

# HOUSE . . . . . No. 3580

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Text of a report of the committee on Bills in the Third Reading, on amendments recommended by His Excellency the Governor (for message see House, No. 3544) to the engrossed Bill relative to transportation finance (see House, No. 3535). July 17, 2013.

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## The Commonwealth of Massachusetts

—————  
In the Year Two Thousand Thirteen  
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By striking out all after the enacting clause and inserting in place thereof the text of the attachment submitted by the Governor containing the amendments recommended by him as identified in his letter, as follows:

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

8 SECTION 2A.

9 TRANSPORTATION

10 Department of Transportation.

11           1595-6367     For the transportation performance and asset management advisory  
12 council to assist with the development of a statewide integrated performance and asset  
13 management system pursuant to sections 12 and 12A of chapter 6C of the General Laws;  
14 provided further, that any unexpended funds in this item at the end of fiscal year 2013 shall not  
15 revert and shall be made available for the purposes of this item until June 30,  
16 2014.....\$100,000

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 1-week comment period after each such hearing;.

30           SECTION 3A. Said chapter 6C is hereby further amended by inserting after section 4 the  
31 following section:-

32 Section 4A. If the amount credited to the Massachusetts Transportation Trust Fund under section  
33 4 from receipts from tolls charged for passage on the turnpike, as defined in section 1, is reduced  
34 from the amounts so charged in fiscal year 2016, then the comptroller shall transfer annually  
35 from the Commonwealth Transportation Fund to the Massachusetts Transportation Trust Fund  
36 an amount equal to the amount so reduced from the amount charged in fiscal year 2016 plus 1  
37 per cent each year. After receiving the certificate of the comptroller of the amount of this  
38 transfer, the commissioner of revenue shall adjust the tax per gallon, as defined by section 1 of  
39 chapter 64A of the General Laws, to the extent necessary to provide sufficient additional revenue  
40 to fund this transfer.

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

43 Section 6A. Notwithstanding any general or special law to the contrary, the goals  
44 established by the office of performance management and innovation under subsection (b) of  
45 section 6 shall include, but not be limited to: (1) for the division of highways, the reduction of  
46 commuting times by at least 10 per cent in each region for each rolling 5-year period, after  
47 adjusting for seasonal variations and for changes in the economic activity in the region; (2) for  
48 the division of highways, the reduction of fatalities by at least 10 per cent for each rolling 5-year  
49 period; (3) for the division of highways, the reduction of the accident rate by at least 10 per cent  
50 for each rolling 5-year period; (4) for the division of highways, the reduction of the  
51 administrative disbursement rate per mile by at least 10 per cent for each rolling 5-year period;  
52 (5) for the division of highways, increasing the maintenance disbursements per mile by at least  
53 the same total dollar amount as the total dollar amount saved by the reduction of the  
54 administrative disbursement rate per mile under clause (4), for each corresponding 5-year period;

55 (6) for the Mass Transit division, a decrease in the urban transit bus fleet age for each transit  
56 authority of at least 10 per cent for each rolling 5-year period; (7) for the Mass Transit division, a  
57 reduction of fatalities as a result of transit accidents in each transit authority by at least 10 per  
58 cent for each rolling 5-year period; (8) for the Mass Transit division, an increase in the farebox  
59 recovery ratio of at least 10 per cent for each transit authority for each rolling 5-year period; (9)  
60 for the Mass Transit division, an increase in the on-time performance percentage for each transit  
61 authority of at least 2 per cent for each rolling 5-year period, until that percentage reaches 98 per  
62 cent; and (10) for the Mass Transit division, an increase of at least 5 per cent in the revenue miles  
63 per active vehicle reported to the Federal Transit Administration for each transit authority for  
64 each rolling 5-year period.

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

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

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

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

77           The plan shall be consistent with the project selection criteria as established by section  
78 11A.

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

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

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

87  
88           The long range transportation plan developed by the secretary of transportation under this section  
89 shall provide that not less than \$100,000,000 shall annually be spent for the construction and  
90 reconstruction of municipal ways as described in clause (b) of the second paragraph of section 4.

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

93           Section 11A. (a) There shall be a project selection advisory council which shall be charged with  
94 developing a uniform project selection criteria to be used in the development of a comprehensive  
95 state transportation plan required pursuant to section 11.

96           (b) The council shall consist of the following members: the secretary or the secretary’s  
97 designee, who shall serve as chair; 3 members to be appointed by the governor, 1 of whom shall

98 have practical experience in transportation planning and policy, 1 of whom shall be a registered  
99 civil engineer with at least 10 years' experience and 1 of whom shall be a member of a regional  
100 planning agency; 1 member to be appointed by the president of the senate, who shall be an expert  
101 in the field of transportation finance; 1 member to be appointed by the minority leader of the  
102 senate, who shall be a member of the construction industry; 1 member to be appointed by the  
103 speaker of the house of representatives, who shall be a representative of a transportation  
104 consumer organization or other public interest organization; 1 member to be appointed by the  
105 minority leader of the house of representatives, who shall be a member of a business association;  
106 and a representative of the Massachusetts Municipal Association. The department shall provide  
107 the council with qualified administrative staff and the regional planning agencies may provide  
108 qualified technical assistance to the council.

109 (c) The project selection criteria developed under this section shall include a project  
110 priority formula or other data-driven process that shall include, but not be limited to, the  
111 following factors: engineering; condition of existing assets; safety; economic impact; regional  
112 priorities; and the anticipated cost of the project. The council may divide projects into several  
113 categories including, but not limited to: preservation and maintenance of existing assets;  
114 modernization of existing assets that improve safety; expansion projects that add to the existing  
115 system; and local construction. The factors chosen by the council may be weighted to prioritize  
116 specific factors and such weighting of factors may differ by project category as determined by  
117 the council.

