

HOUSE No. 4941

The Commonwealth of Massachusetts



CHARLES D. BAKER
GOVERNOR

OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
24 BEACON STREET · BOSTON, MA 02133

KARYN POLITO
LIEUTENANT GOVERNOR

October 23, 2018.

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 4930, “An Act Making Appropriations for the Fiscal Year 2018 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects,” and returning certain portions to you for amendment.

Today we are signing all spending authorizations in the enacted bill. This bill helps close the books on fiscal 2018, and provides targeted funding for important initiatives including improved security and mental health counseling in schools, as well as money for local roads, bridges, and clean drinking water projects. The bill also includes funding to support a new class of State Troopers and a new class of Correction Officers.

We are particularly pleased to note that, together with the Legislature, we are using the fiscal 2018 surplus to lift the Stabilization Fund balance over \$2 billion for the first time since 2008.

Transferring excess capital gains to the Stabilization Fund enabled us to add \$462 million to the fund’s balance during fiscal 2018. Improved fiscal discipline and performance have allowed us to deposit another approximately \$220 million in the Stabilization Fund.

In total, including interest earnings and other smaller transfers, we are increasing the Stabilization Fund balance by more than \$700 million in fiscal 2018. By so doing, we build a cushion we are able to draw on in the event of a future recession, and at the same time we protect the Commonwealth from over-reliance on volatile sources of revenue.

The outside sections contain a number of important and fiscally responsible initiatives, on which we are proud to have worked with the Legislature. Among these are:

- Increasing the OPEB contribution for fiscal 2018 from 10% to 30% of tobacco settlement funds;
- State tax law changes necessitated by the federal Tax Cuts and Jobs Act;
- Changes necessary to permit successful implementation of the new paid family leave and sales tax holiday laws;
- Transfers of \$10 million each to the Massachusetts Life Sciences Center and to support the Community Preservation Act.

Of the 70 outside sections contained in the bill, we are signing 66 and returning 4 for amendment. Pursuant to Article 56, as amended by Article 90, Section 3, of the Amendments to the Constitution of the Commonwealth, we are returning sections 20, 38, 59 and 60 with 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 A, B, and C.

Respectfully submitted

Charles D. Baker,
Governor

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GOVERNOR

KARYN POLITO
LIEUTENANT GOVERNOR

EXECUTIVE DEPARTMENT
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— ATTACHMENT A —

October 23, 2018.

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 20 of House Bill No. 4930, “An Act Making Appropriations for the Fiscal Year 2018 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects.”

Section 20 amends a portion of the CARE Act concerning access to prescription monitoring information from DPH. I have been informed by both the attorney general and the district attorneys that, even with this amendment, the Act fails to provide them the necessary tools for the reasonable investigatory work done by their offices. Specifically, the attorney general asserts that, while the Act permits personnel within the Medicaid fraud control unit to access prescription monitoring information, it does not permit the attorney general to access this information in conjunction with civil investigations. Similarly, the district attorneys state that the Act does not allow them access to prescription monitoring information in conjunction with the investigation of deaths following suspected drug overdoses. The proposed amendment ensures that they each will have the access to information they need to continue this important work.

For these reasons, I recommend amending the bill by striking out section 20 and inserting in place thereof the following section:-

SECTION 20. Subsection (f) of section 24A of chapter 94C, as appearing in section 44 of Chapter 208 of the acts of 2018, is hereby amended by striking out clauses (6) and (7) and inserting in place thereof the following 3 clauses:-

(6) personnel of the United States attorney, office of the attorney general or a district attorney; provided, however, that the data request is in connection with a bona fide specific controlled substance or additional drug related investigation and accompanied by a probable cause warrant issued pursuant to chapter 276 or a civil investigative demand; or

(7) personnel of the Medicaid fraud control unit within the office of the attorney general or a district attorney, which shall be exempted from the probable cause warrant and civil investigative demand requirements in clauses 4 and 6; provided however, that the data request is made in connection with a bona fide specific controlled substance or additional drug related investigation of a practitioner, pharmacist, pharmacy, person required to be a registered participant by this chapter or any other provider subject to the jurisdiction of a Medicaid fraud control unit under federal law, including, but not limited to, 42 USC section 1396b, et. seq.

(8) personnel within the office of a district attorney, which shall be exempted from the probable cause warrant requirement in clauses 4 and 6, provided that the data request is made in connection with a bona fide investigation into the cause and manner of death of an individual suspected of a drug overdose.

