

HOUSE No. 4051

House, No. 4047, as changed by the committee on Bills in the Third Reading,
as amended and as adopted by the House. April 6 and 7, 2009.

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine.

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

1 “SECTION 1. Section 17 of chapter 6 of the General Laws, as
2 appearing in the 2006 Official Edition, is hereby amended by striking
3 out, in line 13, the words ‘, the Massachusetts aeronautics commission’.

4 SECTION 1A. Section 23 of said chapter 6, as so appearing, is
5 hereby amended by striking out subsection (c) and inserting in place
6 thereof the following subsection:-

7 (c) The authority shall have power, in the process of constructing,
8 reconstructing, repairing, rehabilitating, improving, policing, using or
9 administering all or any part of the state highway system, the turnpike or
10 metropolitan highway system to take by eminent domain pursuant to
11 chapter 79, such land abutting the state highway system, the turnpike or
12 metropolitan highway system as it may deem necessary or desirable for
13 the purposes of removing or relocating all or any part of the facilities of
14 any public utility, including rail lines, and may thereafter lease the same
15 or convey an easement or any other interest therein to such utility
16 company upon such terms as it, in its sole discretion, may determine.
17 Notwithstanding the provisions of any general or special law to the
18 contrary, the relocation of the facilities of any public utility, including
19 rail lines, in accordance with the provisions of this section shall be valid
20 upon the filing of the plans thereof with the department of
21 telecommunications and energy, if applicable.

22 SECTION 2. Sections 57, 58, and 59 of said chapter 6 are hereby
23 repealed.

24 SECTION 3. Section 8C of chapter 6A of the General Laws, inserted
25 by section 6 of chapter 233 of the acts of 2008, is hereby amended by
26 striking out the paragraph (a) and inserting in place thereof the following
27 paragraph:-

28 (a) There shall be established a structurally deficient bridge
29 improvement program coordination and oversight council. The council
30 shall consist of a chair appointed by the governor, the secretary of
31 administration and finance, the secretary of transportation and public

works, the secretary of energy and environmental affairs, the director of the highway division of the department of transportation, and the commissioner of capital asset management and maintenance, or their designees.

SECTION 4. Sections 19, 19½ and 19A of said chapter 6A are hereby repealed.

SECTION 4A. Section 103 of said chapter 6A is hereby repealed.

SECTION 5. Section 104 of chapter 6A of the General Laws is hereby repealed.

SECTION 6. The General Laws are hereby amended by inserting after chapter 6A the following chapter:-

Chapter 6C

Massachusetts Transportation and Infrastructure Authority

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

‘Authority’, the Massachusetts Transportation and Infrastructure Authority established pursuant to section 2.

‘Board’, the board of the Massachusetts Transportation and Infrastructure Authority established pursuant to section 2.

‘Boston extension’, all roadways and tunnels for vehicular traffic that constitute that portion of interstate highway route 90 beginning at and including the interchange of interstate highway route 90 and state highway route 128 in the town of Weston and ending in the city of Boston at the interchange of interstate highway route 90 and interstate highway route 93 and such additional highway and bridge components as the general court may from time to time determine and including such real property and any improvements thereon, personal property, equipment, licenses, appurtenances and interests in land acquired or leased in connection with or incident to the construction, ownership, operation, rehabilitation, reconstruction, improvement, repair, maintenance or administration of such roadways and tunnels as are necessary for their safe and efficient operation and maintenance or which are otherwise convenient or desirable to carry out the purposes of this chapter.

‘Callahan tunnel’, the tunnel for vehicular traffic constructed under the provisions of chapter 598 of the acts of 1958 between the North End section of the city of Boston and the East Boston section of said city and including such real property and any improvements thereon, personal property, equipment, licenses, appurtenances and interests in land acquired or leased in connection with or incident to the construction,

72 ownership, operation, rehabilitation, reconstruction, improvement, repair,
73 maintenance or administration of such tunnel as are necessary for its safe
74 and efficient operation and maintenance or which are otherwise
75 convenient or desirable to carry out the purposes of this chapter.

76 'Central artery', all roadways and tunnels for vehicular traffic
77 constructed by the highway department that constitute that portion of
78 interstate highway route 93 beginning at a point immediately south of the
79 Southamptn street interchange, so-called, and continuing to and
80 including the interchange of interstate highway route 93 and
81 Massachusetts avenue in the South End section of the city of Boston and
82 continuing to and including the interchange of interstate highway route
83 90 and interstate highway route 93 in the South Bay section of the city of
84 Boston, so-called, and continuing to and including the interchange of
85 state highway route 1 and interstate highway route 93 in the Charlestown
86 section of the city of Boston including, but not limited to, the so-called
87 Charles river crossing portion of interstate highway route 93 and such
88 additional highway and bridge components as the general court may
89 from time to time determine, but excluding the central artery north area.

90 'Central artery' shall also include such real property and any
91 improvements thereon, personal property, equipment, licenses,
92 appurtenances and interests in land acquired or leased in connection with
93 or incident to the construction, ownership, operation, rehabilitation,
94 reconstruction, improvement, repair, maintenance or administration of
95 such roadways and tunnels as are necessary for their safe and efficient
96 operation and maintenance or which are otherwise convenient or
97 desirable to carry out the purposes of this chapter.

98 'Central artery north area', all roadways and tunnels for vehicular
99 traffic constructed by the highway department consisting of a portion of
100 state highway route 1 beginning at, but not including, the southern
101 boundary of the Tobin memorial bridge and continuing to the
102 interchange of interstate highway route 93 and state highway route 1,
103 including such real property and any improvements thereon, personal
104 property, equipment, licenses, appurtenances and interests in land
105 acquired or leased in connection with or incident to the construction,
106 ownership, operation, rehabilitation, reconstruction, improvement, repair,
107 maintenance or administration of such roadways and tunnels as are
108 necessary for their safe and efficient operation and maintenance or which
109 are otherwise convenient or desirable to carry out the purposes of this
110 chapter.

111 'Cost', as applied to any project of the authority any or all costs,
 112 whenever incurred, of carrying out and placing such projects in
 113 operation, including, without limiting the generality of the foregoing,
 114 amounts for the following: acquisition, construction expansion
 115 improvement and rehabilitation of facilities; acquisition of real or
 116 personal property; demolitions and relocations; labor, materials,
 117 machinery and equipment; services of architects, engineers and
 118 environmental and financial experts and other consultants; feasibility
 119 studies, plans, specifications and surveys; interest prior to and during the
 120 carrying out of any project and for a reasonable period thereafter;
 121 reserves for debt service or other capital or current expenses; costs of
 122 issuance; and working capital, administrative expenses; legal expenses
 123 and other expenses necessary or incidental to the aforesaid, to the
 124 financing thereof and to the issuance therefor of bonds under this
 125 chapter.

126 'Costs of issuance', any amounts payable or reimbursable directly or
 127 indirectly by the authority and related to the sale and issuance of bonds
 128 and the investment of the proceeds thereof and of revenues securing the
 129 same including, without limiting the generality of the foregoing, printing
 130 costs, filing and recording fees, fees and charges of trustees, depositories,
 131 authenticating agents and paying agents, legal and auditing fees and
 132 charges, financial consultant fees, costs of credit ratings, premiums for
 133 insurance of the payment of bonds and fees payable for letters or lines of
 134 credit or other credit facilities securing bonds, underwriting or placement
 135 costs, fees and charges for execution, transportation and safekeeping of
 136 bonds, costs and expenses of refunding and other costs, fees and charges
 137 in connection with the foregoing.

