HOUSE . . . . . NO. 4019

The Commonwealth of Massachusetts

SO MUCH OF THE MESSAGE

FROM

HIS EXCELLENCY THE GOVERNOR

RETURNING THE GENERAL APPROPRIATION BILL

FOR FISCAL YEAR 2022

(SEE HOUSE, NO. 4002)

AS RELATES TO ATTACHMENTS A THROUGH R,

FOR ITEMS RETURNED WITH DISAPPROVAL OF WORDING

UNDER THE PROVISIONS OF

SECTION 5 OF ARTICLE LXIII

AND SECTIONS RETURNED WITH

RECOMMENDATIONS OF AMENDMENTS

UNDER THE PROVISIONS OF ARTICLE LVI

OF THE AMENDMENTS TO THE CONSTITUTION.

July 22, 2021.

HOUSE . . . . . No. 4019

The Commonwealth of Massachusetts

OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
STATE HOUSE · BOSTON, MA 02133
(617) 725-4000

CHARLES D. BAKER
GOVERNOR

KARYN POLITO
LIEUTENANT GOVERNOR

July 16, 2021

To the Honorable Senate and House of Representatives,

Pursuant to Section 5 of Article 63 of the Amendments to the Constitution, we are today signing House Bill 4002, "An Act Making Appropriations for the Fiscal Year 2022 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements," and returning certain portions to you for reconsideration.

The Fiscal Year 2022 (FY22) budget, the seventh of this Administration, puts the Commonwealth on a steady path and promotes economic growth and opportunity as we emerge from the COVID-19 pandemic. It fully funds the implementation of the landmark Student Opportunity Act, and provides substantial support for stronger and safer communities, transportation, and health care, and sustains social service programs for mental health, substance misuse, children, and seniors.

Supported by a tax reforecast worth over $4.2 billion, of which $3 billion remains on budget after certain statutory transfers, the enacted budget adds approximately $2.9 billion in spending to the budget I filed in January. More than half ($1.4 billion) of this higher spending is in the MassHealth budget, where the extension of the federal public health emergency leads to higher enrollment projections, but also higher federal reimbursement that offsets the spending increase. Another large share ($600 million) comprises one-time transfers for future pension and education funds. The remainder ($900 million) reflects a wide array of shared priorities.

The budget as enacted is in structural balance, with no planned Stabilization Fund draw. Rather, due to a statutory mechanism designed to buffer the budget from market fluctuations, revised capital gains tax collections are forecast to result in a $1.2 billion transfer into the Stabilization Fund during FY22, bringing the total balance to $5.8 billion, an increase of $4.7 billion since the beginning of the Baker-Polito Administration.

In the six months since I filed the first draft of this budget, the reopening of the economy has allowed our residents to start to reengage with the routines of public life. Meanwhile, to an almost unprecedented degree, federal fiscal and monetary policies have supported household, business, and government spending. As a result of this economic activity, tax collections this spring substantially exceeded forecasts.

These trends support a significant tax reforecast for FY22, but we must remain alert to the risk that economic activity has been bolstered by ultimately unsustainable levels of federal spending, and that our currently high tax revenue growth might slow down as federal emergency spending phases out. Reflecting this mixture of confidence and caution, the Legislature proposed that we set aside $600 million in this budget for future education and pension costs ($350 million and $250 million respectively). We applaud the instinct to use unanticipated revenue for future liabilities, but respectfully suggest that we could achieve the same result, with less risk, by making those transfers from the Fiscal Year 2021 (FY21) surplus rather than a projected future surplus.

I point out that I am signing approximately $90 million in earmarked funding, as these resources support one-time local projects in legislative districts throughout Massachusetts. Many of the municipal earmarks could be funded with federal funds available at the local level; however, where we have sufficient state funds to support these projects, we defer to the Legislature's designation of these projects as essential. I am vetoing $7.9 million in spending that I see as problematic for reasons specific to the particular line items involved.

Given the Commonwealth's fiscal position, I am vetoing an outside section which would have delayed the implementation of the charitable tax deduction. This deduction was approved by voters twenty years ago and slated to go into effect when state finances allow, and the combination of strong state revenues and serious needs facing non-profits and charitable organizations necessitates this tax deduction's going into place.

After vetoes, the $47.6 billion spending plan I sign today represents an approximately 3.6% growth rate over FY21 excluding certain trust fund transfers, pensions, and interfund transfers.

Key FY22 Highlights:

Education

- Fully funds the implementation of the landmark Student Opportunity Act

- $219.6 million in new Chapter 70 funding, for a total Chapter 70 investment of $5.503 billion

- Complements substantial federal resources including $2.9 billion in Elementary and Secondary School Emergency Relief (ESSER) funding and $3.4 billion in ARPA direct aid for local governments throughout Massachusetts

Economic Development

- $7 million for the Small Business Technical Assistance Grant Program for entrepreneurs and small businesses, especially those owned by women, immigrants, veterans, and people of color

- $6 million for regional economic development grants

Labor and Workforce Development

- $17.9 million in total funding to continue transforming vocational high schools into Career Technical Institutes running three shifts per day

Promoting Equality and Opportunity

- Over $35 million to support the recommendations of the Black Advisory Commission (BAC) and the Latino Advisory Commission (LAC) across a range of initiatives and programs including YouthWorks Summer Jobs, early college, teacher diversity, small business development and workforce training

Supporting Local Government

- Increases the Unrestricted General Government Aid (UGGA) investment by $39.5 million compared to the FY21 budget

- $3.6 million in funding for Community Compact related programs including best practices and regionalization and efficiency grants

- $4.8 million for the Public Safety Staffing Grant Program managed by the Executive Office of Public Safety and Security

- $3 million for district local technical assistance

Sexual Assault and Domestic Violence

- $103.8 million to address this key priority, a 61% increase from FY15

Substance Misuse

- Support $408 million in FY22 across a variety of state agencies
- $72.8 million (22%) increase above the FY21 budget

Health and Human Services

- $26.5 million for the Executive Office of Health and Human Services (EOHHS)
- $79 million for Chapter 257 human service provider funding under the new rate methodology that better reflects the cost of benchmarking direct care and clinical staff wages

Caring for Seniors

- $628.1 million for the Executive Office of Elder Affairs
- $18.2 million in support of grants to Local Councils on Aging
- Increase of $16.3 million above the FY21 budget for the Community Choices Program

MassHealth

- $19.0 billion gross, $7.0 billion net funding for MassHealth, a change of 5% gross, 3% net versus FY21 spending
- Maintains existing benefits while addressing the expected changes resulting from the abatement of the COVID-19 public health emergency
- $84 million to improve the access and availability of the front door and ambulatory behavioral health services to address current access challenges to treatment which have been further exacerbated by the pandemic

Transportation

- $1.36 billion in total operating budget transfers for the MBTA
- $403 million for the Massachusetts Department of Transportation (MassDOT)
- $11 million for the Merit Rating Board, an increase of $300,000 over FY21

We appreciate the work of the Legislature in delivering the FY22 conference report, including reasonable funding levels for accounts that have historically required supplemental appropriations. Vetoes are limited to concerns I have with specific line items.

Accordingly, we are vetoing $7.9 million in line-item and outside-section spending. Of the 149 outside sections presented in the conference report, we are signing 122, vetoing 2, and returning 25 for amendment.

Therefore:

- We are reducing appropriation amounts in items of section 2 of House 4002 that are enumerated in Attachment A of this message, by the amount and for the reasons set forth in that attachment;

- We are disapproving, or striking wording in, items of section 2 of House 4002 also set forth in Attachment A, for the reasons set forth in that attachment;

- We are disapproving those sections of House 4002 itemized in Attachment B of this message for the reasons set forth in that Attachment; and

- Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth, we are returning sections 6, 7, 8, 12, 18, 23, 30, 32, 33, 34, 39, 42, 47, 67, 74, 102, 103, 113, 116, 117, 119, 128, 129, 135 and 145with recommendations for amendment. Our reasons for doing so and the recommended amendments are set forth in separate letters that are dated today and included with this message as Attachments C to R, inclusive.

Respectfully Submitted,

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Attachment A

FY22 Budget

Veto Items: Line Item Accounts

Item Number	Action	Reduce By	Reduce To
Climate Adaptation and Preparedness			
2000-0101	Strike Wording		
I am striking this language because it is not consistent with my House 1 recommendation.			
Division of Fisheries and Wildlife			
2310-0200	Reduce/Strike Wording	100,000	16,081,737
I am striking this language to maintain compliance with federal requirements. The reduction in the item incorporates the amount of the stricken earmarked funds.			
Agricultural Resources Administration			
2511-0100	Reduce/Strike Wording	50,000	9,176,466
I am striking this language because the required report is unduly burdensome. The reduction in the item incorporates the amount of the stricken earmarked funds.			
DMH Administration			
5011-0100	Reduce/Strike Wording	150,000	30,023,790
I am reducing this item consistent with my veto of Section 121, for the reasons set out in Attachment B.			

Item Number	Action	Reduce By	Reduce To
Emergency Assistance Family Shelter			
7004-0101	Reduce/Strike Wording	150,000	196,810,750
I am striking language because the required report is unduly burdensome. I am also striking language because it is not consistent with my House 1 recommendation. Finally, I am striking language that earmarks funding for a purpose not recommended. The reduction in the item incorporates the amount of the stricken earmarked funds.			
Homeless Individual Shelters			
7004-0102	Strike Wording		
I am striking this language because it is not consistent with my House 1 recommendation.			
RAFT			
7004-9316	Strike Wording		
I am striking this language because it is not consistent with my House 1 recommendation.			
Charter School Reimbursement			
7061-9010	Reduce/Strike Wording	2,900,000	151,704,742
I am striking language that earmarks funding for a program not recommended. The reduction in the item incorporates the amount of the stricken earmarked funds.			
Municipal Police Training Com.			
8200-0200	Reduce/Strike Wording	1,000,000	3,577,545
I am reducing this item to an amount consistent with my House 1 recommendation.			

Item Number	Action	Reduce By	Reduce To
Department of Correction Facility			
8900-0001	Strike Wording		
I am striking this language because it is not consistent with my House 1 recommendation.			
CTF Transfer to MBTA			
1595-6369	Strike Wording		
I am striking this language because it is not consistent with my House 1 recommendation.			
CTF Transfer to RTAs			
1595-6370	Reduce	3,500,000	90,500,000
I am reducing this item consistent with my action on Section 113, for the reasons set out in Attachment N.			

Attachment B

FY22 Budget

Veto Items: Outside Sections

Charitable Deduction Delay Section 99 I am vetoing this section because it is unnecessary to further delay the charitable tax deduction where the Commonwealth's fiscal situation has improved materially in recent months, and the Commonwealth is on track to close Fiscal Year 2021 with no transfer out of the Stabilization Fund.
COVID-19 Impacts on Children's Behavioral Health Study Section 121 I am vetoing this section because the Behavioral Health Roadmap which is the product of a multi-stakeholder process is the most comprehensive approach to identifying behavioral health needs and implementing services to provide the most effective care for all Massachusetts residents, including children.

HOUSE . . . . . No. 4019

The Commonwealth of Massachusetts

EXECUTIVE DEPARTMENT
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CHARLES D. BAKER
GOVERNOR

KARYN POLITO
LIEUTENANT GOVERNOR

– ATTACHMENT C —

July 16, 2021.