Respectfully submitted,

CHARLES D. BAKER,
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— ATTACHMENT B —

October 23, 2018.

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 38 of House Bill No. 4930, “An Act Making Appropriations for the Fiscal Year 2018 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects.”

Section 38 amends a line item number from the 2018 Housing Bond Legislation, but the same item number has already been used because of subsequent capital bills that have been enacted and signed into law this year. The proposed amendment corrects that item number.

In addition, other previously-filed sections are necessary to close fiscal 2018 successfully. I am re-submitting those sections for legislative action.

For these reasons, I recommend amending the bill by striking out section 38 and inserting in place thereof the following section:-

SECTION 38. Chapter 99 of the acts of 2018 is hereby amended by striking out, in section 2, the item number “7004-0054” and inserting in place thereof the following item number:- 7004-0061.;

And to further amend by inserting after section 33, the following section:-

SECTION 33A. Item 8100-0515 of said section 2 of said chapter 47, is hereby further amended by striking out the words, “Public Safety Training Fund.....100%”, and inserting in place thereof the following words:-

General Fund.....80.00%
Public Safety Training Fund.....20.00%;

And to further amend by inserting after section 34, the following section:-

SECTION 34A. Section 99 of said chapter 47 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence: - Other federally permissible funding mechanisms available for certain hospitals, as defined by regulations of the executive office of health and human services, may be used to reimburse up to \$70,000,000 of uncompensated care pursuant to sections 66 and 69 of said chapter 118E using sources distinct from the funding made available to the Health Safety Net Trust Fund.;

And to further amend by inserting after section 64, the following 2 sections:-

SECTION 64A. Notwithstanding any general or special law to the contrary, the secretary of health and human services, with the written approval of the secretary of administration and finance, may authorize transfers of surplus among items 4000-0320, 4000-0430, 4000-0500, 4000-0601, 4000-0641, 4000-0700, 4000-0875, 4000-0880, 4000-0885, 4000-0940, 4000-0950, 4000-0990, 4000-1400, 4000-1420 and 4000-1425.

SECTION 64B. Notwithstanding any general or special law to the contrary, any unexpended balances, not exceeding a total of \$20,000,000, in items 4000-0700 and 4000-1425 of section 2 of chapter 47 of the acts of 2017 shall not revert to the General Fund until September 1, 2018 and may be expended by the executive office of health and human services to pay for services enumerated in said items 4000-0700 and 4000-1425 provided during fiscal year 2018.;

And to further amend by inserting after section 72, the following section:-

SECTION 73. Sections 33A, 34A, 38, 64A and 64B shall take effect upon enactment.

Respectfully submitted,

CHARLES D. BAKER,
Governor.

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— ATTACHMENT C —

October 23, 2018.

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 Sections 59 and 60 of House Bill No. 4930, “An Act Making Appropriations for the Fiscal Year 2018 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects.”

Sections 59 and 60 clarify the appointments to the Regional Transit Authority Performance and Funding Task Force that was established in the fiscal 2019 General Appropriations Act. With this clarification, it would also be beneficial to allow more time for the Task Force to complete its work. I am therefore proposing to extend the current reporting date from November 1, 2018 to February 15, 2019 in order to provide the task force with sufficient time to make its recommendations.

For these reason, I recommend striking out Sections 59 and 60 and inserting in place thereof the following 2 sections:-

SECTION 59. Section 72 of said chapter 154 is hereby amended by striking out the words “2 members of the house of representatives, 1 of whom shall be appointed by the minority leader of the house of representatives; 2 members of the senate, 1 of whom shall be appointed by the minority leader of the senate” and inserting in place thereof the following words:- 2 members of the house of representatives, 1 of whom shall be

appointed by the speaker of the house of representatives and 1 of whom shall be appointed by the minority leader of the house of representatives; 2 members of the senate, 1 of whom shall be appointed by the senate president and 1 of whom shall be appointed by the minority leader of the senate;.

SECTION 60. The second paragraph of said section 72 of said chapter 154 is hereby amended by striking out the words “November 1, 2018”, and inserting in place thereof the following words:- February 15, 2019.;

And to further amend by inserting after section 72, the following section:-

SECTION 74. Sections 59 and 60 shall take effect upon enactment.

Respectfully submitted,

CHARLES D. BAKER,
Governor.

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

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 20, 38, 59 and 60. 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, October , 2018

at o'clock and minutes, .M.

Charles D. Baker
Governor