138 'Current expenses', the authority's current expenses, whether or not
 139 annually recurring, of maintaining, repairing and operating the assets
 140 under the possession, custody and control of the authority and engaging
 141 in other activities authorized by this chapter including, without limiting
 142 the generality of the foregoing, amounts for administrative expenses of
 143 the authority including costs of salaries and benefits, as provided in this
 144 chapter, cost of insurance, payments for engineering, financial,
 145 accounting, legal and other services rendered to the authority, taxes upon
 146 the authority or its income, operations or property and payments in lieu
 147 of such taxes, costs incurred or payable by the authority with respect to
 148 the assets under the possession, custody and control of the authority,
 149 costs of issuance not financed in the cost of a project, and other current
 150 expenses required or permitted by law to be paid by the authority,

151 including the funding of reasonable reserves for upgrading, maintenance,
152 repair, replacements, insurance, emergency contingencies or operations.
153 'Department', the department of transportation.
154 'Fund', the Massachusetts Transportation and Infrastructure Fund
155 established pursuant to section 4.
156 'Independent agencies', shall include, without limitation, the
157 Massachusetts bay transportation authority, the Massachusetts port
158 authority, the Woods Hole, Martha's Vineyard, and Nantucket steamship
159 authority, and the Massachusetts association of regional transit
160 authorities.
161 'Massachusetts Port Authority', the Massachusetts Port Authority
162 established pursuant to chapter 465 of the acts of 1956.
163 'Massachusetts Bay Transportation Authority', established by chapter
164 161A.
165 'Maurice J. Tobin Memorial Bridge', the bridge formerly known as
166 the Mystic River Bridge in the cities of Chelsea and Boston.
167 'Metropolitan highway system', the integrated system of roadways,
168 bridges, tunnels, overpasses, interchanges, parking facilities, entrance
169 plazas, approaches, connecting highways, service stations, restaurants,
170 tourist information centers and administration, storage, maintenance and
171 other buildings that the authority owns, constructs or operates and
172 maintains pursuant to this chapter which consists of the Boston
173 extension, the Callahan tunnel, the central artery, the central artery north
174 area, the Sumner tunnel and the Ted Williams tunnel and any additional
175 highway, tunnel and bridge components as the general court may from
176 time to time determine.
177 'Metropolitan highway system revenues', (i) all rates, fees, tolls,
178 rentals or other charges and other earned income and receipts as derived
179 from or with respect to the ownership, operation, lease, rent or other use
180 or disposition of the metropolitan highway system or any part thereof;
181 and (ii) all other funds received by the authority, from whatever source,
182 relating to the metropolitan highway system.
183 'Notes or bonds', the notes, bonds or other evidences of indebtedness
184 of the authority issued pursuant to this chapter.
185 'Revenues', all charges and other receipts derived by the authority
186 from operation of the assets under the possession, custody and control of
187 the authority and all other activities or properties of the including,
188 without limiting the generality of the foregoing, proceeds of grants, gifts
189 or appropriations to the authority, investment earnings and proceeds of

190 insurance or condemnation, and the sale or other disposition of real or
191 personal property.

192 'Secretary', the secretary of the department of transportation.

193 'State agencies', shall include, without limitation the department, the
194 department of conservation and recreation, and such other state agencies
195 as may be involved in transportation related functions from time to time.

196 'State highway system', all roadways, bridges, tunnels, overpasses,
197 interchanges, parking facilities, entrance plazas, approaches, connecting
198 highways, service stations, restaurants, tourist information centers and
199 administration, storage, maintenance and other buildings that the
200 authority owns, constructs or operates and maintains pursuant to this
201 chapter and any additional highway, tunnel and bridge components as the
202 general court may from time to time determine.

203 'State public transit system', all publicly funded modes of
204 transportation, but not including roads and bridges.

205 'Sumner tunnel', the vehicular tunnel under Boston harbor, heretofore
206 constructed and financed by the city of Boston under the provisions of
207 chapter 297 of the acts of 1929, including such real property and any
208 improvements thereon, personal property, equipment, licenses,
209 appurtenances and interests in land acquired or leased in connection with
210 or incident to the construction, ownership, operation, rehabilitation,
211 reconstruction, improvement, repair, maintenance or administration of
212 such tunnel as are necessary for its safe and efficient operation and
213 maintenance or which are otherwise convenient or desirable to carry out
214 the purposes of this chapter.

215 'Ted Williams tunnel', all or any segments of the roadways, bridges,
216 viaducts and tunnels for vehicular traffic constructed by the highway
217 department that constitute the interstate highway route 90 extension and
218 its connecting roadways and tunnels, including (i) the harbor tunnel
219 crossing beneath Boston harbor, beginning at and including the
220 interchanges of state highway route 1A and the Logan airport access and
221 egress roadways with interstate highway route 90 and continuing beneath
222 Boston harbor to and including the interchange of interstate highway
223 route 90 and South Boston bypass road, but excluding the Logan airport
224 access and egress roadways owned by the Massachusetts Port Authority
225 on March 1, 1997 and any additional access and egress roadways
226 acquired by the Massachusetts Port Authority after March 1, 1997; (ii)
227 the seaport access highway, so-called beginning at the interchange of
228 interstate highway routes 90 and 93 and continuing to the interchange of
229 interstate highway route 90 and South Boston bypass road; and (iii)

230 South Boston bypass road, a portion of which is also known as South
231 Boston haul road, beginning at the interchange of interstate highway
232 route 93 and South Boston bypass road and continuing to the interchange
233 of the seaport access highway, so-called, in the South Boston section of
234 the city of Boston, including such real property and any improvements
235 thereon, personal property, equipment, licenses, appurtenances and
236 interests in land acquired or leased by the highway department in
237 connection with or incident to the construction, ownership, operation,
238 rehabilitation, reconstruction, improvement, repair, maintenance or
239 administration of such roadways and tunnels as are necessary for their
240 safe and efficient operation and maintenance or which are otherwise
241 convenient or desirable to carry out the purposes of this chapter.

242 'Turnpike', the limited access express toll highway, designated as
243 interstate highway route 90, and all bridges, tunnels, overpasses,
244 underpasses, interchanges, parking facilities, entrance plazas,
245 approaches, connecting highways, service stations, restaurants, tourist
246 information centers and administration, storage, maintenance and other
247 buildings that the authority may own, construct or operate and maintain
248 pursuant to the provisions of this chapter and any additional highway,
249 tunnel and bridge components as the general court may from time to time
250 determine, extending from the town of West Stockbridge on the
251 commonwealth's border with New York state to, but not including, the
252 interchange of interstate highway route 90 and state highway route 128
253 in the town of Weston.

254 'Turnpike corridor', the cities and towns of the commonwealth from
255 the New York state border to state highway route 128 through which the
256 turnpike runs and municipalities contiguous to such cities and towns.

257 'Turnpike revenues', (i) all rates, fees, tolls, rentals or other charges
258 and other earned income and receipts derived from or with respect to the
259 ownership, operation, lease, rent or other use or disposition of the
260 turnpike or any part thereof; and (ii) all other funds received by the
261 authority, from whatever source, relating to the turnpike.

262 Section 2. (a) There is hereby created a body politic and corporate to
263 be known as the Massachusetts Transportation and Infrastructure
264 Authority. The authority is hereby constituted a public instrumentality
265 and the exercise by the authority of the powers conferred by this chapter
266 shall be considered to be the performance of an essential governmental
267 function.

