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FOR IMMEDIATE RELEASE
September 30, 2022

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Representative Kane highlights the accomplishments and shortcomings of the 2021-2022 legislative session
Several priority bills of Rep. Kane's passed in this legislative session

BOSTON – State Representative Hannah Kane (R-Shrewsbury) recently reflected on the 2021-2022 legislative session agenda, highlighting some of the major initiatives that were passed by the House of Representatives while noting several key areas where the Legislature came up short.

The end of formal sessions in the early morning hours of August 1 saw the passage of several significant pieces of legislation, including proposals to legalize sports betting, promote equity in the state's cannabis industry, improve access to mental and behavioral health services, and reform the leadership structure and oversight of the Holyoke and Chelsea Soldiers' Homes. This legislation provided some long-overdue remedies, and was passed in response to the tragic COVID-related deaths of 76 residents at the Holyoke veterans facility and another 31 residents at the Chelsea Soldiers' Home.

The second half of the 2021-2022 session also saw the passage of a comprehensive clean energy and offshore wind bill that will help position Massachusetts to meet its greenhouse gas emissions reduction goals, along with an \$11.3 billion transportation resources and climate bill to help leverage funding from the federal Bipartisan Infrastructure Law (BIL) that was signed last November. The 192nd General Court also produced a \$5.2 billion general government infrastructure bond bill to assist with the maintenance and upkeep of state and municipal government facilities across the Commonwealth, a \$165.5 million information technology bond bill to modernize and update the state's court system, as well as legislation to help military families access education benefits and meet professional licensing requirements.

Representative Kane highlighted the passage of her legislation establishing a Women's Rights History Trail to help promote "education and awareness of the history of women's rights in the Commonwealth." This bill has enjoyed strong support in the House of Representatives in each of the last three legislative sessions but had previously failed to pass the Senate until this year. The House and Senate also took steps to ban child marriage in Massachusetts as part of the FY23 state budget.

During the current two-year session, Representative Kane helped lead a successful effort to divest all Russian business assets from the state pension fund following Russia's unprovoked invasion of Ukraine on February 24. As a further sign of solidarity with the Ukrainian people, she also supported a \$10 million supplemental budget earmark to assist with the resettlement of Ukrainian refugees and was one of 149 members to co-sponsor a bipartisan House resolution urging the federal government and the Baker Administration to provide expedited consideration for displaced Ukrainians seeking to enter the United States and Massachusetts.

Additionally, the 2021-2022 legislative session saw the extension of several COVID-era policies designed to assist small businesses and municipalities as they recover from the impacts of the coronavirus. While continuing to allow restaurants to offer outdoor dining and cocktails-to-go until April 1, 2023, the Legislature also approved the continued use of reduced quorum requirements for Town Meetings and remote participation at public meetings until March 31, 2023 to make it easier for municipalities to conduct essential business.

This year also marked the signing of Nero's Law, which allows emergency medical service personnel to provide emergency treatment and transportation for police officers' injured K-9 partners, as well as legislation requiring animal research and testing facilities to offer healthy animals for adoption once they are no longer being used for testing purposes.

Despite the lengthy list of legislative accomplishments, Representative Kane identified several glaring examples where the House and Senate fell short of achieving consensus. One of the biggest failures of the legislative session, she said, was the lack of agreement between the two branches on a multi-billion dollar economic development bill that would have delivered a series of tax relief proposals to Massachusetts residents, including one-time rebates of \$250 per taxpayer paid through a new Taxpayer Energy & Economic Relief Fund.

Conference committee negotiations on the economic development bill broke down near the end of July after it became clear that a 1986 voter-approved ballot question, known as Chapter 62F, is set to trigger an automatic tax reduction of nearly \$3 billion for the state's taxpayers, due to state tax revenues outpacing wages and salaries for only the second time since the law passed. Representative Kane said taxpayers deserve this break, and that she agrees with Governor Charlie Baker that the state can also easily afford the additional proposed tax breaks contained in the economic development bill, including increases in the child/dependent tax credit, Earned Income Tax Credit, senior circuit breaker tax credit, rental deduction cap, and estate tax threshold.

Representative Kane also cited the Legislature's failure to pass Governor Baker's proposal to expand the state's dangerousness law, which was recently placed in a study order. This bill would have protected the public from dangerous individuals at risk of re-offending by allowing judges to consider a defendant's prior history when determining whether to detain them prior to trial.

Another missed opportunity was the Legislature's failure to pass legislation cracking down on the unauthorized distribution of sexually explicit images or videos via text messaging and online postings. Although the House unanimously approved a bill to protect victims of sexting and so-called "revenge porn" on May 26, the measure died in the Senate without any further action.

Lastly, Representative Kane was critical of a new law scheduled to take effect in 2023 allowing undocumented immigrants to obtain a Massachusetts drivers license. She opposed the Work and Family Mobility Act and supported Governor Baker's veto of the legislation, which became law without his signature but is now being targeted for repeal as part of a November 2022 ballot question organized by the Fair and Secure Massachusetts Committee.

The following is a brief overview of some of the major legislative initiatives taken up by the House of Representatives during the 2021-2022 session.

2022 HIGHLIGHTS

MENTAL HEALTH ABC ACT – The Mental Health ABC Act – Senate Bill 3097, *An Act addressing barriers to care for mental health* – was signed into law on August 10 as **Chapter 177 of the Acts of 2022**.

Representative Kane served as one of six conferees to negotiate the final legislation. The new law aims to improve access and establish insurance coverage equity for behavioral health services.

Representative Kane noted the ABC Act will help end the practice of “boarding” patients in hospital emergency rooms by creating new online portals to enable health care providers to more easily identify open acute psychiatric care beds for minors and adults in need of mental health and substance use services. A new Office of Behavioral Health Promotion will be established within the Executive Office of Health and Human Services to coordinate all state programs promoting mental, emotional and behavioral health and wellness.

In addition to eliminating prior authorization for mental health acute treatment and stabilization services for adults and children, the ABC Act mandates insurance coverage for annual mental health wellness exams, ensures that individuals with behavioral health-related disabilities will continue to be covered under their parents’ health insurance after turning 26, and requires insurers to provide equitable reimbursement rates to mental health providers and to cover emergency service programs that offer crisis assessment, intervention and stabilization services to individuals with psychiatric illnesses. The Division of Insurance will oversee insurers’ compliance with parity laws and investigate any consumer complaints of violations, while the Office of Patient Protection will monitor denials of coverage and refer potential violations to the Division of Insurance, the Group Insurance Commission, or the Attorney General’s office.

SOLDIERS’ HOMES REFORMS – The state-run Holyoke and Chelsea Soldiers’ Homes will be subject to enhanced oversight and a streamlined chain of command under **Chapter 144 of the Acts of 2022**, which was signed on August 4. The new law contains reforms to help ensure the delivery of quality services to residents of both the Holyoke and Chelsea Soldiers’ Homes and to prevent future tragedies like the 2020 COVID-19 outbreak at the Holyoke Soldiers’ Home that claimed the lives of 76 veterans.

