ATTACHMENT K

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 89 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 89 establishes a special commission to recommend the appropriate level of funding for the Department of Correction and for the various sheriffs’ offices. I support continuing efforts to review and improve on our collective understanding of the funding needs of these important agencies.

However, as written, section 89 effectively delegates the authority to make appointments to the commission to six non-governmental organizations. While each of these organizations may have valuable recommendations to make, the authority to appoint commission members should remain with the executive branch of government. The section also does not clearly prevent commission members, some of whom regularly litigate against one or more of the correctional agencies, from using non-public data obtained as commission member in such litigation.

For these reasons, I recommend that Section 89 be amended by striking out the words, “1 of whom shall be nominated by the Massachusetts Institute for a New Commonwealth, Inc., 1 of whom shall be nominated by the Pioneer Institute, Inc., 1 of whom shall be nominated by Prisoners' Legal Services, 1 of whom shall be nominated by the Massachusetts Bar Association, 1 of whom shall be nominated by the National Correctional Employees Union, Inc., 1 of whom shall be nominated by the Boston Bar Association,” and inserting in place thereof the following words:- after considering any recommendations from the Massachusetts Institute for a New Commonwealth, Inc., the Pioneer Institute, Inc., Prisoners' Legal Services, the Massachusetts Bar Association, the National Correctional Employees Union, Inc. and the Boston Bar Association;

And by inserting in the second sentence of the sixth paragraph, after the words, “de-identified form,” the following words:- provided, however, that nonpublic information relating to a matter that is or may be the subject of litigation shall not be disseminated to any other person or entity, nor shall it be admitted as evidence in any administrative or court proceeding against the department of correction or any sheriff or sheriff’s department; provided further, that members of the commission who are not currently state employees shall be considered special state employees for purposes of chapter 268A of the General Laws.

Respectfully submitted,

Charles D. Baker

Governor