "ideally" and "reduced and" struck. 4(d) is changed to add "such as clawbacks" at the end, and number 5 is changed to read, "Relevant and useful data regarding the tax expenditure budget should be subject to full disclosure for the benefit of policymakers and the public, consistent with longstanding principles of taxpayer confidentiality."

Motion to Approve?

(The motion to approve was made)

Second?

(The motion was seconded)

All those in favor, say I.

(All members voted in favor)

All those opposed?

(None were opposed)

The motion passes unanimously.

I want to thank you all for your participation in the drafting process and all the helpful comments today. We'll try to schedule the next meeting for some time later this month or early next month. Thank you.

TAX EXPENDITURE COMMISSION PRINCIPLES
Approved Unanimously at February 6, 2012 Commission Meeting

1) The tax expenditure budget is one element of a tax system that should, in its entirety:
    a. Provide adequate revenue to consistently support a desired level of government services
    b. Promote economic growth and overall economic welfare and opportunity
    c. Be as equitable as possible, including recognition of differences in taxpayers' capacity to pay taxes
    d. Reflect our values and our public policy objectives
    e. Be as simple and administratively efficient as possible
2) Tax expenditures are a form of taxpayer spending and should be subject to the same scrutiny by government policymakers as direct expenditures
3) In the interest of simplicity and equity, the total number of tax expenditures and the total amount of foregone revenues from the tax expenditure budget (or the total cost of the tax expenditure budget) should be limited to those that are highly effective at achieving the related public policy purpose
4) There should be a comprehensive, rational, policy-driven and analytic approach to our tax expenditure budget. Each particular tax expenditure should:
    a. Have a clearly identified public policy purpose and desired outcome for clearly identified beneficiaries
    b. Be subject to a periodic, data-based, cost-benefit analysis that measures success in achieving the public policy purpose and desired outcome for the intended beneficiaries
    c. Be subject to a periodic review by the Legislature and the Governor for the purpose of determining the effectiveness of the tax expenditure and taking any action to eliminate, modify or preserve the tax expenditure that may be warranted based on such determination
    d. To the extent the tax expenditure is dependent on certain conduct of the tax beneficiary and/or is approved and awarded pursuant to the discretion of an administering agency, it should be subject to well-articulated standards of accountability with appropriate enforcement mechanisms, such as clawbacks
5) Relevant and useful data regarding the tax expenditure budget should be subject to full disclosure for the benefit of policymakers and the public, consistent with longstanding principles of taxpayer confidentiality

Tax Expenditure Commission – Fifth Meeting
Comptroller's Office
March 6, 2012

Members in Attendance
Jay Gonzalez, Secretary of Administration and Finance, Chair of Tax Expenditure Commission
Alan Clayton-Matthews, Member of Governor's Council of Economic Advisers (remotely)
Jim Stock, Member of Governor's Council of Economic Advisers
Suzanne Bump, Auditor
Jennifer Saubermann, Designee of Sen. Stephen Brewer, Chair of Senate Committee on Ways and Means
Sen. Katherine Clark, Senate Chair of Joint Committee on Revenue
Rep. Jay Kaufman, House Chair of Joint Committee on Revenue
Rep. Steven Levy, Designee of Senate Minority Leader Bradley Jones
Sen. Michael Knapik, Designee of Senate Minority Leader Bruce Tarr
Al Gordon, Designee of Steven Grossman, Treasurer and Receiver General

Minutes

Secretary Gonzalez – Good morning everybody. I will officially call the Tax Expenditure Commission to order. Thank you all for being here. Does everybody have a copy of the agenda? Do the commission members have one?

(Yes.)

First, my lawyer is suggesting that, since we have one of the commission members on the phone, we take a formal vote to allow him to participate remotely.

Does everyone have a copy of the meetings from last minute and have a chance to read them? Before we do that, let's let Alan vote for it.

The Attorney General's office has certain regulations to allow for remote participation, including for reasons of geographic distance, which is my understanding of why Alan Clayton-Matthews cannot be here in person today. Shall we vote to allow remote participation for these reasons as allowed by the Attorney General? This will be the exception and not the rule. All in favor, say Aye.

(All vote Aye.)

Secretary Gonzalez: Great. Let's also vote on accepting the minutes of our last meeting.
Auditor Bump: I move to accept the minutes.
Secretary Gonzalez: All those in favor say Aye.
(All vote Aye.)
Secretary Gonzalez: Minutes are adopted unanimously

Secretary Gonzalez: There are two other items to take up today. First, the Department of Revenue (DOR) data update on their website. It's been a while since we have heard from DOR on where that stands. This is a chance to get some guidance from commission members as to any other data they would like to be worked on before our final report, which is due at the end of April. I also want to develop a schedule to get us to that deadline, and letting DOR know rather quickly what data they should be working on for us would be good.

Second, I would like to begin a discussion of recommendations for our report. I have taken the first step of putting together an outline to get to that, but whether or not it is an adequate framework to work off of for our successive meetings is something we should take up today.

I will now ask Commissioner Pitter to give us an update on DOR's website work.

Commissioner Pitter: I am going to turn it over to Kazim Ozyurt, but do ask you do let us know of any additional data you would like for us to work on for the Commission.

Kazim Ozyurt: As you may have noticed we have reorganized the materials on the website for ease of understanding. As soon as you get to the Tax Expenditure Commission materials, you will see options on the left where you can drill down and get more info. The first screen will give you more information on our most recent Tax Expenditure Budget (TEB). We created a pdf version of this file. We have not made any changes in the format of this document at this time, but will of course take recommendations on this as a result of the commission's report if needed. The next document on the first page is the TEB Master database. It has info on many different categories. We have tried to compile all of the information requested here. It has information on many things, including beneficiaries, profiles, and what the benefits are. It's a good thing to look at and if it is missing anything let us know and it can be incorporated. We also posted the 1991 TEB budget. That will be available to the public as well. Also at the bottom we have included the Commissioner's TEB presentation.

Again, on the left you can drill down to different areas. As you know, the first item on the left column is the Tax Expenditure Commission agenda and minutes. I believe this is where the final report will be posted as well.

The next one item on the left column is a collection of reports. Some of these are statutorily required. Basically we are going to post some more, and do updates on those. The next item on the left column is information about refundable credits because, as you know, 2011 will be the first year when certain beneficiaries of refundable credits will be posted.

The next item is Research & Literature. We tried to categorize literature by topic so that someone who is trying to understand the budgeting process can easily find information. For example, we have had a session about TEBs and how various states have compiled them. Another research area is the taxation of services. I am going to come back to this because we have additional data on this area. I believe there was some discussion on this and it might be useful for the members to look at this research. Last in this list, but not least, is "Other TEB

Studies," which includes studies from several states. Only thing is that, here, we were unable to post some of the studies in whole because of copyright issues.

I want to go back a little bit to the study on Services Taxation. This is one of the most comprehensive studies we have found so far, a survey of all 50 states on the taxation of services. We have found that this study can be very useful if anyone wants to take a look at it. We also looked at the Federation of Tax Administrators (FTA) website to find out what types of services are being taxed. As you can see here, this survey has been done every few years for a long time, the most recent one being the 2007 survey. I want to open this file, it is in an excel format. It contains information of all different types of taxable services and answers by all 50 states on whether they do tax them and by how much, as compiled by the FTA. It gives you answers both over time and across states. This table here shows a summary of some the information. I believe this is very useful for members of the commission to have. The most useful column is this one, which allows you to sort by state and see how each one taxes certain services.

Secretary Gonzalez: Before you leave that page, there is an important piece of context that you all should remember. In FY12, the TEB is $24 billion dollars. $9 billion of that is from the fact that we do not tax services in MA. So this is particularly interesting state-by-state comparison of what other states do. Kazim, can you point to MA on that chart?

Kazim Ozyurt: Massachusetts is 5th in this survey, along with Montana, Nevada, and Virginia. This gives you a glimpse as to where we are as a state on service taxation.

Secretary Gonzalez: This is very useful information that shows us how we compare as a state. Kazim, is there any other information since this was last done?

Auditor Bump: Quick question about the FTA data. Is that updated on an annual basis?

Kazim Ozyurt: No, 2004 & 2007 were the last years. They do updates later on, but we mostly have access to other states individually and what they do.

Auditor Bump: This is tremendous information. Thank you for putting it all together.

Secretary Gonzalez: I know we have been seeing recently with other states, like Connecticut and Rhode Island, that one of their budget solutions it starting to tax more of these services. So, I don't know if this is a trend, but it is something our neighboring states are looking at. Thank you, Kazim.

Are there any other questions for Kazim, or do people have any other areas that they want DOR to look into and collect data on? You can also look at this information and send an email asking DOR to delve deeper into certain areas.