To the Honorable Senate and House of Representatives,

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment Section 6 of House Bill No. 4002, "An Act Making Appropriations for the Fiscal Year 2022 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements."

Section 6 establishes a Task Force on Hate Crimes. Addressing hate crimes is something that Massachusetts has long been committed to, a commitment that is unfortunately still needed today. The Governor's Task Force on Hate Crimes was originally initiated by Governor Weld in 1991 to coordinate and prioritize the state implementation of the Hate Crimes Reporting Act. The Task Force brought together law enforcement officials and advocates from affected communities in a cooperative effort to improve law enforcement effectiveness in responding to hate crimes. From 1994 to 1996, the Task Force led the successful legislative effort to amend the Hate Crimes Penalties Act to expand its scope and increase penalties for those who commit hate crimes. In 1997, the Task Force was formalized by Governor Cellucci in Executive Order 401 and had great success in focusing the attention of state and local law enforcement on the prevention and prosecution of hate crimes.

My administration reconstituted the Task Force in 2017 to reinvigorate our statewide commitment to the fight against hate crimes and to support victims and impacted communities.

Since then, the Task Force has issued recommendations related to education and law enforcement, which we have worked with stakeholders to implement. These include a recommendation that local law enforcement appoint a Civil Rights Officer, a recommendation that every municipal police department in Massachusetts has acted on. The Executive Office of Public Safety and Security has also hosted trainings in partnership with the Matthew Shepard Foundation to support law enforcement and ensure better identification, investigation, and prosecution of hate crimes. The Task Force has also provided a blueprint to help school districts better integrate educational programming to address hate crimes.

Unfortunately, we have nevertheless seen a rise in violent hate crimes and reports of racist, anti-semitic, anti-gay, and anti-immigrant episodes. In light of the increased incidence of hate crimes in the Commonwealth and across the nation, such a Task Force is more necessary than ever.

I accordingly support the permanent establishment of a Task Force on Hate Crimes in statute. To ensure that we build on the work of the existing Task Force created by Executive Order, however, I am proposing to codify the existing Task Force, with the addition of members of the Legislature. This will ensure continuity with its work thus far, while improving coordination between the Executive branch and Legislature.

For these reasons, I recommend that Section 6 be amended by striking the section and inserting in place thereof the following section:-

SECTION 6. Said chapter 6 is hereby further amended by adding the following section:-

Section 221. (a) There is hereby established a task force, to be known as the governor's task force on hate crimes.

(b) The task force shall consist of the secretary of public safety and security or a designee, who shall serve as co-chair and up to 26 additional members, up to 19 of whom shall be appointed by and serve at the pleasure of the Governor; 1 of whom shall be appointed by the attorney general; the chairs of the joint committee on the judiciary; the chairs of the joint committee on racial equity, civil rights, and inclusion; and the minority leaders of the house of representatives and senate. The task force may include representatives of victim assistance agencies; advocates for communities affected by hate crimes; the various district attorneys' offices; state, local and university police departments; educators and students; and others with expertise or experience in hate crimes issues. One of the persons appointed by the governor shall be designated by the governor to serve as co-chair.

(c) The task force shall advise the governor and legislature on issues relating to the prevalence, deterrence, and prevention of hate crimes in the commonwealth and the support of victims of hate crimes. Additionally, the task force shall:

(1) Promote full and effective cooperation and coordination among law enforcement agencies and communities affected by hate crimes, to improve prevention, investigation, and prosecution of hate crimes;

(2) Develop best practices related to technical assistance for school districts that may seek to incorporate hate crime education into their curricula;

(3) Recommend policies, procedures and programs to ensure state and local government provide enhanced support for victims of hate crimes and their communities;

(4) Encourage and assist law enforcement agencies in hate crimes reporting pursuant sections 32 to 35, inclusive, of chapter 22C, including assistance in gathering, analyzing, and publishing hate crime reports;

(5) Encourage law enforcement agencies to enforce section 39 of chapter 265; and

(6) Recommend any appropriate legislation, regulations, policies or procedures to better combat hate crimes.

(d) The Task Force shall meet at least quarterly each year at the direction of the co-chairs, and shall submit to the governor, the clerks of the senate and house of representatives, the senate and house committees on ways and means, the joint committee on the judiciary and the joint committee on public safety and homeland security an annual report that addresses the mission of the task force, targeted objectives, options and recommended actions, and metrics to measure the effect of such recommendations on hate crimes in the commonwealth.

(e) The co-chairs, as needed, may establish subcommittees comprised of members of the task force and non-members drawn from various groups and organizations with expertise or experience in hate crimes issues.

Respectfully submitted,

Charles D. Baker
Governor

HOUSE . . . . . No. 4019

The Commonwealth of Massachusetts

EXECUTIVE DEPARTMENT
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CHARLES D. BAKER
GOVERNOR

KARYN POLITO
LIEUTENANT GOVERNOR

– ATTACHMENT D —

July 16, 2021

To the Honorable Senate and House of Representatives,

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment Sections 7, 102, and 103 of House Bill No. 4002, "An Act Making Appropriations for the Fiscal Year 2022 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements."

Section 102 proposes to transfer $250 million from the General Fund to the Commonwealth Pension Liability Fund by September 1, 2021. Section 103 proposes to transfer $350 million from the General Fund to the Student Opportunity Act Investment Fund, created in section 7 to support public schools. In section 103 as enacted, the transfer to the Student Opportunity Act would occur on a schedule to be determined by the Comptroller in consultation with the Secretary of Administration and Finance, the Secretary of Education, and the Treasurer.

Both transfers have merit. The Commonwealth's unfunded pension liability is often cited by rating agencies as a negative factor in assessing the Commonwealth's fiscal strength. In recent years, the Public Employee Retirement Administration Commission (PERAC) has adjusted its assumptions to make them more realistic, most recently by reducing the investment return assumption to 7.0%. A $250 million transfer helps address these very real costs.

The Student Opportunity Act represents a substantial dedication of money over several years aimed at providing students across the Commonwealth with the opportunities and resources they need to succeed. Transferring surplus money to prepay for $350 million of these costs has the effect of insulating students from the budget cycle and is a good idea.

However, both transfers are premised on a $4.2 billion tax upgrade relative to the consensus tax revenue forecast from this past January. While recent tax receipts certainly suggest higher revenue collections for Fiscal Year 2022 than was forecast in January, September is very early in the fiscal year to be committing to an anticipated budget surplus. Any such transfer would be irreversible, even if the budget picture changes, due to federal laws around the use of pension assets. Conversely, with respect to the Student Opportunity Act transfer, caution would suggest a transfer schedule later in Fiscal Year 2022, complicating any use of funds in Fiscal Year 2023, even if urgently needed.

Fortunately, we can address these timing problems simply by changing the source of the transfer from a still uncertain Fiscal Year 2022 tax surplus to a known surplus in Fiscal Year 2021. With this adjustment, both transfers can happen immediately and with no risk, as the revenue is available for expenditure.

Lastly, with respect to the creation of the Student Opportunity Act Investment Fund, I would suggest only a minor modification to allow the fund to receive Fiscal Year 2021 funds. I am otherwise reproposing it here in the form in which it was first enacted.

For the reasons stated above, I recommend that section 7 be amended by striking out the section in its entirety and inserting in place thereof the following section:-

SECTION 7. Chapter 10 of the General Laws is hereby amended by inserting after section 35PPP the following section:-

Section 35QQQ. Effective June 30, 2021, there shall be established and set up on the books of the commonwealth a separate fund known as the Student Opportunity Act Investment Fund. The fund shall be credited with: (i) appropriations or other money authorized or transferred by the general court and specifically designated to be credited to the fund; (ii) funds from public and private sources, including, but not limited to gifts, grants and donations; and (iii) any interest earned on such money. Amounts credited to the fund shall be expended, subject to appropriation, for the implementation of chapter 132 of the acts of 2019. Money remaining in the fund at the end of a fiscal year shall not revert to the General Fund. The fund shall not be subject to section 5C of chapter 29.

And further recommend that the bill be amended by striking out sections 102 and 103 and inserting in place thereof the following 2 sections:-

SECTION 102. Notwithstanding any general or special law to the contrary, the comptroller shall transfer $250,000,000 during fiscal year 2021 from the General Fund to the Commonwealth's Pension Liability Fund established in subsection (e) of subdivision (8) of section 22 of chapter 32 of the General Laws.

SECTION 103. Notwithstanding any general or special law to the contrary, the comptroller shall transfer $350,000,000 during fiscal year 2021 from the General Fund to the Student Opportunity Act Investment Fund, established in section 35QQQ of chapter 10 of the General Laws.

Respectfully submitted,

Charles D. Baker
Governor

HOUSE . . . . . No. 4019

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CHARLES D. BAKER
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KARYN POLITO
LIEUTENANT GOVERNOR

– ATTACHMENT E —

July 16, 2021

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment Section 8 of House Bill No. 4002, "An Act Making Appropriations for the Fiscal Year 2022 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements."

Section 8 attempts to establish a requirement for an annual staffing plan at the Division of Water Supply Protection within the Department of Conservation and Recreation (DCR) that would not be subject to limitations or restrictions on hiring, promotion, or staffing levels from any executive office or department. As drafted, the annual staffing plan conflicts with the current statutory requirement that the DCR and the Massachusetts Water Resources Authority jointly prepare an annual work plan, which must include staffing levels. Additionally, the proposed section affects employment conditions that are typically governed by collective bargaining agreements negotiated between the Commonwealth as the employer and the proper bargaining units. It would set a concerning precedent if statutory changes effectively usurp the critical collective bargaining process. Additionally, the proposed changes would have the effect of undermining the Commonwealth's Office of Diversity and Equal Opportunity's ability to enforce diversity goals by imposing a hiring freeze on agencies that fail to comply with

affirmative action plan submission requirements. I cannot approve statutory changes that would eliminate this critical tool for a specific agency, department, or division of the Commonwealth.

However, it may be helpful to require that the Division's annual work plan contain a specific plan for expenditures that are related to staffing. Therefore, I am proposing alternative language that specifies how an annual staffing plan must fit into the existing annual work plan.

For these reasons, I recommend that Section 8 be amended by striking out the section and inserting in place thereof the following section:-

SECTION 8. Section 75 of said chapter 10, as appearing in the 2018 Official Edition, is hereby amended by inserting after the word "(c)", in line 95, the following words:- ; provided, however, that said salaries, staffing levels and other employee expenses so set forth shall be included in an annual staffing plan.

Respectfully submitted,

Charles D. Baker
Governor

HOUSE . . . . . No. 4019

The Commonwealth of Massachusetts

EXECUTIVE DEPARTMENT
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CHARLES D. BAKER
GOVERNOR

KARYN POLITO
LIEUTENANT GOVERNOR

– ATTACHMENT F —

July 16, 2021

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment Section 12 of House Bill No. 4002, "An Act making appropriations for the fiscal year 2022 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements."

I am grateful that the Legislature took action on this proposal, which was included in the budget that I proposed in January of this year. The Legislature made a number of edits to the proposed language. I am agreeable to all of the edits, except for one which could seriously undermine the effectiveness of the provision.

Under the Renewable Energy Portfolio Standard (RPS) and Alternative Energy Portfolio Standard (APS), the companies who provide Massachusetts ratepayers with electricity must obtain a minimum percentage of that electricity from clean sources. When a company fails to meet these requirements, the company must make so-called "alternative compliance payments" to the Commonwealth.