118 (d) The council shall conduct at least 6 public hearings, 1 in each of the department's  
119 highway districts, before final approval of the project selection criteria. The council shall  
120 provide interested persons with an opportunity to submit their views orally and in writing and the

121 department may create and maintain a website to allow members of the public to submit  
122 comments electronically and to review comments submitted by others. The council shall provide  
123 notice of each public hearing by publication in a newspaper of general circulation in the highway  
124 district in which the hearing is to be located in each of 2 successive weeks, the first publication  
125 to be at least 14 days before the day of the hearing and, if feasible, by posting a notice in a  
126 conspicuous place in the cities or towns within the highway district for at least 14 consecutive  
127 days immediately prior to the day of the hearing.

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

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

132 ‘Council’, the transportation performance and asset management advisory council established in  
133 this section.

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

137 ‘Performance and asset management system’, the permanent, comprehensive and integrated  
138 system, developed by the department pursuant to section 12, that requires the operation,  
139 maintenance, upgrade and expansion of all transportation assets, that are cost-effectively  
140 administered throughout their lifecycle, by continuously updating physical inventory, condition  
141 assessments and performance information. The system shall establish goals, metrics and  
142 outcomes to measure transportation performance pursuant to section 6.

143 'Transportation assets', capital assets, including but not limited to, any city, town, county  
144 or state highway, road, street, pavement, parkway, facilities, structures, construction and  
145 maintenance equipment, vehicles, real estate, materials, corporate data and information,  
146 equipment, rolling stock, infrastructure and facilities for use in public transportation; ground and  
147 water transportation facilities and equipment; and any rights-of-way, bridges, tunnels, railroad  
148 highway crossings, drainage structures, signs and guardrails.

149 (b) There shall be a transportation performance and asset management advisory council charged  
150 with advising the board on the creation of a performance and asset management system pursuant  
151 to section 12.

152 The council shall consist of the secretary, who shall serve as chair, and the following  
153 members as appointed by the secretary: 2 members of the board, 2 members from the  
154 Massachusetts Municipal Association, 2 members from different regional planning agencies, 1  
155 member from the construction industry, and 1 member from a business association. Each  
156 member shall be appointed for a term of 3 years. The council may appoint a technical assistance  
157 panel, to serve in an advisory, non-binding capacity, which shall be comprised of transportation  
158 planning, construction and engineering associations. The council shall determine the scope of  
159 research and assign projects to the technical assistance panel as necessary in the development of  
160 statewide policies. The department shall provide the council with qualified administrative staff  
161 and the regional planning agencies may provide qualified technical assistance to the council.

162 (c) The council shall review the performance measurement criteria required for the  
163 performance and asset management system pursuant to subsection (b) of section 6 and the  
164 comprehensive long term capital plan required by section 11A. The council shall make a report



165 to the board on the following: (i) improvements that can be made to ensure comprehensive multi-  
166 modal transportation planning and analysis; (ii) additional performance metrics, such as  
167 enterprise-wide measures across modes, contract management, procurement, project controls,  
168 financials, organizational and prioritization outcomes; and (iii) economic development impacts,  
169 and benchmarks measured against performance by other states and countries. The council shall  
170 make recommendations on the processes and tools needed to implement a strategy for the  
171 performance and asset management system.

172 (d) The council shall present minimum standards and guidelines delineating standardized  
173 data and information that shall be contained in the performance and asset management system,  
174 including the complete integration of transit, highway, aeronautics, water and port assets, and the  
175 possible inclusion of municipal roadways. The minimum standards shall include: (i) the keeping  
176 of accurate and uniform records of real transportation assets, (ii) the mileage and condition of  
177 each road and bridge system under various jurisdictions, (iii) the receipts and disbursements of  
178 road, street and transit funds, (iv) a multiyear compilation of projects anticipated to be contracted  
179 for or by the department or local transportation agencies that are funded in whole or in part with  
180 state or federal funds, and (v) any other categories established by the council. The council shall  
181 recognize the differences in local, regional or other agencies' circumstances and nothing in this  
182 section shall prohibit a local transportation agency or other governmental agency from using a  
183 separate asset management process on any eligible system. All quality control standards and  
184 protocols shall, at a minimum, be consistent with any existing federal requirements and  
185 regulations and existing government accounting standards.

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

189 SECTION 13. Subsection (a) of section 13 of said chapter 6C, as appearing in the 2010  
190 Official Edition, is hereby amended by adding the following sentence:- The department shall  
191 devise and implement a fair and reasonable fee structure to charge and collect tolls for transit  
192 over the turnpike between interchange 1 in the town of West Stockbridge and interchange 6 in  
193 the city of Springfield at interstate highway route 291.

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

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

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

202 (d) The secretary shall:

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

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

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

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

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

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

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

218 (v) total projected and actual cost;

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

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

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

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

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

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

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

232 (c) The administrator shall establish within the division an internal project controls unit to  
233 oversee all statewide program projects in line with the department's performance and asset  
234 management system. The administrator shall establish and implement project controls to ensure  
235 that projects carried out pursuant to this chapter shall be completed in the most efficient possible  
236 manner. The internal project controls unit shall be subject to section 29A of chapter 29.

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

240 (4 1/2) capital expenditures grouped by project with links to related capital budget  
241 documents;.

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

244 SECTION 20. Subsection (A) of section 2 of chapter 21J of the General Laws, as  
245 appearing in the 2010 Official Edition, is hereby amended by inserting after the first sentence the  
246 following sentence:- The fee imposed under this paragraph shall be adjusted at the beginning of

247 each calendar year, by the percentage, if any, by which the consumer price index, as defined in  
248 section 1 of the Internal Revenue Code, for the preceding year exceeds the consumer price index  
249 for the calendar year that ends before such preceding year.

250 SECTION 21. Subsection (C) of said section 2 of said chapter 21J, as so appearing, is  
251 hereby amended by striking out the second sentence and inserting in place thereof the following  
252 sentence:- The department shall deposit the receipts from the delivery fee imposed under the first  
253 paragraph of subsection (A) into the Commonwealth Transportation Fund established in section  
254 2ZZZ of chapter 29 and shall deposit the receipts from the annual storage tank fee imposed under  
255 the second paragraph of said subsection (A) into the General Fund.

