HOUSE . . . . . No. 3581

Text of a further amendment offered by Mr. Dempsey of Haverhill to the amendment recommended by His Excellency the Governor to the House Bill relative to transportation finance (see House Bill No. 3535). July 17, 2013.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

By striking out all after the enacting clause and inserting in place thereof the following:--

"SECTION 1. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations, and to meet certain requirements of law, for fiscal year 2013 the sum set forth in section 2A is hereby appropriated from the Commonwealth Transportation Fund, for the several purposes and subject to the conditions specified in said section 2A, and subject to laws regulating the disbursement of public funds. For the purpose of making available in fiscal year 2013 balances of appropriations which otherwise would revert on June 30, 2013.

SECTION 2A.

TRANSPORTATION

Department of Transportation

1595-6367 For the performance and asset management advisory council to assist with the development of an integrated performance and asset management system pursuant to sections 12 and 12A of chapter 6C of the General Laws; provided further, that any unexpended funds in

14 this item at the end of fiscal year 2013 shall not revert and shall be made available for the
15 purposes of this item until June 30, 2014..……....$100,000

16 Commonwealth Transportation Fund 100%

17 SECTION 3. Section 3 of chapter 6C of the General Laws, as appearing in the 2010
18 Official Edition, is hereby amended by striking out, in lines 73 to 78, inclusive, the words 'the
19 department shall convene at least 2 public hearings, each to be held in a community within the
20 turnpike corridor, at least 30 days prior to the effective date of any proposed change in toll
21 structure on the turnpike and shall allow for a 1-week comment period, after each such hearing,'
22 and inserting in place thereof the following words:- prior to revising the toll structure, the
23 department shall publish a report on its website that sets forth the fiscal alternatives that were
24 examined in lieu of revising the toll structure and detail the reasons why such alternatives were
25 not viable fiscal options; provided further, that the department shall convene at least 2 public
26 hearings, each to be held in a community within the turnpike corridor or within the metropolitan
27 highway system, as appropriate, at least 30 days before the effective date of any proposed change
28 in toll structure on the turnpike or metropolitan highway system, as appropriate, and shall allow
29 for a 2-week comment period after each such hearing;

30 SECTION 4. Said chapter 6C is hereby further amended by inserting after section 6 the
31 following section:-

32 Section 6A. Notwithstanding any general or special law to the contrary, the goals
33 established by the office of performance management and innovation under subsection (b) of
34 section 6 shall include, but not be limited to: (1) for the division of highways, the reduction of
35 commuting times by at least 10 per cent in each region for each rolling 5-year period, after

36 adjusting for seasonal variations and for changes in the economic activity in the region; (2) for
37 the division of highways, the reduction of fatalities by at least 10 per cent for each rolling 5-year
38 period; (3) for the division of highways, the reduction of the accident rate by at least 10 per cent
39 for each rolling 5-year period; (4) for the division of highways, the reduction of the
40 administrative disbursement rate per mile by at least 10 per cent for each rolling 5-year period;
41 (5) for the division of highways, increasing the maintenance disbursements per mile by at least
42 the same total dollar amount as the total dollar amount saved by the reduction of the
43 administrative disbursement rate per mile under clause (4), for each corresponding 5-year period;
44 (6) for the Mass Transit division, a decrease in the urban transit bus fleet age for each transit
45 authority of at least 10 per cent for each rolling 5-year period; (7) for the Mass Transit division, a
46 reduction of fatalities as a result of transit accidents in each transit authority by at least 10 per
47 cent for each rolling 5-year period; (8) for the Mass Transit division, an increase in the farebox
48 recovery ratio of at least 10 per cent for each transit authority for each rolling 5-year period; (9)
49 for the Mass Transit division, an increase in the on-time performance percentage for each transit
50 authority of at least 2 per cent for each rolling 5-year period, until that percentage reaches 98 per
51 cent; and (10) for the Mass Transit division, an increase of at least 5 per cent in the revenue miles
52 per active vehicle reported to the Federal Transit Administration for each transit authority for
53 each rolling 5-year period.

54 SECTION 5. Subsection (e) of section 9 of said chapter 6C of the General Laws, as
55 appearing in section 1 of chapter 132 of the acts of 2012, is hereby amended by adding the
56 following sentence:-The secretary shall make the annual report and all such reports from
57 previous years available on the department's website.

58 SECTION 6. Section 10 of said chapter 6C, as appearing in the 2010 Official Edition, is
59 hereby amended by adding the following paragraph:-

60 The office of transportation planning shall work in collaboration with the public-private
61 partnership infrastructure oversight commission and provide the oversight commission with
62 information and updates on research, surveys, studies and future transportation projects.

63 SECTION 7. The first paragraph of section 11 of said chapter 6C, as so appearing, is
64 hereby amended by striking out the second sentence and inserting in place thereof the following
65 sentence:-

66 The plan shall be consistent with the project selection criteria as established by section
67 11A.

68 SECTION 8. Said first paragraph of said section 11 of said chapter 6C, as so appearing,
69 is hereby further amended by inserting after the third sentence the following sentence:- The plan
70 shall include a toll feasibility analysis in the evaluation of all highway, road and bridge projects.

71 SECTION 9. Said section 11 of said chapter 6C, as so appearing, is hereby further
72 amended by inserting after the word 'finance', in lines 18 through 19, the following words:- , the
73 public-private partnership infrastructure oversight commission.

74 SECTION 10. Said section 11 of said chapter 6C, as so appearing, is hereby amended by
75 adding the following paragraph:-

76 The long range transportation plan developed by the secretary of transportation under this
77 section shall provide that not less than $100,000,000 shall annually be spent for the construction

78 and reconstruction of municipal ways and bridges as described in clause (b) of the second
79 paragraph of section 4.

80 SECTION 11. Said chapter 6C is hereby further amended by inserting after section 11 the
81 following section:-

82 Section 11A. (a) There shall be a project selection advisory council which shall be
83 charged with developing a uniform project selection criteria to be used in the development of a
84 comprehensive state transportation plan as required by section 11.

85 (b) The council shall consist of the following members: the secretary or the secretary's
86 designee, who shall serve as chair; 3 members to be appointed by the governor, 1 of whom shall
87 have practical experience in transportation planning and policy, 1 of whom shall be a registered
88 civil engineer with at least 10 years' experience and 1 of whom shall be a member of a regional
89 planning agency; 1 member to be appointed by the president of the senate, who shall be an expert
90 in the field of transportation finance; 1 member to be appointed by the minority leader of the
91 senate, who shall be a member of the construction industry; 1 member to be appointed by the
92 speaker of the house of representatives, who shall be a representative of a transportation
93 consumer organization or other public interest organization; 1 member to be appointed by the
94 minority leader of the house of representatives, who shall be a member of a business association;
95 and a representative of the Massachusetts Municipal Association. The department shall provide
96 the council with qualified administrative staff and the regional planning agencies may provide
97 qualified technical assistance to the council.

98 (c) The project selection criteria developed under this section shall include a project
99 priority formula or other data-driven process that shall include, but not be limited to, the

100 following factors: engineering; condition of existing assets; safety; economic impact; regional
101 priorities; and the anticipated cost of the project. The council may divide projects into several
102 categories including, but not limited to: preservation and maintenance of existing assets;
103 modernization of existing assets that improve safety; expansion projects that add to the existing
104 system; and local construction. The factors chosen by the council may be weighted to prioritize
105 specific factors and such weighting of factors may differ by project category as determined by
106 the council.

107 (d) The council shall conduct at least 6 public hearings, 1 in each of the department's
108 highway districts, before final approval of the project selection criteria. The council shall
109 provide interested persons with an opportunity to submit their views orally and in writing and the
110 department may create and maintain a website to allow members of the public to submit
111 comments electronically and to review comments submitted by others. The council shall provide
112 notice of each public hearing by publication in a newspaper of general circulation in the highway
113 district in which the hearing is to be located in each of 2 successive weeks, the first publication
114 to be at least 14 days before the day of the hearing and, if feasible, by posting a notice in a
115 conspicuous place in the cities or towns within the highway district for at least 14 consecutive
116 days immediately prior to the day of the hearing.

117 SECTION 12. Said chapter 6C is hereby further amended by inserting after section 12 the
118 following section:-

119 Section 12A. (a) As used in this section, the following words shall, unless the context
120 clearly requires otherwise, have the following meanings:-

121 ‘Council’, the performance and asset management advisory council created under this
122 section.

123 ‘Local transportation agency’, the city, town or other governmental entity’s department
124 of transportation or public works that has jurisdiction over the transportation assets in that city,
125 town or entity and that receives state or federal funding.

