

SENATE No. 1770

Text of the Senate amendment to the House Bill relative to transportation finance (House, No. 3415) (being the text of Senate document numbered 1766, printed as amended).

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

1 SECTION 1. Section 7 of chapter 4 of the General Laws is hereby amended by inserting
2 after the word “board”, in line 134, as appearing in the 2010 Official Edition, the following
3 words:- , including the Massachusetts Bay Transportation Authority Retirement Board or any
4 successor or subsidiary entity.

5 SECTION 1A. Section 3 of chapter 6C of the General Laws, as so appearing, is hereby
6 amended by inserting after the words “turnpike corridor”, in line 74, the following words:- or a
7 metropolitan highway system community, as appropriate.

8 SECTION 1B. Said section 3 of said chapter 6C, as so appearing, is hereby further
9 amended by inserting after the word “turnpike”, in line 76, the following words:- or metropolitan
10 highway system, as appropriate,.

11 SECTION 1C. Said section 3 of said chapter 6C, as so appearing, is hereby further
12 amended by inserting after the word “accepted”, in line 78, the following words:- ; provided
13 further, that the department shall not implement all-electronic tolling nor open-road tolling on the
14 metropolitan highway system or turnpike prior to: (i) pursuing approval from the Federal
15 Highway Administration to toll additional interstate highways within the commonwealth; (ii)
16 developing a comprehensive tolling program on additional interstate and limited access state
17 highways within the commonwealth, which considers equity issues, revenue benchmarks
18 established by state law, current policy objectives, diversion issues, cost and consistency with the
19 current highway program; (iii) examining a regional value pricing program, electronic tolling
20 program, road pricing program and other available tolling options; and (iv) developing a toll
21 feasibility analysis as a part of the highway project selection and the project finance decision
22 making and inclusion of such analysis in the evaluation of all projects as part of the 5-year
23 highway capital improvement program.

24 SECTION 1D. Said section 3 of said chapter 6C, as so appearing, is hereby further
25 amended by striking out, in lines 91 and 98, the word “semi-annual” and inserting in place
26 thereof, in each instance, the following word:- quarterly.

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

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

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

40 Section 6A. Notwithstanding any general or special law to the contrary, the goals
41 established by the office of performance management and innovation under subsection (b) of
42 section 6 shall include, but not be limited to: (1) for the division of highways, the reduction of
43 commuting times by at least 10 per cent in each region for each rolling 5-year period, after
44 adjusting for seasonal variations and for changes in the economic activity in the region; (2) for
45 the division of highways, the reduction of fatalities by at least 10 per cent for each rolling 5-year
46 period; (3) for the division of highways, the reduction of the accident rate by at least 10 per cent
47 for each rolling 5-year period; (4) for the division of highways, the reduction of the
48 administrative disbursement rate per mile by at least 10 per cent for each rolling 5-year period;
49 (5) for the division of highways, increasing the maintenance disbursements per mile by at least
50 the same total dollar amount as the total dollar amount saved by the reduction of the
51 administrative disbursement rate per mile under the clause (4), for each corresponding 5-year
52 period; (6) for the Mass Transit division, a decrease in the urban transit bus fleet age for each
53 transit authority of at least 10 per cent for each rolling 5-year period; (7) for the Mass Transit
54 division, a reduction of fatalities as a result of transit accidents in each transit authority by at
55 least 10 per cent for each rolling 5-year period; (8) for the Mass Transit division, an increase in
56 the farebox recovery ratio of at least 10 per cent for each transit authority for each rolling 5-year
57 period; (9) for the Mass Transit division, an increase in the on-time performance percentage for
58 each transit authority of at least 2 per cent for each rolling 5-year period, until that percentage
59 reaches 98 per cent; and (10) for the Mass Transit division, an increase of at least 5 per cent in
60 the revenue miles per active vehicle reported to the Federal Transit Administration for each
61 transit authority for each rolling 5-year period.

62 SECTION 4A. Subsection (e) of section 9 of chapter 6C of the General Laws, as
63 appearing in section 1 of chapter 132 of the acts of 2012, is hereby amended by adding the

64 following sentence:-The secretary shall make the annual report and all such reports from
65 previous years available on the department’s website.

66 SECTION 4B. Section 10 of said chapter 6C, as appearing in the 2010 Official Editon, is
67 hereby amended by adding the following paragraph:-

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

71 SECTION 4C. Section 11 of said chapter 6C, as so appearing, is hereby amended by
72 inserting after the word “finance”, in lines 18 and 19, the following words:- , the public-private
73 partnership infrastructure oversight commission.

74 SECTION 4D. The first paragraph of section 11 of said chapter 6C, as so appearing, is
75 hereby amended by inserting after the sixth sentence the following sentence:- All projects shall
76 be listed in order of priority and include a detailed cost estimate of each, including life-cycle
77 costs as required by section 10.

78 SECTION 4E.The second paragraph of said section 11 of said chapter 6C, as so
79 appearing, is hereby amended by adding the following sentence:- Each annual report shall also
80 be posted on the department’s website.

81 SECTION 4F. Said section 11 of said chapter 6C, as so appearing, is hereby further
82 amended by adding the following paragraph:-

83 The long-range transportation plan shall prioritize each project identified in the
84 transportation plan, separated by mode of transportation, and provide a detailed fiscal analysis of
85 each project, including the projects funding sources, yearly operating costs to maintain the
86 project, the projects impact on existing transportation infrastructure and impact of the project on
87 the goals identified by the department and the office of performance management and innovation
88 including, but not limited to, reducing the number of structurally-deficient bridges, reducing the
89 state of good repair backlog and increasing customer satisfaction across all modes of
90 transportation.

91 SECTION 5. Subsection (a) of section 13 of said chapter 6C, as so appearing, is hereby
92 amended by adding the following sentence:- The department shall devise and implement a fair
93 and reasonable fee structure to charge and collect tolls for transit over the turnpike between
94 interchange 1 in the town of West Stockbridge and interchange 6 in the city of Springfield at
95 interstate highway route 291, inclusive; provided, however, that notwithstanding any general or
96 special law to the contrary, such revenues shall be applied exclusively to road, rail and transit
97 projects and related costs in Hampshire, Hampden, Franklin and Berkshire counties.

