

Outside Sections

Outside Sections 6-3



Section 3 - Section 3

SECTION 3.

Notwithstanding any general or special law to the contrary, for the fiscal year ending June 30, 2015 the distribution to cities and towns of the balance of the State Lottery and Gaming Fund, as paid from the General Fund in accordance with clause (c) of the second paragraph of section 35 of chapter 10 of the General Laws, and additional funds from the General Fund and the Gaming Local Aid Fund, shall be \$920,230,293 and shall be apportioned to the cities and towns in accordance with this section.

Notwithstanding section 2 of chapter 70 of the General Laws or any other general or special law to the contrary, except for section 12B of chapter 76 and section 89 of chapter 71 of the General Laws, for fiscal year 2015 the total amounts to be distributed and paid to each city and town from item 7061-0008 of section 2 shall be as set forth in the following lists. The specified amounts to be distributed from said item 7061-0008 of said section 2 shall be in full satisfaction of the amounts due under chapter 70 of the General Laws.

For fiscal year 2015, the foundation budget categories for each district shall be calculated in the same manner as in fiscal year 2014; provided, that "pre-school enrollment" shall be defined as the number of students enrolled in pre-school programs in a district. The target local share shall be calculated using the same methodology used in fiscal year 2014. Preliminary local contribution shall be the municipality's fiscal year 2014 minimum required local contribution, increased or decreased by the municipal revenue growth factor; provided, that if a municipality's preliminary local contribution as a percentage of its foundation budget is more than 2.5 percentage points lower than the target local share, the preliminary contribution shall be recalculated using the municipality's revenue growth factor plus 1 percentage point; and if a municipality's preliminary contribution as a percentage of its foundation budget is more than 7.5 percentage points lower than the target local share, the preliminary contribution shall be recalculated using the municipality's revenue growth factor plus 2 percentage points. Minimum required local contribution for fiscal year 2015 shall be, for any municipality with a fiscal year 2015 preliminary contribution greater than its fiscal year 2015 target contribution, the preliminary local contribution reduced by 50 per cent of the gap between the preliminary local contribution and the target local contribution. No minimum required local contribution shall be greater than 90 percent of the district's foundation budget amount. Required local contribution shall be allocated among the districts to which a municipality belongs in direct proportion to the foundation budgets for the municipality's pupils at each of those districts. For fiscal year 2015, the "foundation aid increment" shall be the difference between: (a) the positive difference between a district's foundation budget and its required district contribution; and (b) prior year aid. The "down payment aid increment" shall be 35 per cent of the positive difference between 100 per cent of a district's target aid share and its prior year chapter 70 aid, minus the foundation aid increment. The "minimum aid increment" shall be equal to (a) \$25 multiplied by the district's foundation enrollment minus (b) the sum of the foundation aid increment and down payment aid increment.

Chapter 70 aid for fiscal year 2015 shall be the sum of prior year aid plus the foundation aid increment, if any, plus the down payment aid increment, if any, plus the minimum aid increment, if any. No non-operating district shall receive chapter 70 aid in an amount greater than the district's foundation budget.

If there is a conflict between the language of this section and the distribution listed below, the distribution below shall control.

The department of elementary and secondary education shall not consider health care costs for retired teachers to be part of net school spending for any district in which such costs were not considered part of net school spending in fiscal year 1994.

No payments to cities, towns or counties maintaining an agricultural school under this section shall be made after November 30 of the fiscal year until the commissioner of revenue certifies acceptance of the prior fiscal year's annual financial reports submitted pursuant to section 43 of chapter 44 of the General Laws. Advance payments shall be made for some or all of periodic local reimbursement or assistance programs to any city, town, regional school district or independent agricultural and technical school that demonstrates an emergency

cash shortfall, as certified by the commissioner of revenue and approved by the secretary of administration and finance, under guidelines established by the secretary.

Summary:

Section 4 - Integrated Facilities Management of State Properties

SECTION 4.

(A) Section 1 of chapter 7C of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting after the definition of "master plan" the following definition:-

"Operational services", day-to-day, routine, normally recurring upkeep and services necessary to the ongoing management and operation of a facility, other than those provided to maintain the building structure and elevators, electrical, mechanical and related building systems. Operational services includes, but is not limited to, janitorial services, cleaning, security services, trash removal, mowing, snow removal, window washing and similar non-construction related services.

(B) Said section 1 of said chapter 7C, as so appearing, is hereby further amended by inserting after the word "property", in line 99, the following words:- or "property".

(C) The second paragraph of section 2 of said chapter 7C, as so appearing, is hereby amended by adding the following clause:-

(f) direction, control, supervision and oversight as to the operational services, maintenance, repair and management of specific capital facilities under an agreement between the commissioner and the agency, the administrative office of the trial court or building authority under section 26.

(D) Section 4 of said chapter 7C, as so appearing, is hereby amended by adding the following clause:-

(5) Control and supervision of operational services, maintenance, repair and management related building projects and operational services for particular facilities over which the division would not otherwise have authority when transferred or assumed under agreements with state agencies or building authorities under section 26.

(E) Section 5 of said chapter 7C, as so appearing, is hereby amended by inserting at the end thereof the following sentence:- A state agency, the administrative office of the trial court or building authority may, by agreement with the commissioner, delegate the control and supervision of all or some portion of its building projects to the commissioner, notwithstanding the scope of work or dollar value of the projects under section 26.

(F) The first paragraph of section 24 of said chapter 7C, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The director office shall have proven ability and at least 10 years of experience in the management and oversight of operation, maintenance and repair of buildings.