126 ‘Performance and asset management system’, the permanent, comprehensive and integrated
127 system, developed by the department pursuant to sections 6 and 12, that require the operation,
128 maintenance, upgrade and expansion of all transportation assets, that are cost-effectively
129 administered throughout their lifecycle, by continuously updating physical inventory, condition
130 assessments and performance information.

131

132 ‘Transportation assets’, capital assets, including but not limited to, any city, town, county
133 or state highway, road, street, pavement, parkway, facilities, structures, construction and
134 maintenance equipment, vehicles, real estate, materials, corporate data and information,
135 equipment, rolling stock, infrastructure and facilities for use in public transportation; ground and
136 water transportation facilities and equipment; and any rights-of-way, bridges, tunnels, railroad
137 highway crossings, drainage structures, signs and guardrails.

138 (b) There shall be a performance and asset management advisory council charged with
139 advising the board on the creation of an integrated asset management system pursuant to section
140 12.

141 The council shall consist of the secretary, who shall serve as chair, and the following
142 members as appointed by the secretary: 2 members of the board, 2 members from the
143 Massachusetts Municipal Association, 2 members from different regional planning agencies, 1
144 member from the construction industry, and 1 member from a business association. Each
145 member shall be appointed for a term of 3 years. The council may appoint a technical assistance
146 panel, to serve in an advisory, non-binding capacity, which shall be comprised of transportation
147 planning, construction and engineering associations. The council shall determine the scope of
148 research and assign projects to the technical assistance panel as necessary in the development of
149 statewide policies. The department shall provide the council with qualified administrative staff
150 and the regional planning agencies may provide qualified technical assistance to the council.

151 (c) The council shall review the criteria required for the performance measurement
152 system pursuant to subsection (b) of section 6 and the comprehensive long-term capital plan
153 required by section 11A. The council shall make a report to the board on the following: (i)
154 improvements that can be made to ensure comprehensive multi-modal transportation planning
155 and analysis; (ii) additional performance metrics, such as enterprise-wide measures across
156 modes, contract management, procurement, project controls, financials, organizational and
157 prioritization outcomes; and (iii) economic development impacts, and benchmarks measured
158 against performance by other states and countries. The council shall make recommendations on
159 the processes and tools needed to implement a strategy for the performance and asset
160 management system.

161 (d) The council shall present minimum standards and guidelines delineating standardized
162 data and information that shall be contained in the performance and asset management systems,
163 including the complete integration of transit, highway, aeronautics, water and port assets, and the

164 possible inclusion of municipal roadways. The minimum standards shall include: (i) the keeping
165 of accurate and uniform records of real transportation assets, (ii) the mileage and condition of
166 each road and bridge system under various jurisdictions, (iii) the receipts and disbursements of
167 road, street and transit funds, (iv) a multiyear compilation of projects anticipated to be contracted
168 for or by the department or local transportation agencies that are funded in whole or in part with
169 state or federal funds, and (v) any other categories established by the council. The council shall
170 recognize the differences in local, regional or other agencies' circumstances and nothing in this
171 section shall prohibit a local transportation agency or other governmental agency from using a
172 separate asset management process on any eligible system. All quality control standards and
173 protocols shall, at a minimum, be consistent with any existing federal requirements and
174 regulations and existing government accounting standards.

175 (e) On or before October 1 of each year, the council shall provide an annual progress
176 report on the performance and asset management system to the house and senate committees on
177 ways and means and the joint committee on transportation.

178 SECTION 13. Subsection (a) of section 13 of said chapter 6C, as appearing in the 2010
179 Official Edition, is hereby amended by adding the following sentence:-

180 The department shall devise and implement a fair and reasonable fee structure to charge
181 and collect tolls for transit over the turnpike between interchange 1 in the town of West
182 Stockbridge and interchange 6 in the city of Springfield at interstate highway route 291.

183 SECTION 14 . Section 16 of said chapter 6C, as so appearing, is hereby amended by
184 adding the following sentence:- The plan shall be made available on the department's website.

185 SECTION 15. Section 28 of said chapter 6C, as so appearing, is hereby amended by
186 inserting after the word 'divisions', in line 33, the following words:- including, but not limited
187 to, revenues from parking fares, financial assistance from cities and towns, sponsorships, naming
188 rights and advertising.

189 SECTION 16. Section 30 of said chapter 6C, as so appearing, is hereby further amended
190 by inserting after subsection (c) the following subsection:-

191 (d) The secretary shall:

192 (1) develop and administer a long-term statewide transportation plan that shall include
193 planning for intermodal and integrated transportation;

194 (2) create a future project prioritization list, separated by mode of transportation;

195 (3) include detailed information regarding all construction projects for which the
196 department has expended funds during the preceding 5 fiscal years, which shall include:

197 (i) the location and street name, including a brief description of the work to be
198 performed;

199 (ii) all project identifying numbers used within the department or with respect to
200 any federal or state grant or funding program including, without limitation, any contract
201 numbers, transportation incentive program numbers or Transportation Infrastructure Finance and
202 Innovation Act or other federal aid numbers;

203 (iii) all contractors, engineers, architects and other service professionals who have
204 performed work on the project;

205 (iv) all amounts expended, including payee name and date of disbursement with
206 respect to each disbursement;

207 (v) total projected and actual cost;

208 (vi) projected and actual start and completion dates;

209 (vii) projected and actual milestone dates and details;

210 (viii) identification and a brief description of any issues, factors or other causes
211 that have affected or are anticipated to affect the projected cost and completion date of any
212 project; and

213 (ix) the names and contact information of the project manager within the
214 department or other department personnel with oversight authority;

215 (4) compare each project to the metrics established by the department's office of
216 performance management and innovation; and

217 (5) make the long-term statewide transportation plan available on the department's
218 website.

219 SECTION 17. Section 39 of said chapter 6C, as so appearing, is hereby amended by
220 adding the following subsection:-

221 (c) The administrator shall establish within the division an internal project controls unit to
222 oversee all statewide program projects in line with the department's performance and asset
223 management system. The administrator shall establish and implement project controls to ensure

224 that projects carried out pursuant to this chapter shall be completed in the most efficient possible
225 manner. The internal project controls unit shall be subject to section 29A of chapter 29.

226 SECTION 18. Subsection (b) of said section 14C of said chapter 7, as amended by
227 section 1 of chapter 462 of the acts of 2012, is hereby further amended by inserting after
228 paragraph (4) the following paragraph:-

229 (4 1/2) capital expenditures grouped by project with links to related capital budget
230 documents;.

231 SECTION 19. Sections 4C to 4G, inclusive, of chapter 16 of the General Laws are hereby
232 repealed.

233 SECTION 20. Section 2 of chapter 21J of the General Laws, as appearing in the 2010
234 Official Edition, is hereby amended by striking out subsection (A) and inserting in place thereof
235 the following subsection:-

236 (A) A fee is hereby imposed on the use of a dispensing facility at the site of delivery of
237 petroleum product. The fee imposed under this paragraph shall be adjusted at the beginning of
238 each calendar year, by the percentage, if any, by which the consumer price index, as defined in
239 section 1 of the Internal Revenue Code, pursuant to 26 U.S.C. section 1, for the preceding year
240 exceeds the consumer price index for the calendar year that ends before such preceding year.
241 Each owner or operator of a bulk facility on delivery of petroleum product to a dispensing
242 facility shall collect from the person who orders or requests the delivery a fee in an amount of
243 $50 for each delivery. The person delivering the petroleum product shall be responsible to the
244 department for the collection of such fee and in the event it is unable to recover such fee from the
245 person who ordered such petroleum product, such person delivering petroleum product shall

246 nonetheless remit to the department the fee associated with such delivery. In the event of split-
247 load or partial deliveries to dispensing facilities from the same tanker truck, this fee may be
248 prorated among the dispensing facilities receiving such deliveries.

249 A fee is hereby imposed on the use or maintenance of an underground storage tank used to store
250 petroleum product or any fraction thereof, except waste oil, at a dispensing facility. Each owner
251 of an underground storage tank used to store petroleum products or any fraction thereof, except
252 waste oil, at a dispensing facility shall annually pay to the department, as the holder of the list of
253 registered underground storage tanks storing petroleum and other materials, a fee of $250 per
254 tank. For the purposes hereof, each tank in an underground storage tank system shall be
255 considered a separate underground storage tank. The department by regulation shall establish
256 procedures for the collection of such delivery fee and such annual fee based on bills prepared and
257 mailed by the department simultaneously to all owners and operators obligated to pay such fee.