In recent years, a growing number of companies have failed to supply the required clean energy and have ceased to do business in the Commonwealth without making the required alternative compliance payments. The result is that the ratepayers of the Commonwealth bear the burden of the loss of clean energy benefits and are unable to use alternative compliance payments to offset those burdens. Between 2017 and 2019 companies failed to make a total of $188 million in alternative compliance payments.

Section 12 grants the Department of Energy Resources (DOER) the explicit authority to create a lien, sue in court to collect on any outstanding debt, as well as to enforce any such lien against companies which fail to make their alternative compliance payments. This legislation would essentially put alternative compliance payments on the same footing as taxes owed to the Commonwealth and give those debts priority treatment if a company declares bankruptcy.

Because the companies at issue typically do not have a physical presence in the Commonwealth, DOER expects that the bulk of their in-state assets will be accounts receivable and other intangible property. These accounts frequently turn over, which means that for this legislation to have a real practical impact, it is vital for DOER's lien to cover accounts receivable and other property that a company acquires after the lien goes into effect. However, as part of its amendments to my original proposal, the Legislature eliminated a reference to this sort of property. I am proposing to reinsert that reference. This language will best position DOER to achieve the intent of this proposal: holding companies accountable when they fail to provide Massachusetts ratepayers with the clean energy we demand and then default on their monetary obligations to the Commonwealth.

For this reason I recommend that Section 12 be amended by inserting after the word "supplier" in line 222 the following words:- , including property acquired after the lien arises.

Respectfully submitted,

Charles D. Baker
Governor

HOUSE . . . . . No. 4019

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CHARLES D. BAKER
GOVERNOR

KARYN POLITO
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– ATTACHMENT G —

July 16, 2021

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution, I am returning to you for amendment Section 18 of House Bill No. 4002, "An Act Making Appropriations for the Fiscal Year 2022 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements."

Section 18 increases from 960 hours to 1,200 hours the amount of time a retiree collecting a pension may work for a government entity. I support providing municipalities and state agencies with increased flexibility to make appropriate staffing decisions. However, an increase of 240 more hours per year is a significant policy change and moves the Commonwealth and its municipalities closer to a place where employees continue to work near full-time while collecting a pension, without any corresponding changes to improve the current practice.

Instead, I am proposing a modest increase in the number of hours from the current 960 hours to 975, which more accurately reflects half-time. This change will allow for some flexibility to retired employees who are bumping into the current 960 hour limit. Further, I am proposing a waiver to the hours cap for personnel in positions when a critical shortage is determined. This mechanism currently exists for retired education personnel in the Commonwealth. I propose that this mechanism take effect as of July 1, 2021 at the same time as

the remainder of the Fiscal Year 2022 General Appropriations Act in order to ensure that this critical tool will be available as soon as possible to assist state agencies and municipalities around Massachusetts as they continue to recover from the COVID-19 pandemic.

For these reasons, I recommend striking out section 18 and inserting in place thereof the following 2 sections:-

SECTION 18. Section 91 of chapter 32 of the General Laws, as so appearing, is hereby amended by striking out, in lines 97 and 113, the words "nine hundred and sixty" each time they appear and inserting in place thereof, in each instance, the following figure:- 975.;

SECTION 18A. Said section 91 of said chapter 32 is hereby further amended by adding the following paragraph:-

(f) (1) The secretary of administration and finance may exempt a position for any calendar year from the requirements of paragraphs (a) to (d), inclusive where the secretary finds that a department or agency of the commonwealth, county, city, town, district or authority has a critical shortage of qualified personnel. The department or agency of the commonwealth, county, city, town, district or authority must demonstrate to the secretary that there is a shortage in qualified personnel and that a good-faith effort has been made to hire qualified personnel who have not retired under this chapter. The period of a determination of a critical shortage shall not exceed 1 year, but a public entity may seek to invoke this provision in consecutive years upon a new demonstration of a good-faith effort to hire personnel who have not retired. The secretary shall notify the appropriate public entity of each determination of a critical shortage made for the purposes of this paragraph. Any such retired person who renders service pursuant to this paragraph shall be subject to all laws, rules and regulations governing the employment in such positions. Such person shall not be deemed to have resumed active membership in a system and said service shall not be counted as creditable service toward retirement; provided that the earnings therefrom when added to any pension or retirement allowance the person is receiving do not exceed the salary that is being paid for the position from which the person was retired or in which his employment was terminated plus $15,000.

(2) The provisions of this subsection shall apply to any positions not subject to the provisions of subsection (e).

Respectfully submitted,

Charles D. Baker
Governor

HOUSE . . . . . No. 4019

The Commonwealth of Massachusetts

EXECUTIVE DEPARTMENT
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CHARLES D. BAKER
GOVERNOR

KARYN POLITO
LIEUTENANT GOVERNOR

– ATTACHMENT H —

July 16, 2021

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment Sections 23, 30, 32, 33, 34, and 145 of House Bill No. 4002, "An Act Making Appropriations for the Fiscal Year 2022 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements."

These sections repeal three long-standing tax expenditures: the energy patent deduction, the medical device user fee tax credit, and the harbor maintenance tax credit. While I support the repeal of the energy patent deduction as it has never been claimed, I believe the medical device user fee tax credit and the harbor maintenance tax credit encourage innovation and economic activity in the Commonwealth and should be maintained.

The energy patent deduction makes income from patents that are useful for energy conservation or alternative energy development untaxable for a period of five years. Qualifying patents are to be granted this exemption by the Department of Energy Resources (DOER). However, in a recent report issued by the Tax Expenditure Review Commission, the Commission found that since its enactment in 1979, no taxpayer has taken advantage of the deduction. Additionally, DOER is not aware of any pending patents that would qualify. Where the deduction is neither benefitting taxpayers nor incentivizing the development of technology related to energy conservation or alternative energy development, I support its repeal.

Next, the medical device user fee tax credit is an expenditure available to medical device companies for 100 percent of the user fees paid to submit certain applications and supplements to the U.S. Food and Drug Administration for devices developed in Massachusetts. It was enacted in 2006. Annually, approximately half a dozen companies claim this credit, for a total of $0.4 million to $0.6 million in claims. By design, the credit benefits a very specialized group of companies. Thus, its relatively low utilization rate is appropriate. I see no reason to repeal this tax expenditure, as it is claimed annually by its intended beneficiaries and supports medical device companies operating in the Commonwealth.

Finally, the harbor maintenance credit, enacted in 1996 and made available to shippers, importers, and exporters, is a dollar-for-dollar credit against the corporate excise for harbor maintenance taxes paid to the federal government. Its purpose is to promote the use of Massachusetts harbors, and over 80 taxpayers claim the credit each year, totaling $1.5 million in credits claimed. Quite simply, I do not support the repeal of a tax credit that is serving as a benefit to shippers, importers, and exporters who generate critical economic activity in and around Massachusetts ports.

For these reasons, I recommend that Sections 23, 30, 32, 33, 34, and 145 be amended by striking out the sections and inserting in place thereof the following 3 sections:-

SECTION 23. Paragraph (2) of subsection (a) of section 2 of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out subparagraph (G).

SECTION 32. Paragraph 3 of section 30 of chapter 63 of the General Laws, as so appearing, is hereby amended by striking out, in lines 27 to 40, inclusive, the words “The commissioner of energy resources may approve United States patents, which have been issued to Massachusetts corporations or applied for by Massachusetts corporations as useful for energy conservation and related purposes or as useful for alternative energy development and related purposes, provided that such patents are determined by said commissioner to be of economic value, practicable, and necessary for the convenience and welfare of the commonwealth and its citizens. Any income received from the sale, lease or other transfer of tangible, intangible, personal or real property or materials manufactured in the commonwealth subject to such patent shall be deducted. Said deduction shall extend for a period no longer than five years from the date of issuance of the United States patent or the date of approval by the commissioner of energy resources, whichever first expires.”

SECTION 145. Sections 23 and 32 shall apply for taxable years beginning on or after January 1, 2021.

Respectfully submitted,

Charles D. Baker
Governor

HOUSE . . . . . No. 4019

The Commonwealth of Massachusetts

EXECUTIVE DEPARTMENT
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CHARLES D. BAKER
GOVERNOR

KARYN POLITO
LIEUTENANT GOVERNOR

– ATTACHMENT I —

July 16, 2021

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment Section 39 of House Bill No. 4002, "An Act Making Appropriations for the Fiscal Year 2022 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements."

Section 39 is a modified version of a proposal I filed in my initial budget recommendation. It provides the Department of Revenue with authority to implement an optional pass-through entity excise in the amount of the personal income taxes owed on members' flow-through income and an accompanying tax credit equal to 90% of each member's portion of the excise. While I strongly support providing this type of benefit to Massachusetts residents who are members of pass-through entities, 100% of the optional excise should be returned to the taxpayer. Where struggling businesses are still emerging from the pandemic and state revenues are strong, taxpayers should be allowed to reap the full benefit of this policy.

For this reason, I recommend that Section 39 be amended by striking out the section and inserting in place thereof the following section:-

SECTION 39. The General Laws are hereby amended by inserting after chapter 63B the following chapter:-

Chapter 63C. Taxation of Pass-Through Entities

Section 1. For taxable years beginning on or after January 1, 2021, an eligible pass-through entity may elect to pay an excise on its qualified income taxable in Massachusetts at a rate of five per cent. A qualified member of an electing pass-through entity shall be allowed a credit against the tax imposed under chapter 62 for the qualified member's share of such excise paid by the pass-through entity. The credit shall be available to qualified members in an amount proportionate to each member's share of the pass-through entity's qualified income taxable in Massachusetts. The credit shall be available for the member's taxable year in which the pass-through entity's taxable year ends.

Section 2. This chapter shall not apply to taxable years for which the federal limitation on the state and local tax deduction imposed by Code section 164(b)(6) has expired or is otherwise not in effect.

Section 3. The following words as used in this chapter shall, unless the context otherwise requires, have the following meanings:

"Code", the Internal Revenue Code as defined in section 1 of chapter 62 and applicable to the taxable year.

"Commissioner", the commissioner of revenue.

"Eligible pass-through entity", an S corporation under Code section 1361, a partnership under Code section 701 or a limited liability company that is treated as an S corporation or partnership under those Code sections.

"Qualified income taxable in Massachusetts", income of an eligible pass-through entity determined under chapter 62 allocable to a qualified member and included in such member's Massachusetts taxable income under chapter 62.

"Qualified member of a pass-through entity", a shareholder of an S corporation or a partner in a partnership that is a natural person. A qualified member may be a resident, non-resident or a part year resident.

Section 4. The excise under this chapter shall be in addition to, and not in lieu of, any other Massachusetts tax required to be paid, including tax under chapter 62 or chapter 63. The excise

under this chapter shall be due and payable on the pass-through entity's original, timely-filed return. A return that reports the excise shall be due at the same time as a partnership information return or corporate excise return would be due for the entity under chapter 62C. This chapter shall not change any filing requirements for a qualified member under chapter 62C.

Section 5. The collection and administration of the excise under this chapter shall be governed by the provisions of chapter 62C unless expressly stated otherwise in this chapter or in regulations promulgated by the commissioner under this chapter.

Section 6. The election under this chapter shall be made by the eligible pass-through entity on an annual basis in a manner determined by the commissioner. All members of the electing pass-through entity shall be bound by the election. Once made, the election cannot be revoked.

