

HOUSE No. 3382

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to transportation finance.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately make available monies for transportation financing in the fiscal year beginning July 1, 2013, and to make certain changes in law, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. To provide for certain unanticipated obligations of the commonwealth, and
2 to meet certain requirements of law, for fiscal year 2014 the sums set forth in section 2 are
3 hereby appropriated for the several purposes and subject to the conditions specified in said
4 section 2 and subject to laws regulating the disbursement of public funds. For the purpose of
5 making available in fiscal year 2014 balances of appropriations which otherwise would revert on
6 June 30, 2013, the unexpended balances of the maintenance appropriations listed below, not to
7 exceed the amount specified below for each item, are hereby re-appropriated for the purposes of
8 and subject to the conditions stated for the corresponding item in section 2 of the general
9 appropriation act for fiscal year 2014. Amounts in this section are re-appropriated from the fund
10 or funds designated for the corresponding item in section 2 of the general appropriation act;
11 provided, however, that for items which do not appear in section 2 of the general appropriation
12 act, the amounts in this section are re-appropriated from the fund or funds designated for the
13 corresponding item in section 2 of this act or in prior appropriation acts.

14 SECTION 2.

15 1595-6367 For the transportation performance and asset management advisory
16 council to assist with the development of a statewide integrated performance management
17 system pursuant to sections 12 and 12A of chapter 6C of the General
18 Laws.....\$100,000

19 SECTION 3. Clause (18) of section 3 of chapter 6C of the General Laws, as appearing in
20 the 2010 Official Edition, is hereby amended by striking out the words “the department shall”, in
21 line 73, and inserting in place thereof the following words:- prior to revising the toll structure,
22 the department shall publish a report on its website that sets forth the fiscal alternatives that were
23 examined in lieu of revising the toll structure and detail the reasons why such alternatives were
24 not viable fiscal options, the department shall then.

25 SECTION 4. Subsection (b) of section 4 of chapter 6C of the General Laws, as so
26 appearing, is hereby amended by inserting after the words “tools and facilities”, in line 46, the
27 following words:- ; provided that no less than \$100,000,000 shall annually be spent on repairs
28 and improvements to municipal ways and bridges.

29 SECTION 5. Chapter 6C of the General Laws is hereby amended by adding the
30 following new section:-

31 Section 11A. The secretary shall, after conducting a series of public hearings, prepare
32 and publish on the website of the department a comprehensive long term capital plan for the 10
33 succeeding fiscal years. The plan shall be developed consistent with projected federal, state and
34 local funds and shall identify sources and uses for those funds. The plan shall also incorporate
35 scenario analysis planning that accounts for future spending needs and life-cycle financing. It
36 shall also set forth estimates and costs for the optimal long-term preservation of each major
37 transportation system component, including the need for long term comprehensive system
38 management, maintenance and operations.

39 SECTION 6. Chapter 6C of the General Laws is hereby amended by adding the
40 following section:-

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

43 ”Performance and asset management system”, a permanent, comprehensive and
44 integrated system, developed by the department pursuant to section 12 , that requires the
45 operation, maintenance, upgrade, and expansion of all transportation assets, that are cost-
46 effectively administered throughout their lifecycle, by continuously updating physical inventory,
47 condition assessments, and performance information. The system shall establish goals, metrics,
48 and outcomes measuring transportation performance, as required by section 6.

49 “Council”, the transportation performance and asset management advisory council
50 created under this section.

51 “Local transportation agency”, the city, town, or other governmental entities’ department
52 of transportation or public works that has jurisdiction over the transportation assets in that city,
53 town or entity that receives state or federal funding.

54 “Transportation assets”, capital assets, including but not limited to, any city, town, county
55 or state highway, road, street, pavement, and parkway, facilities, structures, construction and
56 maintenance equipment, vehicles, real estate, materials, corporate data and information, and any
57 equipment, rolling stock, infrastructure, and facilities for use in public transportation, and ground
58 and water transportation facilities and equipment and any rights-of-way, bridges, tunnels,
59 railroad highway crossings, drainage structures, signs, guardrails.

60 (b) In order to provide a coordinated, unified effort on the stewardship and performance
61 of transportation assets within the commonwealth, there shall be a transportation performance
62 and asset management advisory council charged with advising the board on the creation of an
63 integrated statewide performance and asset management system, as required by section 12.

64 The council shall consist of the secretary, who shall serve as chair, and the following
65 members as appointed by the secretary: 2 members of the board, 2 members from the
66 Massachusetts Municipal Association, 2 members from different regional planning agencies, 1
67 member from the construction industry, and 1 member from a business association. Each
68 member shall be appointed for a term of 3 years. The council may appoint a technical assistance
69 panel, to serve in an advisory, non-binding capacity, comprised of transportation planning,
70 construction and engineering associations. The council shall determine the scope of research and
71 assign projects to the technical assistance panel as necessary in the development of statewide
72 policies. The department shall provide the council with qualified administrative staff and the
73 regional planning agencies may provide qualified technical assistance to the council.