258 SECTION 21. Said section 2 of said chapter 21J, as so appearing, is hereby further
259 amended by striking out subsection (C) and inserting in place thereof the following subsection:-

260 (C) In accordance with regulations to be promulgated hereunder, the fees shall be
261 collected, reported and paid to the department as a separate line item entry, from time to time, by
262 owners and operators charged with the collection, reporting and payment of gasoline and special
263 fuels taxes pursuant to chapter 64A, 64E, and 64F, and such persons may be subject to audit by
264 the department. The department shall deposit the receipts from the delivery fee imposed under
265 the first paragraph of subsection (A) into the Commonwealth Transportation Fund established in
266 section 2ZZZ of chapter 29 and shall deposit the receipts from the annual storage tank fee
267 imposed under the second paragraph of said subsection (A) into the General Fund. The

268 department shall submit a monthly report to the board listing revenues generated by the delivery
269 fees and the annual storage tank fees for the previous month and outlays from the fund, including
270 reimbursements, agency appropriations and third party claims issued during the previous month.

271 SECTION 22. Said section 2 of said chapter 21J , as so appearing, is hereby further
272 amended by striking out subsection (D).

273 SECTION 23. Section 14 of said chapter 21J, as so appearing , is hereby amended by
274 striking out, in line 1, the word 'fees,'.

275 SECTION 24. Said section 14 of said chapter 21J, as so appearing, is hereby further
276 amended by striking out, in lines 2 to 4, inclusive, the words 'treasury to the credit of the fund in
277 accordance with the provisions of section two S of chapter twenty-nine' and inserting in place
278 thereof the following words:- General Fund.

279 SECTION 25. Subsection (a) of section 2ZZZ of chapter 29 of the General Laws, as
280 appearing in section 112 of chapter 165 of the acts of 2012, is hereby amended by striking out
281 the second sentence and inserting in place thereof the following sentence:-

282 There shall be credited to the fund all fees received by the registrar of motor vehicles
283 under section 34 of chapter 90, all receipts paid into the treasury of the commonwealth and
284 directed to be credited to the Commonwealth Transportation Fund under chapters 21J, 64A, 64E,
285 64F and any other applicable general or special law and all amounts appropriated into the fund
286 by the general court.

287 SECTION 26. Said section 2ZZZ of said chapter 29, as so appearing, is hereby further
288 amended by striking out subsection (c) and inserting in place thereof the following subsection:-

289 (c) In addition to those revenues credited to the fund under subsection (a) there shall be
290 credited to the fund all monies received by the commonwealth from the receipts from sales of
291 motor vehicles under sections 3, 25 and 26 of chapter 64H and all monies received by the
292 commonwealth on the sales price of purchases of motor vehicles under sections 4, 26 and 27 of
293 chapter 64I, from the taxes imposed under said chapters 64H and 64I as excises upon the sale
294 and use at retail of motor vehicles and upon the storage, use or other consumption of motor
295 vehicles, including interest thereon or penalties; provided however, such amount shall not
296 include any portion of the taxes that constitute special receipts within the meaning of subsection
297 (b1/2) of section 10 of chapter 152 of the acts of 1997. The amount credited to the fund under
298 this subsection shall be net of the dedicated sales tax revenue amount transferred to the
299 Massachusetts Bay Transportation Authority State and Local Contribution Fund under section
300 35T of chapter 10 and to the School Modernization and Reconstruction Trust Fund under section
301 35BB of said chapter 10.

302 SECTION 27. Said section 2ZZZ of said chapter 29, as so appearing, is hereby further
303 amended by adding the following subsection:-

304 (e) In addition to those revenues credited to the fund under subsections (a) and (c), for
305 fiscal years 2015 to 2020, inclusive, the comptroller shall transfer the following amounts from
306 the General Fund to the fund: (1) $75,000,000 for fiscal year 2015; (2) $96,000,000 for fiscal
307 year 2016; (3) $40,000,000 for fiscal year 2017; (4) $40,000,000 for fiscal year 2018; (5)
308 $120,000,000 for fiscal year 2019; and (6) $210,000,000 for fiscal year 2020.

309 SECTION 28. Subsection (e) of section 2ZZZ of said chapter 29 is hereby repealed.

310 SECTION 29. Section 5 of chapter 59 of the General Laws, as appearing in the 2010
311 Official Edition, is hereby amended by striking out, in line 237, the words ‘or (d)’ and inserting
312 in place thereof the following words:- (d) a telephone corporation subject to chapter 166 or (e).

313 SECTION 30. Said section 5 of said chapter 59, as so appearing, is hereby further
314 amended by striking out, in lines 238 and 239, the words ‘, fifty-two A’.

315 SECTION 31. Said section 5 of said chapter 59, as so appearing, is hereby further
316 amended by inserting after the word ‘corporation’, in line 255, the following words:- ‘or a
317 telephone corporation subject to chapter 166’.

318 SECTION 32. Section 12 of chapter 62C of the General Laws, as so appearing, is hereby
319 amended by striking out subsection (g).

320 SECTION 33. Said section 12 of said chapter 62C, as so appearing, is hereby further
321 amended by striking out, in lines 40 and 41, the words ‘and fifty-two A of chapter sixty-three’
322 and inserting in place thereof the following words:- of chapter 63.

323 SECTION 34. Subsection (d) of section 2A of chapter 63 of the General Laws, as so
324 appearing, is hereby amended by striking out paragraph (xi) and inserting in place thereof the
325 following paragraph:-

326 (xi) The numerator of the receipts factor includes receipts from sales, other than sales of
327 tangible personal property, not otherwise apportioned under this section to the extent that those
328 receipts would be included in the numerator of a corporation's sales factor as determined
329 pursuant to subsection (f) of section 38. For purposes of the receipts sourced pursuant to this
330 paragraph, paragraph (xiii) of subsection (d) shall not apply.

331 SECTION 35. Section 31H of said chapter 63 is hereby amended by striking out, in line
332 53, as so appearing, the words ‘, section 39 and section 52A’ and inserting in place thereof the
333 following words:- ‘and section 39’.

334 SECTION 36. Section 38 of said chapter 63, is hereby amended by striking out, in line
335 31, as so appearing, the words ‘or of section 52A’.

336 SECTION 37. Said section 38 of said chapter 63, as most recently amended by section 32
337 of chapter 194 of the acts of 2011, is hereby further amended by striking out subsection (f) and
338 inserting in place thereof the following subsection:-

339 (f) The sales factor is a fraction, the numerator of which is the total sales of the
340 corporation in the commonwealth during the taxable year, and the denominator of which is the
341 total sales of the corporation everywhere during the taxable year.

342 As used in this subsection, unless specifically stated otherwise, ‘sales’ shall mean all
343 gross receipts of the corporation, including deemed receipts from transactions treated as sales or
344 exchanges under the Code, except interest, dividends and gross receipts from the maturity,
345 redemption, sale, exchange or other disposition of securities; provided, however, that ‘sales’
346 shall not include gross receipts from transactions or activities to the extent that a non-domiciliary
347 state would be prohibited from taxing the income from such transactions or activities under the
348 Constitution of the United States. Sales of tangible personal property are in the commonwealth
349 if:-

350 (1) the property is delivered or shipped to a purchaser within the commonwealth
351 regardless of the f. o. b. point or other conditions of the sale; or

352 (2) the corporation is not taxable in the state of the purchaser and the property was
353 not sold by an agent or agencies chiefly situated at, connected with or sent out from premises for
354 the transaction of business owned or rented by the corporation outside the commonwealth.
355 'Purchaser', as used in clauses (1) and (2) shall include the United States government.

356 Sales, other than sales of tangible personal property, are in the commonwealth if the
357 corporation's market for the sale is in the commonwealth. The corporation's market for a sale is
358 in the commonwealth and the sale is thus assigned to the commonwealth for the purpose of this
359 section:-

360 (1) in the case of sale, rental, lease or license of real property, if and to the extent
361 the property is located in the commonwealth;

362 (2) in the case of rental, lease or license of tangible personal property, if and to the
363 extent the property is located in the commonwealth;

364 (3) in the case of sale of a service, if and to the extent the service is delivered to a
365 location in the commonwealth;

366 (4) in the case of lease or license of intangible property, including a sale or
367 exchange of such property where the receipts from the sale or exchange derive from payments
368 that are contingent on the productivity, use or disposition of the property, if and to the extent the
369 intangible property is used in the commonwealth; and

370 (5) in the case of the sale of intangible property, other than as provided in clause
371 (4), where the property sold is a contract right, government license or similar intangible property
372 that authorizes the holder to conduct a business activity in a specific geographic area, if and to

373 the extent that the intangible property is used in or otherwise associated with the commonwealth;
374 provided, however, that any sale of intangible property, not otherwise described in this clause or
375 clause (4), shall be excluded from the numerator and the denominator of the sales factor.