98 SECTION 5A. Said chapter 6C is hereby further amended by inserting after section 13
99 the following section:-

100 Section 13A. The secretary shall develop and implement, to the extent permitted by
101 federal law, a program to allow vehicles with less than 2 occupants access to existing high
102 occupancy vehicle lanes; provided, however that such access may be limited during hours that
103 the existing high occupancy vehicle lane operates at or near capacity. Vehicles with less than 2
104 occupants shall pay a varying automated toll depending on the time of the day; provided,
105 however, that the secretary shall establish regulations to allow vehicles with at least 2 occupants,
106 motorcycles, buses and low or zero emission vehicles, hybrid vehicles or other fuel efficient or
107 environmentally-friendly vehicles, as established by regulation, to access the lane without paying
108 a toll.

109 SECTION 5B . Section 16 of said chapter 6C, as appearing in the 2010 Official Edition,
110 is hereby amended by adding the following sentence:- The plan shall be made available on the
111 department's website.

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

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

119 SECTION 6B. Section 30 of said chapter 6C, as so appearing, is hereby amended by
120 striking out subsection (c) and inserting in place thereof the following subsection:-

121 (c) Subject to the approval of the board the secretary may: (1) operate and administer the
122 programs of roadway design, construction, repair, maintenance, capital improvement,
123 development, and planning through the division of highways and other agencies within the
124 department, as appropriate; (2) coordinate and supervise the administration of the department
125 and its agencies to promote economy and efficiency and to leverage federal funding; (3) under
126 chapter 30A, make, amend and repeal rules and regulations for the management and
127 administration of the department and agencies within the department; (4) execute all instruments
128 necessary for carrying out the business of the department and its agencies; (5) acquire, own,
129 hold, dispose of, lease and encumber property in the name of the department and its agencies; (6)
130 enter into agreements with commissions, offices, boards, divisions, authorities and other entities
131 within the department to improve divisions, agencies, administrative efficiency and program
132 effectiveness and to preserve fiscal resources; (7) enter into agreements and transactions with
133 federal, state and municipal agencies and other public institutions and private individuals,
134 partnerships, firms, corporations, associations and other entities on behalf of the department or

135 its agencies; (8) apply for and accept funds, including grants, on behalf of the commonwealth in
136 accordance with applicable law; and (9) fix and revise from time to time and charge and collect
137 tolls for transit over the following roadways: interstate highway route 90 at the commonwealth's
138 border with New York; interstate highway route 84 at the commonwealth's border with
139 Connecticut; interstate highway route 93 at the commonwealth's border with New Hampshire;
140 interstate highway route 95 at the commonwealth's borders with New Hampshire and Rhode
141 Island; interstate highway route 91 at the commonwealth's borders with Connecticut and
142 Vermont; interstate highway route 395 at the commonwealth's border with Connecticut;
143 interstate highway route 295 at the commonwealth's border with Rhode Island; state highway
144 route 24 at the commonwealth's border with Rhode Island; state highway route 3 at the
145 commonwealth's border with New Hampshire; interstate highway route 7 at the
146 commonwealth's borders with Connecticut and Vermont; and interstate highway route 146 at the
147 commonwealth's border with Rhode Island. The secretary may delegate any of the foregoing
148 powers to an officer having charge of a division, office or other administrative unit within the
149 department.

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

152 (d) The secretary shall:

153 (1) develop, in consultation with the commonwealth development coordinating council,
154 and administer a long-term statewide transportation plan that includes planning for intermodal
155 and integrated transportation;

156 (2) develop, based on a public hearing process, procedures to be used for transportation
157 project selection;

158 (3) establish criteria for project selection to be used in the procedures developed under
159 clause (2);

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

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

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

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

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

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

173 (v) total projected and actual cost;

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

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

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

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

181 (6) compare each project to the metrics established by the by the department's office of
182 performance management and innovation;

183 (7) document the attempts to engage the public-private partnership infrastructure
184 oversight commission on each project; and

185 (8) make the long-term statewide transportation plan available on the department's
186 website.

187 SECTION 6D. Section 34 of said chapter 6C, as so appearing, is hereby amended by
188 adding the following 2 paragraphs:-

189 Final approval on a project contemplated in this section shall not be given until the
190 public-private partnership infrastructure oversight commission has been given an opportunity to
191 evaluate the project's suitability to be constructed in the design-build-finance-operate-maintain
192 or design-build-operate-maintain project delivery method.

193 No project shall be given final approval unless it is properly identified and explained in
194 the comprehensive state transportation plan under section 11.

195 SECTION 6E. Section 35 of said chapter 6C, as so appearing, is hereby amended by
196 adding the following sentence:-The secretary shall make the report and all such reports from
197 previous years available on the department's website.

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

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

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

206 (e) The board shall meet periodically, but at least twice each year and shall keep a public
207 record of all meetings, votes and other business which shall be posted on the department's
208 website not later than 5 days after each meeting.

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

213 SECTION 8. Said chapter 6C is hereby further amended by striking out sections 44 and
214 45, as so appearing, and inserting in place thereof the following 2 sections:-

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

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

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

234 (d) Any agreement under clause (21) of section 3 between the department and the owner
235 of a utility or utility facility shall contain minimum standards for the successful completion of

236 the relocation work as a condition of reimbursement including, without limitation, target dates
237 for completion and adherence to minimum design standards established by the department.

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

243 SECTION 8A. Section 14C of chapter 7 of the General Laws is hereby amended by
244 inserting after the word “board”, in line 3, as so appearing, the following words:- , including the
245 Massachusetts Bay Transportation Authority Retirement Board and any successor or subsidiary
246 entity.

247 SECTION 8B. Subsection (b) of said section 14C of said chapter 7, as so appearing, is
248 hereby amended by inserting after paragraph (4) the following paragraph:-

249 (4 1/2) capital expenditures grouped by project with links to related capital budget
250 documents;.