(G) Section 26 of chapter 7C, as so appearing, is hereby amended by adding the following paragraph:-

Notwithstanding the foregoing procedures, an agency or building authority, with the approval of the secretary of the executive office in which the agency is located or, in the case of a building authority, the approval of the board of trustees of the relevant institution, may voluntarily transfer to the division of capital asset management and maintenance the supervision and control of operational services, maintenance, repair, and management of real property, if the transfer and its scope are agreed upon and approved by the commissioner and the secretary of administration and finance. Upon approval of the transfer, the secretary of administration and finance shall immediately file a written notice with the budget director, the comptroller, the house and senate committees on ways and means, and the house and senate committees on post audit and oversight, specifying the scope of the authority so transferred and its duration. Where the commissioner has assumed this control and supervision, the commissioner shall make quarterly reports to the secretary of administration and finance on the status of the operational services, maintenance, repair and management so assumed. Any real

property which has been vacated by an agency or institution, and with respect to which all operational services, maintenance, repair and management responsibilities have been transferred to the division as provided in the preceding sentence, shall be considered real property assigned by law to the division for the purposes of section 33.

(H) Said chapter 7C is hereby amended by inserting after section 28 the following section:-

Section 28A. The commissioner may charge an agency or building authority occupying real property for which the division of capital asset management and maintenance has assumed responsibility for the supervision and control of operational services, maintenance, repair, and management of real property under this chapter or any other general or special law, for the reasonable costs of providing the operational services, maintenance, repair and management. These costs may include, but shall not be limited to, costs for utilities, snow plowing, landscape maintenance, cleaning and janitorial services. The division may charge and collect a fee sufficient to cover its reasonable costs of providing these services.

(I) Section 33 of said chapter 7C, as so appearing, is hereby amended by striking out, in line 37, the words "the greater part of" and inserting in place thereof the following word:- all.

(J) The sixth paragraph of said section 33 of said chapter 7C, as so appearing, is hereby further amended by adding the following sentence:- Real property the operational services, maintenance, repair and management of which has been transferred to the division, and that has been determined surplus in whole or in part to the needs of the occupying agency or building authority with the consent of the occupying agency, shall be considered real property assigned by law to the division for the purposes of this section.

(K) Section 33 of chapter 7C, as so appearing, is hereby amended by deleting the 7th paragraph and inserting in place thereof the following paragraph:-

The commissioner, in consultation with the secretaries of the executive offices or the chief justice of the administrative office of the trial court as the commissioner considers appropriate and with the written approval of the secretary of administration and finance, may transfer and change the use of, or may transfer responsibility for operational services, management, repair, and maintenance of, or both, land, buildings and other real property of the commonwealth, other than the state house and property subject to amendment XCVII to the constitution of the commonwealth, within or between state agencies including, without limitation, to the division and the judiciary. Such a transfer shall be based on a determination, made by the commissioner with the advice of the executive heads of affected agencies and secretaries of the executive offices in which the agencies are located, that the property or any part of it is not needed or is not being put to optimum use under current conditions. The commissioner shall submit a report on any such transfer to the chairs of the house and senate ways and means committees and the joint committee on state administration and regulatory oversight and the members of the general court representing the municipality in which the property is located not less than 30 days before the effective date of the proposed transfer. An agency need not purchase or make payment, whether directly or indirectly, to acquire property or part of it, which is made available for that agency's use. As a condition of the transfer of property to a state agency, the commissioner may require that the agency be financially responsible for any outstanding lease, contractual or debt obligations previously incurred by the commonwealth to acquire or improve the property and for any future maintenance, security and improvement costs for the property.

(L) Section 41 of chapter 7C, as so appearing, is hereby amended by inserting after the word "jurisdiction", in line 4, the following words:- , but the division may make expenditures and perform maintenance for any real property for which the division has the obligation to perform maintenance and repair operations under this chapter.

(M) Notwithstanding any general or special law to the contrary, employees of any state agency which enters into an agreement with the division of capital asset management and maintenance providing for the division to maintain buildings facilities as determined by the division of capital asset management and maintenance, may be transferred to the division of capital asset management and maintenance. An employee so transferred shall not suffer any interruption of service, impairment of seniority, retirement or other rights of the employee, any reduction in compensation or salary grade notwithstanding any change in title or duties resulting from such transfer, any loss of accrued rights to holidays, sick leave, vacation or benefits, or any change in union representation or certified collective bargaining unit as certified by the department of labor relations or in local union representation or affiliation. A collective bargaining agreement in effect immediately before the transfer

date shall continue in effect and the terms and conditions of employment in that agreement shall continue as if the employees had not been so transferred. The transfer shall not impair the civil service status of a transferred employee who immediately before the effective date of that transfer either holds a permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30 of the General Laws. Notwithstanding any general or special law to the contrary, an employee so transferred shall retain the right to collectively bargain under chapter 150E of the General Laws and shall be considered employees of the division of capital asset management and maintenance for the purposes of said chapter 150E. Nothing in this section shall confer upon any employee any right not held immediately before the date of the transfer, or prohibit any reduction of salary grade, transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited before that date.

Summary:

In order to implement DCAMM's integrated facilities management program, this section includes among the agency's responsibilities the operation of state buildings and other facilities. DCAMM will have the authority to charge agencies for these operational costs. The section also allows the transfer of certain agency employees to DCAMM, with the usual protection of their collective bargaining and civil service rights.

Section 5 - Authority to Terminate and Renegotiate Leases

SECTION 5.

Chapter 7C of the General Laws is hereby amended by inserting after section 35 the following section:-

Section 35A. (a) The commissioner, after consulting with the head of the leasing state agency or the trial court administrator, may exercise any contractual right to terminate a lease for nonappropriation or nonallotment if, in the determination of the agency head or the trial court administrator, insufficient funds are available within the agency's or the court's appropriation or allotment to maintain the lease consistent with maintaining core governmental functions.