376 For the purposes of this subsection: (1) in the case of sales, other than sales of tangible
377 personal property, if the state or states to which sales should be assigned cannot be determined, it
378 shall be reasonably approximated; (2) in the case of sales other than sales of tangible personal
379 property if the taxpayer is not taxable in a state to which a sale is assigned, or if the state or states
380 to which such sales should be assigned cannot be determined or reasonably approximated, such
381 sale shall be excluded from the numerator and denominator of the sales factor; (3) the
382 corporation shall be considered to be taxable in the state of the purchaser if tangible personal
383 property is delivered or shipped to a purchaser in a foreign country; (4) sales of tangible personal
384 property to the United States government or any agency or instrumentality thereof for purposes
385 of resale to a foreign government or any agency or instrumentality thereof are not sales made in
386 the commonwealth; (5) in the case of sale, exchange or other disposition of a capital asset, as
387 defined in paragraph (m) of section 1 of chapter 62, used in a taxpayer's trade or business,
388 including a deemed sale or exchange of such asset, ‘sales’ shall be measured by the gain from the
389 transaction; (6) ‘security’ shall mean any interest or instrument commonly treated as a security as
390 well as other instruments which are customarily sold in the open market or on a recognized
391 exchange, including, but not limited to, transferable shares of a beneficial interest in any
392 corporation or other entity, bonds, debentures, notes and other evidences of indebtedness,
393 accounts receivable and notes receivable, cash and cash equivalents including foreign currencies
394 and repurchase and futures contracts; (7) in the case of a sale or deemed sale of a business, the
395 term ‘sales’ shall not include receipts from the sale of the business ‘goodwill’ or similar

396 intangible value, including, without limitation, ‘going concern value’ and ‘workforce in place’;
397 (8) to the extent authorized under the life sciences tax incentive program established by section 5
398 of chapter 23I, a certified life sciences company may be deemed a research and development
399 corporation for purposes of exemptions under chapters 64H and 64I; and (9) in the case of a
400 business deriving receipts from operating a gaming establishment or otherwise deriving receipts
401 from conducting a wagering business or activity, income-producing activity shall be considered
402 to be performed in the commonwealth to the extent that the location of wagering transactions or
403 activities that generated the receipts is in the commonwealth.

404 Notwithstanding the foregoing, mutual fund sales as defined in subsection (m), other than
405 the sale of tangible personal property, shall be assigned to the commonwealth to the extent that
406 shareholders of the regulated investment company are domiciled in the commonwealth as
407 follows:

408 (a) by multiplying the taxpayer's total dollar amount of sales of such services on behalf of
409 each regulated investment company by a fraction, the numerator of which shall be the average of
410 the number of shares owned by the regulated investment company's shareholders domiciled in
411 the commonwealth at the beginning of and at the end of the regulated investment company's
412 taxable year that ends with or within the taxpayer's taxable year and the denominator of which
413 shall be the average of the number of shares owned by the regulated investment company
414 shareholders everywhere at the beginning of and at the end of the regulated investment
415 company's taxable year that ends with or within the taxpayer's taxable year.

416 (b) A separate computation shall be made to determine the sale for each regulated
417 investment company, the sum of which shall equal the total sales assigned to the commonwealth.

418 The commissioner shall adopt regulations to implement this subsection. Nothing in this
419 subsection shall limit the commissioner's authority under subsection (j).

420 SECTION 38. Clause (5) of the third paragraph of subsection (f) of said section 38 of
421 said chapter 63 is hereby amended by striking out subclauses (8) and (9), as appearing in section
422 37, and inserting in place thereof the following words:- and (8) in the case of a business deriving
423 receipts from operating a gaming establishment or otherwise deriving receipts from conducting a
424 wagering business or activity, income-producing activity shall be considered to be performed in
425 the commonwealth to the extent that the location of wagering transactions or activities that
426 generated the receipts is in the commonwealth.

427 SECTION 39. Section 52A of said chapter 63 is hereby repealed.

428 SECTION 40. Section 59 of said chapter 63, as appearing in the 2010 Official Edition, is
429 hereby amended by striking out, in lines 10 and 11, the words '; but this section shall not apply
430 to corporations subject to section fifty-two A'.

431 SECTION 41. Section 67 of said chapter 63, as so appearing, is hereby amended by
432 striking out the last sentence.

433 SECTION 42. Section 68C of said chapter 63, as so appearing, is hereby amended by
434 striking out clause (3).

435 SECTION 43. Section 1 of chapter 64A of the General Laws, as so appearing, is hereby
436 amended by striking out, in lines 98 to 102, inclusive, the definition 'Tax per gallon' and
437 inserting in place thereof the following definition:-

438 ‘Tax per gallon’, shall be 24 cents per gallon. For aviation fuel, ‘tax per gallon’ shall mean 7 1/2
439 per cent of the average price, as determined by the commissioner, for each calendar quarter,
440 computed to the nearest tenth of a cent per gallon; provided, however, that such tax shall not be
441 less than 10 cents per gallon.

442 SECTION 44. Said section 1 of said chapter 64A, is hereby further amended, by inserting
443 after the word ‘gallon’, the second time it appears, in line 98, as amended by section 43, the
444 following words:- , adjusted at the beginning of each calendar year, by the percentage, if any, by
445 which the Consumer Price Index for the preceding year exceeds the Consumer Price Index for
446 the calendar year that ends before such preceding year; provided, that the Consumer Price Index
447 for any calendar year shall be as defined in section 1 of the Internal Revenue Code pursuant to 26
448 U.S.C. section 1; and provided further, that the tax shall not be less than 21.5 cents per gallon.

449 SECTION 45. Section 6 of chapter 64C of the General Laws, as so appearing, is hereby
450 amended by striking out the first paragraph and inserting in place thereof the following
451 paragraph:-

452 Every licensee who is required to file a return under section 16 of chapter 62C shall, at the time
453 of filing such return, pay to the commissioner an excise equal to 150 1/2 mills plus any amount
454 by which the federal excise tax on cigarettes is less than 8 mills for each cigarette so sold during
455 the calendar month covered by the return; provided, however, that cigarettes with respect to
456 which the excise under this section has once been imposed and has not been refunded, if paid,
457 shall not be subject upon a subsequent sale to the excise imposed by this section. Each
458 unclassified acquirer shall, at the time of filing a return required by said section 16 of said
459 chapter 62C, pay to the commissioner an excise equal to 150 1/2 mills plus any amount by which

460 the federal excise tax on cigarettes is less than 8 mills for each cigarette so imported or acquired
461 and held for sale or consumption, and cigarettes, with respect to which such excise has been
462 imposed and has not been refunded, if paid, shall not be subject, when subsequently sold, to any
463 further excise under this section. The commissioner may, in the commissioner's discretion,
464 require reports from any common carrier who transports cigarettes to any point or points within
465 the commonwealth and from any other person who, under contract, so transports cigarettes, and
466 from any bonded warehouseman or bailee who has in his possession any cigarettes, such reports
467 to contain such information concerning shipments of cigarettes as the commissioner shall
468 determine. All such carriers, bailees, warehousemen and other persons shall permit the
469 examination by the commissioner or the commissioner's duly authorized agent of any records
470 relating to the shipment of cigarettes into or from, or the receipt thereof within, the
471 commonwealth.

472 SECTION 46. Said section 6 of said chapter 64C, as so appearing, is hereby further
473 amended by striking out the second paragraph and inserting in place thereof the following
474 paragraph:-

475 Notwithstanding this section, the excise imposed by this section shall equal 160 per cent of the
476 price paid by such licensee or unclassified acquirer to purchase smokeless tobacco so sold,
477 imported or acquired.

478 SECTION 47. Section 7B of said chapter 64C, as so appearing, is hereby amended by
479 striking out subsection (b) and inserting in place thereof the following subsection:-

480 (b) An excise shall be imposed on all cigars and smoking tobacco held in the commonwealth at
481 the rate of 40 per cent of the wholesale price of such products. This excise shall be imposed on

482 cigar distributors at the time cigars or smoking tobacco are manufactured, purchased, imported,
483 received or acquired in the commonwealth. This excise shall not be imposed on any cigars or
484 tobacco products that (i) are exported from the commonwealth; or (ii) are not subject to taxation
485 by the commonwealth pursuant to any law of the United States.