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

253 SECTION 9A. Subsection (A) of section 2 of chapter 21J of the General Laws, as
254 appearing in the 2010 Official Edition, is hereby amended by inserting after the first sentence the
255 following sentence:- The fee imposed under this paragraph shall be adjusted at the beginning of
256 each calendar year, by the percentage, if any, by which the consumer price index for the
257 preceding year exceeds the consumer price index for the calendar year that ends before such
258 preceding year.

259 SECTION 10. Subsection (C) of said section 2 of said chapter 21J, as so appearing, is
260 hereby amended by striking out the second sentence and inserting in place thereof the following
261 sentence:-

262 The department shall deposit the receipts from the delivery fee imposed under the first
263 paragraph of subsection (A) into the Commonwealth Transportation Fund established in section
264 2ZZZ of chapter 29 and shall deposit the receipts from the annual storage tank fee imposed under
265 the second paragraph of subsection (A) into the General Fund.

266 SECTION 11. Said section 2 of said chapter 21J , as so appearing, is hereby further
267 amended by striking out subsection (D).

268 SECTION 11A. Section 14 of said chapter 21J, as so appearing , is hereby amended by
269 striking out, in line 1, the word “fees,”.

270 SECTION 11B. Said section 14 of said chapter 21J, as so appearing, is hereby further
271 amended by striking out, in lines 2 to 4, inclusive, the words “treasury to the credit of the fund in
272 accordance with the provisions of section two S of chapter twenty-nine” and inserting in place
273 thereof the following words:- General Fund.

274 SECTION 12. Subsection (a) of section 2ZZZ of chapter 29 of the General Laws, as
275 appearing in section 112 of chapter 165 of the acts of 2012, is hereby amended by striking out
276 the second sentence and inserting in place thereof the following sentence:-

277 There shall be credited to the fund all fees received by the registrar of motor vehicles
278 under section 34 of chapter 90, all receipts paid into the treasury of the commonwealth and
279 directed to be credited to the Commonwealth Transportation Fund under chapters 21J, 64A, 64E,
280 64F and any other applicable general or special law and all amounts appropriated into the fund
281 by the general court.

282 SECTION 13. Said section 2ZZZ of said chapter 29, as so appearing, is hereby further
283 amended by striking out subsection (c) and inserting in place thereof the following subsection:-

284 (c) In addition to those revenues credited to the fund under subsection (a) there shall be
285 credited to the fund all monies received by the commonwealth from the receipts from sales of
286 motor vehicles under sections 3, 25 and 26 of chapter 64H and all monies received by the
287 commonwealth on the sales price of purchases of motor vehicles under sections 4, 26 and 27 of
288 chapter 64I, from the taxes imposed under said chapters 64H and 64I as excises upon the sale
289 and use at retail of motor vehicles and upon the storage, use or other consumption of motor
290 vehicles, including interest thereon or penalties; provided however, such amount shall not
291 include any portion of the taxes that constitute special receipts within the meaning of subsection
292 (b1/2) of section 10 of chapter 152 of the acts of 1997; provided, further, that if in a fiscal year
293 the amount credited to the fund under this subsection is less than \$459,000,000, then the
294 comptroller shall transfer an amount from the General Fund to make up the difference between
295 the amount credited to the fund and \$459,000,000, not later than September 1 of the following
296 fiscal year. The amount credited to the fund under this subsection shall be net of the dedicated
297 sales tax revenue amount transferred to the Massachusetts Bay Transportation Authority State
298 and Local Contribution Fund under section 35T of chapter 10 and to the School Modernization
299 and Reconstruction Trust Fund under section 35BB of chapter 10.

300 SECTION 13A. Section 3B of said chapter 29, as so appearing, is hereby amended by
301 inserting after the words “equivalent employees for the subsequent fiscal year” the following
302 words:- ; and (3) a statement detailing each authority’s ridership data and cost per ride for each
303 service. The statements shall be posted on the Massachusetts Department of Transportation’s
304 website.

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

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

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

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

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

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

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

325 SECTION 20. Section 31H of said chapter 63 is hereby amended by striking out, in line
326 53, as so appearing, the words “, section 39 and section 52A” and inserting in place thereof the
327 following words:- “and section 39”.

328 SECTION 21. Section 38 of said chapter 63, is hereby amended by striking out, in line
329 31, as so appearing, the words “or of section 52A”.

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

333 (f) The sales factor is a fraction, the numerator of which is the total sales of the
334 corporation in this commonwealth during the taxable year, and the denominator of which is the
335 total sales of the corporation everywhere during the taxable year. As used in this subsection,
336 unless specifically stated otherwise, “sales” means all gross receipts of the corporation, including
337 deemed receipts from transactions treated as sales or exchanges under the Code, except interest,
338 dividends and gross receipts from the maturity, redemption, sale, exchange or other disposition

339 of securities; provided, however, that "sales" shall not include gross receipts from transactions or
340 activities to the extent that a non-domiciliary state would be prohibited from taxing the income
341 from such transactions or activities under the Constitution of the United States. Sales of tangible
342 personal property are in this commonwealth if:-

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

345 (2) the corporation is not taxable in the state of the purchaser and the property was
346 not sold by an agent or agencies chiefly situated at, connected with or sent out from premises for
347 the transaction of business owned or rented by the corporation outside this commonwealth.
348 "Purchaser", as used in clauses (1) and (2) of this paragraph, shall include the United States
349 government.

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

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

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

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

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

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

371 For the purposes of this subsection: (1) in the case of sales, other than sales of tangible
372 personal property, if the state or states to which sales should be assigned cannot be determined, it
373 shall be reasonably approximated; (2) in the case of sales other than sales of tangible personal

