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Rep. Smola reflects on legislative accomplishments, shortcomings at mid-session

BOSTON – Representative Todd M. Smola (R-Warren, Ranking Member, Committee on Ways & Means) recently took some time to reflect on some of the major legislative initiatives that were undertaken by the House of Representatives in 2021, while highlighting some of the missed opportunities and outstanding priorities that will need to be addressed in 2022.

The 192nd General Court saw the approval of a comprehensive \$4 billion spending plan that puts a portion of the federal American Rescue Plan Act (ARPA) funds and much of the Fiscal Year 2021 budget surplus to work assisting communities and the Commonwealth with their ongoing COVID-19 recovery efforts. Representative Smola also cited the passage of a COVID-19 relief package providing a tax break for small businesses and emergency paid sick leave for employees impacted by the pandemic as a top priority.

Additional legislation was signed into law this year authorizing \$400 million in state bond funding for rebuilding the Holyoke Soldiers Home, a portion of which will be reimbursed by the federal government, and \$200 million to expand long-term care services for veterans across the state. Other successful accomplishments recorded in 2021 were the passage of a bill requiring the teaching of genocide education to middle and high school students starting next year and a student nutrition bill that will expand student access to free meals and eliminate “meal shaming” policies that punish students who are unable to pay.

Prior to the holiday break, the House also passed legislation that would update the determination of needs process for Massachusetts health care facilities to help protect community hospitals from unfair competition and shield consumers from paying higher prices for health care services.

Despite these accomplishments, Representative Smola pointed to several missed opportunities on key policy issues that legislators failed to take advantage of, noting there is still a lot of unfinished business awaiting the House and Senate in the new year. He said one of the biggest failures of the past year is that the State House – the “people’s building” – remains closed to the public at a time when every other state capitol and businesses across the state have successfully and safely reopened.

Representative Smola also cited the Legislature’s inconsistent approach to tax policy issues. In June, the House and Senate advanced the “Millionaires Tax” to the 2022 ballot, which would create a graduated income tax by adding a 4% surtax on income in excess of \$1 million, beginning in 2023. Less than two months later, both branches blocked Governor Charlie Baker’s efforts to finally implement a charitable giving tax deduction that was overwhelmingly approved by the state’s voters in 2000 but has only been allowed to be claimed just once in the past 21 years. Representative Smola opposed the Millionaires Tax proposal while standing by Governor Baker and the state’s taxpayers by supporting the charitable giving tax deduction.

Although the House approved legislation last summer authorizing sports wagering in Massachusetts, Representative Smola said the Senate’s failure to take up the bill is causing the state to lose out on an estimated \$60 million in annual tax revenues. And while the House and Senate did take steps to shore up the Unemployment Insurance Trust Fund this year, Representative Smola said the job is not finished and much work remains to be done to ensure the system’s long-term solvency in a way that shields employers from excessive rate hikes while also protecting workers’ benefits.

The following is a brief overview of some of the major legislative initiatives taken up by the House in 2021:

BUSINESS RELIEF – UNEMPLOYMENT INSURANCE – On March 4, Representative Smola 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.

On March 11, 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 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, Representative Smola 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.

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. The changes approved in the bill – which also passed the Senate and was signed into law on May 28 as **Chapter 16 of the Acts of 2021** – effectively reduced the employer assessment from 9.23% to 1.12%.

On October 29, 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 as **Chapter 102 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.

HOLYOKE SOLDIERS HOME – On May 18, the House enacted legislation to finance the reconstruction of the Holyoke Soldiers' Home, which has been in operation since 1952. Signed into law on May 25, **Chapter 15 of the Acts of 2021** authorizes the state to borrow up to \$400 million to build a new Soldiers' Home that will meet current federal standards and guidelines for long term care and adult day health services.

By providing this funding authorization, the Division of Capital Asset Management and Maintenance (DCAMM) was able to begin the design and development phase for a new Soldiers' Home. Representative Smola noted that the funding authorization will allow the state to 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. The Act also authorizes an additional \$200 million in state borrowing to promote geographic equity and accessibility to long-term care services for all Massachusetts veterans.

When he signed the bill, Governor Baker vetoed language requiring the use of a Project Labor Agreement (PLA) for reconstructing the Holyoke Soldiers' Home. In issuing his veto, Governor Baker said the PLA language "threatens the viability of the project by limiting fair competition

and disproportionately reducing opportunities for minority, women and veteran-owned businesses.” He also warned that it would drive up the cost of the project. The House Republican Caucus was unanimous in supporting the Governor’s veto when it came up for a vote on June 30, but the veto was overridden on a vote of 130-30.

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, Representative Smola 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 Smola 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%).

LEGALIZED SPORTS BETTING – On July 22, the House passed legislation to legalize and regulate sports wagering in Massachusetts. House Bill 3993 allows for betting on professional and collegiate sports and designates the Massachusetts Gaming Commission as the agency responsible for administering and enforcing the law.

The House bill creates three categories of sports wagering licenses:

- Category 1 licenses for in-person wagering at a casino
- Category 2 licenses for in-person wagering at a racetrack or simulcasting facility
- Category 3 licenses for sports wagering conducted through a mobile application or other digital platform approved by the Commission.

Under the House bill, Category 1 license holders will be allowed to partner with up to three individually branded mobile applications or other Commission-approved digital platforms, but Category 2 license holders will only be allowed to partner with one mobile application or digital platform.

House Bill 3993 also contains a provision that would allow local veterans organizations, such as VFWs, to apply for a limited slot machine license that would authorize up to 5 slot machines. Because the Senate has yet to act on this bill, the Commonwealth is losing out on tens of millions of dollars in revenue that sports wagering would generate.

STUDENT NUTRITION BILL – On October 6, the House enacted House Bill 3999, *An Act promoting student nutrition*, which was signed into law on October 14 as **Chapter 62 of the Acts of 2021**. Representative Smola 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.

UNFINISHED BUSINESS FOR 2022 – Looking ahead to 2022, Representative Smola identified several pieces of unfinished business he hopes will be addressed in the coming year, including the enactment of legal sports wagering; the implementation of the charitable giving tax deduction; and the passage of Nero’s Bill.

The Senate passed a version of Nero’s Bill on November 10, but the House has not acted yet on the bill, which is named for a K-9 police dog who was injured in the shooting that claimed the life of its partner, Yarmouth Police Sgt. Sean Gannon. Passing this bill would allow emergency medical service personnel to provide emergency treatment and transport of K-9 partners, including basic first aid, CPR and administering life-saving interventions such as naloxone.

Representative Smola also noted that approximately \$2.3 billion in federal ARPA money provided to Massachusetts remains unspent. He said it is important that this funding be earmarked in the coming year to address some of the most critical needs facing the residents of the Commonwealth and ensure a robust post-pandemic recovery.

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