486 SECTION 48. Section 1 of chapter 64H of the General Laws, as so appearing, is hereby
487 amended by inserting after the definition of 'Commissioner' the following definition:-

488 'Computer system design services', the planning, consulting or designing of computer
489 systems that integrate computer hardware, software or communication technologies and are
490 provided by a vendor or a third party.

491 SECTION 49. Said section 1 of said chapter 64H, as so appearing, is hereby further amended by
492 striking out, in lines 232 to 242, inclusive, the definition of 'Services'and inserting in place
493 thereof the following definition:-

494 'Services', a commodity consisting of activities engaged in by a person for another person for a
495 consideration; provided, however, that the term 'services' shall not include activities performed
496 by a person who is not in a regular trade or business offering such person's services to the public,
497 and shall not include services rendered to a member of an affiliated group, as defined by section
498 1504 of the Internal Revenue Code, by another member of the same affiliated group that does not
499 sell to the public the type of service provided to its affiliate, or data access, data processing or
500 information management services; and provided further, that the term services shall be limited to
501 the following items: telecommunications services, computer system design services and the
502 modification, integration, enhancement, installation or configuration of standardized software.

503 SECTION 50. Section 24 of chapter 161A of the General Laws, as so appearing is hereby
504 amended by adding the following 3 sentences: -

505 Real property of the authority shall, if leased, used, or occupied in connection with a
506 business conducted for profit shall, for the privilege of such lease, use or occupancy be valued,
507 classified, assessed and taxed annually as of January 1 to the lessee, user, or occupant in the
508 same manner and to the same extent as if such lessee, user, or occupant were the owner thereof
509 in full. No tax assessed under this section shall be a lien upon the real estate with respect to
510 which it is assessed; nor shall any tax be enforced by any sale or taking of such real estate; but
511 the interest of any lessee therein may be sold or taken by the collector of the town in which the
512 real estate lies for the nonpayment of such taxes in the manner provided by law for the sale or
513 taking of real estate for nonpayment of annual taxes. Notwithstanding the previous sentence,
514 such collector may utilize all other remedies provided by chapter 60 for the collection of annual
515 taxes upon real estate and for the collection of taxes assessed under this section.

516 SECTION 51. Section 5 of chapter 161B of the General Laws, as so appearing, is hereby
517 amended by striking out the second paragraph and inserting in place thereof the following 2
518 paragraphs:-

519 One representative of the disabled commuter population shall serve on the advisory board
520 as a voting member for a term of 1 year. Each city and town in the region, on a rotating basis as
521 determined by the board, shall appoint a representative successively; provided, however, that the
522 representative of the disabled commuter population and the representative of the rider
523 community shall not be appointed by the same city or town in the region. The mayor or city
524 manager and the chairman, town manager or town administrator shall appoint a resident of the

525 city or town for this purpose. This representative shall be mobility impaired, have a family
526 member who is mobility impaired, be a caretaker of a person who is mobility impaired or work
527 for an organization that serves the needs of the physically disabled. The representative of a city
528 or town may be reappointed after representatives from the other cities and towns within the
529 region have served their 1-year terms.

530 One representative of the rider community population shall serve on the advisory board
531 as a voting member for a term of 1 year. Each city and town in the region, on a rotating basis as
532 determined by the board, shall appoint a representative successively; provided, however, that the
533 representative of the disabled commuter population and the representative of the rider
534 community shall not be appointed by the same city or town in the region.The mayor or city
535 manager and the chairman, town manager or town administrator shall appoint a community rider
536 for this purpose from a list of at least 5 persons nominated by the Massachusetts AFL-CIO and
537 its regional councils. The representative of a city or town may be reappointed after
538 representatives from the other cities and towns within the region have served their 1-year terms.

539 SECTION 52. Section 7 of chapter 164A of the General Laws, as so appearing, is hereby
540 amended by striking out, in line 1, the word '(a)'.

541 SECTION 53. Said section 7 of said chapter 164A, as so appearing, is hereby further
542 amended by striking out subsection (b).

543 SECTION 54. The second paragraph of section 2 of chapter 465 of the acts of 1956 is
544 hereby amended by striking out the first sentence and inserting in place thereof the following 2
545 sentences:-

546 The Authority shall consist of 7 members; 6 of whom shall be appointed by the governor
547 and 1 of whom shall be appointed by the Massachusetts Port Authority Community Advisory
548 Committee in accordance with this act and according to the by-laws of said Committee.
549 Members shall serve for a term of 7 years.

550 SECTION 55. Said chapter 465 is hereby further amended by striking out section 36,
551 added by section 128 of chapter 25 of the acts of 2009, and inserting in place thereof the
552 following section:-

553 Section 36. (a) There shall be an advisory board to the authority which shall be named the
554 Massachusetts Port Authority Community Advisory Committee. The Massachusetts Port
555 Authority Community Advisory Committee shall consist of a voting member from each of the
556 following cities and towns: Bedford, Beverly, Braintree, Brookline, Cambridge, Chelsea,
557 Cohasset, Concord, Everett, Hingham, Hull, Lexington, Lincoln, Malden, Melrose, Medford,
558 Milton, Nahant, Quincy, Revere, Scituate, Somerville, Weymouth, Worcester and Winthrop;
559 provided, that the city of Boston shall have 6 voting members, 1 of whom shall be from the East
560 Boston section of the city of Boston and 1 of whom shall be from the South Boston section of the
561 city of Boston. The members of the Massachusetts Port Authority Community Advisory
562 Committee shall be appointed by the chief executive officer of each community listed above;
563 provided, that appointed members shall be versed in at least 1 of the following disciplines:
564 airport operations; environmental affairs, labor relations, public health or port operations. For the
565 purpose of this section, the term 'chief executive officer' shall mean the person designated as the
566 chief executive officer under the provisions of a local charter or laws having the force of a
567 charter, or, in the absence of such local charter or laws having the force of a local charter the

568 mayor in every city and the chairman of the board of selectmen or president of the town council,
569 as the case may be, in every town.

570 (b) Each voting member shall cast 1 vote on the Massachusetts Port Authority
571 Community Advisory Committee.

572 (c) The Massachusetts Port Authority Community Advisory Committee may act at a
573 regular periodic meeting called in accordance with its by-laws, at a special meeting called by the
574 Authority or if a majority of members choose to do so. Except as provided in (f), a quorum of
575 the Massachusetts Port Authority Community Advisory Committee shall consist of a simple
576 majority of voting members present, and the Massachusetts Port Authority Community Advisory
577 Committee may act, except as otherwise provided in paragraph (f), by affirmative casting of a
578 majority of the votes represented in the quorum. The Massachusetts Port Authority Community
579 Advisory Committee shall be deemed to be a governing body for the purposes of, and shall be
580 subject to, sections 18 to 25, inclusive, of chapter 30A of the General Laws.

581 (d) The Massachusetts Port Authority Community Advisory Committee shall adopt and
582 may revise and amend by-laws. The Massachusetts Port Authority Community Advisory
583 Committee shall annually elect a chairperson, a vice-chairperson, a secretary and such officers as
584 said Massachusetts Port Authority Community Advisory Committee might determine. Each
585 member of said Massachusetts Port Authority Community Advisory Committee shall serve
586 without compensation, except if a member provides specialized services, such as legal,
587 accounting, record keeping, administration, or any other specialized services provided to the
588 Massachusetts Port Authority Community Advisory Committee. Members may be reimbursed,
589 as an expense of said Massachusetts Port Authority Community Advisory Committee, for all

590 reasonable expenses incurred in the performance of their duties as approved by the
591 Massachusetts Port Authority Community Advisory Committee.

592 (e) The purposes of the Massachusetts Port Authority Community Advisory Committee
593 shall be as follows: (i) to appoint a member to the board of directors of the Massachusetts Port
594 Authority, as provided for in section 2 of this chapter and in the manner prescribed in paragraph
595 (f) of this section; (ii) to make recommendations to the authority on annual current expense
596 expenditure budgets submitted to the Massachusetts Port Authority Community Advisory
597 Committee under paragraph (g); (iii) to hold hearings, which may be held jointly with the
598 authority at the discretion of the Massachusetts Port Authority Community Advisory Committee
599 and said authority, on matters relating to said authority; (iv) to review the annual report of the
600 authority and to prepare comments thereon to the authority and the governor, and to make such
601 examinations of the reports on the authority's records and affairs as the Massachusetts Port
602 Authority Community Advisory Committee deems appropriate; and (v) to make
603 recommendations to the governor and the general court respecting the authority and its programs.
604 The Massachusetts Port Authority Community Advisory Committee shall have all powers
605 necessary or convenient to carry out and effectuate the foregoing purposes.