374 property if the taxpayer is not taxable in a state to which a sale is assigned, or if the state or states
375 to which such sales should be assigned cannot be determined or reasonably approximated, such
376 sale shall be excluded from the numerator and denominator of the sales factor; (3) the
377 corporation shall be considered to be taxable in the state of the purchaser if tangible personal
378 property is delivered or shipped to a purchaser in a foreign country; (4) sales of tangible personal
379 property to the United States government or any agency or instrumentality thereof for purposes
380 of resale to a foreign government or any agency or instrumentality thereof are not sales made in
381 this commonwealth; (5) in the case of sale, exchange or other disposition of a capital asset, as
382 defined in paragraph (m) of section 1 of chapter 62, used in a taxpayer's trade or business,
383 including a deemed sale or exchange of such asset, "sales" shall be measured by the gain from
384 the transaction; (6) "security" shall mean any interest or instrument commonly treated as a
385 security as well as other instruments which are customarily sold in the open market or on a
386 recognized exchange, including, but not limited to, transferable shares of a beneficial interest in
387 any corporation or other entity, bonds, debentures, notes and other evidences of indebtedness,
388 accounts receivable and notes receivable, cash and cash equivalents including foreign currencies
389 and repurchase and futures contracts; (7) in the case of a sale or deemed sale of a business, the
390 term "sales" shall not include receipts from the sale of the business "goodwill" or similar
391 intangible value, including, without limitation, "going concern value" and "workforce in place";
392 (8) to the extent authorized under the life sciences tax incentive program established by section 5
393 of chapter 23I, a certified life sciences company may be deemed a research and development
394 corporation for purposes of exemptions under chapters 64H and 64I; and (9) in the case of a
395 business deriving receipts from operating a gaming establishment or otherwise deriving receipts
396 from conducting a wagering business or activity, income-producing activity shall be considered
397 to be performed in this commonwealth to the extent that the location of wagering transactions or
398 activities that generated the receipts is in this commonwealth.

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

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

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

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

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

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

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

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

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

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

433 SECTION 29. Said section 1 of said chapter 64A, is hereby further amended, by inserting
434 after the word “gallon”, the second time it appears, in line 98, as so appearing, the following
435 words:- , adjusted at the beginning of each calendar year, by the percentage, if any, by which the
436 Consumer Price Index for the preceding year exceeds the Consumer Price Index for the calendar
437 year that ends before such preceding year; provided, that the Consumer Price Index for any
438 calendar year shall be as defined in section 1 of the Internal Revenue Code; provided further, that
439 the tax shall not be less than 21 cents per gallon.

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

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

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

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

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

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

460 SECTION 35. Chapter 81 of the General Laws is hereby amended by striking out section
461 7D, as so appearing, and inserting in place thereof the following section:-

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

471 SECTION 35A. Section 7G of said chapter 81, as so appearing, is hereby amended by
472 striking out, in line 2, the word "public".

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

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

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

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

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

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

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

495 SECTION 41A. Section 10 of chapter 161A of the General Laws, as so appearing, is
496 hereby amended by inserting after the word "chapter", in line 4, the following words:- ;
497 provided, however, that notification of any formal communications attempting to secure federal
498 assistance, together with the contents of those communications, shall be simultaneously
499 transmitted to the house and senate committees on ways and means.

500 SECTION 41B. Said section 10 of said chapter 161A, as so appearing, is hereby further
501 amended by adding the following sentence:- The chairman of the authority shall issue a
502 quarterly report on communications with the federal government in furtherance of this section.
503 The report shall include, but not be limited to, any actions by the authority committing or
504 proposing to commit the commonwealth to provide financial assistance and shall be submitted to
505 the house and senate committees on ways and means."

506 SECTION 41C. The first paragraph of section 20 of said chapter 161A, as so appearing,
507 is hereby amended by adding the following sentence:-The secretary shall make the preliminary
508 and final itemized budgets available on the department's website.

509 SECTION 41D. Section 24 of said chapter 161A, as so appearing, is hereby amended by
510 adding the following paragraph: -

511 Real property of the authority shall, if leased, used, or occupied in connection with a
512 business conducted for profit shall, for the privilege of such lease, use or occupancy be valued,
513 classified, assessed and taxed annually as of January 1 to the lessee, user or occupant in the same

514 manner and to the same extent as if such lessee, user or occupant were the owner of the real
515 property in fee. No tax assessed under this section shall be a lien upon the real estate with
516 respect to which it is assessed; nor shall any tax be enforced by any sale or taking of such real
517 estate; but the interest of any lessee in that land may be sold or taken by the collector of the town
518 in which the real estate lies for the nonpayment of such taxes in the manner provided by law for
519 the sale or taking of real estate for nonpayment of annual taxes. Notwithstanding this paragraph,
520 such collector shall have for the collections of taxes assessed under this section all other
521 remedies provided by chapter 60 for the collection of annual taxes upon real estate. This section
522 shall not apply to leases, easements, grants, licenses or rights of way associated with the
523 networks of public utilities or communications companies.

524 SECTION 41E. Section 5 of chapter 161B of the General Laws, as so appearing, is
525 hereby amended by striking out the second paragraph and inserting in place thereof the following
526 2 paragraphs:-

527 One representative of the disabled commuter population shall serve on the advisory board
528 as a voting member for a term of 1 year. Each city and town in the region, on a rotating basis as
529 determined by the board, shall appoint a representative successively; provided, however, that the
530 representative of the disabled commuter population and the representative of the rider
531 community shall not be appointed by the same city or town in the region. The mayor or city
532 manager and the chairman, town manager or town administrator shall appoint a resident of the
533 city or town for this purpose. This representative shall be mobility impaired, have a family
534 member who is mobility impaired, be a caretaker of a person who is mobility impaired or work
535 for an organization that serves the needs of the physically disabled. The representative of a city
536 or town may be reappointed after representatives from the other cities and towns within the
537 region have served their 1-year terms.

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

547 SECTION 42. Section 7 of chapter 164A of the General Laws, as so appearing, is hereby
548 amended by striking out, in line 1, the word “(a)”.

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

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

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

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

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

562 SECTION 49. Notwithstanding any general or special law to the contrary, the department
563 of transportation shall review the current status of the use of rights-of-way in the state highway
564 system, the turnpike and the metropolitan highway system, all as defined in section 1 of chapter
565 6C of the General Laws. The review shall also present the current status of efforts by the
566 department to collect rents or other compensation for the use of department-owned rights-of-
567 way. The review shall also include, but not be limited to, an inventory of the owners of utilities
568 or utility facilities that occupy department-owned rights-of-way, according to town and either
569 state route number or road name, as will most clearly identify the road or other transportation
570 facility being referred to, and including underground facilities. For each owner of a utility or
571 utility facility that occupies department-owned rights-of-way, the review shall state whether an
572 easement or other agreement exists for the occupant's use of the right-of-way, whether that
573 agreement is in writing, whether such agreement requires compensation to the department for the
574 occupant's use of the right-of-way and if so, how much compensation, the due date of the
575 compensation, whether the compensation has been paid and whether the compensation is
576 monetary or non-monetary. For each owner of a utility or utility facility that occupies
577 department-owned rights-of-way, the review shall also state whether the department knows if
578 other occupants are also using that utility or utility facility, and if known to the department, shall
579 identify all other occupants of that utility or utility facility. If the department knows that facilities
580 exist on department-owned rights-of-way but does not know the identity of the owner, the review
581 shall describe such facilities and shall characterize the owners as "unidentified owners".

