

SENATE No. 1766

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

1 SECTION 1. Section 3 of chapter 6C of the General Laws, as appearing in the 2010
2 Official Edition, is hereby amended by striking out, in lines 91 and 98, the word “semi-annual”
3 and inserting in place thereof, in each instance, the following word:- quarterly.

4 SECTION 2. Said section 3 of said chapter 6C, as so appearing, is hereby further
5 amended by inserting after the word “that”, in line 110, the following words:- the department
6 shall receive compensation in the amount of the fair market value of the rights granted, in such
7 form as the department, in its sole discretion, deems appropriate and such compensation shall be
8 documented in such easement or other agreement; provided further, that.

9 SECTION 3. Said section 3 of said chapter 6C, as so appearing, is hereby further
10 amended by striking out, in line 119, the words "mass transportation facilities" and inserting in
11 place thereof the following words:- facilities; provided, however, that the department shall
12 receive compensation in the amount of the fair market value of the rights granted, in such form
13 as the department, in its sole discretion, deems appropriate and such compensation shall be
14 documented in such easement or other agreement.

15 SECTION 4. Said chapter 6C is hereby amended by inserting after section 6 the
16 following section:-

17 Section 6A. Notwithstanding any general or special law to the contrary, the goals
18 established by the office of performance management and innovation under subsection (b) of
19 section 6 shall include, but not be limited to: (1) for the division of highways, the reduction of
20 commuting times by at least 10 per cent in each region for each rolling 5-year period, after
21 adjusting for seasonal variations and for changes in the economic activity in the region; (2) for
22 the division of highways, the reduction of fatalities by at least 10 per cent for each rolling 5-year
23 period; (3) for the division of highways, the reduction of the accident rate by at least 10 per cent
24 for each rolling 5-year period; (4) for the division of highways, the reduction of the
25 administrative disbursement rate per mile by at least 10 per cent for each rolling 5-year period;
26 (5) for the division of highways, increasing the maintenance disbursements per mile by at least
27 the same total dollar amount as the total dollar amount saved by the reduction of the

administrative disbursement rate per mile under the 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 (a) of section 13 of said chapter 6C, as so appearing, is hereby amended by inserting after the second sentence the following 2 sentences:- If all notes and bonds issued by the department relating to the turnpike and payable from turnpike revenues have been paid or a sufficient amount for the payment of all such notes or bonds and the interest thereon, to the maturity thereof, shall have been set aside in trust for the benefit of the holders of such notes or bonds, then the funds produced under the preceding sentence may also be used to pay costs incurred in furtherance of this chapter related to that portion of the state highway system that is bounded: in the west, by the commonwealth's border with New York; in the north, by the interchange of state highway route 128 and United States highway route 3 in the town of Burlington, but not including said interchange, and along United States highway route 3, but not including United States highway route 3, to the northern border of the commonwealth; in the east, by state highway route 128, but not including state highway route 128; and in the south, by the interchange of state highway route 128 and interstate highway route 95 in the town of Dedham, but not including that interchange, and along interstate highway route 95, but not including interstate highway route 95, to the interchange of interstate highway route 95 and interstate highway route 295 in the town of Attleborough, then along interstate highway route 295, but not including interstate highway route 295, to the commonwealth's border with Rhode Island and northward, then westward, along the southern border of the commonwealth. Such costs may include, but shall not be limited to, the cost of owning, maintaining, repairing, reconstructing, improving, rehabilitating, policing, using, administering, controlling and operating the portion of the state highway system described in the preceding sentence.

SECTION 6. Section 19 of said chapter 6C, as so appearing, is hereby amended by striking out, in line 29, the word "if" and inserting in place thereof the following words:- or the department of public utilities, as.

SECTION 7. Section 43 of said chapter 6C, as so appearing, is hereby amended by striking out subsections (c) and (d) and inserting in place thereof the following 4 subsections:-

(c) The department shall not enter into any agreement under clause (21) of section 3 with a value in excess of \$300,000 without the written approval of the board.

(d) Neither the division nor the department shall promulgate any rules or regulations establishing rates for agreements under clause (21) of section 3 without the written approval of the board.

(e) The board shall meet periodically, but at least twice each year and shall keep a public record of all meetings, votes and other business.