606 (f) With respect to appointment of any member of the board of directors, the
607 Massachusetts Port Authority Community Advisory Committee shall act only if a special
608 quorum is present consisting of 2/3 of voting members. The Massachusetts Port Authority
609 Community Advisory Committee's appointment to the board of directors shall be a resident of 1
610 of the following communities: the East Boston or South Boston section of the city of Boston, or
611 the town of Winthrop.

612 (g) The Massachusetts Port Authority Community Advisory Committee may hold a
613 public hearing on matters relating to said budget to ascertain, for subsequent report to the
614 authority if necessary, the views of the public thereon.

615 (h) The Massachusetts Port Authority Community Advisory Committee may provide for
616 the appointment of staff to who shall serve at the pleasure of the committee.

617 (i) The Massachusetts Port Authority Community Advisory Committee may incur annual
618 expenses, not to exceed $250,000. Said annual expenses shall be paid by the authority.

619 (j) The authority shall provide any information including, but not limited to, annual
620 current expense expenditure budgets and capital expenditure reports, requested by the
621 Massachusetts Port Authority Community Advisory Committee which are necessary for the
622 discharge of its duties; provided, however, that the Massachusetts Port Authority Community
623 Advisory Committee shall not be granted access to any information if it be determined by the
624 executive director of the authority and the director of security for the authority that the release of
625 such information would be detrimental to public safety, or if providing such information would
626 be in violation of any federal statute or regulation of the Federal Aviation Administration or
627 other federal agency; provided, further, that said determination shall be made in writing which
628 shall be delivered to the Massachusetts Port Authority Community Advisory Committee within
629 10 business days.

630 SECTION 56. Section 25 of chapter 130 of the acts of 2008 is hereby repealed.

631 SECTION 57. Section 54 of said chapter 130, as amended by section 24 of chapter 9 of
632 the acts of 2011, is hereby further amended by striking out the figure ‘, 25’.

633 SECTION 58. Notwithstanding any general or special law to the contrary and pursuant to
634 clause 18 of section 3 of chapter 6C of the General Laws, any report setting forth the fiscal
635 alternatives shall include an assessment of whether a revision to the toll structure is necessary
636 before the implementation of a system of fair and equitable tolling across the commonwealth
637 under a comprehensive tolling program developed by the department.

638 SECTION 59. The project selection advisory council established pursuant to section 11A
639 of chapter 6C of the General Laws shall hold its first meeting by January 1, 2014, and all
640 meetings of the council shall comply with chapter 30A of the General Laws. Final approval of
641 the project selection criteria under said section 11A of said chapter 6C shall be completed by
642 December 31, 2014 and copies of the criteria shall be submitted to the house and senate
643 committees on ways and means and the joint committee on transportation.

644 SECTION 60. (a) Notwithstanding any general or special law to the contrary, the
645 Massachusetts Department of Transportation shall ensure that the budget includes sufficient
646 revenue from sources of revenue listed in subsection (c) to meet the following benchmarks: (i) in
647 fiscal year 2014, the department shall contribute 47 per cent of the department's operating
648 budget; (ii) in fiscal year 2015, the department shall contribute 48 per cent of the department's
649 operating budget; (iii) in fiscal year 2016, the department shall contribute 50 per cent of the
650 department's operating budget; (iv) in fiscal year 2017, the department shall contribute 51 per
651 cent of the department's operating budget; and (v) in fiscal year 2018, the department shall
652 contribute 51 per cent of the department's operating budget.

653 (b) The benchmarks in subsection (a) may be achieved through any combination of
654 revenue increases under subsection (c) and savings to the department's operating budget;

655 provided, however, that the department shall submit a preliminary report of savings to the
656 operating budget by October 1 of each fiscal year and a final report of savings to the operating
657 budget by January 1 of each fiscal year. Those preliminary and final reports shall be submitted
658 to the house and senate committees on ways and means and the joint committee on
659 transportation.

660 (c) The revenue generated to meet the benchmarks in subsection (a) may be derived from:
661 (i) fees collected by the registrar of motor vehicles under section 34 of chapter 90 of the General
662 Laws; (ii) funds available to the registry of motor vehicles through the Motor Vehicle Inspection
663 Trust Fund under section 61 of chapter 10 of the General Laws; provided, however, that
664 expenses of the administration and implementation of the motor vehicle inspection program as
665 provided in said section 61 of chapter 10 shall first be met; (iii) funds contributed to the
666 Massachusetts Transportation Trust Fund established in section 4 of chapter 6C of the General
667 Laws; and (iv) any other funds directly collected by the department; provided, however, that no
668 funds collected through increases in tolls charged and collected as of January 1, 2013 under
669 section 13 of said chapter 6C shall be counted towards the benchmarks in subsection (a) unless
670 the department has collected revenue from tolls for transit on roads not tolled as of July 1, 2013.

671 SECTION 61. (a) Notwithstanding any general or special law to the contrary, the
672 Massachusetts Bay Transportation Authority shall, in the authority's budget as approved by the
673 board of directors under section 20 of chapter 161A of the General Laws, ensure that the budget
674 includes sufficient revenue from sources of revenue listed in subsection (c) to meet the following
675 benchmarks: (i) in fiscal year 2014, the authority shall contribute 31.5 per cent of the authority's
676 operating budget; (ii) in fiscal year 2015, the authority shall contribute 33 per cent of the
677 authority's operating budget; (iii) in fiscal year 2016, the authority shall contribute 33.25 per cent

678 of the authority's operating budget; (iv) in fiscal year 2017, the authority shall contribute 32.75
679 per cent of the authority's operating budget; and (v) in fiscal year 2018, the authority shall
680 contribute 34 per cent of the authority's operating budget.

681 (b) The benchmarks in subsection (a) may be achieved through increasing nonfare
682 revenues, increasing total fare revenues through ridership growth, increasing fare levels while
683 accounting for potential loss of ridership from fare increases or from savings to the authority's
684 operating budget; provided, however, that the authority shall submit a preliminary report of
685 savings to the operating budget by October 1 of each fiscal year and a final report of savings to
686 the operating budget by January 1 of each fiscal year to the house and senate committees on
687 ways and means and the joint committee on transportation.

688 (c) The revenue generated to meet the benchmarks in subsection (a) may be derived from
689 any funds collected by the authority through fees and fares and any other funds directly collected
690 by the authority; provided, however, that such revenue shall not include funds contributed to the
691 Massachusetts Bay Transportation Authority State and Local Contribution Fund under section
692 35T of chapter 10 of the General Laws.

693 (d) The authority shall not increase fares at intervals of less than 24 months or at an
694 annual rate greater than 5 per cent.

695 SECTION 62. (a) The Massachusetts Department of Transportation shall use the
696 revenues generated by this act to comply with the second sentence of section 15 of chapter 6C of
697 the General Laws requiring the salaries and benefits of employees of the department to be
698 classified and funded as operating expenditures. The department shall comply with said section
699 15 of said chapter 6C on or before June 30, 2016.

700 (b) The secretary of transportation, in consultation with the secretary of administration
701 and finance, shall file a report regarding the department's compliance with the second sentence
702 of said section 15 of said chapter 6C on or before August 15, 2013. The report shall include, but
703 not be limited to: (1) the number of employees with salaries funded by capital expenditures in
704 fiscal year 2013; (2) the total cost of employee salaries charged to capital expenditures in fiscal
705 year 2013; (3) the number of employees and total cost of employee salaries that the department
706 estimates will be moved from capital expenditures to operating expenditures in fiscal years 2014,
707 2015 and 2016; and (4) a strategy to dedicate a portion of the funds made available through
708 compliance with this section to projects that are included in the authority's 5-year rolling capital
709 investment plan as published in accordance with section 5 of chapter 161A of the General Laws.
710 The report shall be filed with the joint committee on transportation, the house and senate
711 committees on bonding, capital expenditures and state assets and the house and senate
712 committees on ways and means.

713 (c) The department shall use as necessary the extra bonding capacity or any portion
714 thereof created by the removal of personnel costs from the capital budget pursuant to this section
715 to fund the capital costs associated with planning, design, permitting, engineering and
716 construction of transportation projects.