268 The authority is hereby placed in the executive office of the governor
269 but shall not be subject to the supervision or control of said office, or of

270 any board, bureau, department, or other center of the commonwealth,
271 except as specifically provided in this chapter.

272 (b) The authority shall be governed and its corporate powers
273 exercised by a board of directors. The authority shall consist of the
274 governor, who shall serve as chairperson, and 4 additional members
275 appointed by the governor for a term of 3 years, 2 of whom shall be
276 experts in the field of public or private transportation finance; 1 of whom
277 shall have practical experience in transportation planning and policy; and
278 1 of whom shall be a registered civil engineer with at least 10 years
279 experience. Any person appointed to fill a vacancy in the office of a
280 member of the board shall be appointed in a like manner and shall serve
281 for only the unexpired term of such member. Any member shall be
282 eligible for reappointment. Any member may be removed from his
283 appointment by the governor for cause. The board shall annually elect 1
284 of its members to serve as vice-chairperson and 1 to serve as treasurer.
285 The governor may appoint a designee pursuant to section 6A of chapter
286 30; provided, however, that said designee shall not be an employee of the
287 authority, department or any division thereof.

288 (c) Four directors shall constitute a quorum and the affirmative vote
289 of a majority of directors present at a duly called meeting, if a quorum is
290 present, shall be necessary for any action to be taken by the board. Any
291 action required or permitted to be taken at a meeting of the directors may
292 be taken without a meeting if all of the directors' consent in writing to
293 such action and such written consent is filed with the records of the
294 minutes of the meetings of the board. Such consent shall be treated for all
295 purposes as a vote at a meeting. Each director shall make full disclosure,
296 under subsection (d), of his financial interest, if any, in matters before the
297 board by notifying the state ethics commission, in writing, and shall
298 abstain from voting on any matter before the board in which he has a
299 financial interest, unless otherwise permissible under chapter 268A.

300 (d) The provisions of chapter 268A shall apply to all ex-officio
301 directors or their designees and employees of the authority. Said chapter
302 268A shall apply to all other directors of the authority, except that the
303 authority may purchase from, sell to, borrow from, loan to, contract with
304 or otherwise deal with any person in which any director of the authority
305 is in any way interested or involved; provided, however, that such
306 interest or involvement is disclosed in advance to the members of the
307 board and recorded in the minutes of the board; and provided, further,
308 that no director having such an interest or involvement may participate in
309 any decision of the board relating to such person. Employment by the

310 commonwealth or service in any agency thereof shall not be deemed to
311 be such an interest or involvement.

312 (e) The governor shall have the power to appoint and employ a
313 secretary, and to fix his compensation and conditions of employment.
314 The secretary shall be the chief executive, administrative and operational
315 officer of the authority and the department and shall direct and supervise
316 the administrative affairs and the general management of the authority
317 and the department. The secretary shall appoint and employ a chief
318 financial and accounting officer and may, subject to the general
319 supervision of the board, employ other employees, consultants, agents,
320 including legal counsel, and advisors, and shall attend meetings of the
321 board. The chief financial and accounting officer of the authority shall be
322 in charge of its funds, books of account and accounting records. No
323 funds shall be transferred by the authority without the approval of the
324 board and the signatures of the chief financial and accounting officer and
325 the treasurer, as elected by the board pursuant to subsection (f).

326 (f) The board shall bi-annually elect 1 of its members as treasurer and
327 1 of its members as secretary. The secretary shall keep a record of the
328 proceedings of the board and shall be custodian of all books, documents,
329 and papers filed by the board and of its minute book and seal. The
330 secretary shall cause copies to be made of all minutes and other records
331 and documents of the authority and shall certify that such copies are true
332 copies, and all persons dealing with the authority may rely upon such
333 certification.

334 (g) All officers and employees of the authority having access to its
335 cash or negotiable securities shall give bond to the authority at its
336 expense in such amounts and with such surety as the board may
337 prescribe. The persons required to give bond may be included in 1 or
338 more blanket or scheduled bonds.

339 (h) Board members and officers who are not compensated employees
340 of the authority shall not be liable to the commonwealth, to the authority
341 or to any other person as a result of their activities, whether ministerial or
342 discretionary, as such board members or officers except for willful
343 dishonesty or intentional violations of law. Neither members of the
344 authority nor any person executing bonds or policies of insurance shall
345 be liable personally thereon or be subject to any personal liability or
346 accountability by reason of the issuance thereof. The board of directors
347 may purchase liability insurance for board members, officers and
348 employees and may indemnify said persons against claims of others.

349 (i) The authority shall continue as long as it shall have bonds or
350 insurance or guarantee commitments outstanding and until its existence
351 is terminated by law. Upon the termination of the existence of the
352 authority, all right, title and interest in and to all of its assets and all of its
353 obligations, duties, covenants, agreements and obligations shall vest in
354 and be possessed, performed and assumed by the commonwealth.

355 (j) Any action of the authority may take effect immediately and need
356 not be published or posted unless otherwise provided by law. Meetings
357 of the authority shall be subject to section 11A 1/2 of chapter 30A; but
358 said section 11A 1/2 shall not apply to any meeting of members of the
359 authority serving ex officio in the exercise of their duties as officers of
360 the commonwealth so long as no matters relating to the official business
361 of the authority are discussed and decided at the meeting. The authority
362 shall be subject to all other provisions of said chapter 30A, and records
363 pertaining to the administration of the authority shall be subject to
364 section 42 of chapter 30 and section 10 of chapter 66. All moneys of the
365 authority shall be considered to be public funds for purposes of chapter
366 12A. The operations of the authority shall be subject to chapter 268A and
367 chapter 268B and all other operational or administrative standards or
368 requirements to the same extent as the office of the state treasurer.

369 Section 3. (a) The authority shall have all powers necessary or
370 convenient to carry out and effectuate its purposes, including, without
371 limiting the generality of the foregoing, the power:-

372 (1) to adopt and amend by-laws, regulations and procedures for the
373 governance of its affairs and the conduct of its business for the
374 administration and enforcement of this chapter; provided, however, that
375 regulations adopted by the authority shall be adopted pursuant to chapter
376 30A;

377 (2) to adopt an official seal and a functional name;

378 (3) to delegate to the department any powers granted to the
379 authority by this chapter necessary for the commonwealth to be in
380 compliance with 23 U.S.C section 302;

381 (4) to maintain offices at places within the commonwealth as it
382 may determine and to conduct meetings of the authority in accordance
383 with the by-laws of the authority and the second paragraph of section 59
384 of chapter 156B;

385 (5) to direct, operate, administer, and implement the programs of
386 roadway, general aviation, rail and transit, and vehicular registration and
387 regulation, and, in cooperation with the department, for the design,
388 construction, repair, maintenance, capital improvement, development,

389 and planning of the transportation facilities throughout the department, as
390 appropriate;

391 (6) to direct, coordinate, and supervise the administration of the
392 department to promote economy and efficiency and to leverage federal
393 funding and private sector investment;

394 (7) to develop and administer a long-term state-wide transportation
395 plan for the commonwealth that includes planning for intermodal and
396 integrated transportation working in coordination with the regional
397 planning agencies;

398 (8) to develop and administer procedures to be used for
399 transportation project selection;

400 (9) to establish criteria, including criteria that will result in the
401 reduction of greenhouse gases, for project selection to be used in the
402 procedures developed pursuant to clause (7) working in coordination
403 with the regional planning agencies;

404 (10) to enter into agreements and transactions with federal, state and
405 municipal agencies and other public institutions and private individuals,
406 partnerships, firms, corporations, associations and other entities on
407 behalf of the department;