(f) The board shall submit an annual report of its activities during the preceding fiscal year not later than September 1 to the governor, the secretary, the administrator, the house and senate chairs of the joint committee on transportation and the chairs of the house and senate committees on bonding, capital expenditures and state assets.

SECTION 8. Said chapter 6C is hereby further amended by striking out sections 44 and 45, as so appearing, and inserting in place thereof the following 2 sections:-

Section 44. (a) The division of highways may provide functional replacement of real property in public ownership whenever the division has acquired such property, in whole or in part, under this chapter or when such property is significantly and adversely affected as a result of the acquisition of property for a highway or highway-related project and whenever the division determines that functional replacement is necessary and in the public interest. For the purposes of this section, "functional replacement" shall mean the replacement of real property, including land, the facilities thereon or both, which shall provide equivalent utility. For the purposes of this section, "real property in public ownership" shall mean any present or future interest in land, including rights of use held by an agency, authority, board, bureau, commission, department, division or other unit, body, instrumentality or political subdivision of the commonwealth or the federal government.

(b) Whenever the division determines it is necessary that a utility or utility facility, as defined under federal law, be relocated because of construction of a project, such facility shall be relocated by the division or by the owner thereof in accordance with an order from the division. For any utility facility, the division may reimburse the owner in accordance with the easement or other agreement under clause (21) of section 3 between the department and the owner.

(c) Any relocation of facilities carried out under this section which is not performed by employees of the owner shall be subject to sections 26 to 27F, inclusive, of chapter 149.

(d) Any agreement under clause (21) of section 3 between the department and the owner of a utility or utility facility shall contain minimum standards for the successful completion of the relocation work as a condition of reimbursement including, without limitation, target dates for completion and adherence to minimum design standards established by the department.

Section 45. The division may reimburse the owner of an underground utility or utility facility whenever such underground utility or utility facility is determined by the division to be relocated because of construction of a project. For any such utility or utility facility, the division shall reimburse the owner in accordance with the easement or other agreement between the department and the owner.

SECTION 9. Sections 4C to 4G, inclusive, of chapter 16 of the General Laws are hereby repealed.

SECTION 10. Section 2 of chapter 21J of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out subsection (D).

SECTION 11. Section 4 of said chapter 21J, as so appearing, is hereby amended by adding the following subsection:-

(e) Notwithstanding any general or special law to the contrary, the treasurer shall, at the conclusion of each fiscal year, determine whether monies collected under section 2 are deemed to be excess of the purposes outlined in this chapter and shall, not later than September 1, transfer all such excess amounts into the Commonwealth Transportation Fund established in section 2ZZZ of chapter 29.

SECTION 12. 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 13. 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 (b)(1/2) of section 10 of chapter 152 of the acts of 1997. The amount credited to the fund under

135 this subsection shall be net of the dedicated sales tax revenue amount transferred to the
136 Massachusetts Bay Transportation Authority State and Local Contribution Fund under section
137 35T of chapter 10 and to the School Modernization and Reconstruction Trust Fund under section
138 35BB of chapter 10.

139 SECTION 14. Section 5 of chapter 59 of the General Laws, as appearing in the 2010
140 Official Edition, is hereby amended by striking out, in line 237, the words “or (d)” and inserting
141 in place thereof the following words:- (d) a telephone corporation subject to chapter 166 or (e).

142 SECTION 15. Said section 5 of said chapter 59, as so appearing, is hereby further
143 amended by striking out, in lines 238 and 239, the words “, fifty-two A”.

144 SECTION 16. Said section 5 of said chapter 59, as so appearing, is hereby further
145 amended by inserting after the word “corporation”, in line 255, the following words:- “or a
146 telephone corporation subject to chapter 166”.

147 SECTION 17. Section 12 of chapter 62C of the General Laws, as so appearing, is hereby
148 amended by striking out subsection (g).

149 SECTION 18. Said section 12 of said chapter 62C, as so appearing, is hereby further
150 amended by striking out, in lines 40 and 41, the words “and fifty-two A of chapter sixty-three”.

151 SECTION 19. Subsection (d) of section 2A of chapter 63 of the General Laws, as so
152 appearing, is hereby amended by striking out paragraph (xi) and inserting in place thereof the
153 following paragraph:-

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

159 SECTION 20. Section 31H of said chapter 63 is hereby amended by striking out, in line
160 53, as so appearing, the words “, section 39 and section 52A” and inserting in place thereof the
161 following words:- “and section 39”.