Section 7. The commissioner shall prescribe regulations or other guidance to carry out the purposes of this chapter. Such regulations or other guidance may (i) make the credit available to qualified members with income from eligible pass-through entities that in turn have income from other pass-through entities, (ii) address the application of this chapter to trusts, and (iii) require estimated payments of the excise by electing pass-through entities and their qualified members in a manner consistent with chapter 62B. Such regulations and other guidance shall, to the extent feasible, ensure that an electing pass-through entity and its qualified members pay an aggregate amount of tax under this chapter and chapter 62 that is generally equivalent to the amount of tax that would have been due from those members under chapter 62 in the absence of an election to pay an excise under this chapter.

And further recommend that the bill be amended by inserting the following new section:-

SECTION 146A. Section 39 shall apply for taxable years beginning on or after January 1, 2021.

Respectfully submitted,

Charles D. Baker
Governor

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CHARLES D. BAKER
GOVERNOR

KARYN POLITO
LIEUTENANT GOVERNOR

– ATTACHMENT J —

July 16, 2021

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment Section 42 of House Bill No. 4002, "An Act Making Appropriations for the Fiscal Year 2022 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements."

Section 42 proposes to limit the Department of Conservation and Recreation's (DCR) statutory authority to make rules and regulations for the use of the reservations, roads, driveways, boulevards and bridges under the Department's care by prohibiting the collection of any charge or fee for parking on any portion of a DCR boulevard, roadway, parkway, or way unless DCR has received prior approval from the local appropriating authority of the municipality in whose boundaries the fee is collected. The section further requires that the approval be received after January 1, 2021.

Partnership with municipalities on parking plans for DCR roadways is critical. However, the proposed change goes much further, proposing to invalidate municipal approvals that occurred prior to January 1, 2021. This section would establish a dangerous precedent by retroactively revoking the valid action of a municipal government months or years after the fact.

I agree that a significant portion of the fees collected from parking on Commonwealth properties managed by DCR within a particular community should be used for the ongoing maintenance of those properties and that the municipality where the fees are collected should play a significant role in the planning process for the ongoing needs of the parkways and reservations. That is why I support the section of this bill that devotes 50% of the parking fee and violation revenue collected at the Revere Beach Reservation after January 1, 2021, to the preservation, maintenance, nourishment, and public safety of Revere Beach. Additionally, DCR will be required to meet with the mayor of Revere to discuss the maintenance and safety plan for the beach for the next calendar year. These requirements make sense and will be beneficial to the City of Revere and Revere Beach. I am therefore proposing to replace the existing text of Section 42 with the operative text of the Revere Beach Trust Fund established in Section 7 of this bill.

For these reasons, I recommend that Section 42 be amended by striking out the section and inserting in place thereof the following section:-

SECTION 42. Said chapter 92 is hereby further amended by inserting after said section 34E, as added by said chapter 252 of the acts of 2020, the following section:-

Section 34F. (a) There shall be established and set up on the books of the commonwealth a Revere Beach Reservation Trust Fund to be expended, without further appropriation, by the secretary of energy and environmental affairs for the long-term preservation, maintenance, nourishment and public safety of Revere beach in the city of Revere. Any balance in the fund at the end of the fiscal year shall not revert to the General Fund, but shall remain available for expenditure in subsequent fiscal years. No expenditure made from the fund shall cause the fund to become deficient at any point during a fiscal year. Annually, not later than October 1, a report shall be filed with the clerks of the senate and house of representatives and the house and senate committees on ways and means that shall include projects undertaken, expenditures made and income received by the fund.

(b) Not less than 50 per cent of the revenue collected by the department of conservation and recreation from parking stations installed on or after January 1, 2021 and not less than 50 per cent of the revenues generated through parking violations within the Revere beach reservation shall be deposited into the Revere Beach Reservation Trust Fund. Expenditures by the trust shall be used for capital improvements to Revere beach reservation.

(c) Annually, not later than November 30, the department of conservation and recreation shall meet with the mayor of the city of Revere to discuss the maintenance and safety plan for the beach for the next calendar year and the balance and expenditures from the Revere Beach Reservation Trust Fund.

Respectfully submitted,

Charles D. Baker
Governor

HOUSE . . . . . No. 4019

The Commonwealth of Massachusetts

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CHARLES D. BAKER
GOVERNOR

KARYN POLITO
LIEUTENANT GOVERNOR

– ATTACHMENT K —

July 16, 2021

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment Section 47 of House Bill No. 4002, "An Act Making Appropriations for the Fiscal Year 2022 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements."

Section 47 requires the Department of Transitional Assistance (DTA) to eliminate any asset test for Emergency Assistance to Elderly, Disabled and Children (EAEDC) applicants. EAEDC extends a vital lifeline to certain Massachusetts residents, but I disagree with eliminating the asset test completely. EAEDC is generally designed to provide a bridge to individuals waiting for an eligibility determination from the Supplemental Security Income (SSI) Program. The asset limit for the program should be aligned with eligibility for SSI.

For these reasons, I recommend that Section 47 be amended by striking out the section and inserting in place thereof the following section:-

SECTION 47. Said section 3 of said chapter 117A, as so appearing, is hereby further amended by inserting after the first paragraph the following paragraph:-

A household shall be ineligible for assistance under this chapter if their countable assets, as determined pursuant to DTA regulations, exceed the total amount of resources allowed under the federal Supplemental Security Income program; provided further, that vehicles shall be treated as countable assets in the same manner as allowed under the federal Supplemental Security Income program.

Respectfully submitted,

Charles D. Baker
Governor

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CHARLES D. BAKER
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KARYN POLITO
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– ATTACHMENT L —

July 16, 2021

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment Section 67 of House Bill No. 4002, "An Act Making Appropriations for the Fiscal Year 2022 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements."

Section 67 requires the Department of Transitional Assistance (DTA) to eliminate any asset test for Transitional Aid to Families with Dependent Children (TAFDC) applicants. TAFDC extends a vital lifeline to certain Massachusetts residents, but I disagree with eliminating the current asset test completely. At the same time, it is important that TAFDC recipients have the opportunity to build up assets without losing eligibility for TAFDC. Therefore, I support reforming the TAFDC asset rule to allow recipients who meet the asset test at the time of application to continue to accrue assets in excess of the current limit without risk of losing eligibility for TAFDC. Other program parameters will ensure that the benefit remains time limited. Under existing income limits, as soon as a recipient exceeds the applicable income threshold, the recipient will no longer be eligible. Additionally, the TAFDC benefit ends after two continuous years.

For these reasons, I recommend that Section 67 be amended by striking out the section and inserting in place thereof the following section:-

SECTION 67. Section 110 of chapter 5 of the acts of 1995 is hereby amended by striking out subsection (b), as appearing in section 62 of chapter 41 of the acts of 2019, and inserting in place thereof the following subsection:-

(b) A family shall be eligible for assistance if its countable resources do not exceed $5000 and they meet all other eligibility criteria; provided that one vehicle shall not count toward the family's countable resources; and provided further, that an assistance unit shall be allowed the value and balance of a college savings plan for a child established and maintained pursuant to, or consistent with, section 519 of the Internal Revenue Code; provided further, recipients who increase their countable resources above $5000 while receiving benefits will continue to be eligible for benefits if all other eligibility criteria continue to be met.

Respectfully submitted,

Charles D. Baker
Governor

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CHARLES D. BAKER
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– ATTACHMENT M —

July 16, 2021

To the Honorable Senate and House of Representatives,

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment Sections 74 and 119 of House Bill No. 4002, "An Act Making Appropriations for the Fiscal Year 2021 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements."

These sections provide funding to the state crime laboratory to test previously untested sexual assault evidence kits and to upload those findings when appropriate to the CODIS and state DNA databases on the condition that all such evidence kits are tested within 180 days from July 1, 2021.

Unfortunately, the definition of previously untested sexual assault evidence kits used in these sections captures some 6,000 kits, including kits associated with cases that have already been adjudicated and kits where the evidentiary sample is so small that testing will result in the complete exhaustion of the testable material.

Testing kits associated with cases that have already been adjudicated raises significant concerns over the rights of the accused and the interests of the survivor. For this reason there is a statutory process set forth in chapter 278A of the General Laws that carefully balances these interests, and the language in these sections supersedes those existing provisions and disrupts

that balance. Furthermore, testing such kits is unlikely to add any new information to the CODIS and state DNA databases because any individual convicted of a sexual assault is already required to provide a DNA sample, and if an individual has been acquitted or if a case was dismissed for lack of evidence then, CODIS requirements may prohibit the sample from being eligible for upload into those databases.

Testing samples even when the quantity of the sample is so limited that it will be destroyed during testing raises constitutional concerns about destruction of evidence. To address those concerns the state crime laboratory promulgated regulations that balance an accused's right to have such testing observed with the need to solve cases. Those regulations require the state crime laboratory to work with District Attorney's offices to determine when testing is appropriate. Under the sections I am returning, the state crime laboratory would be required to test kits regardless of whether or not testing would destroy the sample, without the guidance of prosecuting agencies or, where appropriate, observation by a representative of the accused.

Not only do these sections fail to account for the complexities inherent in these different categories of previously untested evidence kits, they impose a legislative deadline that is impossible to meet given the time, technology, and expertise needed to properly test an individual kit. The state crime laboratory currently tests all sexual assault evidence kits it receives within 30 days. This is the fastest turnaround time anywhere in the country. The state crime laboratory hired 34 additional staff, spent over a year training new analysts on the scientific elements required by accreditation standards, and updated its testing workflow to enable it to meet this 30-day requirement. These costly and substantive changes made it possible for the state crime laboratory to process approximately 900 kits in 12 months. This section would require that more than 6,000 kits be tested in just 180 days.

This timeframe is unworkable whether the kits are tested by the state crime laboratory or sent out to private laboratories. First, there are a limited number of private laboratories in the country, and only some of those laboratories meet state standards and have the capacity to do the testing. Even those private laboratories with the necessary qualifications and the available capacity cannot begin large-scale testing immediately. Given the very high demand, nationwide, for testing by private laboratories, those testing facilities are scheduled months in advance, meaning that the large blocks of laboratory time needed to test the kits under this section would have to be reserved months ahead of time. As a point of reference, the state crime laboratory's primary private laboratory contractor has already provided an estimated timeline of 3 years to complete testing of these 6,000 kits.

Accordingly, the most appropriate approach to testing previously untested evidence kits is one that accounts for kits associated with previously adjudicated cases and kits where the evidentiary sample is so small that nothing will remain after testing is completed, and that provides sufficient time for the state crime laboratory to ensure that these kits can be tested with appropriate scientific rigor.