74 (c) The council shall review the performance measurement criteria required for the
75 performance management and asset system pursuant to subsection (b) of section 6 and the
76 comprehensive state transportation plan required under section 11A. The council shall make a
77 report to the board on the following: improvements that can be made to ensure comprehensive
78 multi-modal transportation planning and analysis, and additional performance metrics, such as
79 enterprise-wide measures across modes, contract management, procurement, project controls,
80 financials, organizational and prioritization outcomes, and economic development impacts. The
81 council shall make recommendations on the processes and necessary tools needed to implement
82 a strategy for a statewide performance and asset management system.

83 (d) The council shall present minimum standards and guidelines delineating standardized
84 data and information that shall be contained in an integrated performance and asset management
85 system, including the complete integration of transit, highway, aeronautics, water and port assets,
86 and the possible inclusion of municipal roadways. The minimum standards shall include the
87 keeping of accurate and uniform records of real transportation assets, the mileage and condition
88 of each road and bridge system under various jurisdictions, the receipts and disbursements of
89 road, street, and transit funds, a multiyear compilation of projects anticipated to be contracted for
90 or by the department, or local transportation agencies that are funded in whole or in part with
91 state or federal funds, and any other categories established by the council. The council shall

recognize the differences in local, regional, or other agencies' circumstances and nothing in this section shall prohibit a local transportation agency or other governmental agency from using a separate asset management process on any eligible system. All quality control standards and protocols shall, at a minimum, be consistent with any existing federal requirements and regulations and existing government accounting standards.

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

SECTION 7. Chapter 6C of the General Laws is hereby amended by adding the following section:-

Section 34A. (a) The department shall develop, operate, and maintain a searchable database, available on the department's website and accessible to the public at no cost, that shall contain pertinent information regarding all construction projects for which the department has expended funds during the preceding 5 fiscal years.

(b) The following information, without limitation, shall be made available and made searchable with respect to each such project:

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

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

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

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

(v) total projected and actual cost;

(vi) projected and actual start and completion dates;

(vii) projected and actual milestone dates and details;

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

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

(c) Such project totaling \$1,000,000 or more shall be assigned its own web page. In addition to the information required by subsection (b), the project web page shall also contain links to pertinent project documents, including without limitation any work progress reports, that are subject to disclosure under section 10 of chapter 66.

(d) Each project web page shall be updated at regular intervals, but in no event less than once every 7 days.

(e) The department shall devise and make accessible to the public by means of the department's website all of the performance metrics maintained by the department's office of performance management and innovation. These metrics shall include at least those metrics included in the report produced by the transportation performance and asset management advisory council. Such metrics shall be updated monthly and shall be made available in a format that allows for historical comparison of each metric.

SECTION 8. Section 39 of Chapter 6C of the General Laws is hereby amended by adding the following section:-

The division shall create an internal project controls unit to oversee all statewide program projects in line with the department's performance management system. The administrator shall establish and implement project controls to ensure that projects carried out under this chapter shall be done in the most efficient possible manner. The unit shall be subject to section 29A of chapter 29.

SECTION 9. Section 2ZZZ of chapter 29 is hereby amended by striking out subsection (c), as appearing in section 137 of chapter 165 of the acts of 2012, and inserting in place thereof the following subsection:-

(c) In addition to those revenues credited to the fund under subsection (a), there shall be credited to the fund, after distribution to the funds established in sections 35T and 35BB of chapter 10, the net of monies received by the commonwealth from the imposition of certain taxes levied pursuant to sections 3, 25 and 26 of chapter 64H and sections 4, 26 and 27 of chapter 64I as excises upon the sale and use at retail of tangible property or of services, and upon the storage, use or other consumption of tangible property, or of services, including interest thereon or penalties, but not including any portion of the taxes that constitute special receipts within the meaning of subsection (b1/2) of section 10 of chapter 152 of the acts of 1997 or within the meaning of said subsection (b1/2).

SECTION 10. Clause sixteenth of section 5 of chapter 59 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended in paragraph (1) by striking out "or (d)" and inserting in place thereof the following words:- (d) a telephone company subject to chapter 166, or (e).

SECTION 11. Said clause sixteenth of section 5 of chapter 59 of the General Laws, as so appearing, is hereby amended by striking out, in lines 238 and 239, the words "fifty-two A".

SECTION 12. Paragraph (d) of section 2A of chapter 63 of the General Laws, as so appearing, is hereby amended by striking our subparagraph (xi) and inserting in place thereof the following subparagraph:-

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

SECTION 13. Section 38 of said chapter 63, as amended by section 31 of chapter 194 of the acts of 2011, is hereby amended by striking out subsection (f) and inserting in place thereof the following subsection:-

(f)(1) The sales factor is a fraction, the numerator of which is the total sales of the corporation in this commonwealth during the taxable year, and the denominator of which is the total sales of the corporation everywhere during the taxable year. As used in this subsection, unless specifically stated otherwise, "sales" means all gross receipts of the corporation, including deemed receipts from transactions treated as sales or exchanges under the Code, except interest, dividends, and gross receipts from the maturity, redemption, sale, exchange or other disposition of securities, provided, however, that "sales" shall not include gross receipts from transactions or activities to the extent that a non-domiciliary state would be prohibited from taxing the income from such transactions or activities under the Constitution of the United States. Sales of tangible personal property are in this commonwealth if (i) the property is delivered or shipped to a purchaser within this commonwealth regardless of the free on board point or other conditions of the sale; or (ii) the corporation is not taxable in the state of the purchaser and the property was not sold by an agent or agencies chiefly situated at, connected with or sent out from premises for the transaction of business owned or rented by the corporation outside this commonwealth. "Purchaser", as used in clauses (i) and (ii) of this paragraph, shall include the United States government.