Representative Kane noted that Chapter 144 elevates the Department of Veterans Services to a Cabinet-level office and gives the Secretary of Veterans Services the power to hire and fire the superintendents who will be responsible for the day-to-day management of the two homes. Both superintendents must be licensed nursing home administrators, in addition to being a veteran or having prior experience managing veterans in a nursing home or long-term care facility.

Chapter 144 establishes a 19-member Veterans’ Homes Council to advise the Secretary on “the health, well-being and safety” of the Soldiers’ Homes’ residents and to make recommendations on policies and regulations governing the two facilities, and requires the appointment of an ombudsperson at both veterans’ homes to review and resolve complaints so that residents and their families will have a voice. In addition, an independent Office of the Veteran Advocate will be created, which will act as a liaison to all state agencies providing services to veterans and will provide input on how the state can improve services for veterans and their families.

Under Chapter 144, both veterans’ homes must apply for and maintain certification by the federal Centers for Medicare and Medicaid Services (CMS), while also adhering to federal CDC guidelines for trauma-informed care. Both facilities will also be required to undergo inspections by the Department of Public Health at least twice a year, with inspections occurring every 30 days during a declared state of emergency.

Earlier in the 2021-2022 session, Representative Kane supported legislation authorizing the state to borrow up to \$400 million to rebuild the Holyoke Soldiers’ Home so it meets current federal standards and guidelines for long term care and adult day health services. With this bond authorization, Massachusetts could qualify for up to \$260 million in federal matching funds (a 65% reimbursement

rate) through the Veterans Administration's State Veterans Home Construction Grant Program. Signed into law on May 25, 2021, **Chapter 15 of the Acts of 2021** also provides \$200 million to expand long-term care services for veterans across the state.

CANNABIS EQUITY BILL – Signed into law on August 11, **Chapter 180 of the Acts of 2022** is designed to promote equity in the state's cannabis industry while also clarifying the parameters of host community agreements. By establishing a Social Equity Trust Fund to help cover licensing and start-up costs for minority applicants using grants and loans, Chapter 180 seeks to encourage more participation in the state's regulated marijuana industry by residents of communities that have been disproportionately harmed by marijuana prohibition and enforcement. The fund will be supported by a dedicated stream of 15% of the tax revenues collected from marijuana and marijuana products sales. Representative Kane's legislation to establish a social equity and technical assistance fund and to increase access to public health data for the Cannabis Control Commission were included as part of the omnibus bill.

Representative Kane noted the cannabis equity law also authorizes the Cannabis Control Commission to review and approve all host community agreements negotiated between a municipality and a retail marijuana establishment or medical marijuana treatment facility as part of the initial license application and renewal process. Host community agreements "must be reasonably related to the actual costs required to operate a cannabis business in a community," and cannot require the payment of a community impact fee beyond the business's eighth year of operation. Chapter 180 also caps the community impact fee at 3% of the business's gross sales.

Under existing law, cities and towns can authorize the sale of marijuana and marijuana products for on-site consumption at so-called "cannabis cafes" through a local initiative petition. Chapter 180 allows communities to pursue alternative means of approving social consumption sites by passing a by-law or ordinance.

SPORTS BETTING LEGALIZATION – Sports betting is now legal in Massachusetts, thanks to an end-of-session agreement that was signed into law on August 10 as **Chapter 173 of the Acts of 2022**. While the Senate was initially opposed to college sports betting, a compromise was reached to allow for betting on professional sports as well as most college games, although betting on Massachusetts college teams will be prohibited unless they are playing in a tournament, such as the NCAA's annual March Madness.

Chapter 173 authorizes the placement of in-person wagers at the state's casinos, racetracks and simulcasting facilities, as well as online wagering through a digital platform or mobile phone app. The Massachusetts Gaming Commission will be responsible for overseeing all sports wagering, including the drafting of regulations and the issuance of licenses, while safeguards will be put in place to address the problem of gambling addiction.

Representative Kane said legalizing sports betting in Massachusetts will help to create jobs and will allow the Commonwealth to retain millions of dollars in lost revenues that have been flowing to other states that already allow sports betting. Sports wagering is projected to generate an estimated \$60 million in annual tax revenue for the state, with initial licensing fees expected to provide another \$70-\$80 million, along with additional revenue when the licenses are renewed every five years.

MASSACHUSETTS TRANSPORTATION RESOURCES AND CLIMATE (MassTRAC BILL) – Signed on August 10 as **Chapter 176 of the Acts of 2022**, the MassTRAC Bill provides \$11.3 billion for a wide range of transportation and climate resiliency projects across Massachusetts to help capitalize on the federal funding opportunities made available under the 2021 Bipartisan Infrastructure Law (BIL). In addition to targeting funding for highways, roads, bridges, sidewalks, rail and airport improvements, regional transit networks and multi-modal purposes, Chapter 176 funds a variety of climate adaptation and emissions

reduction initiatives, including an expansion of the state's electric vehicle charging infrastructure and incentive programs promoting the use of e-bikes and public transportation, the replacement of high-emissions vehicles, and electric vehicles for hire and carsharing.

Chapter 176 provides the MBTA with \$400 million to help address some of the ongoing safety concerns identified by the Federal Transit Administration (FTA) as part of its preliminary safety management inspection, including staffing levels at the MBTA's operations control center; train yard safety protections; track maintenance delays; and the recertification of the MBTA's workforce. It also sets aside \$275 million for the proposed East-West Rail project, which will offer passenger rail service between Pittsfield and Boston with stops in Springfield, Palmer, and Worcester. The funding can be used for a variety of purposes, including planning, design, permitting and engineering, land and right-of-way acquisitions, vehicle procurement, and construction of stations.

The bill also includes funding for several local initiatives Representative Kane secured for her district, including: \$5,000,000 for the rehabilitation and box widening of Route 20 from Route 9 to South Street in Shrewsbury and \$1,200,000 for culvert replacements in the town of Westborough. Because these projects are supported with uncommitted bond funding rather than cash, Representative Kane cautioned that there is no set timeline for when this funding will be released, as it must still be worked under the state's annual borrowing cap and could take multiple years to come to fruition.

VETERANS SPEED ACT – Military personnel and their families will find it easier to access education benefits and meet professional licensure requirements under *An Act relative to military spouse-licensure portability, education and enrollment of dependents*, also known as the Veterans SPEED Act. Signed into law on August 5 as **Chapter 154 of the Acts of 2022**, the new law establishes a Massachusetts National Guard Family Education Program, which will allow National Guard members to transfer their unused education benefits provided under the National Guard Education Assistance Program to their children or dependents. In addition, the bill classifies military personnel stationed in Massachusetts, as well as their spouse and children, as in-state residents for tuition purposes when they enroll at one of the state's public colleges or universities.

According to Representative Kane, the SPEED Act requires the Commissioner of Public Health and each of the boards of registration and examination under their supervision to expedite the issuance of a license or certification to the spouses of military personnel who are certified or licensed in another state. The directive is designed to assist individuals who left their previous employment to accompany their spouse to Massachusetts following a military transfer.

