

HOUSE No. 52

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, February 10, 2015.

The temporary committee on Ways and Means to whom was referred the message from His Excellency the Governor recommending legislation relative to addressing the fiscal year 2015 budget shortfall (House, No. 49), reports, in part, that the accompanying bill (House, No. 52) ought to pass.

For the committee,

BRIAN S. DEMPSEY.

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**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act addressing the fiscal year 2015 budget shortfall.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith address the fiscal year 2015 budget shortfall and to make other changes in law, each of which is immediately needed for important public purposes, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

1 SECTION 1. Subsection (a) of section 211 of chapter 38 of the acts of 2013, as most recently
2 amended by section 32 of chapter 359 of the acts of 2014, is hereby further amended by striking
3 out the figure “\$32,307,769” and inserting in place thereof the following figure:- \$12,307,769.

4 SECTION 2. Said subsection (a) of said section 211 of said chapter 38, as so amended, is
5 hereby further amended by striking out the words “, for payments required by section 262 of
6 chapter 224 of the acts of 2012”.

7 SECTION 3. Item 5920-2000 of section 2 of chapter 165 of the acts of 2014 is hereby
8 amended by striking out the figure “\$1,006,339,270” and inserting in place thereof the following
9 figure:- \$1,048,839,270.

10 SECTION 4. Said item 5920-2000 of said section 2 of said chapter 165 is hereby further
11 amended by adding the following words:-

12 General Fund. 98.71%

13 Community First Trust Fund 1.29%

14 SECTION 5. Item 1595-6368 of section 2E of said chapter 165 is hereby amended by
15 striking out the figure “\$390,361,636” and inserting in place thereof the following figure:-
16 \$364,361,636.

17 SECTION 6. Item 1595-6369 of said section 2E of said chapter 165 is hereby amended
18 by striking out the figure “\$136,552,622” and inserting in place thereof the following figure:-
19 \$122,552,622.

20 SECTION 7. Section 2A of chapter 287 of the acts of 2014 is hereby amended by striking
21 out items 7100-0801, 7100-0802, and 7118-0101.

22 SECTION 8. (a) Notwithstanding any general or special law to the contrary, the total
23 amount appropriated in section 2 of chapter 165 of acts of 2014 and any other amounts
24 appropriated for fiscal year 2015 for the following constitutional offices, departments or agencies
25 not subject to section 9C of chapter 29 of the General Laws shall be reduced by 1.79 per cent;
26 provided, however, that the reduction may be within any item of appropriation: (1) office of the
27 state comptroller; (2) Massachusetts cultural council; (3) secretary of the commonwealth; (4)
28 office of the treasurer and receiver general; (5) lottery commission; (6) center for health
29 information and analysis; (7) state ethics commission; (8) office of the state auditor; (9) office of
30 the attorney general; (10) office of the inspector general; (11) office of campaign and political

31 finance; (12) disabled persons protection commission; (13) victim and witness assistance board;
32 (14) Massachusetts commission against discrimination; (15) supreme judicial court; (16)
33 commission on judicial conduct; (17) board of bar examiners; (18) Massachusetts legal
34 assistance corporation; (19) mental health legal advisors committee; (20) Prisoner's Legal
35 Services; (21) social law library located in Suffolk county; (22) appeals court; (23) trial court;
36 (24) superior court department; (25) district court department; (26) probate and family court
37 department; (27) land court department; (28) Boston municipal court department; (29) housing
38 court department; (30) juvenile court department; (31) office of the commissioner of probation;
39 (32) office of the jury commissioner; (33) Suffolk district attorney's office; (34) Middlesex
40 district attorney's office; (35) Eastern district attorney's office; (36) Worcester district attorney's
41 office; (37) Hampden district attorney's office; (38) Hampshire/Franklin district attorney's
42 office; (39) Norfolk district attorney's office; (40) Plymouth district attorney's office; (41)
43 Bristol district attorney's office; (42) Cape and Islands district attorney's office; (43) Berkshire
44 district attorney's office; (44) Massachusetts District Attorneys Association; (45) the
45 Massachusetts gaming commission; (46) commission on the status of women; and (47) the office
46 of community corrections. The office, department or agency may satisfy any portion of the
47 required reduction by transferring non-appropriated resources to the General Fund, in a manner
48 approved in writing by the secretary of administration and finance and the comptroller. The
49 comptroller shall apply this reduction to each item of appropriation for these offices, departments
50 or agencies, unless, within 15 days after the effective date of this act, the office, department or
51 agency head files with the clerks of the senate and house of representatives, the secretary of
52 administration and finance and the comptroller, a statement specifying the same total amount of
53 reductions allocated among the items of appropriation for that office, department or agency,

54 approved in writing by the secretary of administration and finance. This statement shall operate
55 as the required statutory reduction of the specified appropriations by the specified amounts.