162 SECTION 21. Section 38 of said chapter 63, is hereby amended by striking out, in line
163 31, as so appearing, the words “or of section 52A”.

164 SECTION 22. Said section 38 of said chapter 63, as most recently amended by section 32
165 of chapter 194 of the acts of 2011, is hereby further amended by striking out subsection (f) and
166 inserting in place thereof the following subsection:-

167 (f) The sales factor is a fraction, the numerator of which is the total sales of the
168 corporation in this commonwealth during the taxable year, and the denominator of which is the

total sales of the corporation everywhere during the taxable year. As used in this subsection, unless specifically stated otherwise, "sales" means all gross receipts of the corporation, including deemed receipts from transactions treated as sales or exchanges under the Code, except interest, dividends and gross receipts from the maturity, redemption, sale, exchange or other disposition of securities; provided, however, that "sales" shall not include gross receipts from transactions or activities to the extent that a non-domiciliary state would be prohibited from taxing the income from such transactions or activities under the Constitution of the United States. Sales of tangible personal property are in this commonwealth if:-

1. the property is delivered or shipped to a purchaser within this 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 this commonwealth. "Purchaser", as used in clauses 1 and 2 of this paragraph, shall include the United States government.

Sales, other than sales of tangible personal property, are in this commonwealth if the corporation's market for the sale is in this commonwealth. The corporation's market for a sale is in this 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 this commonwealth;

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

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

5. in the case of the sale of intangible property, other than as referenced 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 this 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 this 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 this commonwealth to the extent that the location of wagering transactions or activities that generated the receipts is in this commonwealth.

Notwithstanding the foregoing, mutual fund sales as defined in subsection (m), other than the sale of tangible personal property, shall be assigned to this commonwealth to the extent that shareholders of the regulated investment company are domiciled in this commonwealth 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 this commonwealth at the beginning of and at the end of the regulated investment company's taxable year that ends with or within the taxpayer's taxable year and the denominator of which

shall be the average of the number of shares owned by the regulated investment company shareholders everywhere at the beginning of and at the end of the regulated investment company's taxable year that ends with or within the taxpayer's taxable year.

(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.

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

SECTION 23. The third paragraph of subsection (f) of said section 38 of said chapter 63 is hereby amended by striking out clauses (8) and (9), as appearing in section 22, and inserting in place thereof the following words:- and (8) in the case of a business deriving receipts from operating a gaming establishment or otherwise deriving receipts from conducting a wagering business or activity, income-producing activity shall be considered to be performed in this commonwealth to the extent that the location of wagering transactions or activities that generated the receipts is in this commonwealth.

SECTION 24. Section 52A of said chapter 63 is hereby repealed.

SECTION 25. Section 59 of said chapter 63, as appearing in the 2010 Official Edition, is hereby amended by striking out, in lines 10 and 11, the words “; but this section shall not apply to corporations subject to section fifty-two A”.

SECTION 26. Section 67 of said chapter 63, as so appearing, is hereby amended by striking out the last sentence.

SECTION 27. Section 68C of said chapter 63, as so appearing, is hereby amended by striking out clause (3).

SECTION 28. Section 1 of chapter 64A of the General Laws, as so appearing, is hereby amended by striking out, in line 98, the figure “21” and inserting in place thereof the following figure:- 24.

SECTION 29. Said section 1 of said chapter 64A, is hereby further amended, by inserting after the word “gallon”, in line 98, as so appearing, the following words:- , adjusted at the beginning of each calendar year, beginning by the percentage, if any, by which the Consumer Price Index for the preceding year exceeds the Consumer Price Index for the calendar year that ends before such preceding year; provided, however, that the Consumer Price Index for any calendar year shall be as defined in section 1 of the Internal Revenue Code.

SECTION 30. Section 6 of chapter 64C of the General Laws, as so appearing, is hereby amended by striking out, in lines 3 and 11, the figure “100½” and inserting in place thereof, in each instance, the following figure:- 150½.

SECTION 31. Said section 6 of said chapter 64C, as so appearing, is hereby further amended by striking out, in line 27, the figure “40” and inserting in place thereof the following figure:- 160.

SECTION 32. Section 7B of said chapter 64C, as so appearing, is hereby amended by striking out, in line 40, the figure "30" and inserting in place thereof the following figure:- 40.

