

# HOUSE . . . . . No. 52

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## The Commonwealth of Massachusetts

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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.

**HOUSE . . . . . No. 52**

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**The Commonwealth of Massachusetts**

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

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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.

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

General Fund. . . . . 98.71%

Community First Trust Fund . . . . 1.29%

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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