For these reasons, I recommend that Section 74 be amended by striking out the section and inserting in place thereof the following section:-

SECTION 74. Section 2A of chapter 5 of the acts of 2019 is hereby amended by striking out item 8100-1014, as amended by section 40 of chapter 142 of the acts of 2019, and inserting in place thereof the following item:-

8100-1014. For costs associated with the collection and testing of all previously untested investigatory sexual assault evidence kits by the crime laboratory within the department of state police or by an accredited private crime laboratory designated by the secretary of public safety and security; provided further that the testing of the sexual assault evidence kit shall be in accordance with the state police crime laboratory regulations for exhaustive testing; provided further, that no post-conviction sexual assault evidence kit shall be tested and such evidence kits shall instead be tested only in accordance with and subject to the requirements of chapter 278A of the General Laws; provided further, that for the purposes of this item, "previously untested investigatory sexual assault evidence kits" shall mean any sexual assault evidence kit or additional evidence collected contemporaneously with such kit, prior to April 13, 2018 that has not been subjected to a forensic DNA analysis intended to develop an autosomal DNA profile that is eligible for entry into CODIS, as defined in section 1 of chapter 22E of the General Laws, and the state DNA databases; and provided further, that any unexpended funds in this item shall not revert but shall be made available for the purposes of this item until June 30, 2022……..$8,000,000

And I further recommend that Section 119 be amended by striking out the section and inserting in place thereof the following section:-

SECTION 119. All previously untested investigatory sexual assault evidence kits provided for under item 8100-1014 of section 2A of chapter 5 of the acts of 2019 shall be sent for testing not later than June 30, 2022.

Respectfully submitted,

Charles D. Baker
Governor

HOUSE . . . . . No. 4019

The Commonwealth of Massachusetts

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CHARLES D. BAKER
GOVERNOR

KARYN POLITO
LIEUTENANT GOVERNOR

– ATTACHMENT N —

July 16, 2021

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment Section 113 of House Bill No. 4002, "An Act Making Appropriations for the Fiscal Year 2022 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements."

Section 113 sets forth the Fiscal Year 2022 (FY22) funding distribution for the Commonwealth's regional transit authorities (RTAs). The section increases my House 1 recommendation to $94 million and eliminates the existing amount and structure that distributes performance grants based on Memoranda of Understanding executed between the RTAs and the Massachusetts Department of Transportation. The section also adds an additional $3.5 million to be allocated by a new funding formula that is not consistent with my recommendations.

The RTAs received approximately $214 million as part of the CARES Act, $39 million from CRRSA, and more than $165 million from ARPA. This is in addition to the $90.5 million in State Contract Assistance that the RTAs received in FY21, as well as the $72 million in existing Federal Fiscal Year 2021 federal distributions from the Urbanized/Rural Area formulas. As a result, all 15 RTAs ended FY21 with significant cash reserves.

Because of the significant amount of federal and state funding dispensed to RTAs recently and the continuing need to incentivize improved RTA performance, I am recommending

that the distribution revert to my House 1 recommendation of $90.5 million, with $3.5 million distributed as performance grants.

For these reasons, I recommend that Section 113 be amended by striking out the section and inserting in place thereof the following section:-

SECTION 113. Notwithstanding any special or general law to the contrary, for fiscal year 2022, of the $90,500,000 transferred in item 1595-6370 of section 2E, $87,000,000 shall be considered operating assistance and distributed to regional transit authorities as determined by a formula that is based upon clearly established metrics and principles and that has been agreed to by each RTA and approved by the Massachusetts Department of Transportation, hereinafter referred to as the department. The operating assistance distributed shall be spent to advance the goals and targets as agreed to in an updated FY22 Bilateral Memoranda of Understanding, which shall also consider each RTA's comprehensive regional transit plan, and shall be entered into by each regional transit authority and the department. Of the amount to be distributed under item 1595-6370 of section 2E, $3,500,000 shall be distributed as performance grants to regional transit authorities. The performance grants shall be distributed to regional transit authorities that best demonstrate compliance with, or a commitment to, the service decisions, quality of service and environmental sustainability recommendations from the report of the task force on regional transit authority performance and funding established pursuant to section 72 of chapter 154 of the acts of 2018. The department may require each regional transit authority to provide data on ridership, customer service and satisfaction, asset management and financial performance, including farebox recovery, and shall compile any collected data into a report on the performance of regional transit authorities and each authority's progress toward meeting the performance metrics established in the memorandum of understanding. The report shall be filed with the clerks of the senate and house of representatives, the senate and house committees on ways and means and the joint committee on transportation not later than December 31, 2021.

Respectfully submitted,

Charles D. Baker
Governor

HOUSE . . . . . No. 4019

The Commonwealth of Massachusetts

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CHARLES D. BAKER
GOVERNOR

KARYN POLITO
LIEUTENANT GOVERNOR

– ATTACHMENT O —

July 16, 2021

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment Sections 116 and 117 of House Bill No. 4002, "An Act Making Appropriations for the Fiscal Year 2022 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements."

Sections 116 and 117 require that grants allocated to Regional Tourism Councils through the Massachusetts Tourism Trust Fund for Fiscal Year 2022 be distributed not later than September 1, 2021 for funds received from room occupancy taxes and not later than November 15, 2021 for the remainder of amounts received from gaming revenue.

I strongly support the tourism industry in the Commonwealth and understand the goal of the sections. However, the distribution dates set forth conflict with the transfer schedule utilized for such distributions, which provides for quarterly distributions. As a result, I am proposing changes that adjust each distribution deadline to correspond with the end of the next quarter.

For these reasons, I recommend that Sections 116 and 117 be amended by striking out the sections and inserting in place thereof the following 2 sections:-

SECTION 116. Notwithstanding any other general or special law to the contrary, grants from the amounts collected pursuant to subsection (a) of section 13T of chapter 23A of the General Laws allocated to regional tourism councils pursuant to clause (ii) of subsection (d) of said section 13T for fiscal year 2022 shall be distributed no later than September 30, 2021 pursuant to a transfer schedule determined by the executive office for administration and finance.

SECTION 117. Notwithstanding any other general or special law to the contrary, grants from the amounts collected pursuant to subsection (b) of section 13T of chapter 23A of the General Laws allocated to regional tourism councils pursuant to clause (ii) of subsection (d) of said section 13T for fiscal year 2021 shall be distributed no later than December 30, 2021 pursuant to a transfer schedule determined by the executive office for administration and finance.

Respectfully submitted,

Charles D. Baker
Governor

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CHARLES D. BAKER
GOVERNOR

KARYN POLITO
LIEUTENANT GOVERNOR

– ATTACHMENT P —

July 16, 2021

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment Section 128 of House Bill No. 4002, "An Act Making Appropriations for the Fiscal Year 2022 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements."

Section 128 establishes a special commission to investigate and recommend methods for reducing poverty in the Commonwealth over the next 10-year period. The commission is tasked with meeting on a quarterly basis and conducting at least two public hearings in advance of filing a report of its findings with the Legislature on or before December 31, 2022. I strongly support the aim of this commission.

To ensure that sufficient resources are available to accomplish these important directives, in the coming weeks I will propose $300,000 in funding to support the work of the commission, in the next appropriations bill that I file. Further, to streamline the efforts of the commission and permit the meaningful participation of all members, I am recommending modifications to its composition, retaining the position reserved for the Secretary of Health and Human Services and otherwise removing additional representation from the Executive Branch.

For these reasons, I recommend that Section 128 be amended by striking out the section and inserting in place thereof the following section:-

SECTION 128. (a) There shall be a special commission established pursuant to section 2A of chapter 4 of the General Laws to study poverty in the commonwealth. The commission shall investigate, develop and recommend methods and strategies for reducing poverty and expanding opportunity for people with low incomes. The commission shall consist of: 1 member of the senate appointed by the senate president, who shall serve as co-chair; 1 member of the house of representatives appointed by the speaker of the house of representatives, who shall serve as co-chair; the chairs of the joint committee on children, families and persons with disabilities; the secretary of health and human services or a designee; 2 members appointed by the co-chairs who shall have expertise in economics and socio-economic policy; 1 member appointed by the Massachusetts Association for Community Action, Inc.; 1 member appointed by Massachusetts Municipal Association, Inc.; 1 member appointed by Massachusetts Association of Community Development Corporations; 1 member appointed by Massachusetts Law Reform Institute, Inc.; 1 member appointed by Massachusetts Association for Early Education & Care, Inc.; 1 member appointed by Citizens' Housing and Planning Association, Inc.; 1 member appointed by Massachusetts Coalition for the Homeless, Inc.; 1 member appointed by Massachusetts Immigrant and Refugee Advocacy Coalition, Inc.; 1 member appointed by the United Way of Massachusetts Bay, Inc.; 1 member appointed by the Alliance for Business Leadership, Inc.; 1 member appointed by the Massachusetts Business Roundtable, Inc.; 1 member appointed by the Gerontology Institute at the University of Massachusetts Boston; 1 member appointed by Project Bread – The Walk for Hunger, Inc.; and 2 members who are not currently serving in public office to be appointed by the governor, 1 of whom shall be from a community foundation and 1 of whom shall be from a community-based organization. All appointments shall be made not later than 30 days after the effective date of this section. Members of the commission shall serve without compensation.

(b) The commission shall study ways to promote opportunity, address inequality and reduce poverty in the commonwealth. The commission shall make recommendations that, if implemented, would significantly reduce poverty in the commonwealth over the next 10 years. The study shall include, but not be limited to: (i) a historical analysis of poverty rates in the commonwealth; (ii) an analysis of demographic disparities in poverty rates including, but not limited to, any racial or ethnic disparities; (iii) an assessment of the underlying causes of poverty, including any specific issues that contribute to the disparities identified in clause (ii); (iv) an analysis of regional disparities in poverty rates in the commonwealth; and (v) a survey of existing public programs and services that most effectively reduce poverty both in the commonwealth and in other states. The commission's recommendations may include proposed legislative and regulatory changes. Any such recommendations shall include, if feasible, the estimated costs to the commonwealth of implementing the recommendations; provided, however, that such estimated costs shall take into account any reductions in the utilization and costs of other programs and services provided or supported by the commonwealth.

(c) The commission shall meet not less than quarterly. The commission may consult and collaborate with relevant experts, community-based organizations, research institutes and state agencies. The commission shall conduct not fewer than 2 public hearings in geographically diverse areas of the commonwealth.

(d) Not later than December 31, 2022, the commission shall file a report of its findings, including any legislative or regulatory recommendations, with the clerks of the senate and the house of representatives, the joint committee on children, families and persons with disabilities, the joint committee on housing, the joint committee on education, the joint committee on community development and small businesses, the joint committee on economic development and emerging technologies, the joint committee on public health, the joint committee on racial equity, civil rights, and inclusion and the senate and house committees on ways and means. The commission may make interim reports as appropriate.

Respectfully submitted,

Charles D. Baker
Governor

HOUSE . . . . . No. 4019

The Commonwealth of Massachusetts

EXECUTIVE DEPARTMENT
STATE HOUSE • BOSTON 02133
(617) 725-4000

CHARLES D. BAKER
GOVERNOR

KARYN POLITO
LIEUTENANT GOVERNOR

– ATTACHMENT Q —

July 16, 2021

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment Section 129 of House Bill No. 4002, "An Act Making Appropriations for the Fiscal Year 2022 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements."

Section 129 establishes a special commission to examine the Department of Public Health's (DPH) nursing home licensure process and requirements. In 2019, the Nursing Facility Task Force was established in Section 91 of Chapter 41of the Acts of 2019. The Nursing Facility Task Force successfully brought together stakeholders to reach agreement on a number of crucial improvements to the nursing home industry including the licensure statute. These changes should be implemented without further delay. These changes include:

- Clarifying the definition of "owner" and expanding the information applicants for licensure must submit to DPH to enable a more comprehensive suitability review and promote greater transparency;
- Providing for the granting of probationary or provisional licenses, where appropriate;
- Providing DPH with greater flexibility to take appropriate administrative action other than license termination, such as imposing an admission freeze; and

- Increasing the maximum fines for licensure violations.