(2) Sales, other than sales of tangible personal property, are in this commonwealth if the corporation's market for the sale is in this commonwealth. The corporation's market for a sale is in the commonwealth and the sale is thus assigned to the commonwealth for the purpose of this section: (i) in the case of sale, rental, lease or license of real property, if and to the extent the property is located in this commonwealth; (ii) in the case of rental, lease or license of tangible personal property, if and to the extent the property is located in this commonwealth; (iii) in the case of sale of a service, if and to the extent the service is delivered to a location in this commonwealth; (iv) in the case of lease or license of intangible property, including a sale or

exchange of such property where the receipts from the sale or exchange derive from payments that are contingent on the productivity, use, or disposition of the property, if and to the extent the intangible property is used in this commonwealth; (v) in the case of the sale of intangible property, other than as referenced in clause (iv), where the property sold is a contract right, government license or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area, if and to the extent that the intangible property is used in or otherwise associated with this commonwealth; but any sale of intangible property, not otherwise described in this clause or clause (iv) is excluded from the numerator and the denominator of the sales factor.

(3) For the purposes of this subsection: (i) in the case of sales other than sales of tangible personal property if the state or states to which sales should be assigned cannot be determined, it shall be reasonably approximated; (ii) in the case of sales other than sales of tangible personal property if the taxpayer is not taxable in a state to which a sale is assigned, or if the state or states to which such sales should be assigned cannot be determined or reasonably approximated, such sale shall be excluded from the numerator and denominator of the sales factor; (iii) the corporation shall be considered to be taxable in the state of the purchaser if tangible personal property is delivered or shipped to a purchaser in a foreign country; (iv) sales of tangible personal property to the United States government or any agency or instrumentality thereof for purposes of resale to a foreign government or any agency or instrumentality thereof are not sales made in the commonwealth; (v) in the case of the sale, exchange or other disposition of a capital asset, as defined in paragraph (m) of section 1 of chapter 62, used in a taxpayer's trade or business, including a deemed sale or exchange of such asset, "sales" are measured by the gain from the transaction; (vi) "security" means any interest or instrument commonly treated as a security as well as other instruments which are customarily sold in the open market or on a recognized exchange, including, but not limited to, transferable shares of a beneficial interest in any corporation or other entity, bonds, debentures, notes, and other evidences of indebtedness, accounts receivable and notes receivable, cash and cash equivalents including foreign currencies, and repurchase and futures contracts; (vii) in the case of a sale or deemed sale of a business, the term "sales" does not include receipts from the sale of the business "goodwill" or similar intangible value, including, without limitation, "going concern value" and "workforce in place"; (viii) to the extent authorized pursuant to the life sciences tax incentive program established by section 5 of chapter 23I, a certified life sciences company may be deemed a research and development corporation for purposes of exemptions under chapters 64H and 64I; and (ix) in the case of a business deriving receipts from operating a gaming establishment or otherwise deriving receipts from conducting a wagering business or activity, income-producing activity shall be considered to be performed in this commonwealth to the extent that the location of wagering transactions or activities that generated the receipts is in this commonwealth.

(4) Notwithstanding the foregoing, mutual fund sales as defined in subsection (m), other than the sale of tangible personal property, shall be assigned to this commonwealth to the extent

that shareholders of the regulated investment company are domiciled in this commonwealth by multiplying the taxpayer's total dollar amount of sales of such services on behalf of each regulated investment company by a fraction, the numerator of which shall be the average of the number of shares owned by the regulated investment company's shareholders domiciled in this commonwealth at the beginning of and at the end of the regulated investment company's taxable year that ends with or within the taxpayer's taxable year, and the denominator of which shall be the average of the number of shares owned by the regulated investment company shareholders everywhere at the beginning of and at the end of the regulated investment company's taxable year that ends with or within the taxpayer's taxable year. A separate computation shall be made to determine the sale for each regulated investment company, the sum of which shall equal the total sales assigned to the commonwealth.

(5) The commissioner shall adopt regulations to implement this subsection. This subsection shall not affect the commissioner's authority under subsection (j).

SECTION 14. Paragraph (3) of subsection (f) of section 38 of chapter 63 of the General Laws is hereby amended by striking out clause (viii).

SECTION 15. Section 52A of said chapter 63 is hereby repealed.

SECTION 16. Section 68C of said chapter 63, as appearing in the 2010 Official Edition, is hereby amended by striking out clause (3).

SECTION 17. Section 1 of chapter 64A of the General Laws, as so appearing, is hereby amended by striking out, in line 98, the figure "21" and inserting in place thereof the following figure:- 24.