(b) The commissioner may, on behalf of any state agency or the administrative office of the trial court, renegotiate any existing facilities lease of that agency or office, which was procured under this chapter, to obtain a reduced lease rate or other valuable consideration in consideration of an extension of any such lease for a period of time beyond the 10-year limitation provided in section 35, but no lease shall be extended to a date that is more than 15 years after the original commencement date of the lease. The commissioner shall first make a written determination that the renegotiated lease provisions of each renegotiated lease are favorable to the commonwealth based on a cost-benefits analysis.

Summary:

This section puts in the General Laws the present temporary legislative authorization for DCAMM to terminate state agency and court facility leases for insufficient funding, and to realize operating budget cost savings by renegotiating lease terms in return for extending lease terms to as much as a total of 15 years.

Section 6 - State Climatologist

SECTION 6.

Chapter 21A of the General Laws is hereby amended by adding the following section:-

Section 24. The chancellor of the University of Massachusetts Amherst in consultation with the secretary of energy and environmental affairs shall appoint a state climatologist. The state climatologist shall be housed at the University of Massachusetts Amherst and shall (a) gather and archive data on climate conditions around

the commonwealth; (b) conduct and foster research concerning the climate of the commonwealth and look for opportunities for sponsored research concerning climate issues around the commonwealth; (c) coordinate with the Northeast Regional Climate Change Center housed at the University of Massachusetts Amherst by the federal Department of the Interior; (d) educate and inform citizens of the commonwealth on matters related to climate. The state climatologist shall advise all other branches of state and local government concerning the climate of the commonwealth and its implications for both economic and scientific needs in conjunction with all existing and future environmental factors relating to the climate of the commonwealth. The state climatologist shall maintain liaison with federal and other state and academic institutions and join federal and international climate interest groups. The state climatologist shall serve for a term of 5 years, but may be reappointed. The climatologist shall be jointly funded by the University of Massachusetts Amherst and the executive office of energy and environmental affairs.

Summary:

This section establishes a state climatologist at UMass Amherst.

Section 7 - Health and Prevention Fund; Health Insurance Expansion Fund

SECTION 7.

Chapter 29 of the General Laws is hereby amended by inserting after section 2KKKK the following 2 sections: -

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Section 2LLLL. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Commonwealth Health and Prevention Fund. The fund shall be credited with revenues from sales tax revenues collected from the sale of candy and soft drinks under chapter 64H. Amounts credited to the fund shall be expended, subject to appropriation, to support alcohol and tobacco addiction services, health promotion, school-based health programs, teenage pregnancy prevention, domestic violence and sexual assault prevention, work force expansion services and other critical programs that support the wellness of residents of the commonwealth.

Section 2MMMM. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Health Insurance Expansion Fund. The fund shall be credited with an amount equal to the Medicaid funding provided by the federal government pursuant to the increased federal Medicaid assistance percentage under Section 2001 of the Patient Protection and Affordable Care Act of 2010 and Section 1201 of the Health Care and Education Reconciliation Act of 2010, the amount of which the secretary of administration and finance shall determine at the start of each fiscal year. Amounts credited to the fund shall be expended, subject to appropriation, to support the financing of health insurance coverage for low-income residents of the commonwealth.

Summary:

This section establishes a new Commonwealth Health and Prevention Fund. Revenues from repealing the sales tax exemptions for candy and soda will go into this fund, to be expended, subject to appropriation, to support alcohol and tobacco addiction services, health promotion, school-based health programs, teenage pregnancy prevention, domestic violence and sexual assault prevention, work force expansion services and other critical programs that support the wellness of residents of the commonwealth.

This section also establishes a Health Insurance Expansion Fund. The fund will receive additional Medicaid funding from federal health care reform, to be expended, subject to appropriation, to support the financing of health insurance coverage for low-income residents of the Commonwealth.

Section 8 - Authorization to Transfer Fund Balances

SECTION 8.

(A) Chapter 29 of the General Laws is hereby amended by inserting after section 13 the following section:-

Section 13A. Notwithstanding any general or special law to the contrary, upon receiving a written request from the secretary, the comptroller shall transfer to the General Fund all or part of the unexpended balance of a fund, trust fund or other separate account, whether established administratively or by law, including a separate account established under section 6 of chapter 6A. The secretary and comptroller shall report to the house and senate committees on ways and means 45 days before any such transfer. The request shall certify that the secretary, in consultation with the comptroller, has determined that this balance, or the specified part of it, is not to be necessary for the purposes for which it was made available.

(B) For fiscal year 2015, the comptroller shall credit to the General Fund the funds remitted to him under clause (8) of subsection (a) of section 93 of chapter 194 of the acts of 2011.

Summary:

This section puts in the General Laws existing authorizations during fiscal years 2011 to 2014 to transfer to the General Fund certain trust, fund, and account balances, and allows all or part of these balances to be transferred. It specifically transfers to the General Fund certain funds under St. 2011, c. 194, sec. 93(a)(8).

Section 9 - Updated Pension Schedule

SECTION 9.

Section 22C of chapter 32 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out, in lines 60 to 61, the words "\$1,727,000,000 in fiscal year 2015, \$1,831,000,000 in fiscal year 2016 and \$1,941,000,000" and inserting in place thereof the following words:- \$1,793,000,000 in fiscal year 2015, \$1,972,000,000 in fiscal year 2016 and \$2,169,000,000.

Summary:

This section updates the triennial schedule for funding the state's pension liability based on the most recent actuarial valuation reports.

Section 10 - Sheriff Compensation

SECTION 10.

Section 17 of chapter 37 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The sheriffs of the counties of Barnstable, Bristol, Norfolk, Plymouth and Suffolk and of the former counties of Berkshire, Essex, Franklin, Hampden, Hampshire, Middlesex and Worcester shall each receive a salary equal to 95 per cent of the salary of an associate justice of the trial court. The sheriff of the county of Dukes shall receive a salary equal to 75 per cent of the salary of an associate justice of the trial court. The sheriff of the county of Nantucket shall receive a salary equal to 60 per cent of the salary of an associate justice of the trial court.

