

HOUSE No.

The Commonwealth of Massachusetts



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February 3, 2015.

To the Honorable Senate and House of Representatives,

Pursuant to Section 9C of Chapter 29 of the Massachusetts General Laws, Secretary of Administration and Finance Kristen Lepore has advised me of a projected budget shortfall of \$768 million in Fiscal Year 2015. This letter, the attached supporting documents, and the legislation that I am filing today, detail the spending reductions and other actions that I recommend we undertake to close this shortfall.

This plan holds to our pledge to not raise taxes, to preserve local aid, and to not draw down on the Stabilization Fund. And, even after our adjustments, the Fiscal Year 2015 budget will rise nearly 7.7% over Fiscal Year 2014.

Most of the savings come from reductions I am making to Executive Branch accounts under my Section 9C authority. These reductions were made in close consultation with my Cabinet Secretaries and their respective teams. They include my office, as its budget has been reduced by 10%.

I have identified additional, potential savings in the accounts of the Legislature, Judiciary, Constitutional Offices and other entities independent of the Executive Branch. These proposed savings represent a 1.79% reduction in funding to those entities.

To effectuate these reductions and address the remainder of the shortfall, I am filing for your consideration emergency supplemental budget legislation. This legislation:

- Recognizes that higher-than-expected capital gains tax collections can help address the shortfall by providing that they be directed to the General Fund, rather than the Stabilization Fund, but only for a limited period of time to expire in June 2015;
- Establishes a limited, two-month corporate tax amnesty program;
- Eliminates certain incentives to MassHealth providers for this fiscal year.
- Identifies additional non-tax revenue opportunities that can generate additional revenue without any increases to fees or fines.

It is our shared responsibility to address this shortfall, and I look forward to working with you to do so. A timely solve to the current budget problem will place the Commonwealth on sounder footing as we move forward into the Fiscal Year 2016 budget season.

I respectfully ask for your support.

Sincerely yours,

Charles Baker,
Governor

The Commonwealth of Massachusetts

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 Non-9C Reductions

2 SECTION 1. (A) Notwithstanding any general or special law to the contrary, and except
3 as this section provides otherwise, the amounts appropriated for fiscal year 2015 as of February
4 2, 2015 for departments or agencies not subject to section 9C of chapter 29 of the General Laws
5 shall be reduced by 1.79 per cent, unless within 14 days after the effective date of this act, the
6 department or agency head files with the clerks of the senate and house of representatives, the
7 secretary of administration and finance, and the comptroller, a statement specifying the same
8 total amount of reductions allocated among the items of appropriation for that department or
9 agency, approved in writing by the secretary of administration and finance. This statement shall
10 operate as a statutory reduction of the specified appropriations by the specified amounts. A
11 department or agency may satisfy any portion of the required reduction described in the

12 preceding sentences by transferring non-appropriated resources to the General Fund, in a manner
13 approved in writing by the secretary of administration and finance and the comptroller. For the
14 purpose of this section, the items for the judicial department shall be items 0320-0003 to 0339-
15 2100, inclusive, and the department head of the judicial department shall be the chief justice of
16 the supreme judicial court, the chief justice of the trial court, and the trial court administrator,
17 acting jointly.

18 (B) Notwithstanding any general or special law to the contrary, the amounts appropriated
19 for fiscal year 2015 as of February 2, 2015 for the public institutions of higher education shall be
20 reduced by 1.5 per cent, unless within 14 days after the effective date of this act, the president of
21 the institution files with the clerks of the senate and house of representatives, the secretary of
22 administration and finance, and the comptroller, a statement specifying the same total amount of
23 reductions allocated among the items of appropriation for that department or agency, approved in
24 writing by the secretary of administration and finance. This statement shall operate as a statutory
25 reduction of the specified appropriations by the specified amounts. An institution may satisfy any
26 portion of the required reduction described in the preceding sentences by transferring non-
27 appropriated resources to the General Fund, in a manner approved in writing by the secretary of
28 administration and finance and the comptroller.