SECTION 18. The definition of "tax per gallon" in section 1 of chapter 64A of the General Laws, as so appearing, is hereby amended by inserting after the words "cents per gallon" the following words: , annually adjusted by the Consumer Price Index as defined in section 1 of the Internal Revenue Code.

SECTION 19. The first paragraph of section 6 of chapter 64C of the General Laws, as so appearing, is hereby amended by striking out the first 2 sentences and inserting in place thereof the following 2 sentences:-

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

excise equal to 150 1/2 mills plus any amount by which the federal excise tax on cigarettes is less than 8 mills for each cigarette so imported or acquired and held for sale or consumption, and cigarettes, with respect to which such excise has been imposed and has not been refunded, if paid, shall not be subject, when subsequently sold, to any further excise under this section.

SECTION 20. Said section 6 of said chapter 64C, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

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

SECTION 21. Said chapter 64C is hereby further amended by inserting after said section 6 the following section:-

Section 7 1/2. (a) As used in this section, the following words shall, unless the content clearly indicates otherwise, have the following meanings:-

"Counter", a device contained in, attached to, or forming part of, an RYO machine, performing in accordance with the manufacturer's specifications, that is designed to accurately count, and is accurately counting, the number of products rolled and wrapped by a machine.

"High volume machine", an RYO machine that is capable of rolling and wrapping tobacco into more than 10 products per minute.

"Low volume machine", an RYO machine that is not capable of rolling and wrapping tobacco into more than 10 products per minute.

"Product", a roll of tobacco or substance containing tobacco that is wrapped in any substance, including but not limited to paper or tobacco, in order to make the tobacco suitable for smoking.

"Retailer", a retailer of cigarettes, cigars, smokeless tobacco, smoking tobacco or other tobacco products.

"RYO machine", a mechanical device, by whatever manufacturer made and by whatever name known, that is designed to roll and wrap tobacco into products.

(b) No retailer shall possess on its retail premises or otherwise make available to its retail customers, with or without a fee, an RYO machine, whether such RYO machine is owned by the retailer or another party, unless the retailer has first obtained a license under this section for each RYO machine that it so possesses or makes available. A retailer who possesses or otherwise makes available an RYO machine without first obtaining a license for the RYO machine under this section shall be subject to a civil penalty of not more than \$10,000 for the first offense and

not more than \$25,000 for each subsequent offense, in the case of low volume machines, or a civil penalty of not more than \$50,000 for the first offense and \$100,000 for each subsequent offense, in the case of high volume machines. Any RYO machine on the retail premises of an unlicensed retailer or made available to the customers of an unlicensed retailer shall be subject to seizure or forfeiture under subsection (g), whether or not the RYO machine is owned by the unlicensed retailer.

(c) The commissioner may license a retailer to possess on its retail premises and make available to its customers 1 or more RYO machines, as specified by the license, if the commissioner determines that the retailer is in good standing with regard to all state tax obligations for taxes subject to chapter 62C, and if the retailer pays the applicable fees before issuance of the license. Each license so issued or a copy of it shall be displayed on or immediately adjacent to the licensed RYO machine. Each license shall apply only to a specified retail location and a specified RYO machine, but a licensee may replace 1 high volume machine at a specific retail location with another high volume machine at that location or may replace 1 low volume machine at a specific retail location with another low volume machine at that location, upon prior written notice to the commissioner. The licensing of RYO machines is retained exclusively by the commonwealth, and no city, town or other political subdivision of the commonwealth may license such use.

(d) The fee for each license issued under this section shall be \$25,000 per calendar year for each high volume machine and \$5,000 per calendar year for each low volume machine. The fee shall not be pro-rated for any period less than a year. Each license shall expire automatically on December 31 of each year. The licensee must apply for a new license for the following year. Licenses shall not be transferable or assignable except as expressly provided in this section.

(e) The applicant for a license under this section shall file with the commissioner an application in the form that the commissioner requires, and shall pay the license fee with the application. The commissioner shall refund the fees paid, subject to any offsets as may be provided with respect to debts collectible under chapter 62C, to the extent that a requested license is not issued. The commissioner shall investigate the prior activities of the applicant and may deny the application for any of the reasons set forth in clauses (1) to (8), inclusive, of section 67. The commissioner shall grant or deny a license within 90 days after the date of application. If the commissioner fails to act within that time, the license shall be deemed denied. An applicant aggrieved by the refusal of the commissioner to grant a license may, within 60 days after the date of notice of the refusal or deemed denial, appeal to the appellate tax board, whose decision shall be final. Licenses shall be subject to suspension or revocation during a calendar year as provided in section 68.

(f) Every licensee shall keep and preserve suitable records relating to the licensee's purchase of the tobacco contained in a product, including the price and date of the purchase and the name of the vendor, and each such invoice must clearly indicate whether the excise due

under section 7B has been paid by the licensee's vendor or will be paid by the licensee. Every licensee shall also provide access to its records, as prescribed by section 25 of chapter 62C and the regulations thereunder. For the purposes of this section, the term "records" shall include a counter. The commissioner shall revoke the license of any licensee who fails to maintain accurate records as provided in this section or who refuses to make its records available to the commissioner or the commissioner's designee.