Summary:

This section increases the compensation of sheriffs to reflect recent increases in judicial compensation, and fixes sheriffs' future salaries (except Dukes and Nantucket) at 95% of trial court judges' salaries.

Section 11 - Changes to Existing Tax Laws

SECTION 11.

[Tax non-insurance subsidiaries of insurance companies like other business corporations]

(A) Chapter 63 of the General Laws is hereby amended by inserting after section 29E the following section:-

Section 29F. (a) When 50 per cent or more of the capital interests or profits interest in an entity that is engaged in a non-insurance trade or business and that would otherwise be treated as a partnership or disregarded entity for purposes of this chapter is owned, directly or indirectly, by an insurance company described in sections 20 to 29E, inclusive, the net income that passes through to that insurance company with respect to the non-insurance trade or business shall be taxed to the partnership or disregarded entity as if the partnership or disregarded entity were a corporation subject to tax under this chapter.

(b) A partnership or disregarded entity, described in subsection (a), shall file a return in the manner of a business corporation under the applicable section of this chapter with respect to the non-insurance income and activities of such partnership or disregarded entity, and shall pay the associated excise, taking into account only the portion of such net income that would otherwise pass through to an insurance company described in sections 20 to 29E, inclusive. To the extent applicable, income that is taxable to the partnership or disregarded entity under this section, and any related tax attributes and activities, shall be included and taken into account in a combined report filed under section 32B.

(c) As used in this section, the term "partnership or disregarded entity" shall include a real estate investment trust, in this subsection called a REIT, within the meaning of Section 856 of the Internal Revenue Code of 1986, as amended. In any case in which this section applies to the ownership of a REIT, the dividends paid deduction to which the REIT is entitled under the Code, to the extent attributable to the income taxed under this section, shall not be recognized.

(d) The commissioner may issue regulations or other guidance to implement this section.

(B) Subsection (A) shall be effective for tax years beginning on or after January 1, 2015.

[Tax security corporations like other business corporations]

(C) Section 32B of chapter 63 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out, in line 60, the following words:- 38B or.

(D) Section 38B of said chapter 63 is hereby repealed.

(E) Section 68C of said chapter 63, as amended by section 42 of chapter 46 of the acts of 2013, is hereby further amended by striking out clause (2).

(F) Subsections (C), inclusive, shall apply to tax years beginning on or after January 1, 2015.

[Expand room occupancy excise to include transient accommodations]

(G) Section 1 of chapter 64G of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out the word "four", in line 4, and inserting in place thereof the following figure:-1.

(H) Said section 1 of said chapter 64G, as so appearing, is hereby amended by striking out subsection (b).

(I) Said section 1 of said chapter 64G, as so appearing, is hereby amended by inserting after the word "motel", in line 29, the following words:- or other transient accommodations.

(J) Said section 1 of said chapter 64G, as so appearing, is hereby further amended by inserting after the word "rooms", in line 33, the following words:- or other transient accommodations.

(K) Said section 1 of said chapter 64G, as so appearing, is hereby further amended by adding the following subsections:-

(k) "Transient accommodations", a vacation or leisure accommodation, including, but not limited to an apartment, a single or multiple family housing, a cottage, a condominium or a time-share unit which is rented to occupants for a period of 90 consecutive days or less, regardless of whether such use and possession is as a lessee, tenant, guest or licensee, but not including accommodations provided to seasonal employees by employers.

(l) "Vacation or leisure accommodation", occupancy for a price to be paid and intended at the time of contract or agreement to be for a period of 90 consecutive days or less, regardless of whether such use and possession is as lessee, tenant, guest or licensee.

(L) Section 3 of said chapter 64G, as so appearing, is hereby amended by striking out, in line 3, the words "or motel" and inserting in place thereof the following words:- , motel or other transient accommodations.

(M) Section 3A of said chapter 64G, as so appearing, is hereby amended by deleting the words "or motel", in lines 4 and 9, and inserting in place thereof in each instance the following words:- , motel or other transient accommodations.

(N) Said chapter 64G is hereby further amended by adding the following section:-

Section 13. For transient accommodations subject to this section, the owner of the apartment, single or multiple family housing, cottage, condominium or time-share unit shall be responsible for assessing, collecting, reporting and paying over the tax as described for operators in sections 3, 3A, 4, 5, 6 and 7A, and shall be liable in the same manner as operators in section 7B. If a property owner enters into a contract under which a real estate agent, manager or management company collects the rent, that real estate agent, manager or management company shall collect the room occupancy excise and shall be jointly liable with the owner for payment of tax amounts to the department of revenue. The commissioner of revenue may adopt regulations for the reporting, collecting, remitting and enforcement of this excise.

(O) Subsections (G) to (N), inclusive, shall be effective for transfers of occupancy subject to the excise under chapter 64G of the General Laws, commencing on or after August 1, 2014.

[Clarify that present room occupancy excise applies to Internet room resellers]

(P) Section 1 of chapter 64G of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting after paragraph (b) thereof the following paragraph:-

(b1/2) "Doing business in the commonwealth", ownership or operation of a bed and breakfast establishment, hotel, lodging house or motel that is located in the commonwealth, maintenance otherwise of a place of business in the commonwealth, the presence of an employee in the commonwealth on more than a de minimis basis, solicitation in the commonwealth of orders for transfer of occupancy of accommodations located in the commonwealth, solicitation in the commonwealth by a reseller of a contract or other cooperative arrangement with an operator with respect to accommodations located in the commonwealth, inspection in the commonwealth of accommodations that may be the subject of a cooperative arrangement between an operator and a reseller, or other exploitation of the market for accommodations or resale of accommodations located in the commonwealth by any means whatsoever, including, but not limited to, salesmen, solicitors or representatives in the commonwealth, whether those salesmen, solicitors or representatives are employed by the operator or reseller, by a person affiliated with the operator or the reseller by common ownership, or by any other party. This definition is intended to extend the jurisdiction of the commonwealth over operators and resellers to the full extent authorized by the Constitution and the laws of the United States.