Chairman Kaufman: It would be good to get an update on these numbers since 2007, to the extent that this is possible, because we should be making decisions in real time as much as we can.

Kazim Ozyurt: We can look into that, yes.

Secretary Gonzalez: Great. We want to thank DOR so much for all of their work in putting together all of this data. Now, do you all have this outline? Ok, we are about to send it around.

(The outline – attached to these minutes -- is handed around the table).

Secretary Gonzalez: At our last meeting we made great progress by finalizing the Commission's priorities. What I thought might help next in trying to get consensus around a work plan is to put together an outline for what a final report would look like, and get a sense from you commission members on whether this is what a final report should look like.

A couple of points to start on this: Nothing written on this page is final, and even after this meeting they won't be final. This is more to get a sense on whether this is the right direction. So, even if the recommendations, in the end, are stated at a really lofty level, the purpose today, hopefully, is not to debate these recommendations, but to see if people agree generally that they are the types of issues we ought to be discussing.

Ideally, as of a couple of weeks from now, we will start having weekly meetings and we could use this outline in subsequent meetings as a work plan to get a more fleshed out version of the recommendations and then take votes to get to a final set of recommendations together for a report. That was my thinking behind this.

In terms of the outline, what I will do is walk through each section and get a quick reaction from people. I want to get a general sense if people think there is something missing and whether these are the right topics to be thinking about going forward. Does that big picture approach sound ok to people?

(Agreement).

Secretary Gonzalez: Introduction: I thought this would be a section where we could state the genesis of the commission. Who the members are, who the staff are, describe the meetings we have had and describe the process. We could also include as an appendix all of the detailed minutes we've had.

(Agreement)

Secretary Gonzalez: Then I thought we should have one section of the report that, at some level, lays out the facts of what our *current* TEB is. I see this as a place where we reflect a conversation of what is in all the stuff that DOR has developed for us, with somewhere on the website that links to the databases, such as the state-by-state comparison surveys, that DOR has put together. Are there any reactions to that?

Senator Clark: I had a question you may have just answered, which is how we describe/define the TEB. This might have already been described in a prior meeting – this is only my second meeting. But having that description would be helpful.

Secretary Gonzalez: Yes, in the minutes of previous meetings there is a description of the TEB, which is a slight modification of the definition used by DOR.

Next we could have a section on the findings of the TEB. It could start with the principles, which we have already agreed on. This is a section we could or could not have, but I think it might be helpful as a starting point of where the report is coming from.

Auditor Bump: I think either way, with or without it, would be fine. I say we leave it for the drafters to choose, but it might be redundant.

Chairman Kaufman: I could also go either way. It could serve as a preamble to our existence, or it might serve as a summary or starting point for ourselves.

Secretary Gonzalez: This is an area we probably could decide, process wise, as we are taking votes on the final report.

Auditor Bump: You could put this in the legislative mandate as these facts being what gave rise to the commission.

Chairman Kaufman: I would be happy leaving this for the drafting committee to decide.

Secretary Gonzalez: I believe the drafting committee is one person. Dave Davenport, from DOR, will be drafting. We will be sure to include that context in the final report. When I say we could put in the drafting principles that would of course be with some context attached to it.

Chairman Kaufman: Regarding the principles, there might be some confusion about how they were worded as an amendment to a recent bill in the House. I tried to edit the principles we agreed on at our last meeting down in the sense of brevity for the bill. To the extent that I did that and it aggravated people, I apologize. There was no intention to change what we have decided on and language can be added back in during conference committee.

Secretary Gonzalez: Now onto the second item I wanted to discuss today, if I just walk through each recommendation that I have written down on this piece of paper. Again, the intention is not to decide on these recommendations now, but on whether these are the right ones to guide us going forward.

The first one here is a recommendation to reduce the number of tax expenditures overall in the TEB. This is one that people might disagree on, but it comes from the guiding principle that our TEB should be simplified. What exactly that recommendation looks like, I think … I am interested in other people's views… but I think it is unlikely that this commission will be

looking at every single tax expenditure and saying yes or no, because this commission does not have the data to do so. Rather, we want to have some recommended criteria so that the Legislature and Governor will be able to do that, go through one-by-one. Also this commission will work to make it possible for them to have the information they need to do this exercise.

Also we should be explicit that we are not making recommendations about what a reduction in the TEB means, whether it might also allow us to reduce tax rates across the board. If the Legislature decides to reduce the TEB it can then decide to reduce rates or invest in stuff. But that, again, is not what this commission is going to do. Our charge is to make recommendations around the TEB only. What are people's reactions on this subject and on whether to make a recommendation along these lines?

Chairman Kaufman: Absolutely, we should address this issue. This is one of the main reasons for this commission. Perhaps I would recommend putting in place a timeline on when the Governor should get this review done?

Al Gordon: I would also think about recommending prioritizing of some tax expenditures for more immediate review, assuming that it will not be possible to tackle them all immediately. I would advise that there be a recommendation for what should be prioritized.

Secretary Gonzalez: Any objection for these to be things we look at when making these recommendations?

[None.]

Secretary Gonzalez: Next is to make distinction between the public policy purposes for tax expenditures. Right now our TEB is articulated on whether it's a tax break against the income tax, sales tax, or corporate tax, or in terms of whether it's a credit or deduction. I think we have talked in the past about whether it would be helpful to have the TEB articulated, instead, in terms of policy purposes. For instance, whether they are about job creation or ability to pay. I think it would be useful to go over the exercise of doing that. I am curious about whether you agree that this is something we should take on.

Auditor Bump: I agree. This could also help with the goal of prioritization.

Senator Knapik: I wonder if we're using a 2012 prism with things that were done 20 or 30 years ago. I wonder if, well certainly if we list things or chronologically date things as they come in… For example, maybe the purpose we attribute to a tax expenditure is not the same as the purpose that was contemplated in 1997, or whenever; it is not the same as now. I wonder if we can be objective in present terms.

Secretary Gonzalez: Going forward this is what we are hoping future policy makers won't have to guess at, why we want to include policy objectives now. In a sense, this would be a subjective exercise. We wouldn't know exactly what the policy was of a tax expenditure when they put it into law in 1930, but it would be a helpful exercise.

Senator Knapik: So, going forward, if the Legislature were to be considering a new tax expenditure, would we be thinking in a context of a more clearly defined vision of an outcome?

Chairman Kaufman: I think that is our goal and we should be modest in how we will achieve it. One of the problems of the TEB is that we haven't even tried to make those judgments at all. Going forward we might not make them perfectly, but it is a good idea to try.

Jim Stock: Since we are at a level of discussing what we should be discussing, I believe this is certainly something to consider. It seems as though it is very closely linked to your next item, on whether public policy purposes for tax expenditures are worth considering going forward.

Secretary Gonzalez: The difference between these two points is that #2 is meant to look at the current (past) TEB and come up with categories under which to categorize groups of tax expenditures, as opposed to going to each separate tax expenditure and finding a particular policy purpose. Point #3 is charging the Legislature and Governor with looking at both our current and future TEB and being clear in articulating what the purpose for each tax expenditure is. Whether of not, for example, the film tax credit is successful depends on what the underlying public policy purpose of that tax expenditure is. This is what #3 is about.

Auditor Bump: Jay, did you see #6 as being part of #3? It seems that one is looking towards the future and one is how it is?

Secretary Gonzalez: #6 is looking at the TEB into the future, but #3 is looking at the TEB as it currently stands. In light of our principles and other recommendations, looking at the TEB and whether it is going to be enacted, the Legislature and Governor should look to whether it conforms with these principles and goals.

Next, point #4 gets to the issue of transparency. There has been lots of discussion and I have gotten a lot of feedback from all of you about transparency. There might be some difference of opinion on the level of detail that should be provided. What I have proposed here is that we should make some recommendation on how transparency should work. The Commonwealth Performance, Accountability, and Transparency (CPAT) office is charged with performance management across the executive branch, as well as some other responsibilities. I believe this office being charged, along with DOR, to provide a report to the public, would be the right place to do this. If the Legislature articulates a public policy goal for each tax expenditure, CPAT can collect the data with DOR's help to measure the success of that goal and that tax expenditure. They can report on the effectiveness of the tax expenditure based on these metrics. We can talk about whether this is the right people and the right approach. This is all something this commission should decide and make recommendations on. It seems to me this is something we need to talk about.

Chairman Kaufman: I agree, and it would be helpful for the meeting where we discuss this particular recommendations if we all did some homework on this issue. Both the NCSL and PIRG have done a lot of work on this area that would be helpful to us.

Senator Clark: I don't mean to come back to this, but the timing of #3 and #4, I am not sure how we are to evaluate what to reduce and the timeline for it.