408 (11) to institute and administer the Massachusetts Transportation
409 and Infrastructure Fund for the purposes of making appropriations,
410 allocations, grants or loans to leverage development and investments in
411 transportation investment;

412 (12) to sue and be sued in its own name, plead and be impleaded;

413 (13) to own, construct, maintain, repair, reconstruct, improve,
414 rehabilitate, use, police, administer, control and operate the state
415 highway system or any part thereof; provided, however, that the
416 provisions of chapter 91 shall not apply to the authority, except for any
417 parts or areas thereof subject to said chapter 91 on March 1, 1997;

418 (14) to acquire sites abutting the state highway system and to
419 construct or contract for the construction of buildings and appurtenances
420 for gasoline stations, restaurants, parking facilities, tourist information
421 centers and other services and to lease such facilities in such manner and
422 under such terms as it may determine;

423 (15) to issue bonds, notes and other evidences of indebtedness as
424 provided in this chapter;

425 (16) to appoint officers and employees and to engage accountants,
426 architects, attorneys, engineers, planners, real estate experts and other
427 consultants as may be necessary in its judgment to carry out the purposes
428 of this chapter and fix their compensation;

429 (17) to acquire real and personal property, or any interest in real or
430 personal property, by gift, purchase, transfer, foreclosure, lease or
431 otherwise including rights or easements; to hold, sell, assign, lease,
432 encumber, mortgage or otherwise dispose of any real or personal
433 property, or any interest therein, or mortgage any interest owned by it or
434 under its control, custody or in its possession; to release or relinquish any
435 right, title, claim, lien, interest, easement or demand however acquired,
436 including any equity or right of redemption in property foreclosed by it;
437 to take assignments of leases and rentals, proceed with foreclosure
438 actions, or take any other actions necessary or incidental to the
439 performance of its corporate purposes;

440 (18) to place and maintain or grant permission by easement or
441 otherwise to any public utility, corporation or person to place and
442 maintain on or under or within the state highway system or any part
443 thereof, ducts, pipes, pipelines, mains, conduits, cables, wires, towers,
444 poles or other structures to be so located as not to interfere with the safe
445 and convenient operation and maintenance of the state highway system
446 and to contract with any such public utility, corporation or person for
447 such permission on such terms and conditions as may be fixed by the
448 authority;

449 (19) to designate the locations and establish, limit and control such
450 points of ingress to and egress from the state highway system as may be
451 necessary, convenient or desirable in the judgment of the authority to
452 insure the proper operation and maintenance of the state highway system
453 and to prohibit entrance to the state highway system from any point or
454 points not so designated;

455 (20) to (i) construct grade separations at locations where the state
456 highway system intersect with or abut public highways or rail lines and
457 to change and adjust the lines and grades of such highways or rail lines
458 so as to accommodate the same to the design of such grade separation;
459 and (ii) change the location of any portion of any public highway or rail
460 line which intersects or abuts the state highway system in order to
461 improve the safety or efficiency of the state highway system; provided,
462 however, that if the authority shall find it necessary to change the
463 location of a public highway, it shall reconstruct the same in as good a
464 condition as the original highway and at such location as the authority
465 deems most favorable; provided, however, that all costs incident to
466 construction, realignment or reconstruction conducted pursuant to this
467 clause shall be borne by the authority;

468 (21) to enter upon any lands, waters and premises in the
469 commonwealth, after 30 days' notice by registered or certified mail and
470 without the necessity of any judicial orders or other legal proceedings,
471 for the purpose of making surveys, soundings, drillings and examinations
472 as the authority may deem necessary, convenient or desirable for
473 carrying out the purposes of this chapter and such entry shall not be
474 deemed a trespass nor shall an entry for such purposes be deemed an
475 entry under any condemnation proceedings which may be then pending;
476 provided, however, that the authority shall provide reimbursement for
477 any actual damage resulting to such lands, waters and premises as a
478 result of such activities; and provided, further, that the commonwealth
479 hereby consents to the use of all lands owned by it, including lands lying
480 underwater, which are deemed by the authority to be necessary,
481 convenient or desirable for the construction, operation or maintenance of
482 the state highway system;

483 (22) to make and enter into all contracts and agreements necessary,
484 convenient or desirable in the performance of its duties and the execution
485 of its powers under this chapter; provided, however, that sections 26 to
486 29, inclusive, and sections 44A to 44J, inclusive, of chapter 149 and
487 sections 39F to 39M, inclusive, of chapter 30 shall apply to contracts of
488 the authority to the same extent and in the same manner as they are
489 applicable to the commonwealth; provided, however, that
490 notwithstanding the provisions of this clause, the authority may, with the
491 approval of the secretary of the executive office of administration and
492 finance, without competitive bids and notwithstanding the provisions of
493 any general or special law to the contrary, award a contract, otherwise
494 subject to this section, limited to the performance of emergency repairs
495 necessary to preserve the safety of persons or property;

496 (23) to invest any funds held in reserves or sinking funds, or the
497 Massachusetts Transportation Infrastructure Fund, or any funds not
498 required for immediate disbursement, in such investments as may be
499 provided in any financing document relating to the use of such funds, or,
500 if not so provided, as the board may determine;

501 (24) to review and recommend changes in laws, rules, programs,
502 and policies of the state and its agencies and subdivisions to further
503 transportation financing, infrastructure and development within the
504 commonwealth;

505 (25) to appear in its own behalf before boards, commissions,
506 departments or other agencies of municipal, state or federal government;

507 (26) to obtain insurance;

508 (27) to apply for and accept subventions, grants, loans, advances
509 and contributions from any source of money, property, labor or other
510 things of value, to be held, used and applied for its corporate purposes;

511 (28) to adopt a fiscal year to conform with the fiscal year of the
512 commonwealth;

513 (29) to receive and apply its revenues to the purposes of the
514 authority without appropriation or allotment by the commonwealth or
515 any political subdivision thereof;

516 (30) to enter into agreements with other parties, including, without
517 limiting the generality of the foregoing, government agencies,
518 municipalities, authorities, private transportation companies, railroads,
519 and other concerns, providing (i) for construction, operation and use of
520 any mass transportation facility and equipment held or later acquired by
521 the authority; provided, however, that any agreement entered into by the
522 authority for the construction or acquisition of mass transportation
523 facilities or equipment of more than \$1,000,000, which is financed in
524 whole or in part from the proceeds of bonds the debt service payments on
525 which are assisted by the commonwealth or made from the dedicated
526 revenue source, shall not become effective until approved by the
527 secretary of the executive office of administration and finance; (ii) for
528 joint or cooperative operation of any mass transportation facility and
529 equipment with another party; (iii) for operation and use of any mass
530 transportation facility and equipment for the account of the authority, for
531 the account of another party or for their joint account; or (iv) for the
532 acquisition of any mass transportation facility and equipment of another
533 party where the whole or any part of the operations of such other party
534 takes place within the area constituting the authority; provided, further,
535 that any such other party may enter into any such agreements, subject to
536 such provisions of law as may be applicable; and provided, further, that
537 any agreement with a private company under this chapter which is to be
538 financed from the proceeds of bonds or bond anticipation notes and
539 which provides for the rendering of transportation service by such
540 company and for financial assistance to such company by subsidy, lease
541 or otherwise shall include such service quality standards for such service
542 as the authority may deem appropriate and shall not bind the authority
543 for a period of longer than 1 year from its effective date, but this shall not
544 prohibit agreements for longer than 1 year if the authority's obligations
545 thereunder are subject to annual renewal or annual cancellation by the
546 board's authority; and provided, further, that such agreements may