The SPEED Act also:

- provides employers with a tax credit of \$2,000 per year for up to two years for every National Guard member they employ, with the tax capped at \$1 million annually and limited to businesses employing less than 100 workers;
- creates a 15-member special legislative commission to develop recommendations for a suitable memorial to recognize Deborah Samson, the Official Heroine of the Commonwealth, who fought during the American Revolutionary War by disguising herself as a man and enlisting in the Continental Army;
- requires licensed funeral directors and their staffs to provide information on funeral and burial benefits for veterans;
- establishes a Massachusetts Medal of Fidelity, which will be provided to the next of kin of any Massachusetts service member or veteran who died as a result of a service-connected post-traumatic stress disorder; conditions resulting from a service-connected traumatic brain injury; or

a service-connected disease, condition or injury related to exposure to harmful toxin, herbicides, agents or materials; and

- requires the Commissioner of Public Health, in consultation with the Commissioner of Veterans Services and the Adjutant General of the Massachusetts National Guard, to develop informational materials for military personnel who may have been exposed to harmful chemicals and toxins emanating from open burn pits while deployed overseas.

WOMEN'S RIGHTS HISTORY TRAIL – After having passed the House of Representatives in two previous legislative sessions without Senate action, legislation to establish a Women's Rights History Trail was finally signed into law this year on May 26 as **Chapter 76 of the Acts of 2022**. Representative Kane was a primary sponsor of this bill and was a driving force behind this legislation. She was recently appointed by the Minority Leader to serve on the Women's Rights History Trail Task Force. With the passage of this law, the Executive Director of the Massachusetts Office of Travel and Tourism (MOTT) will work in conjunction with the Secretary of the Massachusetts Department of Transportation (MassDOT) to develop and implement a program “designating properties and sites that are historically and thematically associated with the struggle for women's rights and women's suffrage” while also “promoting education and awareness of the history of women's rights in the commonwealth.”

In addition to producing and disseminating educational materials related to the women's rights history trail, MOTT will develop vacation itineraries based on locations that are connected to the historical theme of the program, including local venues, restaurants, farms and lodging. A 15-member task force has also been established to solicit public input and make recommendations by March 1, 2023 regarding appropriate sites, properties and attractions to include in the program, with a focus on sites that are “historically and thematically associated with the struggle for women's rights and women's suffrage, including the contributions of women veterans,” as well as those that are “geographically diverse” and “commemorate individuals who reflect racial, ethnic, cultural and economic diversity.”

RUSSIAN PENSION DIVESTMENT – Saying Massachusetts needs to stand in solidarity with the residents of Ukraine, Representative Kane helped lead a successful effort to divest all Russian business assets from the state pension fund. On March 1, just days after Russia's invasion of Ukraine, she was one of 58 Republican and Democratic legislators to submit a letter to Treasurer Deborah Goldberg urging her to “initiate a review of the state's pension fund portfolio and to take immediate action to fully divest any funds that are currently invested in Russian-owned companies.”

“By invading Ukraine, Putin has shown a blatant disregard for the basic principles of freedom, sovereignty, and respect for international law,” legislators wrote. “Continuing to invest our state pension funds in Russian companies constitutes tacit approval of Russia's deplorable actions. Divesting our holdings in these companies, however, will send a clear message that the Commonwealth condemns Putin's actions and supports the people of Ukraine, who have inspired the world with their incredible acts of heroism by standing firm against Russian aggression.”

Representative Kane was also one of 149 House members to co-sponsor a resolution memorializing the federal government and the Baker Administration to provide expedited consideration for Ukrainian refugees seeking to enter the United States. The pension divestment language was adopted as part of a supplemental budget signed on April 1 as **Chapter 42 of the Acts of 2022**. The spending bill also earmarked \$10 million to assist with the resettlement of Ukrainian refugees in the United States.

CHILD MARRIAGE BAN – Massachusetts recently became the seventh state to ban child marriage, following the inclusion of a Republican-sponsored amendment to the Fiscal Year 2023 budget which drew strong bipartisan support. **Chapter 126 of the Acts of 2022**, signed on July 28, prohibits child marriage under the age of 18, a practice which the U.S. State Department considers to be a human rights

abuse, but which was previously allowed in Massachusetts so long as the parents of the minor granted permission.

Between 2000 and 2018, more than 1,246 children, some as young as 14, were married in Massachusetts. A total of 1,107 of these children (or 89.9 percent) were girls wed to adult men.

Representative Kane noted that child marriage endangers children, who are unable to file for divorce or annulment or to seek an abuse prevention order. Children who are married can face great difficulty in escaping violent relationships and accessing domestic violence services, but the new law will provide safeguards by banning child marriage in Massachusetts.

NERO'S LAW – Named for the K-9 police dog who was injured in the 2018 shooting that claimed the life of its partner, Yarmouth Police Sgt. Sean Gannon, Nero's Law was signed on February 15 as **Chapter 23 of the Acts of 2022**. Although Nero survived his injuries, his treatment was delayed because emergency medical personnel could not legally care for him at the scene or transport him via ambulance.

With the passage of Nero's Law, emergency medical service personnel are now able to provide life-saving emergency treatment and transportation of K-9 partners, including basic first aid, CPR and administering life-saving interventions such as naloxone.

SEXTING & REVENGE PORN – On May 26, the House of Representatives approved legislation to crack down on the unauthorized distribution of sexually explicit images or videos via text messaging and online postings. Despite drawing unanimous House support, the bill died in the Senate, leaving Massachusetts as one of only two states that still do not have specific laws against so-called revenge porn.

House Bill 4498, *An Act relative to transmitting indecent visual depictions by teens and the unlawful distribution of explicit images*, provides for an educational diversion program for minors who engage in sexting and imposes criminal charges for revenge porn. It also requires the Attorney General to work with the Department of Elementary and Secondary Education to develop and implement an educational diversion program for teenagers charged with sexting, providing an alternative punishment for minors who could otherwise be charged with felony possession of child pornography and giving them a better understanding of the consequences of their actions.

In an attempt to respond more forcefully to cases of revenge porn, which typically involve individuals distributing or posting sexually explicit photos of their ex-spouse or ex-partner without their permission, House Bill 4498 would charge these individuals with criminal harassment. While the current minimum fine for criminal harassment is \$1,000, House Bill 4498 would increase that to \$5,000 and impose a punishment of imprisonment in a House of Correction for not more than 2 ½ years, a fine of not more than \$10,000, or both. A second or subsequent offense would carry enhanced penalties of imprisonment for not more than 2 ½ years in a House of Correction or in a state prison for not more than 10 years, a fine of up to \$15,000, or both.

CHAPTER 90/WINTER RECOVERY ASSISTANCE PROGRAM ROAD FUNDING – The House and Senate finalized a \$350 million bond bill last spring to assist cities and towns with their local transportation infrastructure needs. **Chapter 89 of the Acts of 2022**, which was signed on June 17, provides \$200 million in local road and bridge funding under the state's Chapter 90 program for Fiscal Year 2023, along with \$150 million in additional funding for several transportation-related municipal grant programs.