717 SECTION 63. Notwithstanding any general or special law to the contrary, each regional
718 transit authority established under chapter 161B of the General Laws shall develop a
719 comprehensive regional transit plan in consultation with the appropriate regional planning
720 agency, the Massachusetts Department of Transportation, local employers and the business
721 associations, labor organizations and transit authority riders. The plan shall include, but not be
722 limited to: (1) a comprehensive assessment of transit services; (2) a thorough examination of the

723 ridership trends for each line and service provided by the regional transit authority; (3) a
724 performance analysis of existing services; (4) the development and evaluation of alternative
725 service scenarios; (5) the development of a recommendation to better align service with local and
726 regional demand; (6) the commonwealth's environmental policies; (7) fare rates and collection
727 methods; (8) the region's job creation goals and employment needs; and (9) a determination of
728 whether the regional transit authority's service is deployed in the most effective way possible to
729 accommodate the transit needs of the region's workforce. The development of the plan shall
730 include public hearings in different regions of the commonwealth and the opportunity to
731 comment on a draft report.

732 SECTION 64. There shall be a value capture commission consisting of the following 7
733 members: the secretary of transportation or a designee, who shall serve as chair; the secretary of
734 administration and finance or a designee; and 5 members who shall be appointed by the
735 governor, 2 of whom shall be representatives of business associations; 1 of whom shall represent
736 organized labor; 1 of whom shall be a representative of the Massachusetts Municipal
737 Association; and 1 of whom shall be a representative of a regional planning agency. The
738 commission shall review and evaluate the policies and best practices of other jurisdictions used
739 to obtain benefits from the increased value of adjacent properties as a result of public
740 infrastructure projects or 'value capture' and the current policies and mechanisms available
741 within the commonwealth relative to value capture. The commission shall report to the general
742 court on the effectiveness of the commonwealth's current value capture policies and recommend
743 whether certain policies from other jurisdictions should be implemented as part of the
744 comprehensive state transportation plan, required under section 11 of chapter 6C of the General

745 Laws. A report of the commission's findings shall be filed with the clerks of the house of
746 representatives and senate not later than March 1, 2014.

747 SECTION 65. Notwithstanding any general or special law to the contrary, the
748 Massachusetts Department of Transportation shall review the current status of the use of rights-
749 of-way in the state highway system, the turnpike and the metropolitan highway system, all as
750 defined in section 1 of chapter 6C of the General Laws. The review shall also present the current
751 status of efforts by the department to collect rents or other compensation for the use of
752 department-owned rights-of-way. The review shall also include, but not be limited to, an
753 inventory of the owners of utilities or utility facilities that occupy department-owned rights-of-
754 way, according to town and either state route number or road name, as will most clearly identify
755 the road or other transportation facility being referred to, and including underground facilities.
756 For each owner of a utility or utility facility that occupies department-owned rights-of-way, the
757 review shall state whether an easement or other agreement exists for the occupant's use of the
758 right-of-way, whether that agreement is in writing, whether such agreement requires
759 compensation to the department for the occupant's use of the right-of-way and if so, how much
760 compensation, the due date of the compensation, whether the compensation has been paid and
761 whether the compensation is monetary or non-monetary. For each owner of a utility or utility
762 facility that occupies department-owned rights-of-way, the review shall also state whether the
763 department knows if other occupants are also using that utility or utility facility, and if known to
764 the department, shall identify all other occupants of that utility or utility facility. If the
765 department knows that facilities exist on department-owned rights-of-way but does not know the
766 identity of the owner, the review shall describe such facilities and shall characterize the owners
767 as 'unidentified owners'.

768 The department, in consultation with the department of public utilities and the owners of
769 utilities and utility facilities, shall at the conclusion of the review, study and make
770 recommendations on policies and reimbursement mechanisms for when it is necessary that a
771 utility or utility facility, as defined under federal law, be relocated by the division of highways or
772 the Massachusetts Bay Transportation Authority because of construction of a project. The
773 department shall review the current provisions of section 44 of chapter 6C of the General Laws
774 and section 5 of chapter 161A of the General Laws, specifically current thresholds for eligible
775 projects, the annual cap on the total reimbursement by the department and the reimbursement
776 formula for the total costs of functional replacements of utility lines or real properties. The
777 department shall recommend a utility reimbursement formula that takes into account, but is not
778 limited to, the following factors: whether the project is to be reimbursed federally, in whole or in
779 part, or to be paid by the commonwealth, in whole or in part; if the utility facility is to be
780 reimbursed, in whole or in part or does not qualify for federal reimbursement; if the relocation
781 shall by performed by the employees of the owner; and the nature of the project.

782 The department shall file a report containing the department's findings from the review of
783 the current status of the use of rights-of-way in the state highway system, the turnpike and the
784 metropolitan highway system and the study on utility reimbursement mechanisms, together with
785 any recommended legislation, with the clerks of the house and senate, the joint committee on
786 transportation, the joint committee on telecommunications, utilities and energy, the house and
787 senate committees on ways and means and the house and senate committees on bonding, capital
788 expenditures and state assets on or before March 1, 2014.

789 SECTION 66. Notwithstanding any general or special law to the contrary, the
790 Massachusetts Bay Transportation Authority shall expend funds on capital investment projects,

791 including the green line extension project and the south coast rail project, that are listed in the
792 authority's 5-year rolling capital investment plan as published in accordance with section 5 of
793 chapter 161A of the General Laws.

794 SECTION 67. Notwithstanding any general or special law to the contrary, on or before
795 December 31, 2013, the Massachusetts Department of Transportation shall develop a
796 comprehensive tolling plan for additional interstate and limited access state highways within the
797 commonwealth on or before July 1, 2018, which shall consider equity issues, revenue
798 benchmarks established by state law, policy objectives, diversion issues, cost and consistency
799 with the current highway program and necessary waivers or approvals from the Federal Highway
800 Administration to toll additional interstate highways and which also shall examine a regional
801 value pricing program, road pricing program and other available tolling options.

802 SECTION 68. (a) Notwithstanding any general or special law to the contrary, the
803 performance and asset management advisory council shall, pursuant to section 12A of chapter
804 6C of the General Laws, and in consultation with federal, state and local transportation agencies,
805 regional planning agencies and other governmental agencies, develop and recommend to the
806 board of directors of the Massachusetts Department of Transportation for approval such
807 procedures and requirements as are necessary for the administration of the performance and asset
808 management system on or before November 1, 2013. The recommendations shall include, at a
809 minimum: (1) a comprehensive plan for the development and integration of an asset management
810 and a performance measurement system with long-term statewide planning processes; (2) an
811 analytical process or decision support tool that allows for the estimation of capital investment
812 needs of such systems over time; and (3) an asset investment prioritization method by such

813 systems, including the possible use of a quantifiable project prioritization mechanism such as a
814 numeric scoring system.

815 (b) The recommendations shall also include areas of necessary training, data storage and
816 collection, reporting practices, development of program for implementation, budgeting and
817 funding, and other issues related to asset management that may arise from time to time in the
818 management of such system.

819 SECTION 69. Notwithstanding any general or special law to the contrary, the integrated
820 asset management system, as required by section 12 of chapter 6C of the General Laws, shall be
821 complete and operational on or before July 1, 2014.

822 SECTION 70. Notwithstanding any general or special law to the contrary, corporations
823 that filed as a utility corporation under section 52A of chapter 63 of the General Laws for taxable
824 years beginning before January 1, 2014, shall not be eligible to deduct from net income, the net
825 operating losses described in paragraph 5 of section 30 of said chapter 63 for losses sustained
826 prior to the taxable year beginning on or after January 1, 2014.

827 SECTION 71. Notwithstanding any general or special law to the contrary, nothing in
828 section 37 shall restrict the authority of the commissioner of revenue under subsection (j) of
829 section 38 of chapter 63 of the General Laws, nor shall it affect the continuing validity or
830 application of regulations adopted under subsection (f) of said section 38 of said chapter 63 in
831 effect as of the effective date of this act.

832 SECTION 72. Notwithstanding any general or special law to the contrary, a
833 manufacturer, wholesaler, vending machine operator, unclassified acquirer or retailer, as defined
834 in section 1 of chapter 64C of the General Laws, and a stamper appointed by the commissioner

835 under section 30 of said chapter 64C who, as of the commencement of business 7 days after the
836 effective date of this act, has on hand any cigarettes for sale or any unused adhesive or encrypted
837 stamps, shall make and file with the commissioner within 21 days a return, subscribed and sworn
838 to under the penalties of perjury, showing a complete inventory of such cigarettes and stamps
839 and shall, at the time such manufacturer, wholesaler, vending machine operator, unclassified
840 acquirer, retailer or stamper is required to file such return, pay an additional excise of 50 mills
841 per cigarette on all cigarettes and all unused adhesive and encrypted stamps upon which an
842 excise of only 100½ mills has previously been paid. Chapters 62C of the General Laws and 64C
843 of the General Laws relative to the assessment, collection, payment, abatement, verification and
844 administration of taxes, including penalties, shall apply to the excise imposed by this section.