29 (C) Subsection (A) shall not apply to the following appropriation items: (i) unrestricted
30 local aid, item 1233-2350, and state school aid, item 7061-0008; and (ii) debt service, items
31 0699-0005, 0699-0014, 0699-0015, 0699-0018, 0699-2005, and 0699-9100.

32 (D) Item 1595-6368 of section 2E of chapter 165 of the acts of 2014 is hereby amended
33 by striking out the figure “\$390,361,636” and inserting in place thereof the following figure:-
34 \$364,361,636.

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

37 (F) Section 2A of chapter 287 of the acts of 2014 is hereby amended by striking out items
38 7100-0801, 7100-0802, and 7118-0101.

39 **MassHealth Payments**

40 SECTION 2. Subsection (a) of section 211 of chapter 38 of the acts of 2013, as most
41 recently amended by section 32 of chapter 359 of the acts of 2014, is hereby amended by striking
42 out the words “or fiscal year 2015”.

43 **Transfers to and from the General Fund**

44 SECTION 3. (a) Upon certification by the executive office for administration and
45 finance, the comptroller shall transfer from the General Fund to the Commonwealth Care Trust
46 Fund an amount up to the amount of federal financial participation funds received for spending
47 by the Commonwealth Health Insurance Connector Authority for the Commonwealth Care
48 program. To accommodate the timing of federal revenue receipts after June 30, 2015, transfers
49 may be made through the fiscal year 2015 accounts receivable period.

50 (b) Notwithstanding any general or special law to the contrary, the comptroller shall
51 transfer \$10,000,000 or a lesser amount if the secretary of administration and finance so requests

52 in writing, to the General Fund from the Healthcare Payment Reform Fund established under
53 section 100 of chapter 194 of the acts of 2011.

54 (c) Notwithstanding any general or special law to the contrary, the comptroller is hereby
55 authorized, for fiscal year 2015 only, to transfer a sum not to exceed \$210,000 from the
56 Massachusetts Seafood Marketing Program Fund, established in section 2PPPP of Chapter 29 of
57 the General Laws, to the General Fund.

58 Adult Long Term Residential Services

59 SECTION 4. (A) Item 5920-2000 of section 2 of chapter 165 of the acts of 2014 is
60 hereby amended by striking out the figure “\$1,006,339,270” and inserting in place thereof the
61 following figure:-

62 1,048,839,270.

63 (B) Said item 5920-2000 of said section 2 of said chapter 165 is hereby further amended
64 by adding the following words:-

65 General Fund. 98.71%

66 Community First Trust Fund 1.29%

67 Capital Gains Tax Collections

68 SECTION 5. Notwithstanding any general or special law to the contrary, the comptroller
69 shall not make any transfers required under section 5G of chapter 29 of the General Laws that,
70 but for this section, would be attributable to capital gains tax collections during fiscal year 2015.

71 Corporate Tax Amnesty

72 SECTION 6. (a) Notwithstanding section 264 of chapter 165 of the acts of 2014 or any
73 other general or special law to the contrary, the commissioner of revenue shall establish a tax
74 amnesty program during which all penalties that could be assessed by the commissioner shall be
75 waived without the need for any showing by the taxpayer of reasonable cause or the absence of
76 willful neglect for the failure of the taxpayer to: (i) timely file any proper return for any tax type
77 and for any tax period; (ii) file proper returns which report the full amount of the taxpayer's
78 liability for any tax type and for any tax period; (iii) timely pay any tax liability; or (iv) pay the
79 proper amount of any required estimated payment toward a tax liability. The waiver of a
80 taxpayer's liability under this section shall apply if the taxpayer files returns, makes payments as
81 required by the commissioner or otherwise comes into compliance with the tax laws of the
82 commonwealth pursuant to the tax amnesty program. The scope of the program, including the
83 particular tax types and periods covered, including any limited look-back period for unfiled
84 returns, shall be determined by the commissioner; provided, however, that the commissioner
85 shall include, but not be limited to, the following tax types within the scope: corporate excise.
86 Taxpayers participating in the amnesty program shall waive any right to receive subsequent
87 refund of or otherwise to contest liability for the amounts paid pursuant to the amnesty. In
88 determining the scope of the program, the Commissioner may decline to offer participation in the
89 amnesty program in disputed tax matters where the Commissioner determines that such
90 participation would not enhance revenue collection.