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

258 SECTION 23. Section 14 of said chapter 21J, as so appearing , is hereby amended by  
259 striking out, in line 1, the word ‘fees,’.

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

264 SECTION 25. Subsection (a) of section 2ZZZ of chapter 29 of the General Laws, as  
265 appearing in section 112 of chapter 165 of the acts of 2012, is hereby amended by striking out  
266 the second sentence and inserting in place thereof the following sentence:- There shall be  
267 credited to the fund all fees received by the registrar of motor vehicles under section 34 of  
268 chapter 90, all receipts paid into the treasury of the commonwealth and directed to be credited to

269 the Commonwealth Transportation Fund under chapters 21J, 64A, 64E, 64F and any other  
270 applicable general or special law and all amounts appropriated into the fund by the general court.

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

273 (c) In addition to those revenues credited to the fund under subsection (a) there shall be  
274 credited to the fund all monies received by the commonwealth from the receipts from sales of  
275 motor vehicles under sections 3, 25 and 26 of chapter 64H and all monies received by the  
276 commonwealth on the sales price of purchases of motor vehicles under sections 4, 26 and 27 of  
277 chapter 64I, from the taxes imposed under said chapters 64H and 64I as excises upon the sale  
278 and use at retail of motor vehicles and upon the storage, use or other consumption of motor  
279 vehicles, including interest thereon or penalties; provided however, such amount shall not  
280 include any portion of the taxes that constitute special receipts within the meaning of subsection  
281 (b1/2) of section 10 of chapter 152 of the acts of 1997. The amount credited to the fund under  
282 this subsection shall be net of the dedicated sales tax revenue amount transferred to the  
283 Massachusetts Bay Transportation Authority State and Local Contribution Fund under section  
284 35T of chapter 10 and to the School Modernization and Reconstruction Trust Fund under section  
285 35BB of said chapter 10.

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

288 (e) In addition to those revenues credited to the fund under subsections (a) and (c), for  
289 fiscal years 2015 to 2020, inclusive, the comptroller shall transfer the following amounts from  
290 the General Fund to the fund: (1) \$75,000,000 for fiscal year 2015; (2) \$96,000,000 for fiscal

291 year 2016; (3) \$40,000,000 for fiscal year 2017; (4) \$40,000,000 for fiscal year 2018; (5)  
292 \$120,000,000 for fiscal year 2019; and (6) \$210,000,000 for fiscal year 2020.

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

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

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

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

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

304 SECTION 33. Said section 12 of said chapter 62C, as so appearing, is hereby further  
305 amended by striking out, in lines 40 and 41, the words 'and fifty-two A of chapter sixty-three'.

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

309 (xi) The numerator of the receipts factor includes receipts from sales, other than sales of  
310 tangible personal property, not otherwise apportioned under this section to the extent that those  
311 receipts would be included in the numerator of a corporation's sales factor as determined

312 pursuant to subsection (f) of section 38. For purposes of the receipts sourced pursuant to this  
313 paragraph, paragraph (xiii) of subsection (d) shall not apply.

314 SECTION 35. Section 31H of said chapter 63 is hereby amended by striking out, in line  
315 53, as so appearing, the words ‘, section 39 and section 52A’ and inserting in place thereof the  
316 following words:- ‘and section 39’.

317 SECTION 36. Section 38 of said chapter 63, is hereby amended by striking out, in line  
318 31, as so appearing, the words ‘or of section 52A’.

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

322 (f) The sales factor is a fraction, the numerator of which is the total sales of the  
323 corporation in this commonwealth during the taxable year, and the denominator of which is the  
324 total sales of the corporation everywhere during the taxable year.

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



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

335 (2) the corporation is not taxable in the state of the purchaser and the property was  
336 not sold by an agent or agencies chiefly situated at, connected with or sent out from premises for  
337 the transaction of business owned or rented by the corporation outside this commonwealth.

338 'Purchaser', as used in clauses (1) and (2), shall include the United States government.

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

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

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

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

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

353 (5) in the case of the sale of intangible property, other than as provided in clause  
354 (4), where the property sold is a contract right, government license or similar intangible property  
355 that authorizes the holder to conduct a business activity in a specific geographic area, if and to  
356 the extent that the intangible property is used in or otherwise associated with the commonwealth;  
357 provided, however, that any sale of intangible property, not otherwise described in this clause or  
358 clause (4), shall be excluded from the numerator and the denominator of the sales factor.

359 For the purposes of this subsection: (1) in the case of sales, other than sales of tangible  
360 personal property, if the state or states to which sales should be assigned cannot be determined, it  
361 shall be reasonably approximated; (2) in the case of sales other than sales of tangible personal  
362 property if the taxpayer is not taxable in a state to which a sale is assigned, or if the state or states  
363 to which such sales should be assigned cannot be determined or reasonably approximated, such  
364 sale shall be excluded from the numerator and denominator of the sales factor; (3) the  
365 corporation shall be considered to be taxable in the state of the purchaser if tangible personal  
366 property is delivered or shipped to a purchaser in a foreign country; (4) sales of tangible personal  
367 property to the United States government or any agency or instrumentality thereof for purposes  
368 of resale to a foreign government or any agency or instrumentality thereof are not sales made in  
369 the commonwealth; (5) in the case of sale, exchange or other disposition of a capital asset, as  
370 defined in paragraph (m) of section 1 of chapter 62, used in a taxpayer's trade or business,  
371 including a deemed sale or exchange of such asset, 'sales' shall be measured by the gain from the  
372 transaction; (6) 'security' shall mean any interest or instrument commonly treated as a security as  
373 well as other instruments which are customarily sold in the open market or on a recognized  
374 exchange, including, but not limited to, transferable shares of a beneficial interest in any  
375 corporation or other entity, bonds, debentures, notes and other evidences of indebtedness,

376 accounts receivable and notes receivable, cash and cash equivalents including foreign currencies  
377 and repurchase and futures contracts; (7) in the case of a sale or deemed sale of a business, the  
378 term 'sales' shall not include receipts from the sale of the business 'goodwill' or similar  
379 intangible value, including, without limitation, 'going concern value' and 'workforce in place';  
380 (8) to the extent authorized under the life sciences tax incentive program established in section 5  
381 of chapter 23I, a certified life sciences company may be deemed a research and development  
382 corporation for purposes of exemptions under chapters 64H and 64I; and (9) in the case of a  
383 business deriving receipts from operating a gaming establishment or otherwise deriving receipts  
384 from conducting a wagering business or activity, income-producing activity shall be considered  
385 to be performed in the commonwealth to the extent that the location of wagering transactions or  
386 activities that generated the receipts is in the commonwealth.