Chapter 89 provides for:

- a \$40 million increase for the construction, reconstruction, resurfacing, repair and improvement of pavement and surface conditions on non-federally aided roadways;

- a \$30 million increase in the municipal small bridge program, which supports the design, engineering, construction, preservation, reconstruction and repair of, or improvements to, non-federally aided bridges;
- a \$30 million increase for the Complete Streets Program, which provides technical assistance and construction funding to eligible municipalities seeking to provide safe and accessible travel mode options for people of all ages and abilities;
- a \$25 million increase for grants to municipalities for the prioritization and enhancement of mass transit by bus; and
- a \$25 million increase for grants to municipalities to expand access to mass transit and commuter rail stations.

Earlier in the year, the House and Senate approved a supplemental budget for Fiscal Year 2022 that included \$100 million in municipal road funding as part of the Winter Recovery Assistance Program (WRAP). **Chapter 42 of the Acts of 2022** was signed on April 1.

LOCAL AND REGIONAL PUBLIC HEALTH/SAPHE 2.0 BILL – On July 28, the House of Representatives approved Representative Kane’s legislation to establish minimum standards for the Commonwealth’s local and regional public health systems and promote more shared services between communities. House Bill 5104, *An Act relative to accelerating improvements to the local and regional public health system to address disparities in the delivery of public health services*, also known as SAPHE 2.0 (Statewide Accelerated Public Health for Every Community), seeks to eliminate many of the inequities in health care service delivery that were exposed by the COVID-19 global pandemic.

Under the SAPHE 2.0 bill, the Department of Public Health (DPH) and the Department of Environmental Protection (DEP) must provide comprehensive core public health educational and training opportunities to municipal and regional public health officials and staff, free of charge. DPH and DEP are also required to develop systems to standardize public health reporting and to measure the standard responsibilities of boards of health. DPH will provide estimates to the Secretary of Administration and Finance regarding the amount of funding necessary to meet these requirements for each fiscal year.

According to Representative Kane, House Bill 5104 is a continuation of the work that began with the Legislature’s passage of the original SAPHE Act in April of 2020. That legislation grew out of the recommendations issued by the Special Commission on Local and Regional Public Health, which released *The Blueprint for Public Health Excellence* in June of 2019. House Bill 5104 would revive this special commission, allowing it to continue its work until December 31, 2023. The program is also responsible for developing standards for foundational public health services, covering diverse areas such as inspections; communicable disease investigations and reporting; environmental permitting; food and water protection; chronic disease and injury protection; and workforce education, training, and credentialing.

In December of 2020, as part of the Fiscal Year 2021 (FY21) state budget, the House and Senate created a new line item to provide grants to local and regional boards of health, which previously had not received direct state funding. Initially funded at \$10 million, the line item was increased to \$15 million in both the FY22 and FY23 budgets. Representative Kane noted that the Legislature provided additional funding support in December of 2021, when it approved the use of \$200 million in federal American Rescue Plan Act (ARPA) money, to be invested over a five-year period for local public health infrastructure.

Although both branches enacted the SAPHE 2.0 bill on July 29, its fate remains uncertain. Governor Baker returned the bill with an amendment on August 8, indicating support for the bill but expressing his concerns about potentially creating an unfunded state mandate for cities and towns. Governor Baker has

proposed a local option provision that would allow municipalities to opt in to meeting the foundational public health standards established in House Bill 5104 and would require that they maintain local funding for public health program as a condition for receiving DPH funding support.

GENERAL GOVERNMENT INFRASTRUCTURE BOND BILL – In the final week of formal sessions, the House and Senate reached agreement on a \$5.2 billion bond bill to assist with the maintenance and upkeep of state and municipal government facilities. House Bill 5065, *An Act financing the general governmental infrastructure of the Commonwealth*, was enacted on July 26 and signed into law on August 4 as **Chapter 140 of the Acts of 2022**.

Representative Kane noted that the bond bill authorizes \$675 million for capital needs at the state's court facilities; \$530 million for the construction, modernization and demolition of public safety and security facilities; \$750 million for repairs, renovations and improvements to Massachusetts public higher education campus facilities and grounds; and \$50 million for the Massachusetts Cultural Facilities Fund.

House Bill 5065 also would have imposed a five-year moratorium on the construction of new correctional facilities, explicitly prohibiting any expansion of the number of beds at an existing or dormant correctional facility unless they are needed to accommodate a transfer of incarcerated individuals due to the temporary or permanent closure of another correctional facility. However, this language was dropped from the final bill after Governor Baker vetoed it.

The bond bill contains funding for several of Representative Kane's local priorities, including: \$1,000,000 for the HVAC system at Hastings Elementary School in Westborough as well as \$1,000,000 for the expansion of the town cemetery in Shrewsbury. While this is good news for the district, she noted that these projects are being paid for with bond money and must be worked under the state's bond cap before the funding can be released, a process that could take several years.

Chapter 140 also authorizes:

- \$204 million for the capital needs of public and non-profit entities that serve a public purpose;
- \$375,000 for the Department of Children and Families for the creation of indoor and outdoor play areas or playgrounds at area offices;
- \$16 million for grants administered by the Massachusetts Technology Development Corporation for competitive grants to Massachusetts-based companies commercializing technologies developed with the assistance of a Small Business Innovation Research or Small Business Technology Transfer from a federal agency;
- \$60 million for grants and loans for the Housing Stabilization and Investment Trust Fund;
- \$25 million for a local capital projects grant program to support and encourage implementation of the Housing Choice designation for communities that have demonstrated housing production and the adoption of best housing practices;
- \$100 million for the purchase and installation of equipment to establish, upgrade and expand career technical education and training programs that are aligned to regional economic and workforce development priorities;
- \$84 million for the Water Pollution Abatement Trust;
- \$400 million for the Division of Capital Asset Management and Maintenance to decarbonize and minimize the environmental impacts of state-owned facilities by reducing or eliminating emissions from the on-site use of fossil fuels;
- \$51 million for a food security program, including grants to support the immediate and projected infrastructure needs of farms, retailers, fisheries, food system business, and food distribution channels;
- \$82.5 million for the Executive Office of Technology Services and Security;

- \$74.75 million for the virtual and physical security infrastructure of state Lottery commission facilities;
- \$60 million for medical, security, safety and communications equipment and vehicles for the Department of Correction and other agencies within the Executive Office of Public Safety and Security; and
- \$100 million for the replacement of State Police cruisers and accompanying equipment

CLEAN ENERGY & OFFSHORE WIND BILL - On July 21, the House and Senate enacted comprehensive climate legislation designed to reduce greenhouse gas emissions by promoting clean energy and offshore wind in Massachusetts, without imposing a new gas fee on consumers. House Bill 5060, *An Act driving clean energy and offshore wind*, was initially returned to the Legislature on July 29 with several amendments recommended by Governor Baker before being re-enacted with only some of the requested changes on the last day of formal session. It was signed into law on August 11 as **Chapter 179 of the Acts of 2022**.