Jay: We should talk, when we have the discussion on recommendation #1, that's the kind of thing we should talk about. First about whether we should be recommending #1 at all.

Senator Clark: So, much depends on how we are defining what the TEB is.

Secretary Gonzalez: I think we have modified a bit what the definition currently is in the statute to be more expansive. We have opened it up a bit to include everything. As for what we are making recommendations on, we have expanded it to look at the most number of things we can.

Jim Stock: After going through the open checkbook process, I want to suggest what we take that as we move into this next process.

Secretary Gonzalez: In point #5 we have talked about the absence, to date, of any legislative review of existing tax expenditures. Some have talked about a standard review timeline, but there might be some problems with this, as we might want to treat some different tax expenditures differently in terms of review. But some level of review more than what we have been having, which is none, is certainly something we should talk about. Any objection?

(None)

Secretary Gonzalez: Point #6, which we briefly discussed, is about articulating the public policy purpose of each tax expenditure going forward. Is there any objection about looking into that?

(None)

Secretary Gonzalez: Point #7 is about the issue of clawbacks. One of the impetuses for creating this commission was whether the entities that receive the benefit of these tax expenditures were being held accountable to the conditions under which these tax expenditures were put in place. Looking at the enforcement of this is something I believe we should consider and talk about. Any objection?

(None)

Secretary Gonzalez: Is there anything else not on this list anyone believes we should talk about?

Senator Clark: What about the administration of tax expenditures?

Secretary Gonzalez: I believe that is covered in #7. Perhaps we should make clear that this one isn't just about enforcement, but also covers administration.

Chairman Kaufman: There are some examples, probably none better than our life sciences section, about how to do tax expenditures well. We might want to look at this and try to include these best practices in our recommendations as well. It might fit best when discussing #6.

Secretary Gonzalez: Yes, agreed.

Jim Stock: I found it helpful to think about these recommendations in a different framework; which might be helpful for everyone. I thought about them as fitting into 3 categories: (1) For the current TEB there are many categorizations and we could talk about how/whether to limit them, (2) for potential future tax expenditures there is thinking about process, then (3) there is the third rail on existing tax expenditures, to describe their merits.

Secretary Gonzalez: After thinking about how these recommendations fit together, I want to discuss which ones of these it makes sense to take up in conjunction. And I believe your categorizations might come in very handy there, in deciding which ones of these to take up together. I am hoping to develop a work plan within a few days of today on the framework within which to take up these priorities in our upcoming sessions.

Are there any other additions?

Al Gordon: Nothing else to add, but it would be helpful if, for these packets or frameworks that you will be putting together, could there also be included some legal background on relevant issues, such as around the issue of transparency and privacy, or contractual obligations? I believe this should also be part of the briefing materials.

Secretary Gonzalez: Also, I should point out, if there are elements which you believe there is information you believe could be useful, I would invite you to send them our way and we will do our best to include them.

If there are no other comments, we will adjourn until next time.

Tax Expenditure Commission Report: Outline – Draft 3/6/12

A. Executive Summary

B. Introduction
   1. Legislative mandate
   2. Members/staff
   3. History/meetings (reference minutes in Appendix)

C. Facts regarding the Commonwealth's Tax Expenditure Budget
   1. Definition of TEB (with related comments/context from TEC meeting where discussed)
   2. High-level description of Commonwealth TEB (reference to Appendix and website for all details/data developed by DOR)
   3. Relevant comparisons to other states based on best info available
      i. Data publicly available and disclosed
      ii. Substance of TEs

D. Findings of TEC Based on Facts re: TEB
   1. TEB too complicated, too big – exceptions the rule rather than the exception
   2. Lack of adequate, publicly available info to understand purpose and effectiveness
   3. Lack of comprehensive framework and approach to TEs
   4. Lack of regular review of effectiveness of TEs
   5. Lack of adequate tools to enforce commitments made and/or other eligibility criteria in return for receipt of certain tax breaks
   6. [OTHER???]

E. Guiding Principles for Commonwealth's Development, Management and Review of TEB
   1. [INSERT GUIDING PRINCIPLES ADOPTED BY COMMISSION WITH RELEVANT CONTEXT DISCUSSED AT THE MEETING WHERE PRINCIPLES WERE ADOPTED]

F. Recommendations of the TEC
   1. Recommend Legislature and Governor work together to reduce number of TEs and size of TEB
      i. Recommended criteria and possible approaches (based on guiding principles, but more detailed)
      ii. Reduction in size of TEB provides opportunity to reduce tax rates paid by everyone – TEC expressly not making recommendations on extent to which

revenue resulting from elimination of TEBs should be used to reduce rates – outside of scope of TEC and policy decision for Legislature and Governor to determine

2. Recommend public policy purpose categories for TEs to help articulate TEB in a more helpful way for policymakers and the public and to help make distinctions between categories of TEs for purposes of level/frequency of review, enforcement mechanisms, etc. (e.g., job-creation credits to particular companies need high-level of review/enforcement mechanisms; fairness/progressivity credits need less frequent review and no enforcement mechanisms)
3. Recommend Legislature and Governor work together to statutorily identify and publish for each TE that remains a clearly articulated public policy purpose and desired outcome
4. Recommend our Commonwealth Performance, Accountability, and Transparency (CPAT) office, working with DOR, identify metrics for assessing effectiveness of TEs at achieving statutorily identified purposes and outcomes; collect the data necessary based on such metrics; annually report such data to the Governor, Legislature and public in a manner that allows for assessment of effectiveness of TEs; and, with such report, make any recommendations for elimination/modification of any TEs to more effectively achieve public policy purpose
    i. Identify all data that should be reported for different categories of TEs
5. Recommend periodic review of TEs by Legislature based on annual CPAT reports
    i. TE sunsets? Certain categories of TEs only? Only requirement to review, with no sunsets?
6. Recommend criteria and findings Legislature and Governor should make before approving any new TE
7. Recommend enforcement mechanisms for appropriate categories of TEs to ensure accountability
    i. E.g., clawbacks
8. [OTHER???]

APPENDICES

A. TEC Commission Meeting Agenda and Minutes
B. Data re: MA Tax Expenditure Budget
C. [OTHER??]

Tax Expenditure Commission Meeting
Comptroller's Office
March 21, 2012

Members in Attendance
Jay Gonzalez, Secretary of Administration & Finance, Chair of Tax Expenditure Commission
Robb Smith, Designee of Auditor Suzanne Bump
Al Gordon,Designee of Treasurer Steven Grossman
Senator MichaelKnapik, Designee of Senate Minority Leader Bruce Tarr
Rep. Steven Levy, Designee of House Minority Leader Bradley Jones
Senator Katherine Clark, Senate Chair, Joint Committee on Revenue
Representative Jay Kaufman, House Chair, Joint Committee on Revenue
Jim Stock, Member of Governor's Council of Economic Advisers
Alan Clayton-Matthews, Member of Governor's Council of Economic Advisors
Jennifer Saubermann, Designee of Sen. Stephen Brewer, Chair of Senate Ways and Means Committee
Representative Stephen Kulik, Vice Chair, House Ways and Means Committee, Designee of Chairman

Others in Attendance
Kazim Ozyurt, Director, Office of Tax Policy Analysis, Department of Revenue

Minutes

The motion to approve the minutes from the previous meeting is accepted.

Secretary Gonzalez:This session is to discuss the categories and purposes of thetax expenditures. Item number two from the outline is for us to articulate the policy categories of tax expenditures. We recommend a categorization of existing tax expenditures with the goal of helping the public to understand the public purpose of tax expenditures. In doing so, we should consider what theLegislature is trying to achieve by creating the tax expenditure.The goal here is not to describe the specific purpose of every tax expenditure, using, for example,"investment tax credit."Instead, it would be helpful to categorize the tax expenditures broadlyby purpose, for example,economic competitiveness or encouraging business investment in MA. Broad categorization of policy purposes of tax expenditures will enable the public and others to understand whywe make certain tax exemptions. Item number three ofthe recommendations is to establish a process for determining desired outcomes for every tax expenditure.DOR has made an initial cut for every tax expenditure and what a proposed categorization of those would be.

The commission recommends that the Legislature and Governor work together to create a process to identify a specific policy purpose and outcome for every tax expenditure. There is a modified proposal in the handout similar to the consensus tax revenue forecast. The Office of Commonwealth Performance, Accountability and Transparency, the Department of Revenue, the Administration & Finance, stakeholders and the Governor's office should recommend policy purposes and desired outcomes of tax expenditures. Then the Joint Committee on Revenue and

the Ways and Means committees should review the outcomes and purposes. After this review, these two committees and Administration & Finance should reach a consensus about the outcomes and purposes of the tax expenditures.