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

588 SECTION 50. The department shall use its best efforts to conclude written easements or
589 other written agreements under clause (21) of section 3 of chapter 6C of the General Laws with
590 the owners of utilities or utility facilities on all department-owned rights-of-way by June 30,
591 2015. The period covered by such agreements shall begin not later than July 1, 2015.

592 SECTION 51. A manufacturer, wholesaler, vending machine operator, unclassified
593 acquirer or retailer, as defined in section 1 of chapter 64C of the General Laws, and a stamper
594 appointed by the commissioner under section 30 of said chapter 64C who, as of the
595 commencement of business on July 1, 2013, has on hand any cigarettes for sale or any unused
596 adhesive or encrypted stamps, shall make and file with the commissioner within 20 days a return,
597 subscribed and sworn to under the penalties of perjury, showing a complete inventory of such
598 cigarettes and stamps and shall, at the time such manufacturer, wholesaler, vending machine
599 operator, unclassified acquirer, retailer or stamper is required to file such return, pay an
600 additional excise of 50 mills per cigarette on all cigarettes and all unused adhesive and encrypted
601 stamps upon which an excise of only 100½ mills has previously been paid. Chapters 62C of the
602 General Laws and 64C of the General Laws relative to the assessment, collection, payment,
603 abatement, verification and administration of taxes, including penalties, shall apply to the excise
604 imposed by this section.

605 SECTION 52. (a) Notwithstanding any general or special law to the contrary, the
606 Massachusetts Department of Transportation shall, in the department's annual budget, ensure
607 that the budget includes sufficient revenue from sources of revenue listed in subsection (c) to
608 meet the following benchmarks: (i) in fiscal year 2014, the department shall contribute 47 per
609 cent of the department's operating budget; (ii) in fiscal year 2015, the department shall
610 contribute 48 per cent of the department's operating budget; (iii) in fiscal year 2016, the
611 department shall contribute 50 per cent of the department's operating budget; (iv) in fiscal year
612 2017, the department shall contribute 51 per cent of the department's operating budget; and (v)
613 in fiscal year 2018, the department shall contribute 51 per cent of the department's operating
614 budget. The salary, benefits or level of compensation of any department employee in a major
615 policymaking position, as defined by section 1 of chapter 268B of the General Laws, shall not be
616 increased if the department is not exceeding the benchmarks provided for in this section.

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

624 (c) The revenue generated to meet the benchmarks in subsection (a) may be derived from:
625 (i) fees collected by the registrar of motor vehicles under section 34 of chapter 90 of the General

626 Laws; (ii) funds available to the registry of motor vehicles through the Motor Vehicle Inspection
627 Trust Fund under section 61 of chapter 10 of the General Laws; and (iii) any other funds directly
628 collected by the department; provided, however, that no funds collected through increases in tolls
629 charged and collected as of January 1, 2013 under section 13 of chapter 6C of the General Laws
630 shall be counted towards the benchmarks in subsection (a); and provided further, that any
631 revenue collected from tolls for transit on roads not tolled as of July 1, 2013 shall count towards
632 the benchmarks in said subsection (a).

633 SECTION 53. (a) Notwithstanding any general or special law to the contrary, the
634 Massachusetts Bay Transportation Authority shall, in the authority's budget as approved by the
635 board of directors under section 20 of chapter 161A of the General Laws, ensure that the budget
636 includes sufficient revenue from sources of revenue listed in subsection (c) to meet the following
637 benchmarks: (i) in fiscal year 2014, the authority shall contribute 31.5 per cent of the authority's
638 operating budget; (ii) in fiscal year 2015, the authority shall contribute 33 per cent of the
639 authority's operating budget; (iii) in fiscal year 2016, the authority shall contribute 33.25 per cent
640 of the authority's operating budget; (iv) in fiscal year 2017, the authority shall contribute 32.75
641 per cent of the authority's operating budget; and (v) in fiscal year 2018, the authority shall
642 contribute 34 per cent of the authority's operating budget. The salary, benefits or level of
643 compensation of any department employee in a major policymaking position, as defined by
644 section 1 of chapter 268B of the General Laws, shall not be increased if the department is not
645 exceeding the benchmarks provided for in this section.

646 (b) The benchmarks in subsection (a) may be achieved through increasing non-fare
647 revenues, increasing total fare revenues through ridership growth, increasing fare levels while
648 accounting for potential loss of ridership from fare increases or from savings to the authority's
649 operating budget; provided, however, that the authority shall submit a preliminary report of
650 savings to the operating budget by October 1 of each fiscal year and a final report of savings to
651 the operating budget by January 1 of each fiscal year. Those preliminary and final reports of
652 savings shall be submitted to the house and senate committees on ways and means and the joint
653 committee on transportation. Nothing in this section shall be construed to relieve the authority of
654 any legal requirements it shall fulfill under state or federal law prior to increasing fares or
655 eliminating service.

656 (c) The revenue generated to meet the benchmarks in subsection (a) may be derived from
657 any funds collected by the authority through fees and fares and any other funds directly collected
658 by the authority; provided, however, that such revenue shall not include funds contributed to the
659 Massachusetts Bay Transportation Authority State and Local Contribution Fund under section
660 35T of chapter 10 of the General Laws.