56 (b) This section shall not apply to item 1233-2350 relating to unrestricted local aid, item
57 7061-0008 relating to school aid and items 0699-0005, 0699-0014, 0699-0015, 0699-0018,
58 0699-2005, and 0699-9100 relating to debt service.

59 SECTION 9. Notwithstanding any general or special law to the contrary, the total amount
60 appropriated in section 2 of chapter 165 of acts of 2014 and any other amounts appropriated for
61 fiscal year 2015 for the following constitutional offices, departments or agencies not subject to
62 section 9C of chapter 29 of the General Laws shall be reduced by 1.5 per cent; provided,
63 however, that the reduction may be within any item of appropriation: (1) University of
64 Massachusetts; (2) Bridgewater State University; (3) Fitchburg State University; (4) Framingham
65 State University; (5) Massachusetts College of Art and Design; (6) Massachusetts Maritime
66 Academy; (7) Massachusetts College of Liberal Arts; (8) Salem State University; (9) Westfield
67 State University; (10) Worcester State University; (11) Berkshire Community College; (12)
68 Bristol Community College; (13) Bunker Hill Community College; (14) Cape Cod Community
69 College; (15) Greenfield Community College; (16) Holyoke Community College; (17)
70 Massachusetts Bay Community College; (18) Massasoit Community College; (19) Middlesex
71 Community College; (20) Mount Wachusett Community College; (21) Northern Essex
72 Community College; (22) North Shore Community College; (23) Quinsigamond Community
73 College; (24) Roxbury Community College; and (25) Springfield Technical Community College.
74 An institute of higher education may satisfy any portion of the required reduction by transferring
75 non-appropriated resources to the General Fund, in a manner approved in writing by the
76 secretary of administration and finance and the comptroller. The comptroller shall apply this

77 reduction to each item of appropriation for these institutes of higher education, unless within 15
78 days after the effective date of this act, the head of the institute of higher education files with the
79 clerks of the senate and house of representatives, the secretary of administration and finance and
80 the comptroller, a statement specifying the same total amount of reductions allocated among the
81 items of appropriation for that institute of higher education, approved in writing by the secretary
82 of administration and finance. This statement shall operate as the required statutory reduction of
83 the specified appropriations by the specified amounts.

84 SECTION 10. (a) Upon certification by the executive office for administration and
85 finance, the comptroller shall transfer from the General Fund to the Commonwealth Care Trust
86 Fund , established pursuant to section 2000 of chapter 29 of the General Laws, an amount up to
87 the amount of federal financial participation funds received for spending by the commonwealth
88 health insurance connector authority for the commonwealth care program. To accommodate the
89 timing of federal revenue receipts after June 30, 2015, transfers may be made through the fiscal
90 year 2015 accounts receivable period.

91 (b) Notwithstanding any general or special law to the contrary, the comptroller shall
92 transfer \$10,000,000 or a lesser amount if the secretary of administration and finance so requests
93 in writing, to the General Fund from the Healthcare Payment Reform Fund established pursuant
94 to section 100 of chapter 194 of the acts of 2011.

95 (c) Notwithstanding any general or special law to the contrary, on or before June 30,
96 2015, the comptroller shall transfer a sum not to exceed \$210,000 from the Massachusetts
97 Seafood Marketing Program Fund, established in section 2PPPP of Chapter 29 of the General
98 Laws, to the General Fund.

99 SECTION 11. Notwithstanding any general or special law to the contrary, the
100 comptroller shall not make any transfers required under section 5G of chapter 29 of the General
101 Laws that, but for this section, would be attributable to capital gains tax collections during fiscal
102 year 2015. SECTION 12. (a) Notwithstanding section 264 of chapter 165 of the acts of 2014 or
103 any other general or special law to the contrary, the commissioner of revenue shall establish a tax
104 amnesty program during which all penalties that could be assessed by the commissioner shall be
105 waived without the need for any showing by the taxpayer of reasonable cause or the absence of
106 willful neglect for the failure of the taxpayer to: (i) timely file any proper return for any tax type
107 and for any tax period; (ii) file proper returns which report the full amount of the taxpayer's
108 liability for any tax type and for any tax period; (iii) timely pay any tax liability; or (iv) pay the
109 proper amount of any required estimated payment toward a tax liability. The waiver of a
110 taxpayer's liability under this section shall apply if the taxpayer: (i) files returns, makes
111 payments as required by the commissioner or otherwise comes into compliance with the tax laws
112 of the commonwealth pursuant to the tax amnesty program; and (ii) for a taxpayer who is
113 required to file annual reports with the secretary of state, provides the commissioner with a
114 certificate from the secretary, issued within 30 days of submission, indicating that the taxpayer is
115 in good standing. The scope of the program, including the particular tax types and periods
116 covered, including any limited look-back period for unfiled returns, shall be determined by the
117 commissioner; provided, however, that the commissioner shall include, but not be limited to, the
118 following tax types within the scope: corporate excise. Taxpayers participating in the amnesty
119 program shall waive any right to receive subsequent refund of or otherwise to contest liability for
120 the amounts paid pursuant to the amnesty. In determining the scope of the program, the
121 Commissioner may decline to offer participation in the amnesty program in disputed tax matters