(g) Any person who owns, leases, or is in control or possession of, and is determined by the commissioner to have, a faulty or inoperative counter or a machine without a counter, or who refuses to allow the commissioner or the commissioner's designee access to a counter and the data recorded by the counter, or who intentionally damages, tampers with, removes and does not replace, or renders sporadically or permanently inoperative, a counter, or who falsifies the data recorded by a counter, shall be punished by a fine of not more an \$50,000 or by imprisonment for not more than 1 year, or both.

(h) In addition to the other remedies provided by this section, the commissioner or the commissioner's designee or the state police may seize, seal, or otherwise render inoperative an RYO machine for which a required license has not been issued or where counters or records regarding a licensed RYO machine have not been maintained as required by this chapter or chapter 62C.

(i) It shall be unlawful for any person, whether located within or without the commonwealth, to sell, lease, loan, give, exchange, or otherwise transfer or deliver an RYO machine to a retailer unless the retailer has a license for that RYO machine.

(j) Nothing in this section shall apply to a person who owns, leases, or is in control or possession or control of a low volume machine that is used only for that person's personal use or to that low volume machine itself.

SECTION 22. Section 7B of chapter 64C of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out the figure "30", in line 40, and inserting in place thereof the following figure:- 40.

SECTION 23. Section 1 of chapter 64H of the General Laws, as so appearing, is hereby amended by inserting after the definition of "Commissioner" the following definition:-

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

SECTION 24. Said section 1 of said chapter 64H, as so appearing, is hereby amended by striking out, in line 240, the words "item: telecommunication services" and inserting in place thereof the following words:- items: telecommunications services, computer system design

377 services and the modification, integration, enhancement, installation or configuration of
378 standardized software.

379 SECTION 25. Section 36 of chapter 465 of the Acts of 1956, as amended by section 128
380 of chapter 25 of the acts of 2009, is hereby amended by striking said section in its entirety and
381 inserting in place thereof the following:-

382 Section 36. (a) There shall be an advisory board to the authority consisting of a voting
383 representative of each of the following cities and towns: Braintree, Bedford, Brookline,
384 Cambridge, Chelsea, Cohasset, Concord, Everett, Hingham, Hull, Lexington, Lincoln,
385 Malden, Melrose, Medford, Milton, Nahant, Quincy, Revere, Somerville, Weymouth, and
386 Winthrop; provided further, that the city of Boston shall have eight voting
387 representatives,

388 one of whom shall be a resident of the Beacon Hill section of the city of Boston, one of
389 whom shall be a resident of the South End section of the city of Boston, one of whom
390 shall

391 be a resident of the East Boston section of the city of Boston, one of whom shall be a
392 resident

393 of the Dorchester or Roxbury sections of the city of Boston, one of whom shall be a
394 resident

395 of the Charlestown section of Boston, one of whom shall be a resident of the South
396 Boston

397 section of the city of Boston, one of whom shall be a resident of the Roslindale or Hyde
398 Park

399 sections of the city of Boston, and one of whom shall be a resident of the West Roxbury
400 or Jamaica Plain sections of the city of Boston. The members of the advisory board shall

401 consist of the chief executive officer thereof; provided however, that any chief executive
402 officer, by writing filed with the authority, may appoint a permanent designee to serve in
403 his

404 stead as a member of said advisory board until the expiration of each term of office of the
405 designating chief executive officer or the earlier vacancy of the office of the designating

chief executive officer; provided further, that if the chief executive officer of the city of Boston opts to serve as the representative for the city of Boston to the advisory board, he shall be deemed to represent the forgoing sections of the city of Boston; provided further that a permanent designee shall be versed in at least one of the following three disciplines: environmental affairs, community and airport relations or public health. For the purpose of this section, the term "chief executive officer" shall mean the person designated as the chief executive officer under the provisions of a local charter or laws having the force of a charter, and otherwise the mayor in every city and the chairman of the board of selectmen or president of the town council, as the case may be, in every town.

(b) Except as otherwise prescribed in this section, each voting representative shall cast one vote on the advisory board. Each voting representative of the several sections of the city of Boston as listed in paragraph (a) shall cast one vote. Wherein the chief executive officer of the city of Boston shall opt to serve as the representative to the advisory board for the city of Boston, he shall cast eight votes.

(c) Said advisory board may act at a regular periodic meeting called in accordance with its by-laws; or at a special meeting called by the authority; or if a majority of board members choose to do so. Except as specially provided in paragraph (f), a quorum of the advisory board shall consist of a simple majority of voting members present, and the advisory board may act, except as otherwise provided in paragraph (f), by affirmative casting of a majority of the votes represented in the quorum. The advisory board shall be deemed to be a

governing body for the purposes of, and shall be subject to, sections 18 to 25, inclusive, of chapter 30A of the General Laws.