The new law removes a controversial gas fee proposal that was included in an earlier version of the bill that would have implemented a charge of 14.65 mill per therm on gas customers until 2032 to support the Renewable Energy Trust Fund. Representative Kane had spoken out against the fee since it was first proposed, calling it unfair to the state's ratepayers.

Chapter 179 establishes a pilot program allowing up to 10 communities to require the use of fossil free fuel in all new construction projects. Participation would be limited to those communities that have already achieved a 10% affordable housing target, with health care facilities and life science labs exempted.

Chapter 179 also makes changes to the state's procurement cap on offshore wind, which currently requires each successive wind proposal to be less expensive than the previously selected bid. The initial conference committee report amended the statute by allowing a modified cap to remain in place if only two bids are received and removing the cap if three or more bids are submitted. The final version of the bill removes the cap entirely, at Governor Baker's suggestion.

In addition, the new climate law establishes an Offshore Wind Industry Investment Program & Trust Fund, which will be administered by the Massachusetts Clean Energy Center (MassCEC). The program will offer \$35 million in annual tax incentives over a 10-year period to promote job creation within the industry, as well as other grants, loans and investments for manufacturing, workforce training, and clean energy research. It also establishes a Clean Energy Investment Fund to be administered by the Massachusetts Clean Energy Technology Center to help further advance clean energy research and technologies.

Chapter 179 also:

- establishes a commercial fisheries commission to provide input on minimizing and mitigating the impact of offshore energy generation and transmission on wildlife;
- authorizes the secretary of the Executive Office of Energy and Environmental Affairs, in consultation with the Department of Energy Resources (DOER), to consider the advantages and disadvantages of participating in regional or multi-state competitive markets to facilitate the development of clean energy generation resources;
- authorizes DOER to coordinate with other New England states to competitively solicit long-term clean energy generation and transmission projects, including nuclear power from Connecticut;
- creates rebates and incentives for electric vehicle (EV) purchases;

- establishes an intergovernmental coordinating council to implement an EV charging infrastructure deployment plan;
- mandates that all new vehicle sales in Massachusetts be zero emissions vehicles (ZEV) by 2035;
- requires all new MBTA bus purchases and leases to be ZEV by 2030, with the entire MBTA fleet required to be ZEV by 2040;
- requires the Executive Office of Labor and Workforce Development to produce a list of high-demand jobs within the state and share it with the Department of Elementary and Secondary Education (DESE);
- creates a DESE high school offshore wind credential training pilot program through which DESE would reimburse school districts for each student that obtains the credentials between \$600 and \$750;
- directs the Department of Public Utilities to convene a stakeholder working group to recommend regulatory and legislative changes to align gas system enhancement plans with statewide greenhouse emissions limits; and
- eliminates Mass Save incentives to install fossil fuel infrastructure in buildings, except as a backup for an electric heat pump, beginning with the 2025-2027 Mass Save plan

ECONOMIC DEVELOPMENT BILL – On July 14, the House unanimously approved House Bill 5034, a nearly \$4.3 billion Economic Development Bill that includes a series of tax relief proposals as well as significant investments in many state programs and local projects funded through a combination of federal American Rescue Plan Act (ARPA) money, surplus state budget dollars, and bond proceeds. The House bill, along with the Senate version that was engrossed on July 21, remains in conference committee.

The House tax relief package would:

- increase the child/dependent tax credit from \$180 to \$310 per child/dependent and eliminates the current \$360 cap for two or more children/dependents;
- expand the Earned Income Tax Credit from 30% to 40% of the federal credit;
- increase the maximum senior circuit breaker tax credit to \$1,755;
- raise the rental deduction cap from \$3,000 to \$4,000; and
- increases the estate tax threshold from \$1 million to \$2 million while ensuring that only the amount over the threshold is subject to the tax, and sets a 17% tax rate for estates valued at over \$5 million

An additional tax relief component included in House Bill 5034 is the creation of a Taxpayer Energy & Economic Relief Fund. Representative Kane said this fund will be used to provide one-time rebates of \$250 for taxpayers filing an individual return and \$500 for married couples filing a joint return. The rebates will not be subject to the state's personal income tax and will be limited to individuals with an annual income between \$38,000 and \$100,000 and married couples with an income between \$38,000 and \$150,000.

During floor debate on the bill, Representative Kane was able to secure funding for several local initiatives, including \$125,000 for the town of Shrewsbury and \$75,000 for the town of Westborough to support local economic recovery efforts.

House Bill 5034 also retains Governor Baker's proposal to increase the Housing Development Incentive Program (HDIP) tax credits from \$10 million to \$30 million per calendar year, allowing for up \$57 million in credits for FY23, and then \$30 million annually thereafter. The bill also extends the Brownfield Tax Credit by an additional five years, from August 5, 2023 to August 5, 2028 and increases the maximum amount of the credit for certain eligible projects.

Some of the funding initiatives contained in House Bill 5034 include:

- \$200 million to assist small businesses that are still experiencing financial challenges caused by the COVID-19 pandemic, \$75 million of which is targeted for minority-owned businesses;
- \$300 million to help shore up the unemployment insurance trust fund;
- \$75 million in grants for hotels that suffered financial losses during the pandemic;
- \$25 million to address food insecurity issues;
- \$350 million to assist financially-strained hospitals;
- \$80 million for community health centers;
- \$165 million for nursing facilities workforce needs;
- \$100 million for supplemental rates for human services providers;
- \$195 million for nursing facilities and rest homes;
- \$100 million for the Affordable Housing Trust Fund;
- \$75 million for minority-owned housing development;
- \$175 million for upgrades to state parks and recreational facilities;
- \$100 million for the Clean Water Trust Fund;
- \$400 million to support the MassWorks Infrastructure Competitive grant program;
- \$200 million for the Technology Matching Grants program to help Massachusetts organizations compete for federal innovation grants; and
- \$10 million for the federal Low Income Home Energy Assistance Program to assist eligible low-income elders, working families and other households pay a portion of their winter heating bills

House Bill 5034 also include several policy initiatives, including:

- a state sales and use tax exemption for “rolling stock” to support the state’s trucking industry and help make Massachusetts more competitive with neighboring states that already provide this exemption;
- provisions allowing for online sales for the Massachusetts State Lottery;
- language establishing a fund to support early education and care in the Commonwealth;
- a state sales and use tax exemption to encourage economic development in the construction and operations of the data center industry; and
- the creation of a special commission to study the potential benefits associated with procuring large-scale energy storage through contracts as a way to help the state achieve its climate change goals

Representative Kane said House Bill 5034 will provide critical tax relief for Massachusetts residents, and is hopeful the House and Senate can come to an agreement on key aspects of the Economic Development Bill during informal sessions.

STEP THERAPY – House Bill 4929, *An Act relative to step therapy and patient safety*, was engrossed by the House of Representatives on a vote of 153-0 on June 29. The bill would give patients more of a say in pursuing a specific course of medical treatment recommended by their doctor rather than by their insurance company. Although the Senate passed its own version of the bill on July 26, the two branches have not been able to come to an agreement yet on a final bill that can be sent to Governor Baker.