661 (d) The authority may achieve these benchmarks by restraining operating costs and
662 increasing ridership prior to proposing a fare increase. The authority shall, in the authority's
663 budget plan, regularly create and update 5-year pro forma financials and, as part of the budget

664 planning process, may plan for small, regular fare increases of not more than 5 per cent for all
665 modes and populations. The authority shall not increase fares at intervals of less than 24 months
666 or at a rate greater than 5 per cent. The authority shall not implement any fare increase unless it
667 is in strict compliance with section 5 of chapter 161A of the General Laws. If the authority's
668 budget plan does not achieve a required benchmark within a given budget year, but is within 0.5
669 percentage points of the benchmark, and fares have been increased within the previous budget
670 year, the authority shall increase the subsequent year's benchmark by an equivalent amount and
671 make needed adjustments to the operating budget and fare levels in the subsequent budget year.

672 SECTION 53A. (a) Notwithstanding any general or special law to the contrary, the
673 Massachusetts Bay Transportation Authority shall, not later than January 1, 2014, issue a request
674 for proposals to sell, license or rent naming or sponsorship rights for all subway, bus or
675 commuter rail stations or other assets operated and owned by the authority. A request for
676 proposals shall be for a specified term, renewable at the sole discretion of the authority.

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

680 SECTION 54. (a) The Massachusetts Department of Transportation shall use the
681 revenues generated under this act to comply with the second sentence of section 15 of chapter 6C
682 of the General Laws requiring the salaries and benefits of employees of the department to be
683 classified and funded as operating expenditures. The department shall comply with said section
684 15 of said chapter 6C not later than June 30, 2016.

685 (b) The secretary of transportation, in consultation with the secretary of administration
686 and finance, shall file a report regarding the department's compliance with the second sentence
687 of said section 15 of said chapter 6C not later than August 1, 2013. The report shall include, but
688 not be limited to: (1) the number of employees with salaries funded by capital expenditures in
689 fiscal year 2013, specifying each employee's salary, job classification and department; (2) the
690 total cost of employee salaries charged to capital expenditures in fiscal year 2013, specifying
691 each employee's salary, job classification and department; (3) the number of employees and
692 total cost of employee salaries that the department estimates will be moved from capital
693 expenditures to operating expenditures in fiscal years 2014, 2015 and 2016, specifying each
694 employee's salary, job classification and department; and (4) a strategy to dedicate a portion of
695 the funds made available through compliance with this section to projects that are included in the
696 authority's 5-year rolling capital investment plan as published in accordance with section 5 of
697 chapter 161A of the General Laws. The report shall be filed with the joint committee on
698 transportation, the house and senate committees on bonding, capital expenditures and state assets
699 and the house and senate committees on ways and means.

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

704 SECTION 55. There shall be a value capture commission consisting of the following 7
705 members: the secretary of transportation or a designee, who shall serve as chair; the secretary of
706 administration and finance or a designee; and 5 members who shall be appointed by the
707 governor, 2 of whom shall be representatives of business associations; 1 of whom shall represent
708 organized labor; 1 of whom shall be a representative of the Massachusetts Municipal
709 Association; and 1 of whom shall be a representative of a regional planning agency. The
710 commission shall review and evaluate the policies and best practices of other jurisdictions used
711 to obtain benefits from the increased value of adjacent properties as a result of public
712 infrastructure projects or “value capture” and the current policies and mechanisms available
713 within the commonwealth relative to value capture. The commission shall report to the general
714 court on the effectiveness of the commonwealth’s current value capture policies and recommend
715 whether certain policies from other jurisdictions should be implemented as part of the
716 comprehensive state transportation plan, required under section 11 of chapter 6C of the General
717 Laws. A report of the commission’s findings shall be filed with the clerks of the house of
718 representatives and senate not later than March 1, 2014.

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

724 SECTION 57. Nothing in section 22 shall restrict the authority of the commissioner of
725 revenue under subsection (j) of section 38 of chapter 63 of the General Laws, nor shall it affect
726 the continuing validity or application of regulations adopted under subsection (f) of said section
727 38 of said chapter 63 in effect as of the effective date of this act.

728 SECTION 58. Notwithstanding any general or special law to the contrary, the
729 Massachusetts Bay Transportation Authority shall expend funds on capital investment projects,
730 including repairs to the authority’s capital infrastructure necessary to meet or exceed the state of
731 good repair asset rating, established under the federal Transit Economic Requirements Model
732 and required for the federal New Starts grant application, the green line extension project and the
733 south coast rail project, which shall be included in the authority's 5-year rolling capital
734 investment plan as published under section 5 of chapter 161A of the General Laws.

735 SECTION 58A. Notwithstanding any general or special law to the contrary, the inspector
736 general shall conduct an investigation of the policies and procedures regarding enforcement of

737 fare collection for the Massachusetts Bay Transportation Authority. The inspector general shall
738 submit a report to the house and senate committees on ways and means on the results of the
739 investigation and any recommended changes to the system to further prevent and detect fare
740 evasion not later than December 1, 2013.

741 SECTION 58B. The Massachusetts Department of Transportation, in order to ensure its
742 transportation investment in capital projects is both geographically and modally equitable, shall
743 publish on its website the information required in the annual report under section 28 of chapter
744 6C of the General Laws; provided, that the information shall also be updated not less frequently
745 than each quarter with such updates reported on said website.

746 SECTION 58C. Notwithstanding any general or special law to the contrary, the
747 Massachusetts Bay Transportation Authority shall conduct a survey of the 23 companies that
748 submitted statements of interest to the current request for proposals to operate the commuter rail
749 but did not submit a proposal to ascertain why they opted out of the bidding process.

750 SECTION 58D. Within 90 days after the effective date of this act, the Massachusetts
751 Department of Transportation shall provide to the joint committee on transportation and the
752 house and senate committees on ways and means a plan to implement a proposed fee structure
753 for collecting tolls for transit over the turnpike between interchange 1 in the town of West
754 Stockbridge and interchange 6 in the city of Springfield at interstate highway route 291,
755 inclusive, which shall include, but not be limited to, the proposed fees, assumptions used to set
756 the fees and a timeline to implement collection of the fees.

757 SECTION 58E. The commissioner of revenue, in consultation with the commissioner of
758 energy resources, shall file a report not later than December 1, 2013, regarding any statutory,
759 regulatory and administrative changes, arrangements and calculations that may be required in the
760 event the commonwealth's taxation of sales of gasoline is broadened to include taxation of sales
761 of all carbon-based fuels. The report shall be filed with the joint committee on revenue, the joint
762 committee on environment, natural resources and agriculture and the senate and house
763 committees on ways and means.