(d) For the conduct of its business said advisory board shall adopt and may revise and amend by-laws. Said advisory board shall annually elect a chairperson, a vice-chairperson, a secretary and such officers as said advisory board might determine. Each officer may be removed by a two-thirds vote of the advisory board without cause. In the event of a vacancy, said board shall fill the vacancy for the unexpired term. Each member of said advisory board shall serve without compensation, except if a member provides specialized services, such as legal, accounting, record keeping, administration, or any other specialized services provided to the advisory board. Members may be reimbursed, as an expense of said advisory board, for all reasonable expenses incurred in the performance of their duties as approved by the advisory board.

(e) The purposes of the advisory board shall be as follows:

(i) to appoint three members of the board of directors of the Massachusetts port authority, as provided for in section 2 of this chapter and in the manner prescribed in paragraph (f) of this section;

(ii) to make recommendations to the authority on annual current expense expenditure budgets submitted to the advisory board under paragraph (g);

(iii) to hold hearings, which may be held jointly with the authority at the discretion of the advisory board and said authority, on matters relating to said authority;

(iv) to review the annual report of the authority and to prepare comments thereon to the

authority and the governor, and to make such examinations of the reports on the
authority's
records and affairs as the advisory board deems appropriate; and
(v) to make recommendations to the governor and the general court respecting the
authority and its programs. The advisory board shall have all powers necessary or
convenient to carry out and effectuate the foregoing purposes.
(f) Three members of the authority shall be appointed by the advisory board, in
accordance with section 2 of this chapter. Two of those
members shall be residents of one of the following communities: Braintree, Brookline,
Cambridge, Chelsea, Cohasset, Everett, Hingham, Hull, Lincoln, Malden, Melrose,
Medford,
Milton, Nahant, Quincy, Revere, Somerville, Weymouth, or Winthrop; and one of whom
shall be a resident of the communities of Bedford, Concord, or Lexington.
Said advisory board shall appoint successor members, who shall replace that member
of the board of directors appointed by the advisory board whose term has expired or
otherwise terminated. With respect to appointment of any member of the board of
directors
the advisory board shall act only if a special quorum is present consisting of two-thirds of
voting members present.
(g) Within thirty days of receiving any proposed current expense budget of the
authority or within fifteen days of receiving any proposed amended expense budget of the
authority, the advisory board may hold a public hearing on matters relating to said budget
for
the purpose of ascertaining, for subsequent report to the authority if necessary, the views
of
the public thereon.
(h) The advisory board shall provide for the appointment of an advocate who, with the

assistance from such staff and consultants as the advisory board may authorize and appoint,

shall act for and in the name of the advisory board in the following respects:

(i) preparation of analysis for the advisory board of the authority's current expense budgets, capital expenditure budgets and capital programs and their effect on the charges of said authority;

(ii) representation of the advisory board to said authority on all matters pertaining to said authority's programs, operations, finances and charges;

(iii) reporting regularly to the advisory board on the activities of the advocate and other staff of the advisory board, on the affairs of the Authority, and on the effect of the authority's program and operations on residents of neighboring communities.

(iv) The advisory board shall have all the powers necessary to deal with Massport and all federal and state agencies, and report regularly to the board on the effect of any Massport, federal, or state agencies' programs and operations on the residents of the communities represented by the advisory board.

(v) to meet with and make recommendations to all Massport, Federal, and State agencies' programs and operations, which affect said communities.

(i) The advisory board may incur annual expenses, not to exceed \$500,000 for expenses authorized under paragraph (c) and for personnel and office expenses. Said annual expenses shall be paid by the authority.

(j) The authority shall provide any information, including but not limited to, annual current expense expenditure budgets and capital expenditure reports, requested by the advisory board which are necessary for the discharge of its duties; provided however, that the advisory board shall not be granted access to any information if it be determined by the

515 executive director of the authority and the director of security for the authority that the
516 release of such information would be detrimental to public safety; provided further, that
517 said
518 determination shall be made in writing and said writing shall be delivered to the advisory
519 board within two days; and, provided further, that said writing shall be signed by the
520 executive director and director of security of said authority under pains and penalties of
521 perjury.

522 SECTION 26. Section 2 of chapter 465 of the acts of 1956 is hereby amended by striking
523 the
524 first sentence of the second paragraph and inserting in place thereof the following:-
525

526 The authority shall consist of thirteen members; seven of whom shall be appointed by
527 the governor by and with the advice and consent of the council; three of whom shall be
528 appointed by the advisory board according to the by-laws of said board; and three of
529 whom shall
530 be appointed by the mayor of the city of Boston. Those members of the authority, having
531 been
532 duly appointed by the governor prior to January 1, 2012, shall continue until such time as
533 their
534 designated term expires; at which time the governor shall appoint a replacement who
535 shall serve
536 a term of 7 years. Those members of the authority appointed by the advisory board and
537 mayor of the city of Boston shall be appointed as follows: said advisory board and mayor
538 shall
539 each appoint 3 initial members, one of whom shall serve for a term of 5 years, one of
540 whom shall serve for a term of 6 years, and one of whom shall be serve for a term of 7
541 years. Upon expiration of the terms of all initial appointees, the advisory board or mayor of the
542 city of Boston, whichever applicable, shall appoint a replacement whose term shall be 7

years. Thereafter all members shall be appointed for 7 year terms in accordance with this act.