547 provide for cash payments for services rendered, but not more than will
548 permit any private company a reasonable return;

549 (31) to establish transit facilities and related infrastructure,
550 including terminals, stations, access roads, and parking, pedestrian access
551 facilities and bicycle parking and access facilities as may be deemed
552 necessary and desirable; and provided, further, that the authority may
553 charge reasonable fees for the use of such facilities as it may deem
554 desirable;

555 (32) to lend money to and to acquire or hold obligations issued by
556 public bodies or other users at such prices and in such manner as the
557 authority shall deem advisable and sell such bonds acquired or held by it
558 at prices without relation to cost and in such manner as the authority
559 shall deem advisable and to secure its own issues of bonds with such
560 obligations held by it;

561 (33) to act, together with the department, as the central entity and
562 coordinating organization for transportation initiatives on behalf of the
563 commonwealth and to work in collaboration with governmental entities,
564 bodies, centers, institutes and facilities to advance the commonwealth's
565 interests and investments in transportation;

566 (34) to enter into agreements with public and private entities that
567 deal primarily with transportation and infrastructure development, in
568 order to distribute and provide leveraging of monies or services for the
569 purposes of furthering transportation development in the commonwealth
570 and promoting overall economic growth within the commonwealth by
571 fostering collaboration and investments in transportation initiatives in the
572 commonwealth;

573 (35) to provide and pay for such advisory services and technical
574 assistance as may be necessary or desired to carry out the purposes of
575 this chapter;

576 (36) to establish and collect such fees and charges as the authority
577 shall determine to be reasonable and consistent with this chapter; and to
578 receive and apply without further appropriation revenues from fees and
579 charges to the purposes of the authority or allotment by the
580 commonwealth or any political subdivision thereof;

581 (37) to disburse, appropriate, grant, loan or allocate funds for the
582 purposes of investing in transportation initiatives as directed in this
583 chapter;

584 (38) to provide assistance to local entities, local authorities, public
585 bodies and private corporations for the purposes of maximizing

586 opportunities for transportation and development initiatives in the
587 commonwealth;

588 (39) to prepare, publish and distribute, with or without charge, as
589 the authority may determine, such studies, reports and bulletins and other
590 material as the authority deems appropriate;

591 (40) to exercise any other powers of a corporation organized under
592 chapter 156B;

593 (41) to take any actions necessary or convenient to the exercise of
594 any power or the discharge of any duty provided for by this chapter;

595 (42) to enter into agreements or other transactions with any person,
596 including without limitation any public entity or other governmental
597 instrumentality or agency in connection with its powers and duties under
598 this chapter; and

599 (43) to delegate any of the foregoing powers to an undersecretary or
600 to a director having charge of an administrative unit within the
601 department.

602 Section 4. There shall be established and placed within the authority
603 a separate fund to be known as the Massachusetts Transportation and
604 Infrastructure Fund which shall be used for financing transportation-
605 related purposes of the Massachusetts Transportation and Infrastructure
606 Authority. The secretary shall be authorized to enter into agreements
607 with the Massachusetts Bay Transportation Authority, the Massachusetts
608 Port Authority, the regional transit authorities, and, for so long as it shall
609 continue to exist, the Massachusetts Turnpike Authority, to commit any
610 funds generated from fares, fees, tolls, or any other revenue sources
611 including, but not limited to, from federal sources of these authorities to
612 the fund. There shall be credited to the fund all turnpike revenues and
613 other toll and non-toll revenue collected by the authority after
614 assumption of the assets, obligations, and liabilities of the Massachusetts
615 Turnpike Authority, all tolls collected by the authority after transfer of
616 the Maurice J. Tobin Memorial Bridge by the Massachusetts Port
617 Authority to the authority, all refunds and rebates made on account of
618 expenditures on ways by the authority, any revenues from appropriations
619 or other monies authorized by the general court and specifically
620 designated to be credited to the fund, any gifts, grants, private
621 contributions, investment income earned on the fund's assets, all monies
622 received by the authority for the sale or lease of property, all monies
623 received by the authority in satisfaction of claims by the authority for
624 damage to highway and bridge safety signs, signals, guardrails, curbing
625 and other highway and bridge related facilities, and other receipts of the

626 authority. Money remaining in the fund at the end of the year shall not
627 revert to the General Fund.

628 The fund, which shall be under the control of the authority and not
629 subject to appropriation, shall be used as follows:-

630 (a) For expenditure, under the direction of authority, for maintaining,
631 repairing, improving and constructing town and county ways and
632 bridges, sidewalks adjacent to such ways and bridges, bikeways and
633 other projects eligible for funding as a transportation enhancement
634 project as described in the Intermodal Surface Transportation Efficiency
635 Act of 1991, P.L. 102-240, salt storage sheds, bikeways and public use
636 off-street parking facilities related to mass transportation, for engineering
637 services and expenses related to highway transportation enhancement
638 and mass transportation purposes, for care, repair, storage, replacement,
639 purchase and long-term leasing of road building machinery, equipment
640 and tools, for the erection and maintenance of direction signs and
641 warning signs and for necessary or beneficial improvements to unpaved
642 town and county ways together with any money which any town or
643 county may appropriate for such purposes to be used on the same ways,
644 sheds, bikeways, bridges, machinery, equipment, tools and facilities.
645 Such engineering services, including surveying services, shall only be
646 performed by architectural, engineering or surveying firms prequalified
647 by the authority; provided, however, that a municipality may seek a
648 waiver of this requirement from the authority if the municipality
649 demonstrates to the satisfaction of the authority that it is cost prohibitive
650 to use a prequalified firm. Such ways, sheds, bikeways, bridges,
651 machinery, equipment, tools and facilities shall remain town or county
652 ways, sheds, bikeways, bridges, machinery, equipment, tools and
653 facilities. The authority shall withhold or withdraw the unexpended
654 balance of any funds assigned by it under this subdivision if the town
655 fails to comply with the official standards for traffic control established
656 by the authority or with any provision of a traffic control agreement
657 negotiated between the authority and the town, as required by the United
658 States Secretary of Commerce under section 109 of Title 23 of the
659 United States Code. In this subdivision the word 'town' shall include
660 city;

661 (b) For expenditure, under the direction of the authority, for
662 maintaining, repairing and improving state highways and bridges,
663 including bridges and appurtenances managed until July 1, 2009 by the
664 department of conservation and recreation, and for the turnpike and the

665 metropolitan highway system managed until its dissolution by the
666 Massachusetts Turnpike Authority;

667 (c) For expenditure, under the direction of said authority, in addition
668 to federal aid payments received under section 30 of chapter 81, for
669 construction of state highways;

670 (d) For expenditure, under the direction of said authority, for
671 engineering services and expenses, for care, repair, storage, replacement
672 and purchase of road building machinery and tools, for snow removal,
673 for the erection and maintenance of direction signs and warning signs
674 and for the care of shrubs and trees on state highways, and for expenses
675 incidental to the foregoing or incidental to the purposes specified in
676 clause (a), (b) or (c);

677 (e) For expenditure for the operations of the authority, the department
678 of transportation and any divisions within the authority;

679 (f) For contributions to regional transit authorities under section 23 of
680 chapter 161B;

681 (g) For expenditure, under the direction of the authority, for
682 infrastructure improvements to transportation facilities throughout the
683 commonwealth;

684 (h) For regional expenditure, under the direction of the authority, for
685 highway division projects in the 5 geographic regions of the
686 commonwealth consistent with the boundaries of the 5 highway division
687 districts as existing on July 1, 2009; provided, however, that the
688 commonwealth's total 5-year capital expenditures for road and bridge
689 projects in any region, including, but not limited to, expenditures made
690 from the fund, shall not be less than 75 per cent of the following number:
691 the annual percentage of the total motor vehicle fuel tax generated by
692 that region multiplied by the highway division's 5 year historic capital
693 expenditures, excluding personnel costs;

694 (i) For expenditures to meet any debt obligations of the authority
695 following the dissolution of the Massachusetts Turnpike Authority and
696 assumption of assets, obligations, and liabilities by the authority;

697 (j) For expenditure for highway field services and transportation
698 support programs, including, but not limited to, state police highway
699 patrols and accident teams;

700 (l) For any other expense of the authority necessary to carry out its
701 purposes.