91 (b) The tax amnesty program shall be established for sixty days in fiscal year 2015 to be
92 determined by the commissioner. All required payments shall be made in full by the taxpayer on
93 or before June 30, 2015. If a taxpayer fails to pay the full liability on or before June 30, 2015, the

94 commissioner shall retain any payments made and shall apply those payments against the
95 outstanding liability and the tax amnesty program shall not apply.

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

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

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

106 (4) A taxpayer who delivers or discloses any false or fraudulent application, document,
107 return or other statement to the department of revenue in connection with an amnesty application
108 under this section shall be ineligible for amnesty and shall be subject to the greater of: (i)
109 applicable penalties under chapter 62C of the General Laws; or (ii) a penalty not to exceed
110 \$10,000 which shall be calculated and assessed according to rules determined by the
111 commissioner and may be subject to de minimis or other exceptions that the commissioner may
112 consider appropriate. This penalty shall be subject to said chapter 62C and shall be added to and
113 become part of the tax due.

114 (d) To the extent that a taxpayer within the scope of the amnesty program as
115 determined by the commissioner and wishing to participate in the amnesty program has

116 postponed the payment of an assessment of tax, interest and penalty under subsection (e) of
117 section 32 of chapter 62C of the General Laws, the taxpayer shall waive in writing all rights
118 under said subsection (e) of said section 32 of said chapter 62C to further delay the payment of
119 the tax and interest portions of the assessment. The tax and interest portions of the assessment
120 shall be payable in full from the date of the commissioner's notice of assessment. Upon payment
121 by the taxpayer of the tax and interest of the outstanding assessment, the commissioner shall
122 waive all penalties associated with that assessment. Thereafter, the taxpayer and the
123 commissioner shall proceed with all administrative appeal rights that the taxpayer wishes to
124 pursue with respect to the assessment.

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

130 (f) The commissioner shall maintain records of the penalties waived under the tax
131 amnesty program established by this section including, but not limited to: (i) the number of
132 taxpayers provided with amnesty; (ii) the types of tax liability for which amnesty was provided
133 and, for each type of liability, the amount of tax liability collected and the amount of penalties
134 foregone by virtue of the tax amnesty program; and (iii) the total outstanding tax liability for
135 amnesty-eligible taxpayers at the conclusion of the tax amnesty program after the collection of
136 all funds under this section. The commissioner shall file a report detailing the information with
137 the clerks of the senate and the house of representatives, the joint committee on revenue, the
138 house and senate committees on ways and means and the house and senate minority leaders not

139 later than September 1, 2015; provided, however, that the report shall not contain information
140 sufficient to identify an individual taxpayer or the amnesty that an individual taxpayer was
141 provided under this section.

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

145

146 MassHealth Benefits

147 SECTION 7. Notwithstanding section 53 of chapter 118E of the General Laws or any
148 other general or special law to the contrary, the executive office of health and human services
149 may manage the MassHealth program within the appropriated levels in items 4000-0430, 4000-
150 0500, 4000-0600, 4000-0700, 4000-0875, 4000-0880, 4000-0885, 4000-0940, 4000-0950,
151 4000-0990, 4000-1400, and 4000-1420 by restructuring benefits to the extent permitted by
152 federal law. The secretary shall file a report with the executive office for administration and
153 finance and the house and senate committees on ways and means detailing the changes and the
154 fiscal impact of those changes.

155 SECTION 8. Except as otherwise provided, this act shall take effect upon its enactment.