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

391 (a) by multiplying the taxpayer's total dollar amount of sales of such services on behalf of  
392 each regulated investment company by a fraction, the numerator of which shall be the average of  
393 the number of shares owned by the regulated investment company's shareholders domiciled in  
394 the commonwealth at the beginning of and at the end of the regulated investment company's  
395 taxable year that ends with or within the taxpayer's taxable year and the denominator of which  
396 shall be the average of the number of shares owned by the regulated investment company  
397 shareholders everywhere at the beginning of and at the end of the regulated investment  
398 company's taxable year that ends with or within the taxpayer's taxable year.

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

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

403 SECTION 38. Clause (5) of the third paragraph of subsection (f) of said section 38 of  
404 said chapter 63 is hereby amended by striking out subclauses (8) and (9), as appearing in section  
405 37, and inserting in place thereof the following words:- and (8) in the case of a business deriving  
406 receipts from operating a gaming establishment or otherwise deriving receipts from conducting a  
407 wagering business or activity, income-producing activity shall be considered to be performed in  
408 this commonwealth to the extent that the location of wagering transactions or activities that  
409 generated the receipts is in this commonwealth.

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

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

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

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

418 SECTION 43. Section 1 of chapter 64A of the General Laws, as so appearing, is hereby  
419 amended by striking out, in line 98, the figure '21' and inserting in place thereof the following  
420 figure:- 24.

421 SECTION 44. Said section 1 of said chapter 64A, as so appearing, is hereby further  
422 amended, by inserting after the word 'gallon', , in line 98, the second time it appears, the  
423 following words:- , adjusted at the beginning of each calendar year, by the percentage, if any, by  
424 which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price  
425 Index for the calendar year ending prior to such preceding calendar year; provided, however, that  
426 the Consumer Price Index for any calendar year shall mean the Consumer Price Index as defined  
427 in the Internal Revenue Code pursuant to 26 U.S.C. section 1; and provided further, that the tax  
428 shall not be less than 21 cents per gallon.

429 SECTION 45. Section 6 of chapter 64C of the General Laws, as so appearing, is hereby  
430 amended by striking out, in lines 3 and 11, the figure '100½' and inserting in place thereof, in  
431 each instance, the following figure:- 150½.

432 SECTION 46. Said section 6 of said chapter 64C, as so appearing, is hereby further  
433 amended by striking out, in line 27, the figure '40' and inserting in place thereof the following  
434 figure:- 160.

435 SECTION 47. Section 7B of said chapter 64C, as so appearing, is hereby amended by  
436 striking out, in line 40, the figure '30' and inserting in place thereof the following figure:- 40.

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

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

442 SECTION 49. Said section 1 of said chapter 64H, as so appearing, is hereby further  
443 amended by striking out, in lines 239 to 241, inclusive, the words '; and provided, further, that  
444 the term services shall be limited to the following item: telecommunications services' and  
445 inserting in place thereof the following words:- , or data access, data processing or information  
446 management services; and provided further, that the term services shall be limited to the  
447 following items: telecommunications services, computer system design services and the  
448 modification, integration, enhancement, installation or configuration of standardized software.

449 SECTION 50. Section 24 of chapter 161A of the General Laws, as so appearing, is  
450 hereby amended by adding the following 3 sentences: - Real property of the authority shall, if  
451 leased, used or occupied in connection with a business conducted for profit shall, for the  
452 privilege of such lease, use or occupancy be valued, classified, assessed and taxed annually as of  
453 January 1 to the lessee, user or occupant in the same manner and to the same extent as if such  
454 lessee, user or occupant were the owner thereof in full. No tax assessed under this section shall  
455 be a lien upon the real estate with respect to which it is assessed nor shall any tax be enforced by  
456 any sale or taking of such real estate; but the interest of any lessee therein may be sold or taken  
457 by the collector of the town in which the real estate lies for the nonpayment of such taxes in the  
458 manner provided by law for the sale or taking of real estate for nonpayment of annual taxes.  
459 Notwithstanding the previous sentence, such collector may utilize all other remedies provided  
460 by chapter 60 for the collection of annual taxes upon real estate and for the collection of taxes  
461 assessed under this section.

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

465 One representative of the disabled commuter population shall serve on the advisory board  
466 as a voting member for a term of 1 year. Each city and town in the region, on a rotating basis as  
467 determined by the board, shall appoint a representative successively; provided, however, that the  
468 representative of the disabled commuter population and the representative of the rider  
469 community shall not be appointed by the same city or town in the region. The mayor or city  
470 manager and the chairman, town manager or town administrator shall appoint a resident of the  
471 city or town for this purpose. This representative shall be mobility impaired, have a family  
472 member who is mobility impaired, be a caretaker of a person who is mobility impaired or work  
473 for an organization that serves the needs of the physically disabled. The representative of a city  
474 or town may be reappointed after representatives from the other cities and towns within the  
475 region have served their 1-year terms.

