ATTACHMENT D

July 16, 2021

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 Sections 7, 102, and 103 of House Bill No. 4002, “An Act Making Appropriations for the Fiscal Year 2022 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 102 proposes to transfer $250 million from the General Fund to the Commonwealth Pension Liability Fund by September 1, 2021. Section 103 proposes to transfer $350 million from the General Fund to the Student Opportunity Act Investment Fund, created in section 7 to support public schools. In section 103 as enacted, the transfer to the Student Opportunity Act would occur on a schedule to be determined by the Comptroller in consultation with the Secretary of Administration and Finance, the Secretary of Education, and the Treasurer.

Both transfers have merit. The Commonwealth’s unfunded pension liability is often cited by rating agencies as a negative factor in assessing the Commonwealth’s fiscal strength. In recent years, the Public Employee Retirement Administration Commission (PERAC) has adjusted its assumptions to make them more realistic, most recently by reducing the investment return assumption to 7.0%. A $250 million transfer helps address these very real costs.

The Student Opportunity Act represents a substantial dedication of money over several years aimed at providing students across the Commonwealth with the opportunities and resources they need to succeed. Transferring surplus money to prepay for $350 million of these costs has the effect of insulating students from the budget cycle and is a good idea.

However, both transfers are premised on a $4.2 billion tax upgrade relative to the consensus tax revenue forecast from this past January. While recent tax receipts certainly suggest higher revenue collections for Fiscal Year 2022 than was forecast in January, September is very early in the fiscal year to be committing to an anticipated budget surplus. Any such transfer would be irreversible, even if the budget picture changes, due to federal laws around the use of pension assets. Conversely, with respect to the Student Opportunity Act transfer, caution would suggest a transfer schedule later in Fiscal Year 2022, complicating any use of funds in Fiscal Year 2023, even if urgently needed.

Fortunately, we can address these timing problems simply by changing the source of the transfer from a still uncertain Fiscal Year 2022 tax surplus to a known surplus in Fiscal Year 2021. With this adjustment, both transfers can happen immediately and with no risk, as the revenue is available for expenditure.

Lastly, with respect to the creation of the Student Opportunity Act Investment Fund, I would suggest only a minor modification to allow the fund to receive Fiscal Year 2021 funds. I am otherwise reproposing it here in the form in which it was first enacted.

For the reasons stated above, I recommend that section 7 be amended by striking out the section in its entirety and inserting in place thereof the following section:-

SECTION 7. Chapter 10 of the General Laws is hereby amended by inserting after section 35PPP the following section:-

Section 35QQQ. Effective June 30, 2021, there shall be established and set up on the books of the commonwealth a separate fund known as the Student Opportunity Act Investment Fund. The fund shall be credited with: (i) appropriations or other money authorized or transferred by the general court and specifically designated to be credited to the fund; (ii) funds from public and private sources, including, but not limited to gifts, grants and donations; and (iii) any interest earned on such money. Amounts credited to the fund shall be expended, subject to appropriation, for the implementation of chapter 132 of the acts of 2019. Money remaining in the fund at the end of a fiscal year shall not revert to the General Fund. The fund shall not be subject to section 5C of chapter 29.

And further recommend that the bill be amended by striking out sections 102 and 103 and inserting in place thereof the following 2 sections:-

SECTION 102. Notwithstanding any general or special law to the contrary, the comptroller shall transfer $250,000,000 during fiscal year 2021 from the General Fund to the Commonwealth’s Pension Liability Fund established in subsection (e) of subdivision (8) of section 22 of chapter 32 of the General Laws.

SECTION 103. Notwithstanding any general or special law to the contrary, the comptroller shall transfer $350,000,000 during fiscal year 2021 from the General Fund to the Student Opportunity Act Investment Fund, established in section 35QQQ of chapter 10 of the General Laws.

Respectfully submitted,

Charles D. Baker

Governor