(Q) Said section 1 of said chapter 64G, as so appearing, is hereby further amended by inserting after the word "operator", in line 49, the following words:- or the room reseller.

(R) Said section 1 of said chapter 64G, as so appearing, is hereby further amended by adding the following paragraphs:-

(k) "Room reseller" or "Reseller", any person having any right, permission, license, or other authority from or through an operator to reserve or arrange transfer of occupancy of accommodations the transfer of which is subject to this chapter, such that the occupant pays all or a portion of the rent to the reseller. The term "Room Reseller" or "Reseller" includes, but is not limited to, sellers of travel packages as defined in this chapter.

(l) "Travel package," a room or rooms bundled with 1 or more separate components such as air transportation, car rental or similar items and charged to the customer or occupant for a single retail price.

(S) Said chapter 64G is hereby further amended by striking out section 3 and inserting in place thereof the following section:

Section 3. An excise is hereby imposed upon the transfer of occupancy of any room or rooms in a bed and breakfast establishment, hotel, lodging house, or motel in this commonwealth by any operator or room reseller doing business in the commonwealth at the rate of 5 per cent of the total amount of rent for each occupancy. No excise shall be imposed if the total amount of rent paid by the occupant is less than \$15 per day or its equivalent. The operator or room reseller shall pay the excise to the commissioner at the time provided for filing the return required by section 16 of chapter 62C.

The value of the transfer of any room or rooms bundled as part of a travel package may be determined from the room reseller's books and records that are kept in the regular course of business.

(T) The first paragraph of section 3A of said chapter 64G, as appearing in the 2012 Official Edition, is hereby amended by striking out the first, second and third sentences and inserting in place thereof the following 3 sentences:- A city or town that accepts this section may impose a local excise tax upon the transfer of occupancy of any room or rooms in a bed and breakfast establishment, hotel, lodging house or motel located within the city or town by any operator or room reseller at a rate up to, but not exceeding, 6 per cent of the total amount of rent paid by the occupant for the occupancy, but the city of Boston may impose a local excise upon the transfer of occupancy of any room in a bed and breakfast establishment, hotel, lodging house or motel located within the city by any operator or room reseller at the rate of up to but not exceeding 6.5 per cent of the total amount of rent paid by the occupant for the occupancy. No excise shall be imposed if the total amount of rent paid by the occupant is less than \$15 per day or its equivalent or if the accommodation is exempt under section 2. The operator or room reseller shall pay the local excise tax imposed under this section to the commissioner at the same time and in the same manner as the excise tax due the commonwealth.

(U) Said chapter 64G is hereby further amended by striking out sections 4 to 6, inclusive, and inserting in place thereof the following 4 sections:

Section 3B. Notwithstanding any other provision of this chapter, in cases in which occupancy is transferred through the use of a room reseller, the application of the excise shall be as follows: If the room reseller is required to register under section 6 to collect the excise, the room reseller shall collect and pay to the commissioner the excise upon the amount of rent paid by the occupant to the room reseller, less the amount of rent that the reseller has paid to the operator. Whether or not the room reseller is so registered, the operator shall collect and pay to the commissioner the excise upon the amount of rent paid to the operator by the reseller or the occupant.

No assessment shall be made against an operator on the basis of an incorrect remittance of the excise under this chapter by an unaffiliated room reseller and no assessment shall be made against a room reseller on the basis of an incorrect remittance of the excise under this chapter by an unaffiliated operator.

Section 4. Reimbursement for the excise imposed under sections 3 and 3A shall be paid by the occupant or the room reseller to the operator and by the occupant to the room reseller, as the case may be, and each operator and room reseller doing business in the commonwealth shall add to the rent and shall collect from the occupant or the room reseller the full amount of the excise imposed, in accordance with sections 3 and 3A, and that excise shall be a debt to the operator or room reseller, when so added to the rent, and shall be recoverable at law in the same manner as other debts.

Section 5. The amount of the excise collected by the operator or the room reseller under this chapter shall be stated and charged separately from the rent and shown separately on any record thereof at the time the transfer of occupancy is made, or on any evidence of the transfer issued or used by the operator or the room reseller. A room reseller shall not be required to disclose to the occupant the amount of tax charged by the operator. The reseller shall represent to the occupant that the separately stated taxes charged by the reseller include taxes charged by the operator.

Section 6. No person shall operate a bed and breakfast establishment, hotel, lodging house or motel in this commonwealth, or do business as a room reseller in the commonwealth, unless a certificate of registration has been issued to that person in accordance with section 67 of chapter 62C.

(V) Section 7A of said chapter 64G, as appearing in the 2012 Official Edition, is hereby amended by inserting after the word "operator", in line 1 and in line 7, the following words:- or room reseller .

(W) Said chapter 64G is hereby further amended by striking out section 7B and inserting in place thereof the following section:-

Section 7B. Every operator or room reseller who fails to pay to the commissioner any sums required to be paid by this chapter shall be personally and individually liable for those amounts to the commonwealth. The terms "operator" and "room reseller", as used in this section, include an officer or employee of a corporation, or a member or employee of a partnership, who as an officer, employee or member is under a duty to pay over the taxes imposed by this chapter.

(X) Section 12 of said chapter 64G, as so appearing, is hereby amended by inserting after the word "operator", in line 5, the following words:- and each room reseller.

(Y) For purposes of the convention center surcharge imposed by section 9 of chapter 152 of the acts of 1997, as amended, the term "operator" shall mean "operator or room reseller."

(Z) Subsections (P) to (Y), inclusive, shall be effective for transfers of occupancy subject to the excise under chapter 64G of the General Laws, commencing on or after August 1, 2014.