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

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

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

489 SECTION 54. The second paragraph of section 2 of chapter 465 of the acts of 1956 is  
490 hereby amended by striking out the first sentence and inserting in place thereof the following 2  
491 sentences:- The Authority shall consist of 7 members; 6 of whom shall be appointed by the  
492 governor and 1 of whom shall be appointed by the Massachusetts Port Authority Community  
493 Advisory Committee in accordance with this act and according to the by-laws of said  
494 Committee. Members shall serve for a term of 7 years.

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

498 Section 36. (a) There shall be an advisory board to the authority which shall be named the  
499 Massachusetts Port Authority Community Advisory Committee. The Massachusetts Port  
500 Authority Community Advisory Committee shall consist of a voting member from each of the  
501 following cities and towns: Bedford, Beverly, Braintree, Brookline, Cambridge, Chelsea,  
502 Cohasset, Concord, Everett, Hingham, Hull, Lexington, Lincoln, Malden, Melrose, Medford,  
503 Milton, Nahant, Quincy, Revere, Scituate, Somerville, Weymouth, Worcester and Winthrop;  
504 provided, that the city of Boston shall have 6 voting members, 1 of whom shall be from the East  
505 Boston section of the city of Boston and 11 of whom shall be from the South Boston section of  
506 the city of Boston. The members of the Massachusetts Port Authority Community Advisory



507 Committee shall be appointed by the chief executive officer of each community listed above;  
508 provided, that said appointed members shall be versed in at least 1 of the following disciplines:  
509 airport operations, environmental affairs, labor relations, public health or port operations. For the  
510 purpose of this section, the term ‘chief executive officer’ shall mean the person designated as the  
511 chief executive officer pursuant to a local charter or laws having the force of a local charter, or,  
512 in the absence of such local charter or laws having the force of a local charter, the mayor in every  
513 city and the chairman of the board of selectmen or president of the town council, as the case may  
514 be, in every town.

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

517 (c) The Massachusetts Port Authority Community Advisory Committee may act at a regular  
518 periodic meeting called in accordance with its by-laws, at a special meeting called by the  
519 Authority or if a majority of members choose to do so. Except as provided in s (f), a quorum of  
520 the Massachusetts Port Authority Community Advisory Committee shall consist of a simple  
521 majority of voting members present, and the Massachusetts Port Authority Community Advisory  
522 Committee may act, except as otherwise provided in paragraph (f), by affirmative casting of a  
523 majority of the votes represented in the quorum. The Massachusetts Port Authority Community  
524 Advisory Committee shall be deemed to be a governing body for the purposes of, and shall be  
525 subject to, sections 18 to 25, inclusive, of chapter 30A of the General Laws.

526 (d) The Massachusetts Port Authority Community Advisory Committee shall adopt and  
527 may revise and amend by-laws. The Massachusetts Port Authority Community Advisory  
528 Committee shall annually elect a chairperson, a vice-chairperson, a secretary and such officers as

529 said Massachusetts Port Authority Community Advisory Committee might determine. Each  
530 member of said Massachusetts Port Authority Community Advisory Committee shall serve  
531 without compensation, except if a member provides specialized services, such as legal,  
532 accounting, record keeping, administration, or any other specialized services provided to the  
533 Massachusetts Port Authority Community Advisory Committee. Members may be reimbursed,  
534 as an expense of said Massachusetts Port Authority Community Advisory Committee, for all  
535 reasonable expenses incurred in the performance of their duties as approved by the  
536 Massachusetts Port Authority Community Advisory Committee.

537 (e) The purposes of the Massachusetts Port Authority Community Advisory Committee  
538 shall be as follows: (i) to appoint a member to the board of directors of the Massachusetts Port  
539 Authority, as provided for in section 2 of this chapter and in the manner prescribed in paragraph  
540 (f) of this section; (ii) to make recommendations to the authority on annual current expense  
541 expenditure budgets submitted to the Massachusetts Port Authority Community Advisory  
542 Committee pursuant to paragraph (g); (iii) to hold hearings, which may be held jointly with the  
543 authority at the discretion of the Massachusetts Port Authority Community Advisory Committee  
544 and said authority, on matters relating to said authority; (iv) to review the annual report of the  
545 authority and to prepare comments thereon to the authority and the governor, and to make such  
546 examinations of the reports on the authority's records and affairs as the Massachusetts Port  
547 Authority Community Advisory Committee deems appropriate; and (v) to make  
548 recommendations to the governor and the general court respecting the authority and its programs.  
549 The Massachusetts Port Authority Community Advisory Committee shall have all powers  
550 necessary or convenient to carry out and effectuate the foregoing purposes.

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

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

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

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

564 (j) The authority shall provide any information including, but not limited to, annual current  
565 expense expenditure budgets and capital expenditure reports, requested by the Massachusetts  
566 Port Authority Community Advisory Committee which are necessary for the discharge of its  
567 duties; provided, however, that the Massachusetts Port Authority Community Advisory  
568 Committee shall not be granted access to any information if it be determined by the executive  
569 director of the authority and the director of security for the authority that the release of such  
570 information would be detrimental to public safety, or if providing such information would be in  
571 violation of any federal statute or regulation of the Federal Aviation Administration or other  
572 federal agency; provided, further, that said determination shall be made in writing which shall be

573 delivered to the Massachusetts Port Authority Community Advisory Committee within 10  
574 business days.

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

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

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

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

589 SECTION 60. (a) Notwithstanding any general or special law to the contrary, the  
590 Massachusetts Department of Transportation shall ensure that the budget includes sufficient  
591 revenue from sources of revenue listed in subsection (c) to meet the following benchmarks: (i) in  
592 fiscal year 2014, the department shall contribute 47 per cent of the department’s operating  
593 budget; (ii) in fiscal year 2015, the department shall contribute 48 per cent of the department’s  
594 operating budget; (iii) in fiscal year 2016, the department shall contribute 50 per cent of the

595 department's operating budget; (iv) in fiscal year 2017, the department shall contribute 51 per  
596 cent of the department's operating budget; and (v) in fiscal year 2018, the department shall  
597 contribute 51 per cent of the department's operating budget.