Representative Kane said House Bill 4929 will protect consumers from an insurance practice known as step therapy, or “fail first”, which mandates that a patient must first try one or more preferred treatments dictated by an insurance company before they can be covered for a specific treatment recommended by a clinician. Although the bill would not ban step therapy, it calls for greater transparency by providing patients with the ability to request an exemption and the right to a speedy appeals process.

The House bill outlines four specific circumstances under which a patient appeal can be triggered, including instances where:

- the required treatment will harm the patient;
- the required treatment is expected to be ineffective;
- the patient previously tried the required treatment, or a similar treatment, and it proved to be ineffective or harmed the patient; or
- the patient is stable on a current treatment and switching treatments will harm the patient

According to Representative Kane, House Bill 4929 requires MassHealth and commercial insurers to provide “continuity of coverage” to patients so they can continue to receive their clinician-preferred method of treatment while their request for a step therapy exemption is reviewed. The bill also requires that a step therapy exemption request be approved or denied within three business days but mandates a decision within one business day if a delay would cause harm to the patient. It also provides for an appeals process if a patient’s request for an exemption is denied.

The bill also calls for the creation of a step therapy protocols commission that will study and assess the implementation of step therapy reforms recommended in House Bill 4929 and will file a report by October 1 in every even-numbered year with the Secretary of Health and Human Services and the House and Senate chairs of the Joint Committee on Health Care Financing. Thirty other states already have some form of step therapy protocols in place to protect patients, including Connecticut, Maine and New York.

WORK & FAMILY MOBILITY ACT – On June 9, Representative Kane voted to sustain Governor Charlie Baker’s veto of legislation that would allow undocumented immigrants to obtain a Massachusetts driver’s license. In doing so, she cited concerns about the fairness of the underlying bill and questioned whether sufficient safeguards are in place to prevent individuals who cannot provide proof of lawful residence from using a driver’s license to register to vote.

Under the bill, individuals who cannot provide proof of lawful presence in the United States will now be able to obtain a non-REAL ID compliant Massachusetts driver’s license if they can produce sufficient documentation to verify their identity with the Registry of Motor Vehicles. This documentation must include either a valid unexpired foreign passport or a valid unexpired Consular Identification document, as well as one of the following: a valid unexpired driver’s license from any US state or territory; an original or certified copy of a birth certificate; a valid unexpired foreign national identification card; a valid unexpired foreign driver’s license; or a marriage certificate or divorce decree issued in Massachusetts. At least one document must include a photograph of the applicant and one document must include their date of birth.

Proponents of the bill say it will improve public safety by encouraging undocumented immigrants to undergo driver training and to insure their motor vehicles, but Representative Kane is skeptical of those claims and believes the proposal is particularly unfair to those individuals who have followed the law to secure lawful presence status or citizenship.

Representative Kane previously supported an alternative proposal that would instead allow undocumented residents to apply for a state-issued “driver privilege card” (DPC) to legally operate a motor vehicle in Massachusetts, but the amendment was defeated. Under this proposal, applicants would be required to complete a comprehensive driver education and training course, provide proof of payment of all state and federal taxes as well as employment, and submit sufficient documentation verifying their name, date and place of birth. The amendment also established minimum levels of auto insurance coverage for DPC holders, and specifically stated that these individuals would not be allowed to vote in any local, state or federal election.

Representative Kane also objected to language in the bill that prohibits the Registrar of Motor Vehicles from disclosing or making public record any personally identifying information provided by an applicant, unless required by federal law or authorized through regulations that will be developed by the attorney general. She previously supported a pair of amendments that would have required the Registrar to provide information on an applicant under specific circumstances, including to a city or town clerk seeking to verify the identity and eligibility of any individual using a Massachusetts license to vote or to register to vote, or to a state law enforcement agency requesting information pursuant to an investigation. Both amendments were defeated on votes of 31-125.

Despite opposition from the House and Senate Republican Caucuses and a number of Democrats, the Work and Family Mobility Act became law without Governor Baker's signature as **Chapter 81 of the Acts of 2022**. The law is scheduled to take effect on July 1, 2023, but opponents have gathered enough certified signatures to ensure that a question to repeal the law will appear on the November 2022 state election ballot.

2021 HIGHLIGHTS

BUSINESS RELIEF – UNEMPLOYMENT INSURANCE – On March 4, 2021, Representative Kane was one of 49 legislators to co-sponsor a bipartisan letter urging House and Senate leadership to act quickly on House Bill 55, Governor Baker's proposal to provide unemployment insurance relief to the state's small businesses. At the time, Massachusetts businesses were facing a 60% increase in their unemployment assessments, with rates scheduled to jump from \$539 per worker to \$858 per worker in 2021, and additional incremental increases taking effect in subsequent years. House Bill 55 called for freezing the rate at Schedule E for calendar years 2021 and 2022 to avoid this double-digit increase.

On March 11, 2021, just one week after the letter was sent, the House approved a two-year freeze on the UI rate schedule, which limited the increase for employers to about 16%. The bill was signed into law on April 1, 2021 as **Chapter 9 of the Acts of 2021**. Chapter 9 also authorized the expenditure of up to \$7 billion to repay federal UI loans received during the pandemic, as well as a temporary, two-year assessment on employers to help keep the UI Trust Fund solvent. A special commission was also established to study and develop recommendations for ensuring the long-term solvency of the trust fund.

On April 14, 2021, Representative Kane joined with 54 other legislators in calling for Governor Baker and House and Senate leadership to provide further UI protections to the state's business community by using federal COVID relief funding received under the American Rescue Plan Act or other appropriate federal funds to replenish the UI Trust Fund. Due to a statutory increase in the formula used to calculate an employer's experience rating, the annual UI solvency fund assessment was set to jump from 0.58% to 9.23% in 2021, a staggering 1591% increase in just one year that would have cost business owners thousands of dollars in additional expenses at a time when they could least afford it.

On May 19, 2021, the House approved compromise language that had been developed with input from the Baker-Polito Administration to mitigate the UI rate increase. In addition to creating a new COVID claims account to handle existing COVID claims that had been placed in the solvency account, the bill re-established the practice of charging new UI claims directly to employers' accounts beginning August 1, 2021. The changes approved in the bill – which also passed the Senate and was signed into law on May 28, 2021 as Chapter 16 of the Acts of 2021 – effectively reduced the employer assessment from 9.23% to 1.12%.

On October 29, 2021, the House passed a \$3.8 billion COVID relief bill that included a \$500 million appropriation for the UI Trust Fund to help offset costs. The Senate approved the same funding level

before the holiday break, and a final compromise negotiated in conference committee was signed into law on December 13, 2021 as **Chapter 102 of the Acts of 2021**.