SECTION 33. Section 1 of chapter 64H of the General Laws, as so appearing, is hereby amended by inserting after the definition of “Commissioner” the following definition:-

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

SECTION 34. Said section 1 of said chapter 64H, as so appearing, is hereby further amended by striking out, in lines 239 to 241, inclusive, the words “; and provided, further, that the term services shall be limited to the following item: telecommunications services” and inserting in place thereof the following words:- , or data access, data processing or information management services; and provided further, that the term services shall be limited to the following items: telecommunications services, computer system design services and the modification, integration, enhancement, installation or configuration of standardized software.

SECTION 35. Chapter 81 of the General Laws is hereby amended by striking out section 7D, as so appearing, and inserting in place thereof the following section:-

Section 7D. The department may grant easements or enter into other agreements as provided in clause (21) of section 3 of chapter 6C, within and outside the limits of the state highway system, the metropolitan highway system or the turnpike locations, for ducts, pipes, pipelines, mains, poles, conduits, cables, wires, towers, cattle passes and other structures; provided, however, that the department shall receive compensation in the amount of the fair market value of the rights granted, in such form as the department, in its sole discretion, deems appropriate and such compensation shall be documented in the easement or other agreement, subject to review by the real estate appraisal review board as may be required under section 43 of chapter 6C.

SECTION 36. Section 7G of said chapter 81, as so appearing, is hereby amended by inserting after the word “company”, in line 9, the following words:- in accordance with, and for such compensation as is provided in, the easement or other agreement authorized under section 7D.

SECTION 37. Said section 7G of said chapter 81, as so appearing, is hereby further amended by striking out the last sentence.

SECTION 38. Section 7H of said chapter 81, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "the provisions of section eight A of chapter twenty-nine" and inserting in place thereof the following words:- section 8B of chapter 81.

SECTION 39. Said chapter 81 is hereby further amended by striking out section 7K, as so appearing, and inserting in place thereof the following section:-

Section 7K. Whenever land or an easement therein is taken by the department by eminent domain to relocate a utility or utility facility under sections 44 or 45 of chapter 6C, the owner of the utility or utility facility, its authorized agents or employees, after due notice by certified mail to the persons in possession of land that was taken, may enter upon the land, water and premises not including buildings, as is necessary or convenient to relocate the facility and such entry shall not be deemed a trespass, nor an entry under any condemnation proceedings which are pending.

SECTION 40. Section 7L of said chapter 81, as so appearing, is hereby amended by striking out, in line 13, the words "Highway Fund" and inserting in place thereof the following words:- Massachusetts Transportation Trust Fund, established under section 4 of chapter 6C.

SECTION 41. Said section 7L of said chapter 81, as so appearing, is hereby further amended by striking out the last paragraph.

SECTION 42. 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 43. Said section 7 of said chapter 164A, as so appearing, is hereby further amended by striking out subsection (b).

SECTION 44. Section 21 of chapter 166 of the General Laws, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- In the case of a public way owned by the Massachusetts Department of Transportation, the construction of any such poles, piers, abutments, conduits and other fixtures, except bridges shall be subject to an agreement under section 7D of chapter 81.

SECTION 45. Section 22A of said chapter 166, as so appearing, is hereby amended by striking out, in line 5, the word "energy" and inserting in place thereof the following word:- cable.

SECTION 46. Section 25 of chapter 130 of the acts of 2008 is hereby repealed.

SECTION 47. Section 54 of said chapter 130, as amended by section 24 of chapter 9 of the acts of 2011, is hereby further amended by striking out the figure "25".

SECTION 48. Section 173 of chapter 25 of the acts of 2009 is hereby repealed.

SECTION 49. Notwithstanding any general or special law to the contrary, the 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. The review shall also present the current status of efforts by the department's office of real estate and asset development 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".

The department shall file a report containing the department's findings from this review with the clerks of the house and senate, the house and senate chairs of the joint committee on transportation, the house and senate chairs of the joint committee on telecommunications, utilities and energy, the chairs of the house and senate committees on ways and means and the chairs of the house and senate committees on bonding, capital expenditures and state assets not later than October 1, 2013.

SECTION 50. The department shall use its best efforts to conclude written easements or other written agreements under clause (21) of section 3 of chapter 6C of the General Laws with the owners of utilities or utility facilities on all department-owned rights-of-way by June 30, 2015. The period covered by such agreements shall begin not later than July 1, 2015.