598 (b) The benchmarks in subsection (a) may be achieved through any combination of  
599 revenue increases under subsection (c) and savings to the department's operating budget;  
600 provided, however, that the department shall submit a preliminary report of savings to the  
601 operating budget by October 1 of each fiscal year and a final report of savings to the operating  
602 budget by January 1 of each fiscal year. Those preliminary and final reports shall be submitted  
603 to the house and senate committees on ways and means and the joint committee on  
604 transportation.

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

616 SECTION 61. (a) Notwithstanding any general or special law to the contrary, the  
617 Massachusetts Bay Transportation Authority shall, in the authority's budget as approved by the  
618 board of directors under section 20 of chapter 161A of the General Laws, ensure that the budget  
619 includes sufficient revenue from sources of revenue listed in subsection (c) to meet the following  
620 benchmarks: (i) in fiscal year 2014, the authority shall contribute 31.5 per cent of the authority's  
621 operating budget; (ii) in fiscal year 2015, the authority shall contribute 33 per cent of the  
622 authority's operating budget; (iii) in fiscal year 2016, the authority shall contribute 33.25 per cent  
623 of the authority's operating budget; (iv) in fiscal year 2017, the authority shall contribute 32.75  
624 per cent of the authority's operating budget; and (v) in fiscal year 2018, the authority shall  
625 contribute 34 per cent of the authority's operating budget.

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

633 (c) The revenue generated to meet the benchmarks in subsection (a) may be derived from  
634 any funds collected by the authority through fees and fares and any other funds directly collected  
635 by the authority; provided, however, that such revenue shall not include funds contributed to the  
636 Massachusetts Bay Transportation Authority State and Local Contribution Fund under section  
637 35T of chapter 10 of the General Laws.

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

640 SECTION 62. (a) The Massachusetts Department of Transportation shall use the  
641 revenues generated by this act to comply with the second sentence of section 15 of chapter 6C of  
642 the General Laws requiring the salaries and benefits of employees of the department to be  
643 classified and funded as operating expenditures. The department shall comply with said section  
644 15 of said chapter 6C on or before June 30, 2016.

645 (b) The secretary of transportation, in consultation with the secretary of administration  
646 and finance, shall file a report regarding the department's compliance with the second sentence  
647 of said section 15 of said chapter 6C on or before August 1, 2013. The report shall include, but  
648 not be limited to: (1) the number of employees with salaries funded by capital expenditures in  
649 fiscal year 2013; (2) the total cost of employee salaries charged to capital expenditures in fiscal  
650 year 2013; (3) the number of employees and total cost of employee salaries that the department  
651 estimates will be moved from capital expenditures to operating expenditures in fiscal years 2014,  
652 2015 and 2016; and (4) a strategy to dedicate a portion of the funds made available through  
653 compliance with this section to projects that are included in the authority's 5-year rolling capital  
654 investment plan as published in accordance with section 5 of chapter 161A of the General Laws.  
655 The report shall be filed with the joint committee on transportation, the house and senate  
656 committees on bonding, capital expenditures and state assets and the house and senate  
657 committees on ways and means.

658 (c) The department shall use as necessary the extra bonding capacity or any portion  
659 thereof created by the removal of personnel costs from the capital budget pursuant to this section

660 to fund the capital costs associated with planning, design, permitting, engineering and  
661 construction of transportation projects.

662 SECTION 63. Notwithstanding any general or special law to the contrary, each regional  
663 transit authority established under chapter 161B of the General Laws shall develop a  
664 comprehensive regional transit plan in consultation with the appropriate regional planning  
665 agency, the Massachusetts Department of Transportation, local employers and the business  
666 associations, labor organizations and transit authority riders. The plan shall include, but not be  
667 limited to: (1) a comprehensive assessment of transit services; (2) a thorough examination of the  
668 ridership trends for each line and service provided by the regional transit authority; (3) a  
669 performance analysis of existing services; (4) the development and evaluation of alternative  
670 service scenarios; (5) the development of a recommendation to better align service with local and  
671 regional demand; (6) the commonwealth's environmental policies; (7) fare rates and collection  
672 methods; (8) the region's job creation goals and employment needs; and (9) a determination of  
673 whether the regional transit authority's service is deployed in the most effective way possible to  
674 accommodate the transit needs of the region's workforce. The development of the plan shall  
675 include public hearings in different regions of the commonwealth and the opportunity to  
676 comment on a draft report.

677 SECTION 64. There shall be a value capture commission consisting of the following 7  
678 members: the secretary of transportation or a designee, who shall serve as chair; the secretary of  
679 administration and finance or a designee; and 5 persons to be appointed by the governor, 2 of  
680 whom shall be representatives of business associations; 1 of whom shall represent organized  
681 labor; 1 of whom shall be a representative of the Massachusetts Municipal Association; and 1 of  
682 whom shall be a representative of a regional planning agency. The commission shall review and



683 evaluate the policies and best practices of other jurisdictions used to obtain benefits from the  
684 increased value of adjacent properties as a result of public infrastructure projects or ‘value  
685 capture’ and the current policies and mechanisms available within the commonwealth relative to  
686 value capture. The commission shall report to the general court on the effectiveness of the  
687 commonwealth’s current value capture policies and recommend whether certain policies from  
688 other jurisdictions should be implemented as part of the comprehensive state transportation plan,  
689 required under section 11 of chapter 6C of the General Laws. A report of the commission’s  
690 findings shall be filed with the clerks of the house of representatives and senate not later than  
691 March 1, 2014.