845 SECTION 73. Notwithstanding any general or special law to the contrary, the
846 Massachusetts Department of Transportation shall analyze the air quality impacts of the Central
847 Artery Project and associated transit commitments completed to date. The analysis shall be
848 conducted in cooperation with the Boston Region Metropolitan Planning Organization and shall
849 report on the levels of Volatile Organic Compounds, Oxides of Nitrogen, and Carbon Monoxide
850 in the MPO region and Eastern Massachusetts. The results of the analysis shall be provided to
851 the joint committee on transportation within 6 months of the effective date of this act.

852 SECTION 74. Notwithstanding any general or special law to the contrary, the
853 Massachusetts Department of Transportation shall study and report on the feasibility of
854 establishing additional interstate tolls along the borders of the commonwealth. The report shall
855 examine the several options available to the commonwealth to pursue border tolls, including, but
856 not limited to, seeking a federal waiver, reaching interstate or regional agreements and the
857 commonwealth's ability to establish border tolls in the event of proposed changes to federal law

858 on interstate highway tolling. The department shall file its report along with any legislative
859 recommendations with the house and senate committees on ways and means and the joint
860 committee on transportation on or before December 31, 2013.

861 SECTION 75. (a) Notwithstanding any general or special law to the contrary, the
862 Massachusetts Bay Transportation Authority shall, not later than January 1, 2014, issue a request
863 for proposals to sell, license or rent naming or sponsorship rights for all subway, bus or
864 commuter rail stations or other assets operated and owned by the authority. A request for
865 proposals shall be for a specified term, renewable at the sole discretion of the authority.

866 (b) The secretary of transportation shall direct all revenues generated by the
867 Massachusetts Bay Transportation Authority under this section to be used on mass transit capital
868 expansion projects.

869 SECTION 76. Notwithstanding any general or special law to the contrary, within 90 days
870 after the effective date of this act, the Massachusetts Department of Transportation shall provide
871 to the joint committee on transportation and the house and senate committees on ways and means
872 a plan to implement a proposed fee structure for collecting tolls for transit over the turnpike
873 between interchange 1 in the town of West Stockbridge and interchange 6 in the city of
874 Springfield at interstate highway route 291, inclusive, which shall include, but not be limited to,
875 the proposed fees, assumptions used to set the fees and a timeline to implement collection of the
876 fees.

877 SECTION 77. There shall be established, pursuant to section 2A of chapter 4 of the
878 General Laws, a tax fairness commission to study the federal, state and local tax laws applicable
879 to residents of the commonwealth. The commission shall review and evaluate the equity of

880 historical tax rates and methods in relation to the changing income and wealth of residents of the
881 commonwealth since 1990. The commission shall examine the experiences and policy efforts of
882 other states relating to tax fairness.

883 The commission shall file a report with the clerks of the senate and house of
884 representatives not later than March 1, 2014. The report shall include, but not be limited to: (i)
885 the total amount of taxes currently paid by individuals at various income levels; (ii) the effects
886 that changes to tax laws would have on individuals of all income levels; (iii) the changes in
887 revenue collected by the commonwealth as a result of tax law revisions; (iv) the adequacy of
888 revenue generated by individuals, businesses and any other tax types; (v) tax rates necessary to
889 fund investment in public infrastructure; (vi) tax rates necessary to promote prosperity for all
890 residents; (vii) restrictions on tax changes under Article XLIV of the Amendments to the
891 Constitution; (viii) recommendations for changes in laws to achieve an equitable and adequate
892 system of taxation; (ix) the best practices of other states; (x) tax rates necessary to ensure
893 economic competitiveness with peer and competitor states; (xi) tax rates necessary to avoid
894 destabilization of household budgets or undue hardships for citizens; and (xii) tax rates necessary
895 to foster and encourage robust private sector investment in capital equipment and the state's
896 work force.

897 The commission shall consist of the the house and senate chairs of the joint committee on
898 revenue or the chairs' designees, who shall serve as co-chairs of the commission; secretary of
899 administration and finance or the secretary's designee; the minority leader of the house of
900 representatives or a designee; the minority leader of the senate or a designee; the chairs of the
901 house and senate committees on ways and means or the chairs' designees;; a representative of
902 the Massachusetts Budget and Policy Center; a representative of the Massachusetts Taxpayers

903 Foundation; a representative of the Kitty and Michael Dukakis Center for Urban and Regional
904 Policy; a representative of the Pioneer Institute; and 4 members to be appointed by the governor,
905 1 of whom shall represent labor and 2 of whom shall have expertise in economics or tax policy.

906 SECTION 78. Notwithstanding any general or special law to the contrary, the secretary
907 of transportation and the general manager of the Massachusetts Bay Transportation Authority
908 shall meet with the secretary of administration and finance and the house and senate committees
909 on ways and means on the fiscal status of the Massachusetts Department of Transportation and
910 the Massachusetts Bay Transportation Authority in January and July of each year. The first
911 meeting under this section shall occur not later than December 31, 2013.

912 Not less than 15 days prior to each meeting, the secretary of transportation shall submit a
913 report to the secretary of administration and finance and the house and senate committees on
914 ways and means detailing: (i) year-to-date revenues collected, projected revenues and
915 expenditures for the current fiscal year; (ii) projected revenues and expenditures for the next 5
916 fiscal years; (iii) changes in revenue and expenditure projections from the previous semiannual
917 report; (iv) reasons for any changes from previous projections; (v) progress made toward
918 achieving revenue and savings targets set for fiscal years 2017 and 2018; and (vi) a plan detailing
919 how the fiscal year 2017 and fiscal year 2018 targets will be achieved.

920 In order to comply with clause (vi), the report submitted prior to the July 2015 meeting
921 shall identify any potential changes to the fare and fee structure necessary to achieve the
922 benchmarks set forth in sections 60 and 61 for fiscal year 2017 and fiscal year 2018. If the report
923 proposes to increase the fare and fee structure by 5 per cent, the report shall include an estimate

924 of additional support from the Commonwealth Transportation Fund or other revenue and saving
925 initiatives necessary to limit increases to not more than 5 per cent every 24 months.

926 SECTION 79. Notwithstanding any general or special law to the contrary, the
927 Massachusetts Bay Transportation Authority shall, as mandated by section 14 of chapter 132 of
928 the acts of 2012, issue a report on revenues collected through the use of sponsorship agreements.
929 The report shall include, but not be limited to, an analysis of revenues collected, offers to
930 sponsor which have been declined and attempts to increase and promote sponsorship
931 opportunities. The report and recommendations shall be filed with the clerks of the house of
932 representatives and the senate and to the house and senate committees on ways and means and
933 the joint committee on transportation not later than August 30, 2013.

934 SECTION 80. Notwithstanding any general or special law to the contrary, the
935 Massachusetts Bay Transportation Authority shall create a pilot program at 3 high-volume
936 parking station facilities dedicating not more than 10 per cent of the available parking to
937 customers willing to pay an increased premium for a reserved parking spot that is guaranteed to
938 be available to such customer if the customer arrives at the spot before a certain hour, as
939 determined by the authority; provided, however, that all net proceeds received as a result of the
940 pilot program shall be dedicated to the authority.

941 SECTION 81. Notwithstanding any general or special law to the contrary, the
942 Massachusetts Bay Transportation Authority shall issue a request for proposals from business,
943 civic and nonprofit entities to enter into sponsorship agreements for providing transportation
944 services beyond the current hours of operation.

945 SECTION 82. The first vacancy on the Massachusetts Port Authority Board to occur after
946 passage of this act shall be filled by appointment of the Massachusetts Port Authority
947 Community Advisory Committee established pursuant to section 55.

948 SECTION 83. Section 26 shall take effect on July 1, 2013.

949 SECTION 84. Sections 29 to 37, inclusive, 39 to 42, inclusive, 52, 53, 70 and 71 shall
950 take effect on January 1, 2014, and shall be effective for tax years beginning on or after January
951 1, 2014.

952 SECTION 85. Sections 18 and 21 to 25, inclusive, shall take effect on July 1, 2014.

953 SECTION 86. Sections 20 and 44 shall take effect on January 1, 2015.

954 SECTION 87. Sections 38, 56 and 57 shall take effect on December 31, 2018.

955 SECTION 88. Section 28 shall take effect on July 1, 2020.

956 SECTION 89. Sections 43, 45 to 49, inclusive and 72 shall take effect 7 days after the
957 effective date of this act."