[Repeal exemption of candy and soda from sales tax]

(AA) Section 1 of chapter 64H of the General Laws is hereby amended by inserting after the definition of "Business", as appearing in the 2012 Official Edition, the following definition:-

"Candy", a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" shall not include any preparation containing flour and shall require no refrigeration.

(BB) Said section 1 of said chapter 64H is hereby further amended by inserting after the definition of "Services", as amended by sections 2 and 3 of chapter 95 of the acts of 2013, the following definition:-

"Soft drinks", non-alcoholic beverages that contain natural or artificial sweeteners, but not including beverages that contain milk or milk products, soy, rice or similar milk substitutes, or vegetable or fruit juice.

(CC) Section 6 of said chapter 64H, as appearing in the 2012 Official Edition, is hereby amended by striking out, in line 77, the words ", soft drinks".

(DD) Said section 6 of said chapter 64H, as so appearing, is hereby further amended by striking out, in line 78, the words ", candy and confectionary".

(EE) Said section 6 of said chapter 64H, as so appearing, is hereby further amended by inserting after the word "include", in line 80, the following words:- soft drinks and candy, as defined in section 1,.

(FF) Said section 6 of said chapter 64H, as so appearing, is hereby further amended by striking out, in lines 115 to 116, the words "in the instance in which it sells only snacks and candy with a sales price of less than \$3.50" and inserting in place thereof the following words:- to the extent that it sells food products with a sales price of less than \$3.50; provided further, that candy and soft drinks as defined in section 1 are subject to tax regardless of whether the vending machine from which they are sold is considered an eating establishment or not.

(FF) Said section 6 of said chapter 64H, as so appearing, is hereby further amended by inserting after the word "Beverages", in line 127, the following words:- , except soft drinks,.

Summary:

This section changes present tax laws by: * taxing non-insurance subsidiaries of insurance companies like other business corporations; * taxing security corporations like other business corporations; * expanding the room occupancy excise to include transient accommodations; * clarifying that the room occupancy excise applies to Internet room resellers; and * repealing the exemption of candy and soda from the sales tax.

Section 12 - Foundation Budget Review Commission

SECTION 12.

(A) Chapter 70 of the General Laws is hereby amended by striking out section 4, as appearing in the 2012 Official Edition, and inserting in place thereof the following section:-

Section 4. There shall be a foundation budget review commission to review the way in which foundation budgets are calculated and to make recommendations to the general court regarding changes that may be appropriate. In conducting this review, the commission shall seek to determine the educational programs and services necessary to achieve the commonwealth's educational goals, including those necessary to fully implement state curriculum standards and to prepare students to achieve passing scores on the Massachusetts Comprehensive Assessment System examinations. The review shall include, but not be limited to: class size; special education programs, including programs for English language learners; preschool programs for all 3 and 4 year-olds and full-day kindergarten; additional resources necessary to assure educational opportunity for low-income students; salaries necessary to attract and retain high quality professionals; health care costs; extracurricular programs; remedial programs for students at risk of failing to satisfy graduation requirements; books and other curriculum materials; equipment for science lab programs; and technology. In addition, the commission shall seek to determine how resources can be used in the most effective manner. In carrying out the review, the commission shall examine relevant data and any reports on education funding produced within the 10 years preceding the issuance of a commission report. The commission shall include the house and senate chairs of the joint committee on education, who shall serve as co-chairs, the secretary of education, the commissioner of elementary and secondary education, the commissioner of early education and care, the speaker of the house of representatives or a designee, the president of the senate or a designee, the minority leader of the house of representatives or a designee, the minority leader of the senate or a designee, the governor or a designee, the chair of the house committee on ways and means or a designee, the chair of the senate committee on ways and means or a designee and 1 member to be appointed by each of the following organizations: the Massachusetts Municipal Association, the Massachusetts Business Alliance for Education, the Massachusetts Business Roundtable, the Massachusetts Association of School Committees, the Massachusetts Association of School Superintendents, the Massachusetts Teachers Association, the American Federation of Teachers Massachusetts, the Massachusetts Budget and Policy Center, the Massachusetts Parent Teacher Association, Stand for Children, Strategies for Children, the Massachusetts Association of Vocational Administrators and the Massachusetts Association of Regional Schools. Members shall receive no compensation for their services but may receive reimbursement for the reasonable expenses incurred in carrying out their responsibilities as members of the commission. The department shall furnish reasonable staff and other support for the work of the commission.

Before issuing its recommendations, the commission shall conduct not fewer than 4 hearings to receive testimony from members of the public. The hearings shall be held in locations that provide opportunities for residents from all geographic regions of the commonwealth to testify.

It shall not constitute a violation of chapter 268A for a person employed by a school district to serve on the commission or to participate in commission deliberations that may have a financial effect on the district employing that person or on the rate at which that person may be compensated. The commission may establish procedures to ensure that no such person participates in commission deliberations that may directly affect the school districts employing those persons or that may directly affect the rate at which those persons are compensated.

The commission's recommendations, together with any proposed legislation, shall be filed every 4 years with the clerks of the senate and house of representatives who shall refer those recommendations to the appropriate committee of the general court. Within 30 days after that filing, the committee shall hold a public hearing on the recommendations.

(B) The foundation budget review commission established by section 4 of chapter 70 of the General Laws shall file its initial recommendations with the clerks of the senate and house of representatives under said section 4 of said chapter 70 not later than December 31, 2014; but the commission may issue an initial interim report before that date.

Summary:

This section updates the law establishing a Foundation Budget Review Commission to review the way in which foundation budgets for elementary and secondary education are calculated and to make recommendations to the Legislature about changes that may be appropriate.

Section 13 - Expand Bottle Bill

SECTION 13.