SECTION 27. (a) Notwithstanding any general or special law to the contrary, the Massachusetts Department of Transportation, in this section called the department, shall generate sufficient revenue to meet the following benchmarks: (1) in fiscal year 2014, the department shall generate 47 per cent of the department's operating budget; (2) in fiscal year 2015, the department shall generate 48 per cent of the department's operating budget; (3) in fiscal year 2016, the department shall contribute 50 per cent of the department's operating budget; (4) in fiscal year 2017, the department shall contribute 51 per cent of the department's operating budget; and (5) in fiscal year 2018, the department shall contribute 51 per cent of the department's operating budget.

(b) The benchmarks in subsection (a) may be achieved through savings to the department's operating budget; provided, that the department shall submit a preliminary report of savings to the operating budget by October 1 of each fiscal year and a final report of savings to the operating budget by January 1 of each fiscal year. The preliminary and final savings reports shall be submitted to the house and senate committees on ways and means and the joint committee on transportation.

(c) The revenue generated to meet the benchmarks in subsection (a) may be derived from: (1) fees collected by the registrar of motor vehicles under section 34 of chapter 90 of the General Laws; (2) funds contributed to the Motor Vehicle Inspection Trust Fund under section 61 of chapter 10; (3) funds contributed to the Massachusetts Transportation Trust Fund under section 4 of chapter 6C; and (4) any other funds directly collected by the department.

SECTION 28. (a) Notwithstanding any general or special law to the contrary, the Massachusetts Bay Transportation Authority, in this section called the authority, shall generate sufficient revenue to meet the following benchmarks: (1) in fiscal year 2014, the authority shall generate 31.5 per cent of the authority's operating budget; (2) in fiscal year 2015, the authority shall contribute 33 per cent of the authority's operating budget; (3) in fiscal year 2016, the authority shall contribute 33.25 per cent of the authority's operating budget; (4) in fiscal year 2017, the authority shall contribute 32.75 per cent of the authority's operating budget; and (5) in fiscal year 2018, the authority shall contribute 34 per cent of the authority's operating budget.

(b) The benchmarks in subsection (a) may be achieved through savings to the authority's operating budget; provided that, the authority shall submit a preliminary report of savings to the operating budget by October 1 of each fiscal year and a final report of savings to the operating budget by January 1 of each fiscal year. The savings reports shall be submitted to the house and senate committees on ways and means and the joint committee on transportation.

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

SECTION 29. (a) The department shall use the revenues generated in this act to comply with the second sentence of section 15 of chapter 6C of the General Laws requiring the salaries and benefits of employees of the department to be classified and funded as operating expenditures. The department shall comply with said section 15 on or before June 30, 2016.

(b) The secretary of transportation, in consultation with the secretary of administration and finance, shall file a report regarding the department's compliance with the second sentence of said section 15 of said chapter 6C on or before August 1, 2013. The report shall include, but not be limited to: (1) the number of employees with salaries funded by capital expenditures in fiscal year 2013; (2) the total cost of employee salaries charged to capital expenditures in fiscal year 2013; and (3) the number of employees and total cost of employee salaries that the department estimates will be moved from capital expenditures to operating expenditures in fiscal years 2014, 2015 and 2016. The report shall be filed with the joint committee on transportation, the house and senate committees on bonding, capital expenditures and state assets and the house and senate committees on ways and means.

SECTION 30. Notwithstanding any general or special law to the contrary, each regional transit authority (RTA) established under chapter 161B of the General Laws shall develop a comprehensive regional transit plan in consultation with the appropriate regional planning agency, the department of transportation, local employers and the business associations, labor organizations, and transit authority riders. The regional transit plan shall include but not be limited to; (1) a comprehensive assessment of transit services; (2) a thorough examination of the ridership trends for each line and service provided by the RTA; (3) a performance analysis of existing services; (4) the development and evaluation of alternative service scenarios; (5) the development of a recommendation to better align service with local and regional demand; (6) the commonwealth's environmental policies; (7) fare rates and collection methods; (8) the region's job creation goals and employment needs; and (9) a determination of whether the RTA's service is deployed in the most effective way possible to accommodate the transit needs of the region's workforce. The development of the plan shall include public hearings in different regions of the commonwealth and the opportunity to comment on a draft report. The final report shall be filed with the department of transportation and made available on the department's website and the website of the appropriate RTA on or before June 30, 2014.

SECTION 31. There shall be established a value capture commission consisting of the following 7 members: the secretary of transportation or a designee, who shall serve as chair; the secretary of administration and finance or a designee; and 5 members to be appointed by the

Governor, 2 of whom shall be representatives of business associations; 1 of whom shall represent organized labor; 1 of whom shall be a representative of the Massachusetts Municipal Association; and 1 of whom shall be a representative of a regional planning agency. The commission shall review and evaluate the policies and best practices of other jurisdictions used to obtain benefits from the increased value of adjacent properties as a result of public infrastructure projects or “value capture” and the current policies and mechanisms available in the commonwealth relative to value capture. The commission shall report to the General Court on the effectiveness of the Commonwealth’s current value capture policies and recommend whether certain policies from other jurisdictions be implemented as part of the long term capital plan established under section 11A of chapter 6C. A report of the commission’s findings shall be filed with the clerks of the house of representatives and senate on or before March 1, 2014.