702 Section 5. (a) The authority shall be organized and shall function as a
703 single state agency for administrative purposes including, but not limited
704 to, for the purposes of the accounting and financial system of the

705 commonwealth. The secretary shall, notwithstanding the provisions of
706 any general or special law to the contrary, identify and consolidate
707 administrative activities and functions common to the separate offices,
708 divisions, and authorities within the authority and may designate such
709 functions 'core administrative functions' in order to improve
710 administrative efficiency and preserve fiscal resources. Common
711 functions that shall be designated core administrative functions shall
712 include, but shall not be limited to, human resources, financial
713 management, information technology, legal, procurement, and asset
714 management. All employees performing functions so designated and
715 approved shall be employed directly by the secretary. The authority shall
716 make such services available to the offices, divisions, and authorities
717 within the department.

718 The authority may enter into agreements under section 22A and 22B
719 of chapter 7 and in all respects not governed by general or special laws
720 expressly made applicable to the authority shall adhere to good business
721 practices to be determined by the authority in its procurement of
722 equipment, materials, property, supplies and services.

723 (b) On December 15 and at 6-month intervals thereafter, the secretary
724 shall report to the joint committee on transportation, the house and senate
725 committees on bonding, capital expenditures and state assets and the
726 house and senate committees on ways and means on the authority's
727 progress in implementing the requirements of this section, the capital
728 expenditures made by the authority in implementing the requirements of
729 this section and on the administrative savings that have been achieved
730 through the implementation of the requirements of this section.

731 (c) The secretary shall appoint a manager to serve as director of
732 system integration, whose primary responsibility shall be to develop a
733 plan and oversee the implementation of the merger and integration of the
734 organizations and assets comprising the authority.

735 Section 6. (a) The secretary shall operate and administer an office of
736 performance management and innovation within the authority that shall,
737 without limitation, administer this section. The authority and its divisions
738 shall report to the office of performance management and innovation
739 with regard to setting goals and establishing performance measures to
740 improve the authority and divisions' operations and the delivery of
741 transportation services and projects in the commonwealth.

742 (b) The secretary shall establish a performance measurement system
743 for the divisions of the authority, which shall establish program goals,
744 measure program performance against those goals and report publicly on

745 progress to improve the effectiveness of transportation design and
746 construction, service delivery and policy decision making. Performance
747 measurements shall include, for at least the then current fiscal year and
748 the previous 5 fiscal years, all modes of transportation. Performance
749 measurements shall include the number of projects completed, the
750 percentage of projects completed early or on time, the percentage of
751 projects completed under budget or on-budget, the number of projects in
752 construction phase and the percentage of projects advertised early or on
753 time. Performance measurements shall include usage information for all
754 modes of transportation, including measures of throughput, utilization
755 and ridership. This information shall be presented with measurements of
756 congestion, on-time performance, if appropriate, and incidents that have
757 caused delays or closures. Performance measurements shall include
758 assessments of maintenance performance by asset class, mode and
759 region, including a breakdown of highway pavement, bridge and track,
760 for subway, commuter and commonwealth-owned freight rail, by
761 condition level, with an explanation of current year and future year
762 planned maintenance expenditures and their expected result. Reporting
763 on planned maintenance programming shall include an assessment of the
764 categories of maintenance-related activity as described in the American
765 Association of Highway and Transportation Officials' Maintenance
766 Manual for Roadways and Bridges. The division of roads and bridges
767 shall expand and enhance its project information system and shall
768 develop additional means to establish a centralized system, available on
769 the internet, to document performance measurements and the progress
770 and status of all planning, design, construction and maintenance projects
771 undertaken by the authority, and all road and bridge projects of any city
772 or town that are funded, in whole or in part, by the commonwealth. A
773 municipality shall have access to the system at no cost, shall enter such
774 information into the system as may be required by the division of roads
775 and bridges and shall otherwise fully participate in the system as a
776 condition of receiving financial assistance from the commonwealth. All
777 information in the project information system shall be a public record
778 unless otherwise exempted by law. A report of the project information
779 system and performance measurements shall be published annually and
780 made available to the public not later than December 31. The report
781 shall also be filed annually with the clerks of the senate and house of
782 representatives, the chairs of the house and senate committees on ways
783 and means and the senate and house chairs of the joint committee on
784 transportation. The performance measurement system shall require each

785 division to develop a strategic plan for program activities and
786 performance goals. The system shall require annual program
787 performance reports which shall be submitted to the house and senate
788 committees on ways and means and the joint committee on
789 transportation.

790 In addition to the performance objectives and measurements listed in
791 this section, design and construction projects shall identify key
792 milestones and tasks associated with said project, and report on a
793 monthly basis listing the percent complete for each milestone/task along
794 with the planned percent complete, as well as the actual cost expended
795 for each milestone/task compared to the planned cost shall be generated,
796 and submitted to the next higher level of management. Any deviation of
797 greater than 7% from the planned schedule or planned cost shall be
798 explained in a monthly report to the next level of management with a
799 reason for the difference, as well as the plan to get back on schedule or
800 budget. In the event the cost or schedule deviation results in the scenario
801 where the project cannot recover and the project will be over budget or
802 late, approval to revise the project plan must be obtained from
803 management, and the joint Committee on Ways and Means and
804 Transportation must be notified.

805 (c) The office of performance management and innovation shall be
806 charged with evaluating the goals and measures established by the
807 authority and its divisions and monitoring the results reported. The
808 office shall recommend changes to proposed goals and measures as are
809 appropriate to align goals and measures with the strategic priorities of the
810 secretary. The office shall report regularly to the public on the progress
811 the authority and its divisions are making at achieving stated goals. The
812 office shall be responsible for the establishment and, in cooperation with
813 each of the divisions, operation of an asset management system for all
814 departments and shall report regularly on the condition of assets and
815 infrastructure. Reports on performance shall include measures of: (i)
816 maintenance activity and results; (ii) usage on all modes of
817 transportation; (iii) operational performance; and (iv) planning, design
818 and construction, including on-time and on-budget project delivery.

819 The office shall annually publish a 'scorecard' identifying the number
820 of projects actively under construction and those completed in the
821 previous year by type, value and location, and those planned for the
822 following year. Notwithstanding any other provision of law, the office
823 shall determine the appropriate measures and standards of performance
824 in all categories and reporting on performance trends.

825 The office will be responsible to report publicly and transparently and
826 to make all reports available through an on-line system.

827 The secretary shall use the performance criteria established in this
828 section to determine the quality of service of all private entities,
829 including commuter rail providers, that perform transportation services
830 on behalf of the authority. The results of such performance measures
831 shall be criteria used in negotiating any contracts.