Section 321 of chapter 94 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out the definitions of "Beverage" and "Beverage container" and inserting in place thereof the following 2 definitions:-

"Beverage", soda water or similar carbonated soft drinks; beer and other malt beverages; non-carbonated soft drinks including but not limited to mineral water, flavored and unflavored water, spring water, fruit drinks, juice, sports drinks and other water beverages, coffee and coffee-based drinks; and all other non-alcoholic carbonated and noncarbonated drinks in liquid form intended for human consumption except milk and beverages that are primarily derived from dairy products, infant formula, and FDA-approved medicines; but shall not include alcoholic beverages other than beer and malt beverages as defined in chapter 138 or wine.

"Beverage container", any sealable bottle, can, jar or carton which is primarily composed of glass, metal, plastic or any combination of those materials and is produced for the purpose of containing a beverage, including containers of 2 gallons capacity or less for carbonated and malt beverages and less than 1 gallon for noncarbonated beverages. This definition shall not include containers made of biodegradable material.

Summary:

This section expands the state's bottle deposit law to include containers for non-carbonated drinks like water, juices, coffee-based drinks, and sport drinks.

Section 14 - Delay FAS 109 Deduction

SECTION 14.

Subsection (2) of section 95 of chapter 173 of the acts of 2008 is hereby amended by striking out the figure "2015", inserted by section 142 of chapter 38 of the acts of 2013, and inserting in place thereof the following figure:- 2016.

Summary:

This section delays the FAS 109 deduction from the corporate excise for an additional year.

Section 15 - Inspector General's Audits of Health Safety Net and MassHealth Program

SECTION 15.

Notwithstanding any general or special law to the contrary, in hospital fiscal years 2015 to 2019, inclusive, the office of the inspector general may expend a total of \$5,000,000 from the Health Safety Net Trust Fund, established by section 66 of chapter 118E of the General Laws, for costs associated with maintaining a Health Safety Net audit unit within the office. The unit shall continue to oversee and examine the practices in all hospitals including, but not limited to, the care of the uninsured and the resulting free charges. The unit shall also annually study and review the commonwealth's Medicaid program including, but not limited to, reviewing the program's eligibility requirements, utilization, claims administration and compliance with federal mandates. The inspector general shall annually submit a report to the house and senate committees on ways and means on the results of the audits and any other completed analyses on or before March 1.

Summary:

This section authorizes the Inspector General to expend \$5 million from the Health Safety Net Trust Fund over the next five fiscal years, to review both the Health Safety Net Trust Fund and MassHealth.

Section 16 - Expenditures from Fiscal Year 2014 Surplus

SECTION 16.

(a) Notwithstanding any general or special law to the contrary, after certifying the amount of consolidated net surplus in the budgetary funds at the close of the preceding fiscal year under section 5C of chapter 29 of the General Laws, the comptroller shall dispose of the consolidated net surplus in the budgetary funds for fiscal year 2014 in the following order to the extent that funds are available: (i) \$25,00,000 to the Massachusetts Life Sciences Investment Fund established by section 6 of chapter 23I of the General Laws; and (ii) transfer the remaining consolidated net surplus to the Commonwealth Stabilization Fund, established by section 2H of chapter 29 of the General Laws.

(b) All transfers pursuant to this section shall be made from the undesignated fund balances in the budgetary funds proportionally from the undesignated fund balances; but no such transfer shall cause a deficit in any of the funds.

Summary:

This section distributes any surplus at the end of fiscal year 2014 in the following order, to the extent that funds are available: \$25,00,000 to the Massachusetts Life Sciences Investment Fund, and the remaining balance to the Commonwealth Stabilization Fund.

Section 17 - Pension Cost of Living Adjustment

SECTION 17.

Notwithstanding any general or special law to the contrary, the amounts transferred pursuant to subdivision (1) of section 22C of chapter 32 of the General Laws shall be made available for the commonwealth's Pension Liability Fund established by section 22 of said chapter 32. The amounts transferred pursuant to said subdivision (1) of said section 22C of said chapter 32 shall meet the commonwealth's obligations pursuant to said section 22C of said chapter 32, including retirement benefits payable by the state employees' and the state teachers' retirement systems, for the costs associated with a 3 per cent cost-of-living adjustment pursuant to section 102 of said chapter 32, for the reimbursement of local retirement systems for previously authorized cost-of-living adjustments pursuant to said section 102 of said chapter 32 and for the costs of increased survivor benefits pursuant to chapter 389 of the acts of 1984. The state board of retirement and each city, town, county and district shall verify these costs, subject to the rules adopted by the state treasurer. The state treasurer may make payments upon a transfer of funds to reimburse certain cities and towns for pensions to retired teachers, including any other obligations which the commonwealth has assumed on behalf of any retirement system other than the state employees' or state teachers' retirement systems and also including the commonwealth's share of the amounts to be transferred pursuant to section 22B of said chapter 32. All payments for the purposes described in this section shall be made only pursuant to distribution of monies from the fund, and any distribution and the payments for which distributions are required shall be detailed in a written report filed quarterly by the secretary of administration and finance with the house and senate committees on ways and means and the joint committee on public service in advance of this distribution. Distributions shall not be made in advance of the date on which a payment is actually to be made. The state board of retirement may expend an amount for the purposes of the board of higher education's optional retirement program pursuant to section 40 of chapter 15A of the General Laws. To the extent that the amount transferred pursuant to said subdivision (1) of said section 22C of said chapter 32 exceeds the amount necessary to adequately fund the annual pension obligations, the excess amount shall be credited to the Pension Reserves Investment Trust Fund, established by subdivision (8) of section 22 of said chapter 32, for the purpose of reducing the unfunded pension liability of the commonwealth.

Summary:

This section provides for a 3% increase on the first \$13,000 in pension benefits for retired state employees. The section is included each year in the budget

Section 18 - Stabilization Fund Transfers

SECTION 18.