BUSINESS RELIEF – PAYROLL PROTECTION PROGRAM – On March 4, 2021, Representative Kane was one of 55 legislators to co-sponsor a bipartisan letter urging House and Senate leadership to amend state tax laws so small business owners incorporated as pass-through entities would not be liable for paying state taxes on their federal Payroll Protection Program loans. These PPP loans, which were offered to help businesses keep their doors open and protect workers’ jobs during the COVID-19 pandemic, were forgiven by the federal government if businesses met certain criteria for spending the money.

Because of the state’s tax laws, many independent contractors, restaurants and small businesses faced a collective state tax liability of about \$150 million on their PPP loans. The UI reform bill passed by the House on March 11, 2021 included a state tax waiver for PPP loans. This waiver was retained in the final bill that was signed into law as **Chapter 9 of the Acts of 2021**.

WORKER RELIEF/BENEFITS – In 2021, the House and Senate provided tax relief for lower-income workers with household incomes below 200% of the federal poverty level who collected unemployment benefits in 2020 and 2021. Under **Chapter 9 of the Acts of 2021**, these individuals are able to deduct the first \$10,200 in unemployment compensation received in both calendar years from their gross income for tax purposes. The Act also prohibits the Department of Revenue from imposing any tax penalties based solely on the failure to remit taxes on unemployment compensation received in 2020, and allows affected taxpayers to claim an abatement if they have already been assessed the penalty.

One additional provision contained in the Act provides employees with access to up to 40 hours of COVID-related emergency paid sick leave and authorizes eligible employers to be reimbursed for up to \$850 a week per employee through a new COVID-19 Emergency Paid Sick Leave Fund administered by the Executive Office of Administration & Finance.

MILLIONAIRES TAX – On June 9, 2021, the House and Senate met in a Constitutional Convention and approved moving the Fair Share Amendment – aka the Millionaires Tax – to the 2022 ballot by a vote of 159-41, with Representative Kane voting against the proposal. The same proposed Constitutional amendment was initially approved at the June 12, 2019 Constitutional Convention on a vote of 147-48.

With last year’s vote, the Millionaires Tax will now go before the state’s voters in November of 2022. If it is approved, beginning in 2023 income below \$1 million will continue to be taxed at a rate of 5%, but all income above this level will be subject to an additional 4% surtax, placing the tax rate at 9%. Language included in the proposed amendment requires the \$1 million income level to be adjusted annually to reflect any increases in the cost of living using the same method that applies to federal income tax brackets. Supporters claim the ballot question will generate \$2 billion annually, which they say will be used to fund education and transportation. However, a June 8, 2021 study by the Beacon Hill Institute (BHI) projects slightly more than \$1.2 billion in revenues will be generated by the surtax in the first year, and only \$1.5 billion by 2027. The BHI study also warns that the passage of the surtax will drive higher-income households to other states, resulting in a loss of jobs, investment and disposable income.

During the 2019 Constitutional Convention, the House Republican Caucus offered an amendment requiring that any revenues generated by the Millionaires Tax be used “in addition to and not in lieu of funds” that are already being appropriated for education and transportation. The amendment was rejected on a vote of 40-156. The BHI study warns that the Millionaires Tax, as currently written, does not include any safeguard “that prevents legislators from diverting some of the (funding) already applied to education and transportation to other purposes and thus undermining the intent of the amendment.” An April 1, 2021 report by the Pioneer Institute also warned that, “Despite its purported goal of taxing

only the uber-rich, the graduated income tax would fail to protect people of more modest means from overtaxation on one-time windfalls” including those who sell a home or business.

Representative Kane said another problem with the Millionaires Tax is that the Legislature will not be able to immediately rescind the surtax if it doesn't work out as planned. Under the Constitutional amendment process, the earliest a repeal question could be placed on the ballot would be in November of 2026, at which point the surtax would have been in place for nearly four years.

CHARITABLE GIVING TAX DEDUCTION – The Fiscal Year 2022 budget, signed into law as **Chapter 24 of the Acts of 2021**, included language to delay the implementation of the charitable giving tax deduction that was approved by the state's voters by a more than 2-1 margin in November of 2000. This tax deduction was only in place for one year – the tax year beginning on January 1, 2001 – before the Legislature voted to suspend it in 2002.

Governor Baker opposed the continued delay in implementing the charitable giving tax deduction, particularly with state tax revenues coming in at a robust rate far above original projections, and vetoed this language from the budget. On July 28, 2021, Representative Kane and the entire House Republican Caucus unanimously supported sustaining the Governor's veto and allowing the tax deduction to finally take effect beginning on January 1, 2022. Unfortunately, the Governor's veto was overridden on a vote of 124-35, meaning taxpayers still cannot claim this deduction, more than two decades after it was passed overwhelmingly on the state ballot.

Representative Kane said that in addition to offering savings to taxpayers, the charitable giving tax deduction would also help nonprofits and other charitable organizations that have been hard-hit by the pandemic to better meet the increased demand for their services. A recent survey conducted by Philanthropy Massachusetts and the Massachusetts Nonprofit Network found that more than 60% of nonprofits reported revenue loss during the pandemic, with an average revenue loss of 34% over the previous year. According to the survey, the greatest reported unmet needs of the populations served by nonprofits are mental health (48%), followed by food (33%) and housing assistance (32%).

NEXT-GENERATION ROADMAP BILL – The House's work on this climate policy bill began in 2020 but stalled out at the end of the 2019-2020 legislative session. The bill was refiled early in 2021 and was initially enacted in both branches on January 28, 2021 before Governor Baker returned the bill with an amendment. Following the bill's re-enactment on March 18, 2021 it was signed into law by Governor Baker on March 26, 2021 as **Chapter 8 of the Acts of 2021**.

Chapter 8 amends the Massachusetts Global Warming Solutions Act to direct the state to set interim economy-wide greenhouse gas emissions limits, as well as sector-based emissions sublimits for certain sectors, every five years. More importantly, it codifies the state's long-term emissions limit of net-zero emissions by 2050 and directs the adoption of a 2030 emissions limit of at least 50 percent below 1990 levels and a 2040 emissions limit of at least 75 percent below 1990 levels. It also increases the RPS requirements, directs the creation of a municipal opt-in building code, codifies environmental justice protections, and authorizes an additional 2,400 MW of offshore wind.

STUDENT NUTRITION BILL – On October 6, 2021, the House enacted House Bill 3999, *An Act promoting student nutrition*, which was signed into law on October 14, 2021 as **Chapter 62 of the Acts of 2021**. Representative Kane said this Act expands student access to free meals and takes steps to eliminate “meal shaming” policies that penalize students who are unable to pay.

Chapter 62 requires individual schools and school districts where at least 50% of the students are considered low-income to participate in the federal program that provides universal free school

breakfast and lunch to all students. School districts can apply for a waiver if participating in the program will result in a financial hardship. The Act also directs school districts participating in the national school lunch program to maximize federal revenues and minimize debt on students' families. The Department of Elementary and Secondary Education (DESE) will assist school districts in meeting these goals.