SECTION 32. There shall be established a utility relocation commission consisting of the following 5 members: the chair of the department of public utilities or a designee, who shall serve as chair; the secretary of transportation or a designee; and 3 members to be appointed by the Governor, 1 of whom shall represent organized labor, and 2 of whom shall be representatives from a utility or utility facility, as defined under federal law. The commission shall study and make recommendations on policies and reimbursement mechanisms for when it is necessary that a utility or utility facility, as defined under federal law, be relocated by the division of highways or the Massachusetts bay transit authority because of construction of a project. The commission shall review the current provisions of section 44 of chapter 6C of the General Laws, specifically current thresholds for eligible projects, the annual cap on the total reimbursement by the department, and the reimbursement formula for the total costs of functional replacements of utility lines or real properties. The commission shall recommend a utility reimbursement formula that takes into account, but is not limited to, the following factors; whether the project is to be reimbursed federally, in whole or in part, or to be paid by the commonwealth, in whole or in part; if the utility facility is to be reimbursed, in whole or in part or does not qualify for federal reimbursement; if the relocation shall be performed by the employees of the owner; and the nature of the project. The report, with any recommended legislation, shall be filed with the clerks of the house of representatives and senate on or before January 1, 2014.

SECTION 33. Pursuant to section 11A of chapter 6C of the General Laws, the secretary of transportation shall publish the first 10-year long term capital plan on or before April 30, 2014, for fiscal years 2015 to 2024, inclusive.

SECTION 34. Pursuant to section 12A of chapter 6C of the General Laws, and in consultation with federal, state and local transportation agencies, regional planning agencies and other governmental agencies, the transportation performance and asset management advisory council shall develop and present to the board of directors of the Massachusetts Department of Transportation for approval such procedures and requirements as are necessary for the administration of the performance and asset management system on or before November 1, 2013. This shall include, at a minimum, a comprehensive plan for the development and

integration of an asset management and performance information system with long-term statewide planning processes; an analytical process or decision support tool that allows for the estimation of capital investment needs of such systems over time; an asset investment prioritization method by such systems, including the possible use of a quantifiable project prioritization mechanism such as a numeric scoring system. The recommendations shall also include areas of necessary training, data storage and collection, reporting practices, development of program for implementation, budgeting and funding, and other issues related to asset management that may arise from time to time in the management of such system. The integrated asset management system, as required by section 12 of chapter 6C of the General Laws, shall be complete and operational on or before July 1, 2014.

SECTION 35. The searchable database required under section 34A of chapter 6C of the General Laws shall be available to the public on or before January 1, 2014.

SECTION 36. Any corporation which was classified as a utility corporation under section 52A of chapter 63 of the General Laws shall not take a deduction under clause 5 of section 30 of chapter 63 for losses incurred before January 1, 2014.

SECTION 37. On January 1, 2015, the tax per gallon established under section 1 of chapter 64A of the General Laws shall be adjusted by the percentage, if any, by which the Consumer Price Index for the preceding year exceeds the Consumer Price Index for the calendar year that ends before such preceding year.

SECTION 38. Section 13 shall not restrict the authority of the commissioner of revenue under subsection (j) of section 38 of chapter 63 of the General Laws, and shall not affect the continuing validity or application of regulations that were previously adopted under subsection (f) of said section 38 of said chapter 63.

SECTION 39. Every manufacturer, wholesaler, vending machine operator, unclassified acquirer or retailer, as defined in section 1 of chapter 64C of the General Laws, and every stamper appointed by the commissioner pursuant to section 30 of said chapter 64C, who, as of the commencement of business on August 1, 2013, has on hand any cigarettes for sale or any unused adhesive or meter stamps, shall make and file with the commissioner within 20 days a return, subscribed and sworn to under the penalties of perjury, showing a complete inventory of such cigarettes and stamps and shall, at the time he is required to file such return, pay an additional excise of 50 mills per cigarette on all cigarettes and all unused adhesive and meter stamps upon which an excise of only 100 1/2 mills has previously been paid. All provisions of chapter 62C and chapter 64C relative to the assessment, collection, payment, abatement, verification and administration of taxes, including penalties, shall apply to the excise imposed by this section.

690 SECTION 40. Notwithstanding any general or special law to the contrary, any additional
691 revenue resulting from the enactment of sections 19 to 22, inclusive, and section 39, as estimated
692 by the commissioner of revenue, shall be deposited in the General Fund.

693 SECTION 41. Sections 12, 13, 15 and 16 shall take effect on January 1, 2014.

694 SECTION 42. Section 18 shall take effect on January 1, 2015.

695 SECTION 43. Section 14 shall take effect on December 31, 2018.

696 SECTION 44. Except where otherwise specified, the provisions of this act shall take
697 effect July 1, 2013.