Chairman Jay Kaufman: I have a different picture of the process. What's anticipated in the paragraph is a huge job for the first year but not much of a job thereafter. We should have some kind of notion as to the limits of the tax expenditure budget.

Secretary Gonzalez:I think describing this as similar to consensus tax revenue process is confusing. This is a one-time process. The purpose of this recommendation is to articulate the purposes and outcomes for every tax expenditure. We should omit language about following procedures for the tax consensus revenue process because this process is not annual.

Chairman Jay Kaufman: I'd imagine that this would require a large number of lengthy hearings, thus the revenue committee would be the appropriate place to hold the hearings.

Representative Kulik: I could envision a joint process between the Revenue Committee and Ways and Means.

Secretary Gonzalez: We don't have a deadline stated here, but we could think about recommending one.

Senator Knapik:Unlike the consensus revenue figure, review of the tax expenditure budget could look different. How do we model the consensus number, is there a way the two meet? Is periodic review of our stated purposes of tax expenditures necessary?

Secretary Gonzalez: We agree on the purposes of tax expenditures, that's why it's conceived to be a one-time process. We'll discuss regular review of purposes at the next meeting.

Robb Smith:I support this framework. It would be helpful ifthe Governor's council of economic advisors and people who evaluate economic programs reviewed our determinations to ensure we are using the right terms to quantify data properly and get predictable results. Also, the process should be reviewed to ensure that policy makers and the public can understand our work.

Secretary Gonzalez: I'd like to make two changes to the proposal. Delete "remaining" on the second line, and delete the first clause beginning with "following" on the seventh line so that it starts with "Ways and Means."As far as establishing a deadline by which to complete this process, I think we should wait to decide that after more discussion.

The motion to adopt the amendments passes.

Secretary Gonzalez:Now to discuss the second recommendation, I'll let the Department of Revenue give us a summary of its summary.

KazimOzyurt: This was our first shot at defining public policy purpose categories for tax expenditures. Our definitions of expenditure items are based on a reading of statute. We created seventy-two categories of purposes. Some tax expenditures may have double purposes, and some may not be uniform. The categories are subject to change. "Basic necessities"is one example of a category. Things like food and clothing would fall into this category. "Economic competitiveness" is another one, including unequal weighting of sales and payroll, job creation,

and film industry job creation.Item number twenty-three, for example, could include tax expenditurestargeted to research and development or investment in technology, as well as special treatment of "S" corporations. Another category includes "promoting family," which would include deductions for dependents and child care expenses. We also have a category for tax expenditures that protect the environment. For example,the septic system repair credit and the conservation land credit.

Secretary Gonzalez: It's hard to know exactly what the Legislature thought in making these expenditure items. To create these broad categories,it helps from a policy perspective to think about what we're trying to do when we make these tax expenditures. Thinking about the purposes of the tax expenditures will also help the public discusstax expenditures. We need many fewer categories, perhaps ten, to achieve this high level process. For example, an exemption for electricity– assign this to economic competiveness rather than two categories. Economic competiveness works well as a category. Structural tax code policy is good too to encompass many types of exemptions. Is "basic necessities" broad enough as a category? Also, it may be helpful, within economic competitiveness, to distinguish between generally applicable corporate and sales tax, and then a category that includes exemptions targeted to particular industries and jobs.

Alan Clayton-Matthews: I see two dimensions in our tax expenditure categories rather than one. Under the first dimension, there are three economic categories.

1. Redistribution, such as exemptions for sales tax and groceries.
2. Allocation, such as exemptions that further an economic goal. I would separate this into two subcategories. The first subcategory being problems with externalities, or market failures, which would include, for example,a credit for green energy, the social cost of polluting the atmosphere, or a credit for pre-school-to-higher education funding, so people can obtain resources to become educated where otherwise they couldn't if it were left to the market. The second subcategory would be economic competitiveness.
3. Efficiency.Tax expendituresin this category are meant to address inefficiencies caused by the way things are taxed, such as avoiding double taxation.

The other dimension is to identify intended beneficiaries of the tax expenditures. For example, to help households with school aged children or specifically targeting startup scientific firms.

Secretary Gonzalez: What does the group think about identifying the intended beneficiaries?

Jim Stock: This concept makes a lot of sense. Some of these are technical issues to avoid double taxation. This should be separated out as a third broad category.

Chairman Jay Kaufman: Alan's detail is good. The advantage to having more general categories is that it would help legislators make judgment calls. I don't want to lose Kazim's work, though.

Alan Clayton-Matthews: Many of these categories are economic competitiveness/"something," whether that something is"agricultural" or "broadcasting."

Secretary Gonzalez: Is there any disagreement with the suggestion to omit some of the broad categories?

Chairman Jay Kaufman: No, but I don't want to lose these subcategories.

Secretary Gonzalez: Perhaps the economic categories will be headings at a higher level thanthe policy categories.

Senator Knapik: I think we should keep these categories in laymen's terms because we aren't economists and other people who are helping to craft this policy aren't economists. We could categorize the tax expenditureschronologically. Simpler terms would be better.

Al Gordon: The concept of ten to twelve broad categories would make it more accessible, and I envision the economic categories under these, and then specific examples within the economic categories. This organization would make it easier to understand.

Jim Stock: For me, five categories summarize this.

1. Redistribution, for example, exemptions for food and clothing.
2. Economic competition.
3. Market failures or externalities, such as loans.
4. No double taxation.
5. Other, because some are pretty obscure and difficult to fit in any category.

Chairman Jay Kaufman: It will take trial and error to determine correct categories. We shouldn't invent these by committee.

Secretary Gonzalez: The problem with the category term "redistribution" is that it suggests someone is taking money from someone else. We should take into account a person's ability to pay based on his financial position.

(Several attendees agree that "fairness" would be a good term to replace "redistribution").

Secretary Gonzalez: We should also choose a different name for the "market failure" category. Maybe "market objectives," or"market realities?"We don't have categories that the average person or policy maker would understand.

Chairman Jay Kaufman: Do the categories from '91 make sense today?They are "commerce,""income security,""infrastructure,""environment," etc.

Secretary Gonzalez: No, those don't make sense.

(Most attendees agree that the categories from 1991 do not make sense).

Senator Clark: It's important to think about when the tax expenditure was created. What was the government trying to do in 1936 when it created that tax expenditure?

Secretary Gonzalez: At the next meeting, we'll discuss regular reporting on tax expenditures. Perhaps we should discuss that there.

Representative Levy: We should use "socioeconomic" instead of redistribution.

SenatorKnapik: Where do we put the Veterans' tax expenditure?

Alan Clayton-Matthews: It is redistribution, technically, from one taxpayer to another. Is "fairness" a better name?

Senator Knapik: What's the best word or phrase?

Jim Stock: "Transfer" perhaps, because technically it is a transfer, from one taxpayer to another, which might be perfectly justified.

Chairman Jay Kaufman: It's good to clarify our large tax expenditure budget of $26 Billion. There's no right way to do this. It would be useful to reduce the category of services. NCSL has done comparisons of what states are taxing which services, and we need such data. This is a large category of untaxed stuff.

Secretary Gonzalez: We'll figure something out and get it to you guys to think about, so we can decide later.

Representative Kulik: I agree with Jay. The process to figure out what you're doing by giving tax expenditures is hard, so we need to clarify our goals. This will help very much in performance management, a priority of the Governor. In turn, this will help us thereby discern whether we're accomplishing our goals for the public.

Secretary Gonzalez: Ournext meeting will be next Tuesday. This meeting is adjourned.

Tax Expenditure Commission Meeting
Comptroller's Office
March 27, 2012

Members in Attendance
Jay Gonzalez, Secretary of Administration & Finance, Chair of Tax Expenditure Commission
Auditor Suzanne Bump
Al Gordon, Designee of Treasurer Steven Grossman
Senator Michael Knapik, Designee of Senate Minority Leader Bruce Tarr
Rep. Steven Levy, Designee of House Minority Leader Bradley Jones
Senator Katherine Clark, Senate Chair, Joint Committee on Revenue
Representative Jay Kaufman, House Chair, Joint Committee on Revenue
Alan Clayton-Matthews, Member of Governor's Council of Economic Advisors
Jennifer Saubermann, Designee of Sen. Stephen Brewer, Chair of Senate Ways and Means Committee
Representative Stephen Kulik, Vice Chair, House Ways and Means Committee, Designee of Chairman

Others in Attendance
Maureen Flynn, General Counsel, Executive Office of Housing and Economic Development
Bradley Rosenblum,Chief Financial Officer, Massachusetts Life Sciences Center

Minutes

The motion to accept the Minutes from the March 21, 2012 meeting is approved.