I am pleased to support this commission as it continues the critical work of the 2019 Task Force. The focus of this special commission should be to carefully scrutinize the licensure process in the wake of the pandemic and make recommendations based on its findings to further improve nursing home oversight and the care and safety of the residents.

For these reasons, I recommend that Section 129 be amended by striking out the section and inserting in place thereof the following 4 sections:-

SECTION 44A. Chapter 111 of the General Laws is hereby amended by striking out section 71 and inserting in place thereof the following section:-

Section 71. For purposes of this section and sections 71A½ to 73, inclusive, the following terms shall have the following meanings unless the context or subject matter clearly requires otherwise:

"Applicant", any person who applies to the department for a license to establish or maintain and operate a long-term care facility.

"Charitable home for the aged", any institution, however named, conducted for charitable purposes and maintained for the purpose of providing a retirement home for elderly persons and which may provide nursing care within the home for its residents.

"Convalescent or nursing home or skilled nursing facility", any institution, however named, whether conducted for charity or profit, which is advertised, announced or maintained for the express or implied purpose of caring for four or more persons admitted thereto for the purpose of nursing or convalescent care.

"Infirmary maintained in a town", an infirmary which hitherto the department of transitional assistance has been directed to visit by section 7 of chapter 121.

"Intermediate care facility for persons with an intellectual disability", any institution, however named, whether conducted for charity or profit, which is advertised, announced or maintained for the purpose of providing rehabilitative services and active treatment to persons with an intellectual disability or persons with related conditions, as defined in regulations promulgated pursuant to Title XIX of the federal Social Security Act (P.L. 89–97); which is not both owned and operated by a state agency; and which makes application to the department for a license for the purpose of participating in the federal program established by said Title XIX.

"License", an initial or renewal license to establish or maintain and operate a long-term care facility issued by the department. "Licensee", a person to whom a license to establish or maintain and operate a long-term care facility has been issued by the department.

“Long-term care facility”, a charitable home for the aged, a convalescent or nursing home, an infirmary maintained in a town, an intermediate care facility for persons with an intellectual disability or a rest home.

“Owner”, any person with an ownership interest of 5 per cent or more, or with a controlling interest in an applicant, potential transferee or the real property on which a long-term care facility is located provided that the real property owner is related to the applicant or potential transferee as defined in Section 413.17(b) of Title 42 of the Code of Federal Regulations.

“Person”, an individual, a trust, estate, partnership, association, company or corporation.

“Potential transferee”, a person who submits to the department a “notice of intent to acquire” the facility operations of a currently operating long-term care facility.

“Rest home”, any institution, however named, which is advertised, announced or maintained for the express or implied purpose of providing care incident to old age to four or more persons who are ambulatory and who need supervision.

“Transfer of facility operations”, a transfer of the operations of a currently operating long-term care facility from the current licensee of the long-term care facility to a potential transferee, pending licensure, pursuant to a written “transfer of operations” agreement.

To each applicant it deems suitable and responsible to establish or maintain and operate a long-term care facility and which meets all other requirements for long-term care facility licensure, the department shall issue for a term of two years, and shall renew for like terms, a license, subject to the restrictions set forth in this section or revocation by it for cause; provided, however, that each convalescent or nursing home and each intermediate care facility for persons with an intellectual disability shall be inspected at least once a year.

No license shall be issued to establish or maintain an intermediate care facility for persons with an intellectual disability, unless there is a determination by the department that there is a need for such facility at the designated location; provided, however, that in the case of a facility previously licensed as an intermediate care facility for persons with an intellectual disability in which there is a change in ownership, no such determination shall be required and in the case of a facility previously licensed as an intermediate care facility for persons with an intellectual disability in which there is a change in location, such determination shall be limited to consideration of the suitability of the new location.

In the case of the transfer of facility operations of a long-term care facility, a potential transferee shall submit a “notice of intent to acquire” to the department at least 90 days prior to the proposed transfer date. The notice of intent to acquire shall be on a form supplied by the department and shall be deemed complete upon submission of all information which the department requires on the notice of intent form and is reasonably necessary to carry out the purposes of this section. In the case of the transfer of facility operations of a long-term care facility, a potential transferee shall provide notice to the current staff of the facility and, to the labor organizations that represents the facility’s workforce at the time the potential transferee

submits a “notice of intent to acquire”, of the potential transferee’s plans regarding retaining the facility workforce and/or to recognize any current collective bargaining agreements.

No license shall be issued to an applicant and no potential transferee may submit an application for a license unless the department makes a determination that the applicant or potential transferee is responsible and suitable for licensure.

For purposes of this section, the department’s determination of responsibility and suitability shall be limited to the following factors:

(i) the civil litigation history including litigation related to the operation of a long-term care facility, such as quality of care, safety of residents or staff, employment and labor issues, fraud, unfair or deceptive business practices, landlord/tenant issues, and the criminal history of the applicant or the potential transferee, including their respective owners, which may include pending or settled litigation or other court proceedings in the commonwealth and in other states. Any information related to criminal or civil litigation obtained by the department pursuant to this section shall be confidential and exempt from disclosure under clause Twenty-sixth of section 7 of chapter 4 and chapter 66.

(ii) the financial capacity of the applicant or potential transferee, including their respective owners, to establish or maintain and operate a long-term care facility, which may include any recorded liens and unpaid fees or taxes in the commonwealth and in other states.

(iii) the history of the applicant or potential transferee, including their respective owners, in providing long-term care in the commonwealth, measured by compliance with applicable statutes and regulations governing the operation of long-term care facilities; and

(iv) the history of the applicant or potential transferee, including their respective owners, in providing long-term care in states other than the commonwealth, if any, measured by compliance with the applicable statutes and regulations governing the operation of long term care facilities in said states.

With respect to potential transferees, upon determination by the department that a potential transferee is responsible and suitable for licensure, the potential transferee may file an application for a license. In the case of a potential transfer of facility operations, the filing of an application for a license shall have the effect of a license until the department takes final action on such application.

If the department determines that an applicant or potential transferee is not suitable and responsible, the department’s determination shall take effect on the date of the department’s notice. In such cases, the applicant or potential transferee shall upon the filing of a written request with the department be afforded an adjudicatory hearing pursuant to chapter 30A.

During the pendency of such appeal, the applicant or potential transferee shall not operate the facility as a licensee, or, without prior approval of the department, manage such facility.

Each applicant, potential transferee and licensee shall keep all information provided to the department current. After the applicant, potential transferee or licensee becomes aware of any change to information related to information it provided or is required to provide to the department, such person shall submit to the department written notice of the changes as soon as practicable and without unreasonable delay. Changes include, but are not limited to, changes in financial status, such as filing for bankruptcy, any default under a lending agreement or under a lease, the appointment of a receiver, or the recording of any lien. Failure to provide timely notice of such change may be subject to the remedies or sanctions available to the Department under sections 71 to 73, inclusive.

An applicant, potential transferee or licensee and their respective owners shall be in compliance with all applicable federal, state and local laws, rules and regulations.

Prior to engaging a company to manage the long-term care facility, hereinafter a "management company", a licensee shall notify the department in writing of the name of and provide contact information for the proposed management company and any other information on the management company and its personnel that may be reasonably requested by the department. Any such engagement must be pursuant to a written agreement between the licensee and the management company. Such written agreement shall include a requirement that the management company and its personnel shall comply with all applicable federal, state and local laws, regulations and rules. Promptly after the effective date of any such agreement, the licensee shall provide to the department a copy of the valid, fully executed agreement. Any payment terms included in the agreement shall be confidential and exempt from disclosure under clause Twenty-sixth of section 7 of chapter 4 and chapter 66.

No license shall be issued hereunder unless there shall be first submitted to the department by the authorities in charge of the long-term care facility with respect to each building occupied by residents (1) a certificate of inspection of the egresses, the means of preventing the spread of fire and apparatus for extinguishing fire, issued by an inspector of the office of public safety and inspections of the division of professional licensure; provided, however, that with respect to convalescent or nursing homes only, the division of health care quality of the department of public health shall have sole authority to inspect for and issue such certificate, and (2) a certificate of inspection issued by the head of the local fire department certifying compliance with the local ordinances.

Any applicant who is aggrieved, on the basis of a written disapproval of a certificate of inspection by the head of the local fire department or by the office of public safety and inspections of the division of professional licensure, may, within 30 days from such disapproval, appeal in writing to the division of professional licensure. With respect to certificates of inspection that the division of health care quality of the department of public health has the sole

authority to issue, an applicant may, within 30 days from disapproval of a certificate of inspection, appeal in writing to the department of public health only. Failure to either approve or disapprove within 30 days, after a written request by an applicant, shall be deemed a disapproval.

If the division of professional licensure or, where applicable, the department of public health approves the issuance of a certificate of inspection, it shall forthwith be issued by the agency that failed to approve. If said department disapproves, the applicant may appeal therefrom to the superior court. Failure of said department to either approve or disapprove the issuance of a certificate of inspection within 30 days after receipt of an appeal shall be deemed a disapproval. No license shall be issued by the department until issuance of an approved certificate of inspection, as required in this section.

Nothing in this section or in sections 72 or 73 shall be construed to revoke, supersede or otherwise affect any laws, ordinances, by-laws, rules or regulations relating to building, zoning, registration or maintenance of a long-term care facility.

For cause, the department may limit, restrict, suspend or revoke a license. Grounds for cause on which the department may take such action shall include substantial or sustained failure to provide adequate care to residents, or substantial or sustained failure to maintain compliance with applicable statutes, rules and regulations, or the lack of financial capacity to maintain and operate a long-term care facility. Limits or restrictions include requiring a facility to limit new admissions. Suspension of a license includes suspending the license during a pending license revocation action, or suspending the license to permit the licensee a period of time, not shorter than 60 days, to wind down operations, and discharge and transfer, if applicable, all residents.

The department may, when public necessity and convenience require, or to prevent undue hardship to an applicant or licensee, under such rules and regulations as it may adopt, grant a temporary provisional or probationary license under this section; provided, however, that no such license shall be for a term exceeding 1 year.

With respect to an order to limit, restrict or suspend a license, within 7 days of receipt of the written order, the licensee may file a written request with the department for administrative reconsideration of the order or any portion thereof.

Upon a written request by a licensee who is aggrieved by the revocation of a license or the adoption of a probationary license, or by an applicant who is aggrieved by the refusal of the department to renew a license, the commissioner and the council shall hold a public hearing, after due notice, and thereafter they may modify, affirm or reverse the action of the department; provided, however, that the department may not refuse to renew and may not revoke the license of a long-term care facility until after a hearing before a hearings officer, and any such applicant

so aggrieved shall have all the rights provided in chapter 30A with respect to adjudicatory proceedings.

In no case shall the revocation of such a license take effect in less than 30 days after written notification by the department to the licensee.

The fee for a license to establish or maintain or operate a long-term care facility shall be determined annually by the commissioner of administration under the provision of section 3B of chapter 7, and the license shall not be transferable or assignable and shall be issued only for the premises named in the application.

Nursing institutions licensed by the department of mental health, or the department of developmental services for persons with intellectual disabilities shall not be licensed or inspected by the department of public health. The inspections herein provided shall be in addition to any other inspections required by law.