764 SECTION 58F. The secretary of the department of transportation shall study the
765 feasibility of establishing one or more facilities for the purposes of overhaul and other major
766 repair, manufacture or assembly, installation and upgrade of mass transit vehicles in order to
767 ensure that safe, modern and efficient vehicles are in service in adequate numbers to meet the
768 needs of citizens of the commonwealth. The secretary shall file a report on the findings with the
769 governor, the joint committee on transportation and the house and senate committees on ways
770 and means by June 30, 2014. The study shall consider the possibility of utilizing existing
771 funding sources to direct maintenance and repair projects to existing facilities within the
772 commonwealth and shall estimate the funding needed to create appropriate facilities for
773 manufacture, assembly or major overhaul projects. The report shall include an estimate of the

774 number of jobs related to creating the infrastructure necessary to perform this work in the
775 commonwealth, the number of permanent jobs needed to create and maintain mass transit
776 vehicles in the commonwealth and the ancillary economic impact of operating such facilities
777 within the commonwealth.

778 SECTION 58G. Notwithstanding any general or special law to the contrary, the
779 Massachusetts Department of Transportation shall conduct a feasibility study of advertising
780 along bridge overpasses throughout the commonwealth's highway system, as permitted within
781 federal rules and regulations. The study shall include an analysis of which routes would be most
782 appropriate for advertising, the amount of revenue that may be generated from such a policy and
783 any rules or regulations which may restrict or prohibit such a policy. A report of the feasibility
784 study shall be filed with the clerks of the senate and house of representatives, the house and
785 senate chairs of the joint committee on transportation and the house and senate committees on
786 ways and means not later than December 31, 2013.

787 SECTION 58H. Notwithstanding any general or special law to the contrary, each regional
788 transit authority established under chapter 161B of the General Laws shall develop a
789 comprehensive regional transit plan in consultation with the appropriate regional planning
790 agency, the Massachusetts Department of Transportation, local employers and the business
791 associations, labor organizations and transit authority riders. The plan shall include, but not be
792 limited to: (1) a comprehensive assessment of transit services; (2) a thorough examination of the
793 ridership trends for each line and service provided by the regional transit authority; (3) a
794 performance analysis of existing services; (4) the development and evaluation of alternative
795 service scenarios; (5) the development of a recommendation to better align service with local and
796 regional demand; (6) the commonwealth's environmental policies; (7) fare rates and collection
797 methods; (8) the region's job creation goals and employment needs; and (9) a determination of
798 whether the regional transit authority's service is deployed in the most effective way possible to
799 accommodate the transit needs of the region's workforce. The development of the plan shall
800 include public hearings in different regions of the commonwealth and the opportunity to
801 comment on a draft report.

802 SECTION 58I. There shall be a tax fairness commission to study the federal, state and
803 local tax laws applicable to residents of the commonwealth. The commission shall review and
804 evaluate the equity of historical tax rates and methods in relation to the changing income and
805 wealth of residents of the commonwealth since 1990. The commission shall examine the
806 experiences and policy efforts of other states relating to tax fairness.

807 The commission shall file a report with the clerks of the senate and house of
808 representatives not later than March 1, 2014. The report shall include, but not be limited to: (i)
809 the total amount of taxes currently paid by individuals at various income levels; (ii) the effects
810 that making changes to tax laws would have on individuals of all income levels; (iii) the changes
811 in revenue collected by the commonwealth as a result of tax law revisions; (iv) the adequacy of

812 revenue generated by individuals, businesses and any other tax types; (v) tax rates necessary to
813 fund investment in public infrastructure; (vi) tax rates necessary to promote prosperity for all
814 residents; (vii) restrictions on tax changes under Article XLIV of the Amendments to the
815 constitution of the commonwealth; (viii) recommendations for changes in laws to achieve an
816 equitable and adequate system of taxation; and (ix) the best practices of other states.

817 The commission shall consist of the secretary of administration and finance or the
818 secretary's designee; the minority leader of the house of representatives or a designee; the
819 minority leader of the senate or a designee; the chairs of the house and senate committees on
820 ways and means or the chair's designees; the house and senate chairs of the joint committee on
821 revenue or the chairs' designees, who shall serve as co-chairs of the commission; a
822 representative of the Massachusetts Budget and Policy Center; a representative of the
823 Massachusetts Taxpayers Foundation; a representative of the Dukakis Center for Urban and
824 Regional Policy; a representative of the Pioneer Institute; and 4 members appointed by the
825 governor, 1 of whom shall represent labor and 2 of whom shall have expertise in economics or
826 tax policy.

827 SECTION 58J. If in fiscal years 2019 and 2020 the amount credited to the
828 Commonwealth Transportation Fund under subsection (a) of section 2ZZZ of chapter 29 of the
829 General Laws from receipts under chapters 21J, 64A, 64E and 64F of the General Laws and the
830 monies received from the sales of motor vehicles under subsection (c) of said section 2ZZZ of
831 said chapter 29 does not exceed the amount credited to the fund in the previous fiscal year by 8
832 per cent or more, then the comptroller shall transfer from the General Fund to the
833 Commonwealth Transportation Fund an amount equal to the amount credited in the previous
834 fiscal year plus 8 per cent. For fiscal years after 2020, the amount credited to the
835 Commonwealth Transportation Fund under subsection (a) of section 2ZZZ of chapter 29 of the
836 General Laws from receipts under chapters 21J, 64A, 64E and 64F of the General Laws and the
837 monies received from the sales of motor vehicles under subsection (c) of said section 2ZZZ of
838 said chapter 29 shall exceed the amount credited in the previous fiscal year by not less than the
839 percentage growth in the consumer price index over the previous calendar year as defined in
840 section 1 of the Internal Revenue Code.

