SO MUCH OF THE MESSAGE

FROM

HIS EXCELLENCY THE GOVERNOR

RETURNING WITH RECOMMENDATIONS
OF AMENDMENTS
SECTIONS 17, 30, 53 AND 86
OF THE GENERAL APPROPRIATION BILL
FOR FISCAL YEAR 2008

(SEE HOUSE, NO. 4141)

[AS RELATES TO
ATTACHMENTS C TO F, INCLUSIVE]

[RETURNED UNDER ARTICLE LVI
OF THE CONSTITUTION
AS AMENDED BY ARTICLE XC, SECTION 3
OF THE AMENDMENTS TO THE CONSTITUTION].

July 12, 2007.
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 17 of “An Act Making Appropriations for the Fiscal Year 2008 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 17’s purpose is to authorize the Division of Unemployment Assistance (“DUA”), in furtherance of the health care reform act (the “Act”), to share information that businesses shortly will begin filing with DUA concerning employer-sponsored health insurance. Because of statutory confidentiality rules, see M.G.L. c. 151A, § 46, such information sharing requires express legislative authorization.

I support such information sharing where, as here, it is necessary to further the administration and enforcement of the Act. I have two concerns, however, with Section 17’s language. First, as presently worded, Section 17 only authorizes DUA to share information with the division of health care finance and policy (“DHCFP”), and I am informed that DUA also needs to share information with the commonwealth health insurance connector. Second, because of the omission of the word “information,” Section 17 does not, even as to DHCFP, convey the authorization intended.

For these reasons, I recommend that Section 17 be amended by striking out the current language and inserting in place thereof the following:—

SECTION 17. Subsection (c) of section 46 of chapter 151A of the General Laws, as so appearing, is hereby amended by adding the following clause:—

(7) to the division of health care finance and policy, information under an interagency agreement for the administration and enforcement of sections 6B, 6C and 18B of chapter 118G and for the administration of the fair share employer contribution requirement under section 188 of chapter 149; and to the
commonwealth health insurance connector authority, information under an interagency agreement for the administration and enforcement of chapter 111M, chapter 118H, chapter 151F and chapter 176Q.

Respectfully submitted,

DEVAL L. PATRICK,  
Governor.
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 30 of “An Act Making Appropriations for the Fiscal Year 2008 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 30 of this bill is intended to make changes to Section 47 of Chapter 265 of the Massachusetts General Laws, which requires anyone convicted of a sex offense involving a child or a sexually violent offense to wear a GPS device that tracks their location within certain excluded zones. As enacted, the legislation would (1) shift the responsibility for defining the exclusion zone from the Commissioner of Probation entirely to the Court and (2) delay notice to the local police when the GPS detects that a probationer has entered an excluded zone.

With respect to shifting the responsibility for defining the exclusion zone from the Commissioner of Probation entirely to the Court, the probation officers who work daily in the region where their probationers live are best equipped to determine what zones should be excluded. Therefore, having the Probation Department recommend exclusion zones which the Court may accept or amend allows for a meaningful determination of the geographic exclusion zone.

With respect to delaying notice to the local police when the GPS detects that a probationer has entered an excluded zone, the purpose of the GPS system is to provide instant notification to responsible parties that a probationer has entered an excluded zone. Under current law, the local police are notified immediately upon the GPS detecting that a probationer has entered an excluded zone. Under the proposed legislation, upon receiving a GPS signal that a probationer has entered an excluded zone, a probation officer would need to contact the probationer to determine why he is in the excluded zone, which would defeat the purpose of the system of ensuring that the local police have immediate notice. In
the time that it would take a probation officer to undertake even a brief investigation to determine why the probationer has entered the excluded zone and then notify the local police, the probationer already could have committed one or more crimes and the purpose of the GPS system would have been defeated.

For these reasons, I recommend that Section 30 be amended by striking out the current language and inserting in place thereof the following:—

SECTION 30. Section 47 of chapter 265 of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following 2 sentences:— The probation department shall recommend geographic exclusion zones, including, but not limited to, the areas in and around the victim's residence, place of employment and school and other areas defined to minimize the probationer's contact with children, if applicable. The court shall accept or amend these recommended exclusion zones and include them as conditions of probation.

Respectfully submitted,

DEVAL L. PATRICK,
Governor.
July 12, 2007.

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 53 of “An Act Making Appropriations for the Fiscal Year 2008 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 53 directs the Comptroller to transfer $150 million to the General Fund from the Health Care Security Trust Fund. I support the purpose of this section, which is to ensure that the General Fund balance is adequate to meet the fiscal year 2008 appropriations made in this bill.

However, because of the appropriation vetoes and reductions that I have made today, the amount of this transfer may be reduced to $111,456,757. This reduction has the additional benefit of increasing the balance in the Health Care Security Trust Fund that Section 54 will transfer to the new State Employee Benefits Trust Fund, to begin funding the Commonwealth’s substantial liability for our retirees’ health care expenses.

Therefore, I recommend that Section 53 be amended by striking out the figure “$150,000,000” and inserting in place thereof the following figure:—“$111,456,757”.

Respectfully submitted,

DEVAL L. PATRICK,
Governor.

DEVAL L. PATRICK,
Governor.
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 86 of House Bill No. 4141, “An Act Making Appropriations for the Fiscal Year 2008 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.”

This section directs the Executive Office of Health and Human Services (EOHHS) to establish an electronic health records task force to link information between various state offices that utilize health records, from MassHealth to commonwealth connector programs. As written, the role of the task force is unclear and could be construed to conflict with federal and state legal requirements.

I, therefore, recommend that Section 86 of House Bill No. 4141 be amended by striking out in the first sentence of subsection (a) the following words “provide a structure that enables the state to act in a leadership role in the development of state and federal standards for, and in the implementation and use of,” and inserting in place thereof the following words:— make recommendations to the secretary of health and human services with respect to

I further recommend that Section 86 of House Bill No. 4141 be amended by striking out in clause (1) of subsection (c) the word “develop” and inserting in place thereof the following words:— study the advisability of

Finally, I recommend that Section 86 of House Bill No. 4141 be amended by striking out clause (3) of subsection (c) and inserting in place thereof the following clause:—
(3) make a recommendation by December 31, 2008, to the secretary of health and human services as to the advisability and feasibility of an electronic health records system.

Respectfully submitted,

DEVAL L. PATRICK,
Governor.