692 SECTION 65. Notwithstanding any general or special law to the contrary, the  
693 Massachusetts Department of Transportation shall review the current status of the use of rights-  
694 of-way in the state highway system, the turnpike and the metropolitan highway system, all as  
695 defined in section 1 of chapter 6C of the General Laws. The review shall also present the current  
696 status of efforts by the department to collect rents or other compensation for the use of  
697 department-owned rights-of-way. The review shall also include, but not be limited to, an  
698 inventory of the owners of utilities or utility facilities that occupy department-owned rights-of-  
699 way, according to town and either state route number or road name, as will most clearly identify  
700 the road or other transportation facility being referred to, and including underground facilities.  
701 For each owner of a utility or utility facility that occupies department-owned rights-of-way, the  
702 review shall state whether an easement or other agreement exists for the occupant's use of the  
703 right-of-way, whether that agreement is in writing, whether such agreement requires  
704 compensation to the department for the occupant's use of the right-of-way and if so, how much  
705 compensation, the due date of the compensation, whether the compensation has been paid and

706 whether the compensation is monetary or non-monetary. For each owner of a utility or utility  
707 facility that occupies department-owned rights-of-way, the review shall also state whether the  
708 department knows if other occupants are also using that utility or utility facility, and if known to  
709 the department, shall identify all other occupants of that utility or utility facility. If the  
710 department knows that facilities exist on department-owned rights-of-way but does not know the  
711 identity of the owner, the review shall describe such facilities and shall characterize the owners  
712 as 'unidentified owners'.

713 The department, in consultation with the department of public utilities and the owners of utilities  
714 and utility facilities, shall at the conclusion of the review, study and make recommendations on  
715 policies and reimbursement mechanisms for when it is necessary that a utility or utility facility,  
716 as defined under federal law, be relocated by the division of highways or the Massachusetts Bay  
717 Transportation Authority because of the construction of a project. The department shall review  
718 section 44 of chapter 6C of the General Laws and section 5 of chapter 161A of the General  
719 Laws, specifically current thresholds for eligible projects, the annual cap on the total  
720 reimbursement by the department and the reimbursement formula for the total costs of functional  
721 replacements of utility lines or real properties. The department shall recommend a utility  
722 reimbursement formula that takes into account, but is not limited to, the following factors:  
723 whether the project is to be reimbursed federally, in whole or in part, or to be paid by the  
724 commonwealth, in whole or in part; if the utility facility is to be reimbursed, in whole or in part  
725 or does not qualify for federal reimbursement; if the relocation shall be performed by the  
726 employees of the owner; and the nature of the project.

727 The department shall file a report containing the department's findings from the review of  
728 the current status of the use of rights-of-way in the state highway system, the turnpike and the

729 metropolitan highway system and the study on utility reimbursement mechanisms, together with  
730 any recommended legislation, with the clerks of the house and senate, the joint committee on  
731 transportation, the joint committee on telecommunications, utilities and energy, the house and  
732 senate committees on ways and means and the house and senate committees on bonding, capital  
733 expenditures and state assets on or before March 1, 2014.

734 SECTION 66. Notwithstanding any general or special law to the contrary, the  
735 Massachusetts Bay Transportation Authority shall expend funds on capital investment projects,  
736 including the green line extension project and the south coast rail project, that are listed in the  
737 authority's 5-year rolling capital investment plan as published in accordance with section 5 of  
738 chapter 161A of the General Laws.

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

747 SECTION 68. (a) Notwithstanding any general or special law to the contrary, the  
748 transportation performance and asset management advisory council shall, pursuant to section  
749 12A of chapter 6C of the General Laws, and in consultation with federal, state and local  
750 transportation agencies, regional planning agencies and other governmental agencies, develop

751 and recommend to the board of directors of the Massachusetts Department of Transportation for  
752 approval such procedures and requirements as are necessary for the administration of the  
753 performance and asset management system on or before November 1, 2013. The  
754 recommendations shall include, at a minimum: (1) a comprehensive plan for the development  
755 and integration of an asset management and performance information system with long-term  
756 statewide planning processes; (2) an analytical process or decision support tool that allows for  
757 the estimation of capital investment needs of such systems over time; and (3) an asset investment  
758 prioritization method by such systems, including the possible use of a quantifiable project  
759 prioritization mechanism such as a numeric scoring system.

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

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

767 SECTION 70. Notwithstanding any general or special law to the contrary, corporations  
768 that filed as a utility corporation under section 52A of chapter 63 of the General Laws before or  
769 in the taxable year ending on or before December 31, 2013, shall not be eligible to deduct from  
770 net income, the net operating losses described in paragraph 5 of section 30 of said chapter 63 for  
771 losses sustained prior to the taxable year beginning on or after January 1, 2014.

772 SECTION 71. Notwithstanding any general or special law to the contrary, nothing in  
773 section 37 shall restrict the authority of the commissioner of revenue under subsection (j) of  
774 section 38 of chapter 63 of the General Laws, nor shall it affect the continuing validity or  
775 application of regulations adopted under subsection (f) of said section 38 of said chapter 63 in  
776 effect as of July 1, 2013.

777 SECTION 72. Notwithstanding any general or special law to the contrary, a  
778 manufacturer, wholesaler, vending machine operator, unclassified acquirer or retailer, as defined  
779 in section 1 of chapter 64C of the General Laws, and a stamper appointed by the commissioner  
780 under section 30 of said chapter 64C who, as of the commencement of business 7 days after the  
781 effective date of this act, has on hand any cigarettes for sale or any unused adhesive or encrypted  
782 stamps, shall make and file with the commissioner within 20 days a return, subscribed and sworn  
783 to under the penalties of perjury, showing a complete inventory of such cigarettes and stamps  
784 and shall, at the time such manufacturer, wholesaler, vending machine operator, unclassified  
785 acquirer, retailer or stamper is required to file such return, pay an additional excise of 50 mills  
786 per cigarette on all cigarettes and all unused adhesive and encrypted stamps upon which an  
787 excise of only 100½ mills has previously been paid. Chapters 62C and 64C of the General Laws  
788 relative to the assessment, collection, payment, abatement, verification and administration of  
789 taxes, including penalties, shall apply to the excise imposed by this section.