841 SECTION 58K. Notwithstanding any general or special law to the contrary, the secretary
842 of transportation and the general manager of the Massachusetts Bay Transportation Authority
843 shall meet with the secretary of administration and finance and the house and senate committees
844 on ways and means on the fiscal status of the Massachusetts Department of Transportation and
845 the Massachusetts Bay Transportation Authority in January and July of each year. The first
846 meeting under this section shall occur not later than December 31, 2013.

847 Not less than 15 days prior to each meeting, the secretary of transportation shall submit a
848 report to the secretary of administration and finance and the house and senate committees on
849 ways and means detailing: (i) year-to-date revenues collected, projected revenues and

850 expenditures for the current fiscal year; (ii) projected revenues and expenditures for the next 5
851 fiscal years; (iii) changes in revenue and expenditure projections from the previous semiannual
852 report; (iv) reasons for any changes from previous projections; (v) progress made toward
853 achieving revenue and savings targets set for fiscal years 2017 and 2018; and (vi) a plan detailing
854 how the fiscal year 2017 and fiscal year 2018 targets will be achieved.

855 In order to comply with clause (vi), the report submitted prior to the July 2015 meeting
856 shall identify any potential changes to the fare and fee structure necessary to achieve the
857 benchmarks set forth in sections 52 and 53 for fiscal year 2017 and fiscal year 2018. If the report
858 proposes to increase the fare and fee structure by 5 per cent, the report shall include an estimate
859 of additional support from the Commonwealth Transportation Fund or other revenue and saving
860 initiatives necessary to limit increases to not more than 5 per cent every 24 months.

861 SECTION 58L. (a) The secretary of transportation shall conduct a study and issue a
862 report on the taxicab market in the commonwealth. The study shall include, but not be limited
863 to, an analysis of the level of competition in the industry, any unserved or underserved needs and
864 an evaluation of a state licensing alternative to stimulate competition, better serve the needs of
865 customers and employees in the market and to address regional and environmental concerns.
866 The report, together with any legislative recommendations, shall be filed electronically with the
867 clerks of the senate and house of representatives and the joint committee on transportation not
868 later than August 15, 2013.

869 SECTION 58M. Notwithstanding any general or special law to the contrary, the director
870 of the internal special audit unit shall conduct a comprehensive investigation of the financial
871 impact of chapter 25 of the acts of 2009. The investigation shall include a review of total
872 savings to date, anticipated future savings, an analysis of how the savings compare to projected
873 savings at the time of the effective date of the act and recommendations to increase future
874 savings and efficiencies. The director shall publish its findings on the department's website and
875 submit an electronic copy of the report to the clerks of the senate and house of representatives,
876 the house and senate committees on ways and means and the joint committee on transportation
877 not later than November 1, 2013.

878 SECTION 58N. Notwithstanding any general or special law to the contrary, the
879 Massachusetts Bay Transportation Authority shall, as mandated by section 14 of chapter 132 of
880 the acts of 2012, issue a report on revenues collected through the use of sponsorship agreements.
881 The report shall include, but not be limited to, an analysis of revenues collected, offers to
882 sponsor which have been declined and attempts to increase and promote sponsorship
883 opportunities. The report and recommendations shall be filed with the clerks of the house of
884 representatives and the senate and to the house and senate committees on ways and means and
885 the joint committee on transportation not later than August 30, 2013.

886 SECTION 58O. Notwithstanding any general or special law to the contrary, the secretary
887 of transportation shall issue a 5-year transportation plan not less than 180 days after the effective
888 date of this act. The plan shall prioritize projects to provide for the reduction in the number of
889 structurally-deficient bridges, to reduce congestion attributable to disrepair, to improve urban
890 and rural primary pavement conditions, to improve interstate pavement conditions, to increase
891 maintenance disbursements per mile to the level necessary to achieve and maintain a state of
892 good repair, to move bus and transit assets into a state of good repair, to improve track and
893 signalization conditions and to otherwise eliminate the backlog on transit, road and bridge
894 projects. The plan shall not include any capital expansion projects and shall be published on the
895 department's website and filed electronically with the clerks of the senate and house of
896 representatives and the joint committee on transportation.

897 SECTION 58P. Notwithstanding any general or special law to the contrary, the
898 Massachusetts Bay Transportation Authority shall create a pilot program at 3 high-volume
899 parking station facilities dedicating not more than 10 per cent of the available parking to
900 customers willing to pay an increased premium for a reserved parking spot that is guaranteed to
901 be available to them if they arrive at the spot before a certain hour, as determined by the
902 authority; provided, however, that all net proceeds received as a result of the pilot program shall
903 be dedicated to the authority.

904 SECTION 58Q. Notwithstanding any general or special law to the contrary, the
905 Massachusetts Bay Transportation Authority shall issue a request for proposals from business,
906 civic and nonprofit entities to enter into sponsorship agreements for providing transportation
907 services beyond the current hours of operation.

908 SECTION 58R. Notwithstanding any general or special law to the contrary, not less than
909 \$20,000,000 may be transferred, under section 2E of the general appropriations act for fiscal year
910 2014, to the Massachusetts Department of Transportation Trust Fund, established in section 4 of
911 chapter 6C of the General Laws, to: (a) support the debt service related to increased distributions
912 for local road and bridge projects in fiscal year 2014; or (b) support the debt service related to
913 other transportation capital improvement projects.

914 SECTION 58S. Notwithstanding any general or special law to the contrary, the
915 comptroller shall transfer \$75,000,000 from the General Fund to the Commonwealth
916 Transportation Fund, established in section 2ZZZ of chapter 29 of the General Laws, not later
917 than July 1, 2014 and shall transfer \$56,000,000 from the General Fund to the Commonwealth
918 Transportation Fund, established in said section 2ZZZ of said chapter 29, not later than July 1,
919 2015.

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

921 SECTION 61. Sections 8B and 10 to 12, inclusive, shall take effect on July 1, 2014.

922 SECTION 62. Sections 13, 28, 30 to 34, inclusive, and 51 shall take effect on July 1,
923 2013.

924 SECTION 63. Sections 14 to 22, inclusive, 24 to 27, inclusive, 42, 43, 56 and 57 shall
925 take effect on January 1, 2014 and shall be effective for tax years beginning on or after January
926 1, 2014.

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

928 SECTION 65. Sections 9A and 29 shall take effect on January 1, 2015.