832 Section 7. Unless otherwise required under section 6A of chapter 31
833 or any other general or special law to the contrary, the secretary shall
834 design and implement a program for performance evaluation of
835 employees. The sole purpose of the program shall be the improvement of
836 the performance of individual employees and the authority and,
837 notwithstanding any general or special law to the contrary, all
838 information compiled by said program shall be confidential and shall not
839 be public records under section 10 of chapter 66 or clause Twenty-sixth
840 of section 7 of chapter 4. The authority may consult with individuals and
841 organizations and may contract for technical assistance for the purpose of
842 the program to the extent it deems necessary.

843 Section 8. All moneys received pursuant to the provisions of this
844 chapter, whether as proceeds from the issue of refunding bonds or as
845 revenues or otherwise, shall be deemed to be trust funds to be held and
846 applied solely as provided in this chapter. The resolution authorizing the
847 refunding bonds or the trust agreement securing such notes or bonds
848 shall provide that any officer with whom, or any bank or trust company
849 with which, such moneys shall be deposited shall act as trustee of such
850 moneys and shall hold and apply the same for the purposes hereof,
851 subject to such regulations as this chapter and such resolution or trust
852 agreement may provide.

853 Section 9. (a) There shall be within the authority, but not subject to
854 the control of said authority, an office for taxpayer advocacy. The
855 governor shall appoint a director of the office of taxpayer advocacy for a
856 term of 6 years. The governor may remove the director only for cause
857 including, but not limited to, any violations of the provisions of section
858 27, and shall fill any vacancy for the unexpired term. The director shall
859 devote his full time and attention to the duties of his office.

860 (b) The office for taxpayer advocacy shall monitor the quality,
861 efficiency and integrity of the authority's operating and capital programs
862 and seek to prevent, detect and correct fraud, waste and abuse in the
863 expenditure of public or private transportation funds.

864 (c) The director may appoint such persons as he shall deem necessary
865 to perform the functions of the office of taxpayer advocacy; provided,
866 however, that section 9A of chapter 30 and chapter 31 shall not apply to
867 any person holding any such appointment. Employees of the office for
868 taxpayer advocacy shall have experience with accounting, auditing,
869 financial analysis, applicable law, business management, and public
870 administration and shall devote their full-time efforts to the unit and shall
871 not be assigned direct operating responsibilities. Every person so
872 appointed to any position in the office of taxpayer advocacy shall have
873 experience and skill in the field of such position. So far as practicable in
874 the judgment of the secretary, appointments to such positions shall be
875 made by promoting or transferring employees of the commonwealth
876 serving in positions which are classified under chapter 31, and such
877 appointments shall at all times reflect the professional needs of the
878 administrative unit affected. If an employee serving in a position which
879 is classified under chapter 31 or in which an employee has tenure by
880 reason of section 9A of chapter 30 shall be appointed to a position within
881 this office which is not subject to the provisions of chapter 31, the
882 employee shall upon termination of his service in such position be
883 restored to the position which he held immediately prior to such
884 appointment; provided, however, that his service in such position shall be
885 determined by the civil service commission in accordance with the
886 standards applied by said commission in administering said chapter 31.
887 Such restoration shall be made without impairment of his civil service
888 status or tenure under section 9A of chapter 30 and without loss of
889 seniority, retirement or other rights to which uninterrupted service in
890 such prior position would have entitled him. During the period of such
891 appointment, each person so appointed from a position in the classified
892 civil service shall be eligible to take any competitive promotional
893 examination for which he would otherwise have been eligible.

894 (d) The director may report and refer his findings to the inspector
895 general so that he may conduct an investigation pursuant to chapter 12A
896 and the results of said investigation may be referred to the attorney
897 general for appropriate action.

898 (e) The office for taxpayer advocacy shall be responsible to report
899 publicly and transparently detailed and comprehensive information about
900 all transportation contracts, including infrastructure ones, involving the
901 Massachusetts Transportation and Infrastructure Authority. Reports shall
902 be made available through an online system website. Such website shall
903 have up to date information on the status of pending as well as awarded

904 state contracts. A certain dollar amount for state contract awards and
 905 specific agency expenditures that will be posted may be set by the office.

906 Section 10. There shall be within the authority an office of
 907 transportation planning which shall oversee and administer the planning
 908 responsibilities of the department, and which shall be under the
 909 supervision and control of the secretary. The secretary shall appoint an
 910 executive director who shall be skilled and experienced in the field of
 911 transportation planning and shall not be subject to chapter 31 or to
 912 section 9A of chapter 30. Said director may be removed for cause by the
 913 secretary. Said office shall serve as the principal source of transportation
 914 planning for state-level transportation projects, and shall develop the
 915 commonwealth's transportation-related programs as more particularly set
 916 forth in this section. In addition, the office of transportation planning
 917 shall work in coordination with regional planning agencies in the
 918 commonwealth, which shall serve as the principal source of
 919 transportation planning for local and regional transportation projects.
 920 Said office shall conduct research, surveys, demonstration projects and
 921 studies in cooperation with the federal government, said regional
 922 planning agencies, regional transit authorities, municipalities, other
 923 governmental agencies, and appropriate private organizations in order to
 924 support local and regional planning, deliver transportation programs, and
 925 execute demonstration projects.

926 Said office of transportation planning shall be responsible for the
 927 preparation of a comprehensive and coordinated intermodal
 928 transportation plan for the commonwealth. Said plan shall include
 929 planning to improve and maintain facilities and equipment for all modes
 930 of transportation in the Commonwealth, including highways and roads,
 931 passenger rail and other public transportation, freight rail, aviation,
 932 shipping, pedestrian facilities, bicycle facilities, and water transportation.
 933 Said plan shall ensure an equitable allocation of investments in
 934 transportation across the regions of the commonwealth. Said plan shall
 935 include any program for the disposition of capital assets. Said plan shall
 936 include transportation improvement projects for the department of
 937 transportation and all of its constituent divisions and authorities that own
 938 or operate transportation facilities, including the Massachusetts Bay
 939 Transportation Authority, the regional transit authorities, and the
 940 Massachusetts Port Authority. Said plan shall be developed in
 941 consultation with said divisions and authorities, the commonwealth
 942 development coordinating council, the metropolitan planning
 943 organizations, the regional planning agencies, and the transportation

944 finance commission. Said plan shall be prepared in coordination with
945 comprehensive urban development plans and in cooperation with said
946 other agencies so far as practicable. Said plan shall include an analysis of
947 the operation of each regional transit authority, with the purpose of
948 identifying ways in which each regional transit authority can improve
949 efficiency of existing service, and provide new or expanded services to
950 the communities. The analysis shall include an examination of the
951 ridership per vehicle in each regional transit authority to determine the
952 feasibility of converting fleets from large buses to smaller, more energy-
953 efficient vehicles. The analysis shall identify the potential reduction in
954 operating costs that such a conversion could provide for each regional
955 transit authority, and shall outline the ways in which costs savings
956 attained by this conversion could then be applied to improve service by
957 expanding service areas and increasing hours of service.

958 The office of transportation planning shall be responsible for planning
959 and programs that promote sustainable transportation, and that will: (i)
960 maintain and expand transportation options that maximize mobility,
961 reduce congestion, conserve fuel, and improve air quality; (ii) prioritize
962 alternative modes including rail, bus, boat, rapid and surface transit,
963 shared-vehicle and shared-ride services, bicycling, and walking; and (iii)
964 invest strategically in existing and new passenger and freight
965 transportation infrastructure that supports sound economic development
966 consistent with established smart growth objectives. The office of
967 transportation planning shall be responsible for bicycle and pedestrian
968 planning, water transportation planning, and the management of
969 transportation programs promoting congestion mitigation and air quality
970 improvements, travel options, safe routes to school, alternative fuels, and
971 other planning initiatives and programs that promote sustainable
972 transportation working in coordination with the regional planning
973 agencies and the metropolitan planning organization.