Secretary Jay Gonzalez: On the recommendation to assign categories, we have a revamped version of categories based on our previous discussion. We will vote on the revised list at the next meeting because we need all the time allotted for this meeting. We have three recommendations to discuss and perhaps vote on today.First, we will discuss regular reporting on tax expenditures, then we will discuss the extent and manner in which the Legislature should review the tax expenditure budget, and I have a slightly revised version of the third recommendation.

We have two visitors who will brief us on their tax expenditures. We have members of the Economic Development Incentive Program ("EDIP") and the Life Sciences Center to brief us on how their tax expenditures work. The tax expenditure Commission should understand how these tax expenditures work.

Maureen Flynn: I am the General Counsel for the Executive office of Housing and Economic Development, which administers the EDIP program. (Ms. Flynn distributes handouts about the changes in the EDIP Investment Tax Credit ("ITC").)I'll go over information on changes to the program after giving an overview of the program. The program is a competitive award program that awards tax incremental finance credits ("TIFs"), and ITCs. We divide the Commonwealth

into Economic Target Areas("ETAs") – areas that have(1) a high unemployment rate and (2) low rates of education or high poverty rates – and thus need economic development. Before the 2009 changes to the program, the Economic Assistance Coordinating Council ("EACC") did not have discretion about how much to award the projects. They awarded a flat 5% ITC. In 2009, we made the program more accountable and more competitive. We expanded the types of projects that the EEAC could approve. Companies need not be located in an ETA any longer to qualify for the credit. Now, if a company presents a great opportunity to create jobs in the Commonwealth, a tax creditunder the program could move forward. Our third type of project, Manufacturing Retention Projects ("MRPs"), is availableonly in gateway municipalities, and allows companies to create and retain jobs. This type of project allows EEAC to award a tax credit based on what it saw the company needed and what the company believed it needed – a discretionary amount.EEAC may award up to a 10% tax credit for the Enhanced Expansion Project ("EEP") and up to a 40% tax credit for the MRP. EEACcould also allow a range of time for the recipient to receive the award. A&F liked that we instituted a cap on the program.

We believe the 2009 changes have improved the program greatly. Since then, we've approved 87 projects – 30 are TIFs, the other 57 are ITCs. The companies we have awarded have created over 5,000 jobs and retained 16,000 jobs and received $2.7 billion in private investment. We have also decertified 130 projects since the changes were instituted. The accountability aspect of the program seems to be working.

Chairman Jay Kaufman: Talk to us about the advantages of making it a competitive process.

Maureen Flynn: The advantages of the competitive processare that it allows us discretion to choose projects depending on what's needed in which sector and in which locations based on the Commonwealth's need. We modeled some of our tax credits on the Life Sciences program because it was competitive.

Chairman Jay Kaufman: In the area of transparency,are the companies that receive tax credits publicly disclosed?

Maureen Flynn: Yes, we post the awards after each meeting. We want the tax money to be used in the best possible way.

Chairman Jay Kaufman: What are your thoughts on the pros and cons on the transferability of tax credits?

Maureen Flynn: No one used the Brownfields tax credit when it wasn't transferable. It shouldn't be to anyone's huge advantage to transfer, but it is important for the tax credit to be transferable for the tax credit to be used.

Chairman Jay Kaufman: Should we do periodic review of the tax credits, and what are your thoughts on sunsets?

Maureen Flynn: We haven't talked about sunsets, but we review the program continually. We ask how we can make it better and clearer for our constituents.

Senator Clark: What is the process for evaluating the program?

Maureen Flynn:We use internal reviews and feedback. We wanted the programs to be more useful and get only the money that is needed to the recipients.

Secretary Jay Gonzalez: Secretary Bialeckideserves lots of credit. He has very limited resources to help create economic development. He has not had a big bucket of money to try to incentivize and support economicdevelopment. He is the one who saw the lack of options to incentivize. He wanted to invest limited funds to improve incentivizing economic development through the tax credit. It's a great example of what we should be doing across state government. These tax expenditures are like grants in a lot of ways, and we need to structure this program to get the best results for our expenditures. This is a great example of a best practice.

Maureen Flynn: We review the projects that are awarded every two years.

Alan Clayton-Matthews: Do you run up to the $25 million limit each year.

Maureen Flynn: Yes. We try to work with companies whether they apply or not. We can sometimes award more than $25 million in a year, but the companies won't take more than $25 million in one year.

Secretary Jay Gonzalez: DOR and ANF review the awards to ensure that the budgetary hit will not exceed $25 million in one year.

Alan Clayton-Matthews: Because awards are limited, and more companies may want to use them, there's an opportunity to study companies to see what happens when a company is not awarded *vis a vis* a company that is awarded to see how effective the program is.

Suzanne Bump:How do you audit compliance?

Maureen Flynn: Companies must report to us and send us a form that we fill out. Compliance examines whether the companies have performed adequately versus their application from two years prior. If there is a disparity, the company must respond and account for it. If the company does not respond, it must have a hearing. The EACC hears the company's evidence and decides whether to decertify it. Most companies take advantage of the hearings.

Decertification does not enable EACC to get old tax credits back if the company did not perform adequately. We try to balance the need to respond to compliance while not taking too much of one of their employee's time.

Senator Knapik: At what point in the year do you run out of money?

Maureen Flynn: We haven't faced that issue. We ensure the companies only take $25 million. The new 2009 version of the program requires companies to generate sales outside of Massachusetts to make sure we give money to companies that expand outside the state.

Senator Knapik:Do you take into account the regional needs of parts of Massachusetts?

Maureen Flynn: Yes, but for example, in some quarters we might not have companies from areas of western Massachusetts.

Secretary Jay Gonzales: Thank you very much Maureen. I'd like to introduce Brad from the Life Sciences Center. He is the CFO, and I am one of two co-chairs of the Life Sciences Center. I've worked with him since 2008. It's another best practice type program.

BradleyRosenblum:I'll give everyone an overview of the program and our accountability processes.We have 10 different incentives, and 4 are refundable. We hold info sessions, and companies fill out a 45 question application. The Center will review the applications to determine to which companies to award a tax credit. The centerpiece of our tax credit program is job commitment. We have a clawback provision that says that if a company doesn't achieve 70% of its commitment, the Center will investigate and present the facts to the investment committee. There will be one of two outcomes. The committee can give the company a 1 year extension with the commitment threshold raised to 80%, which the company must meet or else it will be decertified. The other outcome is to decertify the company if it has given no confidence that it will be able to achieve its commitment. The committee will provide reasons why it provides an extension if it does so. The Center works with DOR with this process to ensure that the Center works with upstanding companies. Then, the Secretariesof ANF and DOR approve the awards. Our board then makes the awards public, specifying the companies that were awarded.

Decertification means we notify DOR, and then they can retrieve any credit awarded. We have developed policies to deal with companies that don't reach their 70% commitments. About 13 companies have terminated their awards because they knew they would not hit their commitments. Only one company has been decertified. Decertification comes with a lifetime ban from receiving other awards from the Center. In other words, people take our program very seriously. If a company is acquired, the parent company must retain the responsibilities of its subsidiary. As an incentive, a company must achieve 90% of its commitment if it wants another award.

Secretary Jay Gonzalez: Brad has overseen the development and implementation of the tax credit program. He's done a great job with creating something from scratch. He was the first to develop the administration of a program like this. He's done a wonderful job of implementing it as he intended to --to get results and accountability.

Chairman Jay Kaufman: This has empowered our conversation very much. Is the competiveness of the project part of its effectiveness?

Bradley Rosenblum: Yes.

Chairman Jay Kaufman: What are your thoughts on sunset and periodic review?

Bradley Rosenblum: We have had no discussion on these issues. Our program ends in 2018.

Chairman Jay Kaufman: What are yourgut instincts on transferability?

Bradley Rosenblum: We don't allow transferability.

Secretary Jay Gonzalez: This has been a helpful context for our discussion. I'll pass around the revised outline that we sent by e-mail. Changes reflect some comments that we got from you and others. We redlinedthe copy to show the edits. The first recommendation is that the Commonwealth Performance, Accountability, and Transparency office should work with DOR to identify metrics for assessing the effectiveness of tax expenditures at achieving the identified purposes and outcomes, for example, the number of jobs created. (Secretary Gonzalez reads the remainder of the first section of the outline.) This is the framework I'm proposing for the starting point of our discussion.

Chairman Jay Kaufman: I apologize for jumping in so quickly, but I'm about to bubble –over because this has been a topic I've been interested in discussing for some time. I have a suggested change to the section. At the second to bottom bullet, I'd propose the word "policies" instead of the word "burden" because the term "burden" is often used in political debate to reflect negative aspects of taxation as opposed to a neutral term.

