

HOUSE No. 3581

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

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

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

1 “SECTION 1. To provide for certain unanticipated obligations of the commonwealth, to
2 provide for an alteration of purpose for current appropriations, and to meet certain requirements
3 of law, 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 performance and asset management advisory council to assist with
12 the development of an integrated performance and asset management system pursuant to sections
13 12 and 12A of chapter 6C of the General Laws; provided further, that any unexpended funds in

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

16 Commonwealth Transportation Fund 100%

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

131

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

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

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

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

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

possible inclusion of municipal roadways. The minimum standards shall include: (i) the keeping of accurate and uniform records of real transportation assets, (ii) the mileage and condition of each road and bridge system under various jurisdictions, (iii) the receipts and disbursements of road, street and transit funds, (iv) a multiyear compilation of projects anticipated to be contracted for or by the department or local transportation agencies that are funded in whole or in part with state or federal funds, and (v) 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 of each year, the council shall provide 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 13. Subsection (a) of section 13 of said chapter 6C, as appearing in the 2010 Official Edition, is hereby amended by adding the following sentence:-

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

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

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

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

(d) The secretary shall:

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

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

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

(i) the 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;

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

207 (v) total projected and actual cost;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 26. Said section 2ZZZ of said chapter 29, as so appearing, is hereby further amended by striking out subsection (c) 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 all monies received by the commonwealth from the receipts from sales of motor vehicles under sections 3, 25 and 26 of chapter 64H and all monies received by the commonwealth on the sales price of purchases of motor vehicles under sections 4, 26 and 27 of chapter 64I, from the taxes imposed under said chapters 64H and 64I as excises upon the sale and use at retail of motor vehicles and upon the storage, use or other consumption of motor vehicles, including interest thereon or penalties; provided however, such amount shall not include 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. The amount credited to the fund under this subsection shall be net of the dedicated sales tax revenue amount transferred to the Massachusetts Bay Transportation Authority State and Local Contribution Fund under section 35T of chapter 10 and to the School Modernization and Reconstruction Trust Fund under section 35BB of said chapter 10.

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

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

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

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

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

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

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

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

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

(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 paragraph, paragraph (xiii) of subsection (d) shall not apply.

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

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

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

(f) The sales factor is a fraction, the numerator of which is the total sales of the corporation in the 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’ shall mean 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 the commonwealth if:-

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

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

Sales, other than sales of tangible personal property, are in the commonwealth if the corporation's market for the sale is in the 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:-

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

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

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

(4) 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 the commonwealth; and

(5) in the case of the sale of intangible property, other than as provided in clause (4), 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 the commonwealth; provided, however, that any sale of intangible property, not otherwise described in this clause or clause (4), shall be excluded from the numerator and the denominator of the sales factor.

For the purposes of this subsection: (1) 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; (2) 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; (3) 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; (4) 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; (5) in the case of 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' shall be measured by the gain from the transaction; (6) 'security' shall mean 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; (7) in the case of a sale or deemed sale of a business, the term 'sales' shall not include receipts from the sale of the business 'goodwill' or similar

intangible value, including, without limitation, 'going concern value' and 'workforce in place';
(8) to the extent authorized under 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 (9) 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 the commonwealth to the extent that the location of wagering transactions or
activities that generated the receipts is in the commonwealth.

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

(a) 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
the 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.

(b) 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.

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

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

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

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

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

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

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

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

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

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

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

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. The commissioner may, in the commissioner's discretion, require reports from any common carrier who transports cigarettes to any point or points within the commonwealth and from any other person who, under contract, so transports cigarettes, and from any bonded warehouseman or bailee who has in his possession any cigarettes, such reports to contain such information concerning shipments of cigarettes as the commissioner shall determine. All such carriers, bailees, warehousemen and other persons shall permit the examination by the commissioner or the commissioner's duly authorized agent of any records relating to the shipment of cigarettes into or from, or the receipt thereof within, the commonwealth.

SECTION 46. 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 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 47. Section 7B of said chapter 64C, as so appearing, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) The purposes of the Massachusetts Port Authority Community Advisory Committee shall be as follows: (i) to appoint a member to 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 Massachusetts Port Authority Community Advisory Committee under paragraph (g); (iii) to hold hearings, which may be held jointly with the authority at the discretion of the Massachusetts Port Authority Community Advisory Committee 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 Massachusetts Port Authority Community Advisory Committee deems appropriate; and (v) to make recommendations to the governor and the general court respecting the authority and its programs. The Massachusetts Port Authority Community Advisory Committee shall have all powers necessary or convenient to carry out and effectuate the foregoing purposes.

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

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

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

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

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

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

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

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

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

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

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

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

of the authority's operating budget; (iv) in fiscal year 2017, the authority shall contribute 32.75 per cent of the authority's operating budget; and (v) 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 increasing nonfare revenues, increasing total fare revenues through ridership growth, increasing fare levels while accounting for potential loss of ridership from fare increases or from savings to the authority's operating budget; provided, however, 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 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, that 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.

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

SECTION 62. (a) The Massachusetts Department of Transportation shall use the revenues generated by 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 of said chapter 6C 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 15, 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; (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; and (4) a strategy to dedicate a portion of the funds made available through compliance with this section to projects that are included in the authority's 5-year rolling capital investment plan as published in accordance with section 5 of chapter 161A of the General Laws. 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.

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

SECTION 63. Notwithstanding any general or special law to the contrary, each regional transit authority established under chapter 161B of the General Laws shall develop a comprehensive regional transit plan in consultation with the appropriate regional planning agency, the Massachusetts Department of Transportation, local employers and the business associations, labor organizations and transit authority riders. The 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 regional transit authority; (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 regional transit authority'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.

SECTION 64. There shall be 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 who shall 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 within 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 should be implemented as part of the comprehensive state transportation plan, required under section 11 of chapter 6C of the General

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

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

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

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

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

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

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

SECTION 68. (a) Notwithstanding any general or special law to the contrary, the performance and asset management advisory council shall, 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, develop and recommend 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. The recommendations shall include, at a minimum: (1) a comprehensive plan for the development and integration of an asset management and a performance measurement system with long-term statewide planning processes; (2) an analytical process or decision support tool that allows for the estimation of capital investment needs of such systems over time; and (3) an asset investment prioritization method by such

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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