In the case of new construction, or major addition, alteration, or repair with respect to any facility subject to this section, preliminary architectural plans and specifications and final architectural plans and specifications shall be submitted to a qualified person designated by the commissioner. Written approval of the final architectural plans and specifications shall be obtained from said person prior to said new construction, or major addition, alteration, or repair.

Notwithstanding any of the foregoing provisions of this section, no license to establish or maintain and operate a long-term care facility shall be issued by the department unless the applicant for such license submits to the department a certificate that each building to be occupied by patients of such convalescent or nursing home or skilled nursing facility meets the construction standards of the state building code, and is of at least type 1–B fireproof construction; provided, however, that this paragraph shall not apply in the instance of a transfer of facility operations of a convalescent or nursing home or skilled nursing facility whose license had not been revoked as of the time of such transfer; and provided, further, that a public medical institution as defined under section 2 of chapter 118E, which meets the construction standards as defined herein, shall not be denied a license as a nursing home under this section because it was not of new construction and designed for the purpose of operating a convalescent or nursing home or skilled nursing facility at the time of application for a license to operate a nursing home. An intermediate care facility for persons with an intellectual disability shall be required to meet the construction standards established for such facilities by Title XIX of the Social Security Act (P.L. 89–97) and any regulations promulgated pursuant thereto, and by regulations promulgated by the department.

Every applicant for a license and every potential transferee shall provide on or with its application or notice of intent to acquire a sworn statement of the names and addresses of any owner as defined in section 71. As used herein, the phrase ‘‘person with an ownership or control interest’’ shall have the definition set forth in 42 USC Sec. 1320a–3 of the Social Security Act and in regulations promulgated hereunder by the department.

The department shall notify the secretary of elder affairs forthwith of the pendency of any proceeding of any public hearing or of any action to be taken under this section relating to any convalescent or nursing home, rest home, infirmary maintained in a town, or charitable home for the aged. The department shall notify the commissioner of mental health forthwith of the pendency of any proceeding, public hearing or of any action to be taken under this section relating to any intermediate care facility for persons with an intellectual disability.

SECTION 44B. Said chapter 111 is hereby further amended by striking out section 72E and inserting in place thereof the following section:-

Section 72E. The department shall, after every inspection by its agent made under authority of section 72, give the licensee of the inspected long-term care facility notice in writing of every violation of the applicable statutes, rules and regulations of the department found upon said inspection. With respect to the date by which the licensee shall remedy or correct each violation, hereinafter the "correct by date", the department in such notice shall specify a reasonable time, not more than 60 days after receipt thereof, by which time the licensee shall remedy or correct each violation cited therein or, in the case of any violation which in the opinion of the department is not reasonably capable of correction within 60 days, the department shall require only that the licensee submit a written plan for the timely correction of the violation in a reasonable manner. The department may modify any nonconforming plan upon notice in writing to the licensee.

Absent good faith efforts to remedy or correct, failure to remedy or correct a cited violation by the agreed upon correct by date shall be cause to pursue or impose the remedies or sanctions available to it under sections 71 to 73, inclusive, unless the licensee shall demonstrate to the satisfaction of the department or the court, as the case may be, that such failure was not due to any neglect of its duty and occurred despite an attempt in good faith to make correction by the agreed upon correct by date. The department may pursue or impose any remedy or sanction or combination of remedies or sanctions available to it under said sections 71 to 73, inclusive. An aggrieved licensee may pursue the remedies available to it under said sections 71 to 73, inclusive.

In addition, if the licensee fails to maintain substantial or sustained compliance with applicable statutes, rules and regulations, in addition to imposing any of the other remedies or sanctions available to it, the department may require the licensee to engage, at the licensee's own expense, a temporary manager to assist the licensee with bringing the facility into substantial compliance and with sustaining such compliance. Such manager is subject to the department's approval, provided that such approval not to be unreasonably withheld. Any such engagement of a temporary manager would be for a period of not less than 3 months and shall be pursuant to a written agreement between the licensee and the management company. A copy of such agreement shall be provided by the licensee to the department promptly after execution. Any payment terms included in the agreement shall be confidential and exempt from disclosure under clause twenty-sixth of section 7 of chapter 4 and chapter 66.

Nothing in this section shall be construed to prohibit the department from enforcing a statute, rule or regulation, administratively or in court, without first affording formal opportunity to make correction under this section, where, in the opinion of the department, the violation of such statute, rule or regulation jeopardizes the health or safety of residents or the public or seriously limits the capacity of a licensee to provide adequate care, or where the violation of such statute, rule or regulation is the second such violation occurring during a period of 12 full months.

SECTION 44C. Said chapter 111 is hereby further amended by striking out section 73 and inserting in place thereof the following section:-

Section 73. Whoever advertises, announces, establishes or maintains, or is concerned in establishing or maintaining a long-term care facility, or is engaged in any such business, without a license granted under section 71, or whoever being licensed under said section 71 violates any provision of sections 71 to 73, inclusive, shall for a first offense be punished by a fine of not more than $1,000, and for a subsequent offense by a fine of not more than $2,000 or by imprisonment for not more than two years.

Whoever violates any rule or regulation made under sections 71, 72 and 72C shall be punished by such fine, not to exceed $500, as the department may establish. If any person violates any such rule or regulation by allowing a condition to exist which may be corrected or remedied, the department shall order him, in writing, to correct or remedy such condition, and if such person fails or refuses to comply with such order by the agreed upon correct by date, as defined in section 72E, each day after the agreed upon correct by date during which such failure or refusal to comply continues shall constitute a separate offense. A failure to pay the fine imposed by this section shall be a violation of this section.

SECTION 129. (a) There shall be a special commission to examine the department of public health's nursing home licensure process and requirements. The commission shall consist of the following 15 members: the commissioner of public health, or a designee, who shall serve as chair; the chairs of the joint committee of public health; the chairs of the joint committee on elder affairs; the secretary of elder affairs, or a designee; the secretary of health and human services, or a designee; the assistant secretary for MassHealth, or a designee; and 7 persons to be appointed by the governor, 1 of whom shall be a representative of the Massachusetts Senior Care Association, Inc., 1 of whom shall be a representative of LeadingAge Massachusetts, Inc., 1 of whom shall be a representative of Massachusetts Association of Residential Care Homes, Inc., 1 of whom shall be a representative of the Massachusetts Senior Action Council, Inc., 1 of whom shall be a representative of 1199 SEIU United Health Care Workers East, 1 of whom shall be a representative of the Massachusetts chapter of AARP and 1 of whom shall be an expert on long-term care and aging policy. In making appointments, the governor shall, to the maximum extent feasible, ensure that the commission represents a broad distribution of diverse perspectives and geographic regions throughout the commonwealth.

(b) The commission shall review current licensure requirements for nursing homes in the commonwealth, current licensure practices for other healthcare industries in the commonwealth and successful nursing home licensure programs in other states and best practices. The commission shall make recommendations to modify nursing home licensure requirements

including, but not limited to: (i) strengthening suitability review; (ii) improving processes for review of new owners; and (iii) increasing transparency of the department of public health's licensure and suitability determination process. The commission shall make recommendations based on successful licensure programs in other healthcare industries in the commonwealth and other successful licensing programs in other states.

(c) The commission shall hold not less than 3 public meetings in different geographic regions throughout the commonwealth and solicit feedback from various stakeholders.

(d) Not later than October 1, 2023, the commission shall submit a report and recommendations, if any, together with drafts of legislation necessary to carry those recommendations into effect by filing the same with the clerks of the house of representatives and the senate, the house and senate committees on ways and means and the joint committee on public health.

Respectfully submitted,

Charles D. Baker
Governor

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CHARLES D. BAKER
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KARYN POLITO
LIEUTENANT GOVERNOR

– ATTACHMENT R —

July 16, 2021

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment Section 135 of House Bill No. 4002, "An Act Making Appropriations for the Fiscal Year 2022 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements."

Section 135 establishes a task force to evaluate the affordability of public and private higher education options in the Commonwealth.

I am supportive of the intent of this section and continued efforts to improve the accessibility, stability, and quality of higher education in the Commonwealth. However, I believe the scope of the evaluation required by the task force is not reflective of the urgent need to rethink the higher education delivery system. I am instead recommending that the Board of Higher Education (BHE) convene a task force to conduct a focused evaluation of the financing of public higher education in the Commonwealth given current trends in demographics and student enrollment, and to make recommendations for improvement and reform in order to ensure affordability to students, increase rates of on-time college completion, close gaps in degree attainment across demographic groups, and improve alignment with regional and statewide workforce needs.

For these reasons, I recommend that Section 135 be amended by striking out the section and inserting in place thereof the following section:-

SECTION 135. The board of higher education shall convene a task force to evaluate the financing of public higher education in the Commonwealth. The evaluation may include: (i) current and projected trends in student enrollment and demographics; (ii) the financial health and sustainability of higher education institutions in light of demographic changes and competitive pressures; (iii) current cost drivers in higher education and the distinctions between community colleges, four-year undergraduate institutions, and research universities, and between rural and urban campuses; (iv) the impact of the COVID-19 pandemic on the stability of higher education institutions; (v) approaches to higher education finance and financial aid in other states and their impact on access, completion, and equity; (vi) the extent to which the cost of college is reducing attendance and completion, and increasing the level of student debt; (vii) the potential impact of performance incentives and enrollment-based funding formulas on fiscal stability, workforce alignment, affordability, and student outcomes.

The task force shall consist of the commissioner of the department or his designee, members of the board, representatives from Massachusetts public colleges, one or more students currently enrolled in a public college, and outside experts. The task force shall present its findings and recommendations to the board of higher education, and the board shall file a report of its evaluation to the joint committee on higher education and the house and senate committees on ways and means by June 30, 2022.

Respectfully submitted,

Charles D. Baker
Governor

The actions taken by the Governor are delineated on this excerpt from the original parchment:—

I disapprove Sections 99 and 121.