Secretary Jay Gonzalez: Would"obligations" be a better term?

Chairman Jay Kaufman: I'm not sure where this goes in the outline. It seems that the correction is to have us do our analysis of tax obligations relative to what other states are doing. Does it make any sense for us to call on the governor to start a national conversation about what tax credit policies can affect things across state lines?

Secretary Jay Gonzalez: Part of the issue all states have is the competition among each other, a race to the bottom. Maybe there are some best practices to think about nationally. Type up a proposal for us to consider later.

Al Gordon: On the tax obligations clause, we thought about focusing on comparable states. Some competitive states, for example, Alaska, would have a low tax burden that's not relevant here.

Secretary Jay Gonzalez: I'd suggest that it be a comprehensive report looking at all 50 states, to provide anyone with any information they might need as to which states are competitive for different purposes.

Alan Clayton-Matthews: We could identify studies conducted as to other tax credits' effectiveness regarding how well they meet their agenda. We could perhaps use work that's already been done to answer whether a tax expenditure is effective. That's different than just keeping track of tax expenditures. It's proactive to try to achieve efficiency.

Secretary Jay Gonzalez: Maybethis is related to the last bullet. Maybe it's based on data they've collected and reported and other research they've deemed helpful.

Suzanne Bump: Included in another part of our discussion, would DOR collect such resources?

Alan Clayton-Matthews: As another suggestion – already stated here --I want to stress that we should include in those metrics the outcomes of the firms that didn't receive particular tax expenditure awards, for example, examples from the Life Sciences program. We could learn a lot by seeing what happened to companies that didn't get awards.

Secretary Jay Gonzalez:I understand the point about it, and it's a hard test to know whether a company that didn't receive an award would have done better. It's not a perfect comparison. I worry about taking on more work than we can reasonably do. What I'd ask is that we can think about that and maybe not get too specific.

Senator Clark: When looking at identifying metrics, are you anticipating that the office will be limited to what we ultimately decide on. We don't really talk about job creation.

Secretary Jay Gonzalez: At the last meeting, we discussed a high level way to articulate the tax expenditure budget and also adopted a recommendation to require a process through which the Legislature and Governor would identify purposes and outcomes for every tax expenditure, so we're developing metrics based on that.

Senator Knapik: It was a good example to use these two agencies here today. How do you use this recommendation as an exercise to structure incentives for programs and entities from, say 1993? How do we propose finding the public purpose of such exemptions, when we aren't sure why they were implemented?It's an important prospective discussion, but what can we do for a retrospective discussion?

Secretary Jay Gonzalez: We are looking at the existing tax expenditure budget. We have a recommendation to do our best. Identifying public purposes and desired outcomes of every tax expenditure will be imperfect. Tax credits on parsonages, for example, we will decide collectively, to be supportive of religions, for example. It might not be what it was at the time, and a metric for that would be relatively simple and it would not tell us as well how effective the tax expenditure is versus a prospective tax expenditure, but we can inform the public. At the

EDIP program, there are a lot of projects with clear purposes, and metrics there would enable us to rethink the effectiveness of tax expenditures and get good results.

Sometimes there are tax expenditures that made sense then but not today. Are thereany comments on this recommendation? Generally people feel comfortable with this. Any other comments before we vote?

The motion to accept the first section of the outline is approved unanimously.

Secretary Jay Gonzalez: (The Secretary reads the second section of the outline.) The main point is that going forward,the Legislature should look at the reports we generate to see if our analysis needs modification. Some tax expenditures are like appropriations;the Life Sciences tax credits are examples of that. These will be subject to public disclosure of the recipients. On the handout, discretionary awards are under category "A." The other three occur as an operation of law.

For the tax credits that function as an appropriation, they should sunset after 5 years. The Legislature would have to affirmatively reestablish the program if it sunsets and require someone to argue before the Legislature to renew program. Special benefit would be given to the other three. These would require review every 5 years, consideration of whether it was an intentional credit –a deliberate, helpful review. At least every ten years, the Legislature should look at the tax expenditure budget based on all these reports. This is an intentional time period because predictability in the tax code is important, but not at the expense of ensuring that we get the results we want to get. This is my first attempt at a construct that makes sense to me.

Bialecki is in agreement with this. Does everyone like it and want to vote on it?

Senator Clark:With the discretionally awarded grant money, are we trying to be restrictive with what we want to sunset?

Secretary Jay Gonzalez: What I'm proposing is to be prescriptive about sunsetting with these and with any other later that works in the same way as a discretionary tax credit.

Al Gordon: But you're not proposing this for the tax credits in category "B"?

Secretary Jay Gonzalez: Correct. "B" is an automatic tax credit to help industry in Massachusettsto make us more competitive. Because it's clear that we're weighing in to support particular credit for an industry, these credits should require a more extensive review of how effective they are – every 5 years bythe Legislature.

Senator Clark: Just hearing about how effective the Life Sciences Center has been, the Legislature decided to give it a 10 year sunset. Are we changing policy by saying they should review a tax creditevery 5 years or sunset them after 5 years?

Secretary Jay Gonzalez: We could not propose a particular number of years when sunsets should occur for each tax expenditure, but it's not unreasonable that 5 years sounds like a good amount of time to assess the effectiveness of each tax expenditure.

Suzanne Bump: Also, these are recommendationsbroadly going forward, not law.

Representative Stephen Kulik: If a tax credit on the books is not on this list, does that mean there's no disclosure?

Secretary Jay Gonzalez: Yes. The original version suggested a sunset for all 11 tax expenditures, but my own thinking on this is that the ones that act like appropriations, these are the ones that it makes sense to sunset. I wanted to be clear on this suggested change. There are many other tax expenditures that relate to specific industries that would fall into category "B." I'm not suggesting that these sunset automatically, but we should be evaluating the tax expenditures' effectiveness.

Al Gordon: Thank you and your staff for developing a more flexible formula than the original one, but there's a significant change in the proposal. I want to defer the vote on this until the next meeting because these changes are different enough that I would like to discuss them with the treasurer before a vote.

The motion to table the recommendation until next week's meeting passes.

Secretary Jay Gonzalez: We have just a few minutes to discuss the last recommendation on the back of the page. The way I've proposed framing this only applies to those tax expenditures that are awarded like grants. Because in those instances and other instances where things happen by operation of law, eligibility is dictated by statute, if we don't like how they qualify, we need to change the statute. If we want to take back the tax credit, we need to articulate clearly why we are doing that.

Suzanne Bump: The last point I feelneeds further clarification.

Secretary Jay Gonzalez:If there are no other comments, is there a motion to vote or table this until the next meeting?

The motion to table the vote until the next meeting passes unanimously.

At the next meeting, we'll take up the last two recommendations to vote. There's no other business. We are adjourned for the day.

Tax Expenditure Commission Meeting
Comptroller's Office
April 3, 2012

Members in Attendance
Jay Gonzalez, Secretary of Administration & Finance, Chair of Tax Expenditure Commission
Auditor Suzanne Bump
Kathryn Burton, Designee of Treasurer Steven Grossman
Senator Michael Knapik, Designee of Senate Minority Leader Bruce Tarr
Representative Steven Levy, Designee of House Minority Leader Bradley Jones
Senator Katherine Clark, Senate Chair, Joint Committee on Revenue
Representative Jay Kaufman, House Chair, Joint Committee on Revenue
Jim Stock, Member of Governor's Council of Economic Advisors
Jennifer Saubermann, Designee of Sen. Stephen Brewer, Chair of Senate Ways and Means Committee
Representative Stephen Kulik, Vice Chair, House Ways and Means Committee, Designee of Chairman Brian Dempsey

Minutes

Secretary Jay Gonzalez: I want to call the meeting toorder. Today we have a hefty agenda.

(The motion to accept the minutes from the previous week's meeting passes unanimously.)

The agenda today is to quickly take up three votes from the previous meetings. One vote is on a revised approach of assigning tax expenditures to existing categories. Based on feedback, we tried to simplify the categorization and developed five categories. Another agenda item is recommendation five from the outline that relates to periodic reviewof tax expenditures by the Legislature. We will also vote on the enforcement of certain types of tax expenditures. I'm hoping to have quick votes on these items. Then we have three additional proposed recommendations. One deals with the reduction of the tax expenditure budget.The second recommendation suggests that the Governor and Legislature include the tax expenditures'public policies and desired outcomes in a formal legislative proposal. Third, the outline proposesa recommendation related to working with other states and organizations to assess best practices.

I have some updates that are relative to one of the items:sunsetting. Michael Widmersent an e-mail to express concern about sunsetting. I spoke with him and told him we discussed sunsetting regarding grant-like tax expenditures. He understood that we aren't impacting most of the tax expenditures, and that made him more comfortable. I also had a meeting with the Public Affairs Council of Associated Industries of Massachusetts. I got a letter from them thatdescribes what we discussed in our last meeting. They appreciated our discussion and were mindful that we recognized the need to obtain predictability and efficiency in the tax expenditure budget.