(a) Notwithstanding any general or special law to the contrary, the comptroller shall, on or before June 30, 2015, transfer \$175,000,000 to the General Fund from the Commonwealth Stabilization Fund, but the comptroller shall instead transfer a lesser amount if the secretary of administration and finance so requests in writing. The comptroller, in consultation with the secretary of administration and finance, may take the overall cash flow needs of the commonwealth into consideration in determining the timing of any transfer of funds. The comptroller shall provide a schedule of transfers to the secretary of administration and finance and to the house and senate committees on ways and means.

(b) Notwithstanding any general or special law to the contrary, the comptroller shall, not later than June 30, 2015, transfer the interest earned from the Commonwealth Stabilization Fund during fiscal year 2015 to the General Fund

Summary:

This section transfers \$175 million to the General Fund from the Commonwealth Stabilization Fund, but allows the Secretary of Administration and Finance to reduce the amount transferred. It also transfers interest on the Stabilization Fund during fiscal year 2015 to the General Fund.

Section 19 - Suspension of Tourism Formula

SECTION 19.

Notwithstanding any general or special law to the contrary, the formula for application of funds provided in section 35J of chapter 10 of the General Laws shall not apply in fiscal year 2015.

Summary:

This section suspends the statutory tourism fund formula for fiscal year 2015. This section has been routine in recent budgets.

Section 20 - Transfers between Health Funds

SECTION 20.

Notwithstanding any general or special law to the contrary, the executive office for administration and finance shall transfer \$30,000,000 from the Commonwealth Care Trust Fund to the Health Safety Net Trust Fund, established by section 36 of chapter 118G of the General Laws. The executive office of health and human services and the health safety net office shall fund the hospital fiscal year 2015 payment amount to each hospital from the Health Safety Net Trust Fund. Payments may be made either as safety net care payments under the commonwealth's section 1115 waiver, or as an adjustment to Title XIX service rate payments, or a combination thereof. Other federally permissible funding mechanisms available for public service hospitals, as defined by regulations of the executive office of health and human services, may be used to reimburse up to \$70,000,000 of uncompensated care at the hospitals using sources distinct from the funding made available to the Health Safety Net Trust Fund. The secretary of administration and finance, in consultation with the secretary of health and human services and the executive director of the commonwealth health insurance connector authority, shall on a quarterly basis evaluate the revenue needs of the health safety net program funded by the Health Safety Net Trust Fund and subsidized health insurance programs funded by the Commonwealth Care Trust Fund, and if necessary, transfer monies between these funds for the purpose of ensuring that sufficient revenues are available to support projected program expenditures.

Summary:

This section provides for transfers between the Commonwealth Care Trust Fund and the Health Safety Net Trust Fund.

Section 21 - Special Education Inflation Rate Freeze

SECTION 21.

Notwithstanding any general or special law to the contrary, the operational services division which, under section 22N of chapter 7 of the General Laws, is responsible for determining prices for programs under chapter 71B of the General Laws, shall set those prices in fiscal year 2015 at the same level calculated for fiscal year 2014, except the prices for those programs for extraordinary relief, as defined in the division's regulations. Programs for which prices in fiscal year 2014 were lower than the full amount permitted by the operational services division may charge in fiscal year 2015 the full price calculated for fiscal year 2014.

Summary:

This section freezes fiscal year 2015 special education school rates at fiscal year 2014 levels.

Section 22 - Initial Gross Payments to Qualifying Acute Care Hospitals

SECTION 22.

Notwithstanding any general or special law to the contrary, on or before October 1, 2014 and without further appropriation, the comptroller shall transfer from the General Fund to the Health Safety Net Trust Fund established by section 66 of chapter 118E of the General Laws, in this section called the fund, the greater of \$45,000,000 or one-twelfth of the total expenditures to hospitals and community health centers required pursuant to this act, for the purposes of making initial gross payments to qualifying acute care hospitals for the hospital fiscal year beginning October 1, 2014. These payments shall be made to hospitals before, and in anticipation of, the payment by hospitals of their gross liability to the fund. The comptroller shall transfer from the fund to the General Fund, not later than June 30, 2015, the amount of the transfer authorized by this section and any allocation of that amount as certified by the director of the health safety net office.

Summary:

This section provides for the annual transfer from the General Fund of "seed money" to make initial gross payments to acute hospitals. This seed money is later repaid to the General Fund.

Section 23 - MassHealth Dental Coverage

SECTION 23.

Notwithstanding section 53 of chapter 118E of the General Laws, the executive office of health and human services may determine the extent to which to include within its covered services for adults the federally optional dental services that were included in its state plan or demonstration program in effect on January 1, 2002 and the dental services that were covered for adults in the MassHealth basic program as of January 1, 2002.

Summary:

This section gives EOHHS the necessary discretion to make MassHealth dental coverage or service limitation decisions.

Section 24 - Nursing Facility Assessment

SECTION 24.

Notwithstanding any general or special law to the contrary, the nursing home assessment established by subsection (b) of section 63 of chapter 118E of the General Laws shall be sufficient in the aggregate to generate \$220,000,000 in fiscal year 2015.

Summary:

This section establishes the amount of revenue to be obtained from the nursing facility assessment in fiscal year 2015.

Section 25 - Nursing and Resident Care Facility Base Year

SECTION 25.

Notwithstanding any general or special law to the contrary, nursing facility and resident care facility rates

effective October 1, 2014 under section 13D of chapter 118E of the General Laws may be developed using the costs of calendar year 2005.

Summary:

This section maintains 2005 as the base year for setting fiscal year 2015 nursing and resident care facility rates.

Section 26 - Effective Date

SECTION 26.

Except as otherwise specified, this act shall take effect on July 1, 2014.

Summary:

This section makes this budget effective on July 1, 2014, unless a specific provision says otherwise.