790 SECTION 73. Notwithstanding any general or special law to the contrary, the  
791 Massachusetts Department of Transportation shall analyze the air quality impacts of the Central  
792 Artery Project and associated transit commitments completed to date. The analysis shall be  
793 conducted in cooperation with the Boston Region Metropolitan Planning Organization and shall  
794 report on the levels of Volatile Organic Compounds, Oxides of Nitrogen, and Carbon Monoxide

795 in the MPO region and Eastern Massachusetts. The results of the analysis shall be provided to  
796 the joint committee on transportation within 6 months of the effective date of this act.

797 SECTION 74. Notwithstanding any general or special law to the contrary, the  
798 Massachusetts Department of Transportation shall study and report on the feasibility of  
799 establishing additional interstate tolls along the borders of the commonwealth. The report shall  
800 examine the several options available to the commonwealth to pursue border tolls, including, but  
801 not limited to, seeking a federal waiver, reaching interstate or regional agreements and the  
802 commonwealth's ability to establish border tolls in the event of proposed changes to federal law  
803 on interstate highway tolling. The department shall file its report along with any legislative  
804 recommendations with the house and senate committees on ways and means and the joint  
805 committee on transportation on or before December 31, 2013.

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

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

814 SECTION 76. Notwithstanding any general or special law to the contrary, within 90  
815 days after the effective date of this act, the Massachusetts Department of Transportation shall  
816 provide to the joint committee on transportation and the house and senate committees on ways

817 and means a plan to implement a proposed fee structure for collecting tolls for transit over the  
818 turnpike between interchange 1 in the town of West Stockbridge and interchange 6 in the city of  
819 Springfield at interstate highway route 291, inclusive, which shall include, but not be limited to,  
820 the proposed fees, assumptions used to set the fees and a timeline to implement collection of the  
821 fees.

822 SECTION 77. There shall be established, pursuant to section 2A of chapter 4 of the  
823 General Laws, a tax fairness commission to study the federal, state and local tax laws applicable  
824 to residents of the commonwealth. The commission shall review and evaluate the equity of  
825 historical tax rates and methods in relation to the changing income and wealth of residents of the  
826 commonwealth since 1990. The commission shall examine the experiences and policy efforts of  
827 other states relating to tax fairness.

828 The commission shall file a report with the clerks of the senate and house of  
829 representatives not later than March 1, 2014. The report shall include, but not be limited to: (i)  
830 the total amount of taxes currently paid by individuals at various income levels; (ii) the effects  
831 that changes to tax laws would have on individuals of all income levels; (iii) the changes in  
832 revenue collected by the commonwealth as a result of tax law revisions; (iv) the adequacy of  
833 revenue generated by individuals, businesses and any other tax types; (v) tax rates necessary to  
834 fund investment in public infrastructure; (vi) tax rates necessary to promote prosperity for all  
835 residents; (vii) restrictions on tax changes under Article XLIV of the Amendments to the  
836 Constitution; (viii) recommendations for changes in laws to achieve an equitable and adequate  
837 system of taxation; (ix) the best practices of other states; (x) tax rates necessary to ensure  
838 economic competitiveness with peer and competitor states; (xi) tax rates necessary to avoid  
839 destabilization of household budgets or undue hardships for citizens; and (xii) tax rates necessary

840 to foster and encourage robust private sector investment in capital equipment and the state's  
841 work force.

842 The commission shall consist of the house and senate chairs of the joint committee on  
843 revenue or the chairs' designees, who shall serve as co-chairs of the commission; the secretary of  
844 administration and finance or the secretary's designee; the minority leader of the house of  
845 representatives or a designee; the minority leader of the senate or a designee; the chairs of the  
846 house and senate committees on ways and means or the chairs' designees; a representative of the  
847 Massachusetts Budget and Policy Center; a representative of the Massachusetts Taxpayers  
848 Foundation; a representative of the Kitty and Michael Dukakis Center for Urban and Regional  
849 Policy; a representative of the Pioneer Institute; and 4 members to be appointed by the governor,  
850 1 of whom shall represent labor and 2 of whom shall have expertise in economics or tax policy.

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

857 Not less than 15 days prior to each meeting, the secretary of transportation shall submit a  
858 report to the secretary of administration and finance and the house and senate committees on  
859 ways and means detailing: (i) year-to-date revenues collected, projected revenues and  
860 expenditures for the current fiscal year; (ii) projected revenues and expenditures for the next 5  
861 fiscal years; (iii) changes in revenue and expenditure projections from the previous semiannual



862 report; (iv) reasons for any changes from previous projections; (v) progress made toward  
863 achieving revenue and savings targets set for fiscal years 2017 and 2018; and (vi) a plan detailing  
864 how the fiscal year 2017 and fiscal year 2018 targets will be achieved.

865 In order to comply with clause (vi), the report submitted prior to the July 2015 meeting  
866 shall identify any potential changes to the fare and fee structure necessary to achieve the  
867 benchmarks set forth in sections 60 and 61 for fiscal year 2017 and fiscal year 2018. If the report  
868 proposes to increase the fare and fee structure by 5 per cent, the report shall include an estimate  
869 of additional support from the Commonwealth Transportation Fund or other revenue and saving  
870 initiatives necessary to limit increases to not more than 5 per cent every 24 months.

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

879 SECTION 80. Notwithstanding any general or special law to the contrary, the  
880 Massachusetts Bay Transportation Authority shall create a pilot program at 3 high-volume  
881 parking station facilities dedicating not more than 10 per cent of the available parking to  
882 customers willing to pay an increased premium for a reserved parking spot that is guaranteed to  
883 be available to such customer if the customer arrives at the spot before a certain hour, as

884 determined by the authority; provided, however, that all net proceeds received as a result of the  
885 pilot program shall be dedicated to the authority.

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

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

893 SECTION 83. Sections 26 shall take effect on July 1, 2013.

894 SECTION 84. Sections 29 to 37, inclusive, 39 to 42, inclusive, 52, 53, 70 and 71 shall  
895 take effect on January 1, 2014, and shall be effective for tax years beginning on or after January  
896 1, 2014.

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

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

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

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

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

903 SECTION 90. Section 3A shall take effect on July 1, 2016.”