122 where the Commissioner determines that such participation would not enhance revenue
123 collection.

124 (b) The tax amnesty program shall be established for sixty days in fiscal year 2015 to be
125 determined by the commissioner. All required payments shall be made in full by the taxpayer on
126 or before June 30, 2015. If a taxpayer fails to pay the full liability on or before June 30, 2015, the
127 commissioner shall retain any payments made and shall apply those payments against the
128 outstanding liability and the tax amnesty program shall not apply.

129 (c) (1) The commissioner may waive penalties under the tax amnesty program for those
130 taxpayers who have either an unpaid self-assessed liability or who have been assessed a tax
131 liability, whether before or after the filing of a return, which assessed liability remains unpaid.

132 (2) The tax amnesty program shall not authorize the waiver of interest or any amount
133 treated as interest.

134 (3) The commissioner's authority to waive penalties under the tax amnesty program shall
135 not apply to any taxpayer who, before or during the period of the tax amnesty program selected
136 by the commissioner, was or is the subject of a tax-related criminal investigation or prosecution
137 or to any taxpayer who delivers or discloses or has delivered or disclosed any false or fraudulent
138 application, document, return or other statement.

139 (4) A taxpayer who delivers or discloses any false or fraudulent application, document,
140 return or other statement to the department of revenue in connection with an amnesty application
141 under this section shall be ineligible for amnesty and shall be subject to the greater of: (i)
142 applicable penalties under chapter 62C of the General Laws; or (ii) a penalty not to exceed
143 \$10,000 which shall be calculated and assessed according to rules determined by the

144 commissioner and may be subject to de minimis or other exceptions that the commissioner may
145 consider appropriate. This penalty shall be subject to said chapter 62C and shall be added to and
146 become part of the tax due.

147 (d) To the extent that a taxpayer within the scope of the amnesty program as determined
148 by the commissioner and wishing to participate in the amnesty program has postponed the
149 payment of an assessment of tax, interest and penalty under subsection (e) of section 32 of
150 chapter 62C of the General Laws, the taxpayer shall waive in writing all rights under said
151 subsection (e) of said section 32 of said chapter 62C to further delay the payment of the tax and
152 interest portions of the assessment. The tax and interest portions of the assessment shall be
153 payable in full from the date of the commissioner's notice of assessment. Upon payment by the
154 taxpayer of the tax and interest of the outstanding assessment, the commissioner shall waive all
155 penalties associated with that assessment.

156 (e) The tax amnesty program established by this section shall not apply to those
157 penalties which the commissioner would not have the sole authority to waive including, but not
158 limited to, fuel taxes administered under the International Fuel Tax Agreement or under the local
159 option portions of taxes or excises collected for the benefit of cities, towns or state governmental
160 authorities.

161 (f) The commissioner shall maintain records of the penalties waived under the tax
162 amnesty program established by this section including, but not limited to: (i) the number of
163 taxpayers provided with amnesty; (ii) the types of tax liability for which amnesty was provided
164 and, for each type of liability, the amount of tax liability collected and the amount of penalties
165 foregone by virtue of the tax amnesty program; and (iii) the total outstanding tax liability for

166 amnesty-eligible taxpayers at the conclusion of the tax amnesty program after the collection of
167 all funds under this section. The commissioner shall file a report detailing the information with
168 the clerks of the senate and the house of representatives, the joint committee on revenue, the
169 house and senate committees on ways and means and the house and senate minority leaders not
170 later than September 1, 2015; provided, however, that the report shall not contain information
171 sufficient to identify an individual taxpayer or the amnesty that an individual taxpayer was
172 provided under this section.

173 (g) The commissioner shall establish administrative procedures and methods to prevent
174 any taxpayer who utilizes the tax amnesty program from utilizing any future tax amnesty
175 programs for the next consecutive 10 years, beginning in calendar year 2015.

176 SECTION 13. Except as otherwise provided, this act shall take effect upon its passage.