You have a copy of a document that says outline four, five and seven. We voted on recommendation four at the last meeting. At the second bullet at the bottom of page – the recommendation about categorization – if people are comfortable with this approach I'd accept a

motion to approve this proposed categorization. We should flesh out what these five categories mean.

(The motion to approve the proposed categorization passes unanimously.)

At the bottom of the first page we have recommendation five on the outline, which we discussed at length at the last meeting. This section reflects the feedback from the last meeting. We would be voting to adopt this in its form substantially. (Secretary Gonzalez reads this section of the outline, which calls for the Legislature periodically to review all tax expenditures based on CPAT reports.)

There are three categories of tax credit in this section. This section would force people like Greg Bialecki to say "here's the effectiveness of this tax expenditure." There's no predictability consequence because business would know when the sunset would occur. There are discretionarily awarded grant-like tax expenditures, there are tax credits intended to benefit a specific industry, and there are tax credits that people obtain via operation of law.

Suzanne Bump: I want to see if others are sure – my observation that the second main bullet seems to be in conflict with, I have confusion withthe last sub-bullet from the first section. CPAT will do an annual elimination and modification of tax expenditures, but in the next bullet we will take up specific review based on the type of tax expenditure it is. Is this inconsistent?

Secretary Jay Gonzalez: I don't think so because we're talking about annual reports from DOR regarding the CPAT determinations.

Suzanne Bump:I'd suggest that the section read that its recommendations will occur on the same schedule as the Legislature's periodic review.

Secretary Jay Gonzalez: That makes sense.Let the minutes reflect that that recommendation will occur on the same schedule as the Legislature's review.

(The motion to approve this edit passes unanimously.)

On the second page, there is the last recommendation that we deferred to vote on during this meeting. We categorized some tax expenditures as discretionary grant-like tax expenditures. This recommendation was largely informed by the Life Sciences Center's experience from the last meeting.

Chairman Jay Kaufman: A couple of the best practices we talked about last week included identifying the recipients and requiring a competitive process. Should we include those in the outline?

Secretary Jay Gonzalez: Should we be specifying that there be a competitive process for the discretionary tax expenditures? I don't disagree with the intent that these programs should be competitive. Is there any objection to this?

Sen. Knapik: Would the dairy farmer tax credit be one of these? That's not really competitive – don't all dairy farmers get that tax credit?

Secretary Jay Gonzalez: If that's the case then it shouldn't be on the top of the list. These are programs that people aren't entitled to as a matter of law. They will involve a competitive process. The dairy farmer doesn't fall within this category because it's not a grant-like tax expenditure.

Chairman Jay Kaufman: We should make very clear that we're talking about discretionary grants in this section.

Suzanne Bump: Is this not redundant – in recommendations one and sixthe second bullet has all kinds of requirements for new programs.

Secretary Jay Gonzalez: Recommendationsix is about the recommended process whenever a new tax expenditure is being considered. This discussion relates to existing tax expenditures. For example, we would be saying that an existing tax expenditure that's discretionary should be subject to enforcement mechanisms and review.

Suzanne Bump: I have a hard time reconciling what you're saying and what the outline says.

Secretary Jay Gonzalez: What if we said new enforcement mechanisms for existing tax expenditures. I think they're written to cover different situations – six relates to new tax expenditures.

Sen. Clark: I think the word "existing" helps.

Secretary Jay Gonzalez: Chairman, do you want to make a motion to amend to be clear about that?

Chairman Jay Kaufman: We accept the proposed language and reference to competitiveness and public disclosure for discretionary grant programs.

Sen.Clark: With the language about the identity of the beneficiary, how does that work with the confidence?

Secretary Jay Gonzalez: The reference in it says that this recommendation applies to discretionary tax expenditures. Current law requires public disclosure so this recommendation wouldn't be requiring any new action. There's no harm in leaving this language in.

Chairman Jay Kaufman: It's important that the transparency and competitiveness be articulated.

Sen. Knapik: Are they all competitive – is the film tax credit competitive?

Secretary Jay Gonzalez: No this applies only to discretionary grant-like credits.The film tax credit would fall into the second category -- it benefits a specific industry.

(The motion to accept the Chairman's proposal passes unanimously.)

Let's turn to the third page of the handout. We start with first main bullet. (The Secretary reads the bullet.)In the second part, what I intended by this is that we have many different tax expenditures that are about fairness or capacity to pay. Maybe the Governor and the Legislature could think about opportunities to get rid of 30 of these tax expenditures and replace them with, perhaps, one more targeted tax expenditure to address people's abilities to

pay. In the economic competitiveness category, maybe there's a more effective and simpler way to achieve that outcome. This is one way to reduce the tax expenditure budget. The third area is the way in which Massachusetts is an outlier among the states as far as where we stand on our relative tax burden. Maybe areas where we are in a different place from other states are good areas where we could reduce the tax expenditure budget. The Tax Expenditure Commission is not recommending whether lowering the tax expenditure budget should reduce the tax rates as an effect. That is beyond the scope of our role; that's forthe Governor and Legislature.

Jim Stock: On the final bullet -- does scope need to be in the preamble?

Secretary Jay Gonzalez: In this particular recommendation, talking about the Governor and the Legislature reducing the number of tax expenditures, I think it doesn't hurt to reiterate it.

Sen. Knapik: I wondered whether it was necessary as well. Sounds more like a statement of purpose versus a specific course of action.

Secretary Jay Gonzalez: Do people feel comfortable with that? We should be explicit about the scope issue, but if you would prefer it be in the preamble...

Rep. Levy: I'd prefer it stay in.

Secretary Jay Gonzalez: We'll take avote on whether the statement of scope should be a part of this recommendation.

Jim Stock: I don't have a strong view, just an expositional point. I understand why others would want to have this point reiterated.

Secretary Jay Gonzalez: If there's no further discussion, we will vote to adopt the language as it stands.

(The motion passes unanimously.)

Secretary Jay Gonzalez: Let's move to the bullet in the middle of the page about newly proposed tax expenditures. (The Secretary reads the bullet.) Differently from what this page says, we could add"for grant-like tax expenditures" before"provisions for specific enforcement mechanisms." Is there any discussion about this?

Chairman Jay Kaufman: I have the same comments as earlier; add language about the transparency and competitiveness of the tax expenditures, either under that bullet or in a separate one. It's important that we articulate those best practices moving forward.

Secretary Jay Gonzalez: Are there any further comments?

(Rep. Kulik arrives.)

We have been extremely speedy this morning.

Suzanne Bump: Having been on both sides of this operation – figuring out how to administer legislation – I'm shrinking from the idea that the Legislature should dictate the criteria to award discretionary tax expenditures. The Legislature can't possibly anticipate all the factors that will arise.

Secretary Jay Gonzalez: I think it's a good point, and we should think about how this is written. The Legislature couldn't possibly articulate all the criteria in administering the program. For example, the Life Sciences credit says there should be a jobs commitment that is part of the condition on which clawbacks are determined. The Legislature determined that people should only get the Life Sciences credit if people are getting jobs. I'm thinking that the Legislature will only make such high level determinations about criteria.

Rep. Levy: If the tax expenditure is granted by statute how are you going to limit the economic activity?

Secretary Jay Gonzalez: We recommend a cap on the amount that will be given to ensure predictability in the budget.

Chairman Jay Kaufman: We could certainly see caps for discretionary tax expenditures. For planning purposes having a statement of anticipated revenue will enable judgments about what we can award.

Secretary Jay Gonzalez: Annual reports will provide information to enable the Legislature to determine whether a tax expenditure needs to be adjusted.

Sen. Knapik: The film tax credit is an open check book; there's no limit. The Life Sciences tax credit we did because we thought we could afford it. Would the goal be to keep it somewhat open-ended or exact?

Secretary Jay Gonzalez: For a tax expenditure like the film tax credit, participants know thatif they meet the criteria, they will get the tax credit. If there's some uncertainty whether they would get it, and there's a cap, that might have an impact because they don't know whether they'd get the tax credit.

Sen. Knapik: I think the Life Sciences Center slides the calendar to make sure they don't go over the $25,000,000 budget.

Secretary Jay Gonzalez: I think the distinction that we've tried to make here is that that tax credit doesn't occur by operation of law.

Chairman Jay Kaufman: Based on the conversation, is there a possible edit? It could read "an annual dollar cap on forgone revenue from grant-like tax expenditures," butdelete "and other tax expenditures may be appropriate," and add "for other tax expenditures, an estimate of forgone revenue."