SECTION 51. A manufacturer, wholesaler, vending machine operator, unclassified acquirer or retailer, as defined 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 on July 1, 2013, has on hand any cigarettes for sale or any unused adhesive or encrypted stamps, shall make and file with the commissioner within 20 days a return, subscribed and sworn to under the penalties of perjury, showing a complete inventory of such cigarettes and stamps and shall, at the time 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 52. (a) Notwithstanding any general or special law to the contrary, the Massachusetts Department of Transportation shall generate sufficient revenue to meet the following benchmarks: (1) in fiscal year 2014, the department shall contribute 47 per cent of the department's operating budget; (2) in fiscal year 2015, the department shall contribute 48 per cent of the department's operating budget; (3) in fiscal year 2016, the department shall contribute 50 per cent of the department's operating budget; (4) in fiscal year 2017, the department shall contribute 51 per cent of the department's operating budget; and (5) in fiscal year 2018, the department shall contribute 51 per cent of the department's operating budget.

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

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

SECTION 53. (a) Notwithstanding any general or special law to the contrary, the Massachusetts Bay Transportation Authority shall generate sufficient revenue to meet the following benchmarks: (1) in fiscal year 2014, the authority shall contribute 31.5 per cent of the authority's operating budget; (2) in fiscal year 2015, the authority shall contribute 33 per cent of the authority's operating budget; (3) in fiscal year 2016, the authority shall contribute 33.25 per cent of the authority's operating budget; (4) in fiscal year 2017, the authority shall contribute 32.75 per cent of the authority's operating budget; (5) and in fiscal year 2018, the authority shall contribute 34 per cent of the authority's operating budget.

(b) The benchmarks in subsection (a) may be achieved through savings to the authority's operating budget; provided, 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. The preliminary and final reports of

savings shall be submitted to the house and senate committees on ways and means and the joint committee on transportation.

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

SECTION 54. (a) The Massachusetts Department of Transportation shall use the revenues generated under 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 not later than 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 section 15 of chapter 6C of the General Laws not later than August 1, 2013. The report shall include, but not be limited to: (1) the number of employees with salaries funded by capital expenditures in fiscal year 2013; (2) the total cost of employee salaries charged to capital expenditures in fiscal year 2013; and (3) the number of employees and total cost of employee salaries that the department estimates will be moved from capital expenditures to operating expenditures in fiscal years 2014, 2015 and 2016. The report shall be filed with the joint committee on transportation, the house and senate committees on bonding, capital expenditures and state assets and the house and senate committees on ways and means.

SECTION 55. 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. 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 56. Corporations that filed as a utility corporation under section 52A of chapter 63 of the General Laws in the taxable year ending on or before December 31, 2013 shall not be eligible to deduct from net income, the net operating losses described in paragraph 5 of section 30 of said chapter 63 for losses sustained prior to the taxable year beginning on or after January 1, 2014.

SECTION 57. Nothing in section 22 shall restrict the authority of the commissioner of revenue under subsection (j) of section 38 of chapter 63 of the General Laws, nor shall it affect the continuing validity or application of regulations adopted under subsection (f) of said section 38 of said chapter 63 in effect as of the effective date of this act.

SECTION 58. Notwithstanding any general or special law to the contrary, the Massachusetts Bay Transportation Authority shall expend funds on capital investment projects, including the green line extension project and the south coast rail project, which shall be included in the authority's 5-year rolling capital investment plan as published under section 5 of chapter 161A of the General Laws.

SECTION 59. Sections 5 and 48 shall take effect on July 1, 2017.

SECTION 60. Sections 8 and 39 shall take effect on July 1, 2015.

SECTION 61. Sections 10 to 12, inclusive, shall take effect on July 1, 2014.

SECTION 62. Sections 13, 28, 30 to 34, inclusive, and 51 shall take effect on July 1, 2013.

SECTION 63. Sections 14 to 22, inclusive, 24 to 27, inclusive, 42, 43, 56 and 57 shall take effect on January 1, 2014 and shall be effective for tax years beginning on or after January 1, 2014.

SECTION 64. Sections 23, 46 and 47 shall take effect on December 31, 2018.

SECTION 65. Section 29 shall take effect on January 1, 2015.