ATTACHMENT B

July 26, 2018

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution, I am returning to you for amendment Section 12 of House Bill No. 4800, “An Act Making Appropriations for the Fiscal Year 2019 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 12 requires the Department of Revenue to periodically examine, evaluate and report on the administration, effectiveness and fiscal impact of tax expenditures. I understand and support the purpose of this section: it is important that we evaluate tax expenditure programs with the same rigor that we do appropriations during our annual budget process. However, the Department of Revenue is not the appropriate entity to do so. I therefore recommend that a standing independent commission be established to undertake this mission, similar to the one that was constituted by the Fiscal Year 2012 General Appropriations Act (Acts of 2011, Chapter 68, Section 160). An independent commission can draw upon the expertise of a diverse set of stakeholders and provide an independent voice on tax expenditures.

For these reasons, I recommend that Section 12 be amended by striking out the text and inserting in place thereof the following text:-

Chapter 14 of the General Laws is hereby amended by adding the following section:-

(a) There shall be a tax expenditure commission that shall examine, evaluate and report on the administration, effectiveness and fiscal impact of tax expenditures, as defined in section 1 of chapter 29 and as presented with the governor's proposed budget under paragraph 3 of section 5B of said chapter 29.

(b) The commission shall be comprised of the commissioner of revenue or the commissioner’s designee, who shall serve as chair; the state auditor or the auditor’s designee; the state treasurer and receiver general or the treasurer’s designee; the chair of the house committee on ways and means or the chair’s designee; the chair of the senate committee on ways and means or the chair’s designee; the house and senate chairs of the joint committee on revenue or their respective designees; the minority leader of the house of representatives or the house minority leader’s designee; the minority leader of the senate or the senate minority leader’s designee; and 3 members to be appointed by the governor, who shall have expertise in economics or tax policy. The 3 members appointed by the governor shall each serve 4-year terms.

(c) The commission shall use best practices and standardized criteria to evaluate: (i) the purpose, intent and goal of each tax expenditure and whether the expenditure is an effective means of accomplishing those ends; (ii) the fiscal impact of each tax expenditure on state and local taxing authorities, including past fiscal impacts and expected future fiscal impacts; (iii) the economic impact of each tax expenditure including, but not limited to, revenue loss compared to economic gain and jobs created, retained or lost as a result of the tax expenditure; (iv) the return on the investment made by the tax expenditure and the extent to which the tax expenditure is a cost effective use of resources; and (v) similar tax expenditures, if any, offered by other states and the impact of the tax expenditure on regional and national economic competitiveness.

(d) The commission shall establish a schedule to review tax expenditures so that each tax expenditure shall be reviewed at least once every 5 years. The review schedule may group tax expenditures by those benefitting from the tax expenditures, the objectives of the tax expenditures or the policy rationale for the tax expenditures. The commission’s review of each tax expenditure shall include the date the tax expenditure was enacted and the statutory or legal citation.

(e) Biennially, not later than March 1, the commission shall file a report of its findings and its recommendations to the clerks of the house of representatives and senate, the chairs of the house and senate committees on ways and means and the chairs of the joint committee on revenue. The report shall include all information required to be reviewed by this section and recommendations. The report shall be made available electronically and prominently displayed on the official website of the department of revenue.

(f) The commission shall have access to information, including aggregate

tax return information and related documents maintained by the department of revenue, necessary for the performance of the commission’s duties under this section but excluding information provided to the commonwealth by other federal and state tax agencies where such access is prohibited by law; provided, however, that tax returns and related documents shall not include a taxpayer’s personal identifying information and such returns and documents shall be confidential and exempt from disclosure as a public record under section 7 of chapter 4 and under chapter 66. The commission, in collaboration with the department of revenue, shall adopt policies and procedures to ensure taxpayer confidentiality.

Respectfully submitted,

Charles D. Baker

Governor