Secretary Jay Gonzalez: I'm a little worried about the last part if the general consensus is that we shouldn't have a cap. The way it's written now suggests that might not be the case. Maybe we should strike the last clause?

Chairman Jay Kaufman: We might ask of tax expenditures that aren't grant-like, what arethe anticipated costs and benefits? We might include that as a bullet here.

Secretary Jay Gonzalez: We've included this by requiring the identification of the tax expenditures' purposes and outcomes and reviewing whether the tax expenditures achieve their purposes efficiently.

Suzanne Bump: I appreciate the Representative's concern that "other tax expenditures may be appropriate" be eliminated. It's not unreasonable that the Legislature will go on record as to what it anticipates the tax credit dollar amount to be and that it will take this information into account when deciding its criteria.

Jennifer Saubermann: Senator Brewer would support this change because we have talked about this.

Secretary Jay Gonzalez: So where we are is adding conditions to the Legislative proposal; adding that anticipated forgone revenue is something that should be identified.In the last bullet, the opening clause will be"For grant-like tax expenditures," and then sub-bullets to cover public disclosure and transparency.

(The motion to approve these modifications unanimously passes.)

Chairman Jay Kaufman: The thoughtat the last meeting was to engage other states in New England and maybe nationally about tax expenditures because it is a race to the bottom; it seemed to me to make a lot of sense. We are certainly ahead of the pack in thinking about tax expenditures. Perhaps we should ask the Legislature and Governor to take a lead on this going forward.

Secretary Jay Gonzalez:Is there any discussion on this matter?

(The motion to approve the last recommendation in written format passes unanimously.)

Secretary Jay Gonzalez: We have a perfect record. We have approved in substantial form eight recommendations to be included in our final report and haven't heard anyone suggest any other recommendations.

I'll discuss the process from here. We will distribute the draft report on all the commission's decisions thus far before our final meeting. My hope is that at that point everyone will have had a chance to review the draft report, propose edits, changes and concerns and that we could come to that next meeting to discuss the final draft with the hope that we could file the final report to meet the statutory deadline for this commission. I want to thank everyone for accommodating their busy schedules. Personally I feel very good about the recommendations we've developed. This commission has moved us forward in a thoughtful approach.

If there is no further discussion, then we are adjourned until April 23.

Tax Expenditure Commission Meeting
Comptroller's Office
April 23, 2012

Attendees
Commission Members
Jay Gonzalez, Secretary of Administration & Finance, Chair of Tax Expenditure Commission
Suzanne Bump, State Auditor
Al Gordon, Designee of Treasurer Steven Grossman
Senator Katherine Clark, Senate Chair, Joint Committee on Revenue
Representative Jay Kaufman, House Chair, Joint Committee on Revenue
James Stock, Member of Governor's Council of Economic Advisors
Senator Stephen Brewer, Chair of Senate Ways and Means Committee
Representative Stephen Kulik, Vice Chair, House Ways and Means Committee, Designee of Chairman Brian Dempsey
Alan Clayton-Matthews, Member of Governor's Council of Economic Advisors
Sean Diamond, staff of Senator Michael Knapik, Designee of Senate Minority Leader Bruce Tarr
Robert Maurice, staff of Representative Steven Levy, Designeeof House Minority Leader Bradley Jones

Minutes

Secretary Jay Gonzalez: I'd like to call this meeting to order.

(The motion to approve the minutes from the previous meeting passes unanimously.)

Note that we have Representative Kulik joining us from the MassachusettsTurnpike pursuant to our remote participation policy. He's on the phone. Also note that Senator Knapik could not be present today. He'll be represented by Sean Diamond. Representative Levy will be represented by Bob Maurice. Al Gordon will represent treasurer Grossman who couldn't make it to today's meeting either.

Our only order of substantive business today is to vote on the final report which must be submitted to the Legislature by April 30. I'm proud to say that despite such mandates, many reports aren't submitted on time, but we have a high likelihood to submit ours on time. I'm proud of the commission to be able to do so. I have distributed a slightly edited version of the final report to reflect technical edits. I want to open up to further comment, so we can vote on the final version, and then file it on behalf of the commission.

Everyone note the wording change in the second paragraph of the first page in the executive summary. These changes reflect comments from some of you over the last week and

some technical changes from outside of the commission. The first change we made is on page one in the summary of final recommendations. (Secretary Gonzalez reads the suggested edit.) The next change is on page eighteen. Actually there's one on page fifteen which is the same wording change on page one. On page eighteen, in the recommendation about annual reports that CPAT should do on tax expenditures, the way it had been written was to collect data necessary based on metrics to evaluate tax expenditures. This is changed to show that data collection is limited to the last three items on the list, and others should just be included in the annual report, so we took those out and placed them in the fourth main bullet, which includes other data that should be in the annual report. (In recommendation number four, which instructs the Legislature to periodically review all tax expenditures based on CPAT reports, Secretary Gonzalez notes that the word "may" has been added before the phrase "take appropriate action.") Substantively this is not a big change. The Legislature can do whatever it wants to do.

Under recommendation seven are the last changes relating to some recommended preconditions to approving new tax expenditures. The changes reflect a change in the order of the list of preconditions, with the goal of reordering the preconditions for any discretionary grant-like tax expenditures together in the bottom of the list. In the proposal for criteria for awarding discretionary tax expenditures, strike "the administering agency shall prescribe more specific and detailed criteria"because it's always the agency's job to do so.

Lastly, in the appendices, number thirteen, the Tax ExpenditureCommission principles,does not need to be placed in the appendix, because it is in the text of the report. Also, we reorderedthe appendices to be numbered and ordered to reflect the sequence they are referenced in the report, as they are now. These were all reviewed with the commission at various points. It's important to share this information with the Legislature and the public. Are there any comments or questions on this version?

Suzanne Bump: My only comments are about punctuation, formatting and consistency. For some of the listings on page fifteen onward, we lost some of our semicolons and colons.

Secretary Jay Gonzalez: For technical edits like that, I'd suggest we approve this in substantial form and submit it to the Legislature, and I'd suggest technical edits be provided in the next few days.Is there a motion to approve the report in substantially the form presented, not take any further comments and submit it to the Legislature?

James Stock: I'm not sure whether this is a technical edit. At page twelve, the reference to "value added tax" should be "gross receipts tax." This has to do with treatment of exclusions from taxation of products that are inputs to productions. After discussion, the commission decided to use the "gross receipts" concept. This is the benchmark.

Secretary Jay Gonzalez: Are there any questions for Jim on that point? Are there concerns about making that change?

James Stock: Also, in the next paragraph, where it states “general consensus among the Commission,” it should read“gross receipts tax” after “more inclusive” and before “approach.”

Secretary Jay Gonzalez: Are there any further questions?Is there a motion to approve the report in substantial form including the technical edits from Jim?

Senator Brewer: A lot of work went into this. I applaud A&F and Representative Kaufman;this has been part of his passion for a long time. This work is a template for the future -- a guiding set of principles. The report includes legislative flexibility. This is a very good first effort, and I would note that the Founders emphasized legislative flexibility.

Auditor Bump: I’m truly excited for the report’s potential to achieve some goals I’ve articulated -- making sure tax expenditures are equitable and effective. I want to acknowledge that we created new standards and a framework for tax expenditures and planning for the future, and we did it in a bipartisan manner when tax policy can be a partisan issue. I’m very proud to have been a part of this.

Chairman Kaufman: I’m also excited. This is a wonderful new beginning for our new process. We are not going to correct history, but we are going to shape the future. We will be looking at these things with much more attention and critical eyes. We did an exceptional job finding common ground and ironing out differences in discussing what can be a political issue. I want to congratulate Secretary Gonzalez.

Secretary Jay Gonzalez: I think the chairman’s point that we have a template is a good way to describe the product of our work -- it’s an important roadmap. We need to be doing everything we possibly can to invest taxpayer dollars effectively. We have never done anything close to this – using data to achieve the purpose and the point of these tax expenditures and decide collectively through the legislative process for our policy makers to ensure tax dollars are being spent effectively. The public deserves that. This is a huge step forward -- it might be a roadmap for lots of states across the country. The fact that we are making recommendations, and if we havea unanimous vote on this report, sets a huge example that we carried out this process collaborativelyand that it wasn’t a political process. I want to thank DOR; the amount of work they did was referenced. We could not have done this without the huge amount of work that DOR did to inform us for these discussions. I want to thank them for everything they have done to make the report possible and the work they will do.

(The motion to approve the report in its substantial form with James Stock’s edits and to submit it to the Legislature passes unanimously.)

Thank you all for your great work. We are adjourned. We’re going to have each member sign a page of the report, which is custom.