I reduce the following items in Section 2E to the following amounts:

Section 2E	Reduce By	Reduce To
1595-6370	3,500,000	90,500,000

I reduce the following items in Section 2 to the following amounts, and disapprove the wording as indicated:

Section 2	Reduce By	Reduce To	Wording Stricken
2310-0200	100,000	16,081,737	"; provided, that not less than $100,000 shall be expended to the New England Wildlife Center, Inc. in the city known as the town of Weymouth for costs associated with the care, treatment and maintenance of wildlife"
2511-0100	50,000	9,176,466	"; provided further, that not less than $50,000 shall be expended for the creation and operation of a commission consisting of the following members: the commissioner of environmental protection, or a designee, who shall serve as chair; the commissioner of agricultural resources, or a designee; the commissioner of public health, or a designee; the director of the division of fisheries and wildlife, or a designee; and a representative of a land trust or other group with expertise in invasive plant management, who shall be designated by the joint committee on environment, natural resources and agriculture; provided further, that such commission shall conduct a scientific review of the potential impacts of glyphosate and its most common alternative herbicides on the environment and public health, including a review, undertaken in collaboration with the natural heritage and endangered species program, of the potential impacts of glyphosate and most common alternative herbicides on: (i) all species of plants and animals that have been determined to be endangered, threatened, or of special concern pursuant to chapter 131A of the General Laws; and (ii) all significant habitats designated pursuant to said chapter 131A; provided further, that the commission may expend any portion of its funds it deems necessary to enable the collaboration of the natural heritage and endangered species program; provided further, that the pesticide subcommittee established under section 3A of chapter 132B of the General Laws shall use said scientific review as part of an

			individual review conducted under 333 C.M.R. 8.03 to determine whether current uses of glyphosate pose unreasonable adverse effects to the environment, and whether current registered uses of glyphosate should be altered or suspended; provided further, that the department shall submit the results of both the scientific review and individual review to the joint committee on environment, natural resources and agriculture no later than December 31, 2021"
5011-0100	150,000	30,023,790	"; provided, that not less than $150,000 shall be expended for the children's behavioral health advisory council to conduct an analysis of and report on the existing and anticipated impacts of the 2019 novel coronavirus pandemic on children's behavioral health and the associated provision of services and supports as directed under section 121"
7004-0101	150,000	196,810,750	"; provided further, that the department shall submit quarterly reports to the house and senate committees on ways and means containing the most recently available monthly data on the number of families in congregate or other shared shelter placements and the number of families on extended leave from congregate or other shared shelter placements for purposes of social distancing, isolation, quarantine or care of self or another family member related to the 2019 novel coronavirus; provided further, that the department shall submit quarterly reports, broken down by month, to the house and senate committees on ways and means with the most recently available monthly data, including data on the race and ethnicity of all families where available and applicable expressed as a percentage of the total, on: (I) applications for services provided for in this item and in item 7004-0108 as well as requests for services under this item and item 7008-0108, with a request for services defined as any point at which the household seeking services provides information to the department as part of any enrollment, triage, or eligibility determination, regardless of whether a formal application is completed and regardless of whether the contact is by telephone, by office visit, or by other means; (II) front-door entries into the emergency assistance system; (III) applications and requests for services provided in this item and in item 7004-0108 that are denied and the bases of all such denials expressed as a percentage of the total; (IV) applications and requests for services provided for in this item and in item 7004-0108 that do not result in a formal denial, a front-door entry into the emergency assistance system or verified diversion as a result of HomeBASE household assistance expressed as a percentage of the total; (V) the number of households submitting multiple applications or making multiple requests for services within the previous 1-month period and the previous 6- month period; (VI) diversions as a result of HomeBASE household assistance; (VII) exits from the emergency assistance system, delineated by reason for exit, including at-fault terminations, exits because the household is no longer income eligible, exits through HomeBASE household assistance with no other subsidy and exits to another subsidized or otherwise assisted housing program; (VIII) the number of applications and requests that do not result in the household entering emergency assistance shelter within 48 hours and for

which such nonentry is attributable to written denial, pending documentation or verification, no imminent homelessness or household withdrawal of the application; (IX) the number of families transitioned from shelter benefits to affordable, subsidized or otherwise assisted housing through this program; (X) the average, minimum and maximum cost per family of said housing assistance and of emergency assistance under this item; (XI) the number of families served who required further assistance under this item or under item 7004-0108 at a later date; (XII) the type of assistance later required and provided; (XIII) the total number of families receiving assistance under this item or item 7004-0108 that have received assistance under said items during each of the previous 3 years; (XIV) the number of children served under this item broken down by age; (XV) the number of applications and requests from households that became homeless within 12 months of depleting their HomeBASE assistance under item 7004-0108; (XVI) the reasons for homelessness in the applications and requests received under clause (XV) and the number of applications and requests received under said clause (XV) that are denied; and (XVII) the average and maximum length of stay for families currently staying in an emergency assistance shelter placement; provided further, that said reports shall also include the following information from the department of children and families: (i) the number of families assessed for a health and safety risk in the previous quarter; (ii) the number of families determined to be at a substantial health and safety risk; (iii) the number of families receiving multiple health and safety assessments within the previous 6-month period; and (iv) the standards used to determine a substantial health and safety risk; provided further, that the department shall report quarterly to the house and senate committees on ways and means on: (a) the number of families that applied for a transfer from their current shelter placement to a unit that can accommodate their disability-related needs, delineated by reason for the application; (b) the number of families whose applications for reasonable accommodation have been approved but that are waiting for transfer due to lack of available units able to accommodate their disability-related needs, delineated by category of accommodation including, but not limited to, access to cooking facilities, first-floor or elevator access, noncarpeted unit, physical modification to unit, scattered site unit, geographic proximity to service providers and wheelchair accessibility; (c) the number of families currently in shelter units located more than 20 miles away from their home community; (d) the number of families with at least 1 child who attends a school other than the child’s school of origin as a result of placement in a shelter unit outside of their home community; and (e) both the average and maximum number of days that families spend in placements under the circumstances described in clauses (b) to (d), inclusive, before being transferred to a shelter unit for which none of the circumstances in said clauses (b) to (d), inclusive, apply; (f) the percentage of applications for a transfer that were approved; and (g) the average number of days and the maximum number of days between the application submission and the approval"

and

"; provided further, that funds appropriated for this item in fiscal year 2021 shall not revert but shall be made available for this item for these purposes in fiscal year 2022; provided further, the department of housing and community development shall distribute said funds to those currently contracted emergency assistance family shelter providers with shelter operating gaps identified by the fiscal year 2020 uniform financial report submitted to the operational services division and with operating deficits that are attributable to: (1) shelter maintenance and unit supply costs, (2) unit rental rates that are not aligned to regional fair market rents and (3) professional shelter staff compensation and benefits that are not commensurate with compensation and benefit rates determined by geographic region for similar professional positions, as denoted by the Bureau of Labor Statistics of the United States Department of Labor; provided further, that not later than December 31, 2021, the department shall submit a report to the joint committee on housing detailing the distribution of supplemental funds based on identified operating gaps and deficits"

and

"; provided further, that not less than $150,000 shall be made available for the creation of an independent ombudsman's office within the executive office of housing and economic development to receive, investigate and resolve complaints brought by applicants to and participants of the emergency assistance shelter program and related short-term housing transition program under this item and item 7004-0108; provided further, that the ombudsman's office shall act as an independent mediator and advocate for all applicants and participants in instances including, but not limited to, concerns regarding document requests, inability to contact the department by telephone, delays in placement and denials of services; provided further, that the ombudsman's office shall have access to all initiated, partially completed and completed applications in order to assess applicants' and participants' requests as well as all submitted documentation and case information, including shelter provider notes, domestic violence assessments and sub-contracted provider notes; provided further, that not later than March 1, 2022, the ombudsman's office shall submit a report to the joint committee on children, families and persons with disabilities and the house and senate committees on ways and means; provided further, that the report shall include, but not be limited to, the following information pertaining to requests for the ombudsman's services: (A) the number of requests received in the preceding 12-month period, delineated by the program the household is applying for or participating in and including available demographic information of those requesting assistance; (B) the number of requests that pertained to issues arising during the application process; (C) the number of requests that pertained to participants' experiences at any time after initial entry into the program in question; (D) the nature of the requests; (E) the resolution of the requests; and (F) the average, maximum and minimum length of time for requests to be resolved for each program"

7061-9010	2,900,000	151,704,742	"; and provided further, that not less than $2,900,000 shall be expended to ensure that any municipality with a school district which has its total tuition capped by the net school spending provisions of said section 89 of said chapter 71, shall receive a non-pro- rated reimbursement of 100 per cent of its required reimbursement amount under this section"
8200-0200	1,000,000	3,577,545	"; and provided further, that not less than $1,000,000 shall be expended to address costs incurred by municipalities for officer training requirements as promulgated by chapter 253 of the acts of 2020"

I disapprove in the following items in Section 2 the wording as indicated:

Section 2	Wording Stricken
2000-0101	"; provided further, that not later than February 3, 2022, the executive office shall submit a report to the house and senate committees on ways and means that shall include, but not be limited to: (1) the number of full-time equivalent positions assigned to the executive office's environmental justice staff; (2) the responsibilities held by the executive office's environmental justice staff; and (3) the status of environmental justice policies, strategies and initiatives being pursued for both the current and coming fiscal years"
7004-0102	"; provided further, that the full amount appropriated in this item shall be allocated to contracted service providers of homeless individuals in fiscal year 2020"
7004-9316	"; provided further, that $4,725,768 from the Housing Preservation and Stabilization Trust Fund established under section 60 of chapter 121B of the General Laws shall be made available to this item in addition to the amount appropriated"
8900-0001	"; provided further, that given the continued prevalence and threat of the 2019 novel coronavirus within department of correction facilities, the commissioner of correction shall release, transition to home confinement or furlough individuals in the care and custody of the department who can be safely released, transitioned to home confinement or furloughed with prioritization given to populations most vulnerable to serious medical outcomes associated with the 2019 novel coronavirus according to the Centers for Disease Control and Prevention's guidelines; provided further, that the department shall consider, but shall not be limited to considering: (a) the use of home confinement without exclusion under chapter 211F of the General Laws; (b) the expedition of medical parole petition review by superintendents and the commissioner; (c) the use of furlough; (d) the maximization of good time by eliminating mandates for participation in programming for those close to their release dates; and (e) awarding credits to provide further remission from time of sentence for time served during periods of declared public health emergencies impacting the operation of prisons"
	and

", and shall have access to information related to the department's use of the mechanisms for release, home confinement or furlough stated in this item"

and

"; (2) the department's efforts taken relative to safe depopulation relative to the 2019 novel coronavirus"

and

"; (4) the amount of population reduction achieved to-date by the use of the mechanisms for release, home confinement or furlough stated in this item"

and

"; provided further, that the Disability Law Center, Inc. may investigate the physical environment of those facilities, including infrastructure issues, and may use methods including, but not limited to, testing and sampling the physical and environmental conditions, whether or not they are utilized by patients or inmates; provided further, that the Disability Law Center, Inc. may monitor the continuity of care for Bridgewater state hospital persons served who are discharged to county correctional facilities or department of mental health facilities, including assessment of the efficacy of admission, discharge and transfer planning procedures and coordination between the department of correction, Wellpath LLC, the department of mental health and county correctional facilities; provided further, that not less than once every 6 months, the Disability Law Center, Inc. shall report on the impact of these reforms on those served at Bridgewater state hospital to the joint committee on mental health, substance use and recovery, the joint committee on the judiciary, the house and senate committees on ways and means, the senate president and the speaker of the house of representatives"

I disapprove in the following items in Section 2E the wording as indicated:

Section 2E	Wording Stricken
1595-6369	"; provided further, that the reports shall include the status of ongoing and planned capital projects under the purview of the authority"
	and
	"; provided further, that the Massachusetts Bay Transportation Authority shall initiate an effort to advance the planning and design of not more than 6 infrastructure projects related to decarbonization, regional rail electrification, increased transit capacity and improved equity in the public transportation system to identify, develop and prepare projects ready to take

advantage of anticipated federal infrastructure funding opportunities; and provided further, that, not later than October 1, 2021, the Massachusetts Bay Transportation Authority shall begin to submit quarterly reports on the design details of and spending on projects associated with this effort to the joint committee on transportation and the house and senate committees on ways and means"

I return for amendment, pursuant to the authority vested in me by Article 56, as amended by Article 90, Section 3, of the Amendments to the Constitution, Sections 6, 7, 8, 12, 18, 23, 30, 32, 33, 34, 39, 42, 47, 67, 74, 102, 103, 113, 116, 117, 119, 128, 129, 135 and 145. The text of my recommended amendments is set forth in separate letters of this date to the Senate and House of Representatives.

The remainder of this bill I approve.

Approved, July 16, 2021

at o'clock and minutes, .M.

Charles D. Baker

Governor