Strong protections are built into the Act to ensure that students are not punished if they are unable to pay for a school meal or owe money for a previously-served meal. The Act specifically prohibits schools from:

- taking any action that publicly identifies a student who owes money for meals;
- serving a student with unpaid meal debt an alternative meal that is not available to all students;
- denying a meal to a student as a form of behavioral discipline or punishment;
- disposing of an already served meal because the student is unable to pay for the meal or has unresolved meal debt;
- blocking a student or their siblings from participating in extracurricular activities, field trips or school events because of the student's unresolved meal debt;
- preventing a student from graduating or blocking the release of a student's grades, official transcripts, or report cards solely because of unresolved meal debt; or
- requiring a parent or guardian to pay fees or costs for meals previously served to the student in excess of the actual amounts owed

Representative Kane noted that the FY23 state budget, signed on July 28, 2022 as **Chapter 126 of the Acts of 2022**, includes language extending the School Meals for All program for the 2022-2023 school year. The one-year extension will help to ensure that 400,000 students will continue to have access to school meals.

GENOCIDE EDUCATION – On November 16, 2021, the House approved legislation requiring the teaching of genocide education to middle and high school students, beginning with the 2022-2023 academic year. The bill was signed into law on December 2, 2021 as **Chapter 98 of the Acts of 2021**. Representative Kane noted that school districts will be required to educate students about the history of genocide, consistent with the standards articulated in the history and social science curriculum framework adopted by the Board of Elementary and Secondary Education. Schools can partner with community-based organizations, including municipal human rights commissions, to help facilitate this instruction.

Genocide education will be structured to promote the understanding of human rights issues, with a focus on:

- the inhumanity of genocide;
- the history and patterns of genocide that demonstrate how hatred against national, ethnic, racial or religious groups impacts nations and societies; and
- the rejection of the targeting of a specific population and other forms of prejudice that can lead to violence and genocide

The Act also establishes a Genocide Education Trust Fund, which will be sustained in part by revenues collected through fines assessed for hate crimes and civil rights violations. The fund will be used to create genocide education materials for students and to provide professional development training for teachers.

HOSPITAL DETERMINATION OF NEEDS REVIEW – On November 17, 2021 – the last day of formal sessions for the 2021 calendar year – the House passed legislation to update the determination of needs process for Massachusetts health care facilities to help protect community hospitals from unfair competition.

Representative Kane said House Bill 4253 authorizes the Health Policy Commission (HPC) to conduct a cost and market impact review to determine if any planned hospital expansion would create a dominant market share for the services offered by the health care provider or would lead to higher prices for the same services in the same market. The HPC would also be authorized to initiate a review to determine if the proposed expansion would have a “significant impact” on competition or the state’s ability to meet its health care costs growth benchmark.

In addition, the Attorney General’s office would be empowered to conduct an investigation based on HPC’s findings, and to take appropriate action to protect consumers, including seeking injunctive relief based on unfair methods of competition or unfair and deceptive trade practices.

House Bill 4253 also calls for the Health Planning Council, which currently falls under the Executive Office of Health and Human Services, to be re-constituted under the Health Policy Commission. The 11-member Council would be responsible for developing a five-year state health plan that identifies:

- existing health care resources;
- anticipated needs for health care services and providers;
- the resources necessary to meet those health care needs; and
- priorities for addressing those needs, including ways to address existing health care disparities across multiple demographics.

The Health Planning Council will be required to hold at least four public hearings annually across the state to solicit feedback on developing the state health plan, with the first such plan to be submitted to the governor and the legislature by January 1, 2023. House Bill 4253 requires the Department of Public Health to utilize the state health plan, along with data from the Center for Health Information and Analysis and information provided by the HPC’s cost and market impact review, when making a determination of need.

Representative Kane noted the bill also prevents DPH from acting on a determination of need application unless it has been on file for at least 30 days, the appropriate state agencies have been notified and given adequate opportunity to provide information and commentary, and any requests for a public hearing have been fulfilled. House Bill 4253 also establishes a new process for determination of need applications when the primary service area of the proposed project overlaps with the primary service area of an existing independent community hospital. In these instances, the bill empowers impacted independent community hospitals to petition the superior and supreme judicial courts and establishes civil penalties to address violations.

In addition, the bill establishes a task force that will provide recommendations for financing the HPC. Currently, the HPC is financed through an assessment on insurance companies and hospitals. The Senate has not yet acted on this bill.

ARPA/BUDGET SURPLUS SPENDING BILL – On December 3, 2021, the House and Senate enacted House Bill 4219, *An Act relative to immediate COVID-19 recovery needs*. The nearly \$4 billion spending bill utilizes \$2.55 billion in federal funding Massachusetts received through the American Rescue Plan Act (ARPA) and \$1.45 billion from the state’s Fiscal Year 2021 budget surplus to make important investments in communities throughout the Commonwealth.

Representative Kane said the bill provides significant funding support for housing, economic development, workforce training, health and human services, education, food security, the environment, and other critical areas impacted by the COVID-19 global pandemic. The bill includes:

- \$500 million to help sustain the Unemployment Insurance Trust Fund;

- a \$500 million premium pay program to provide bonuses of \$500-\$2,000 for lower-income essential employees who continued to work in person during the pandemic;
- \$200 million for local and regional public health systems;
- \$260 million for financially-strained hospitals in communities that were disproportionately impacted by COVID-19;
- \$50 million for capital improvements and workforce recruitment and retention at nursing facilities;
- \$100 million for capital improvements grants for vocational high schools;
- \$100 million for public school districts to improve ventilation and indoor air quality in their facilities;
- \$150 million to rehabilitate state-aided public housing developments;
- \$150 million for developing permanent supportive housing;
- \$115 million for the creation of affordable rental housing;
- \$115 million to promote homeownership opportunities;
- \$107 million for workforce and career technical skills training;
- \$75 million in small business grants;
- \$100 million for environmental infrastructure;
- \$100 million for water and sewer infrastructure;
- a \$400 million reserve for expanded access to mental and behavioral health services;
- a \$300 million reserve to support expanded Medicaid and community-based services;and
- \$44.8 million to address food insecurity issues

Governor Baker signed the bill (in part) on December 13, 2021 as **Chapter 102 of the Acts of 2021**.

ANIMAL WELFARE BILL – On October 6, 2021, the House approved legislation to promote hen welfare and establish uniform cage-free standards for the egg and meat industries. The bill set standards to ensure that livestock used to produce eggs and meats such as pork and veal are not confined to tight spaces that restrict their movement. Without legislative action, a new law that was scheduled to take effect on January 1, 2022 could have led to a shortage of eggs available to consumers due to non-compliance with the previous industry standards established by a 2016 ballot question.

A compromise version of the bill worked out by a six-member House and Senate conference committee was enacted by both branches on December 20, 2021. The final bill applies not only to shelled eggs, but to other egg products sold in Massachusetts, such as liquid eggs. It also extended the deadline for pork products to comply with the new standards until August 15, 2022 (the state recently announced it will hold off on enforcing the new law impacting pork producers until after the Supreme Court rules on a challenge to a similar law that was passed in California, which is expected to happen in January of 2023). The bill was signed into law by Governor Baker on December 22, 2021 as **Chapter 108 of the Acts of 2021**.

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