974 The office of transportation planning shall be responsible for research
975 and planning in support of the implementation of chapter 21N. The office
976 shall undertake planning and research tasks and coordinate with the
977 executive office of energy and environmental affairs on issues related to
978 historic, current, and projected future transportation-generated emissions
979 of carbon dioxide and other greenhouse gases and technology, policy,
980 and legal issues related to developing and implementing market-based
981 compliance mechanisms for transportation-generated greenhouse gases.
982 Such planning shall include comprehensive climate change adaptation
983 planning to ensure that the commonwealth's transportation infrastructure

984 is designed to tolerate increased environmental stress due to climate
985 change, including, but not limited to increased temperatures, increased
986 stormwater runoff, and extreme weather events.

987 The office of transportation planning shall conduct plans and work
988 with the divisions, municipalities, other public agencies, private
989 organizations, and other parties as appropriate in order to ensure the
990 implementation of measures that facilitate equitable bicycle and
991 pedestrian access in the planning and development of all transportation
992 facilities. Consistent with the most current edition of the MassHighway
993 Project Development and Design Guide, or its successor, the office of
994 transportation planning shall in the design, construction, and
995 maintenance of transportation facilities for all new construction and
996 reconstruction projects, including resurfacing, restoring and
997 rehabilitation improvement projects, ensure safe and contiguous routes
998 for all users, including individuals of all ages and abilities, pedestrians,
999 bicyclists, transit vehicles and riders, and motorists.

1000 The office of transportation planning shall work with other
1001 commonwealth agencies to identify measures that agencies can take to
1002 facilitate fuel conservation, travel demand management for agency
1003 employees, and sustainable transportation, to develop programs that
1004 consolidate and promote these measures in a user-friendly manner, and
1005 to provide programmatic support to help other commonwealth agencies
1006 implement these measures.

1007 The office of transportation planning shall utilize life-cycle cost
1008 modeling for all projects. Life-cycle costs shall mean all relevant costs
1009 of a transportation asset's lifespan including, but not limited to, planning,
1010 study, design, purchase or lease, operation, maintenance, repair,
1011 replacement and disposal. The department shall utilize life-cycle cost
1012 modeling during the project planning and selection processes for all of its
1013 divisions, agencies, and authorities, as defined herein. Life-cycle cost
1014 information shall be presented as part of the public disclosure process in
1015 all project planning documents in equal proportion to initial delivery cost
1016 estimates. Project planning shall include the identification of funding to
1017 minimize life-cycle costs throughout the life of each asset.

1018 Massport, Minuteman National Historical Park and Hanscom Area
1019 Town Selectmen (HATS) shall jointly undertake a study to determine the
1020 impact of current operations at Hanscom Field and any anticipated or
1021 proposed expansions to operations, facilities, and/or infrastructure at the
1022 Field on the environment (including but not limited to noise levels and
1023 air quality consequences of both air and associated road traffic,) on

1024 public health, on tourism, and on the unique historical treasures in and
1025 around the communities abutting the Field. Massport, Minuteman
1026 National Historical Park and HATS shall collaborate in the development
1027 of the study design, the choice of contractor to undertake the study, in the
1028 writing of the final report and in the development of recommendations to
1029 be filed with the Superintendent of the Park, HATS and the chairs of the
1030 legislature's Joint Committee on Transportation by January 1, 2010.

1031 Section 11. Every 5 calendar years, beginning not later than April 30,
1032 2010, the secretary shall, after conducting public hearings, prepare and
1033 publish in the Massachusetts register a comprehensive state
1034 transportation plan for the 5 succeeding fiscal years, beginning with the
1035 period of fiscal year 2011 to 2015, inclusive. The plan shall be consistent
1036 with such priorities as may be established by legislation. Said plan shall
1037 be designed to ensure construction and maintenance of a safe, sound and
1038 efficient public highway, road and bridge system, to relieve congestion,
1039 to reduce greenhouse gas emissions, particulates and other pollutants, to
1040 prepare for climate change adaptation, and to improve the quality of life
1041 in the commonwealth by promoting economic development and
1042 employment in the commonwealth by meeting, cost effectively, the
1043 diverse transportation needs of all residents of the commonwealth,
1044 including urban, suburban and rural populations. Said plan shall also
1045 include an engineering assessment to anticipate highway, road and bridge
1046 needs throughout the commonwealth as determined by objective
1047 engineering measurements of condition, safety and service. The secretary
1048 shall consult with the executive office of environmental affairs and the
1049 executive office of economic affairs in the development of said plan.
1050 Said plan shall provide for meeting not less than 5 per cent annually of
1051 the estimated construction, reconstruction and repair needs of public
1052 highways and bridges of the commonwealth, its counties, cities and
1053 towns, estimated as follows. Before the secretary publishes or updates
1054 said plan, the authority shall determine and certify to the secretary its
1055 estimate of the total value of all construction, reconstruction and repair
1056 needs of the commonwealth's highway and bridge infrastructure. The
1057 total value estimate shall be based on satisfying current safety and
1058 maintenance standards of the Federal Highway Administration and the
1059 American Association of State Highway and Transportation Officials.
1060 The estimate shall be substantiated by documented objective engineering
1061 estimates which shall be made available for public review.

1062 The department and the authority shall report annually, not later than
1063 February 1, to the house and senate committees on ways and means and

1064 the joint committee on transportation on their compliance with the plan
1065 and their efforts to satisfy the 5 per cent requirement of the preceding
1066 paragraph.

1067 Section 12. The authority shall develop and implement a single
1068 integrated asset management system to oversee and coordinate the
1069 maintenance, preservation, reconstruction and investment of all of the
1070 assets in its possession, custody and control. The authority may use
1071 programs and services offered by the division of capital asset
1072 management and maintenance and the information technology division
1073 or separate offices, divisions, and authorities within the authority to aid
1074 in its development of an integrated asset management system as long as,
1075 in the judgment of the authority, such programs and services compare
1076 favorably with those available from private vendors and are offered at
1077 competitive prices.

1078 Section 13. (a) There shall be within the authority an office of
1079 transition management which shall perform such functions as the
1080 secretary may determine in relation to the administration,
1081 implementation and enforcement of transportation restructuring;
1082 provided, however, that the office shall: (i) recommend to the secretary
1083 rules and regulations to facilitate the orderly expeditious transfer of
1084 assets and functions from the former executive office of transportation
1085 and public works, the Massachusetts Turnpike Authority, the
1086 Massachusetts Bay Transportation Authority, the Massachusetts Port
1087 Authority, the department of conservation and recreation and the
1088 department of highways authority; (ii) develop administrative processes
1089 to assure continuity of employment and operations during the transitions;
1090 (iii) recommend legislation to resolve issues or assist government
1091 agencies with the transition of transportation agencies; and (iv) report at
1092 least quarterly to the governor and the chairs of the joint committee on
1093 transportation on the progress of the transition.

1094 (b) The office of transition management shall make such plans and
1095 arrangements as may be necessary to ensure the efficient integration of:
1096 (i) the Massachusetts Turnpike Authority's functions, assets, liabilities,
1097 and obligations; (ii) the Maurice J. Tobin Memorial Bridge owned and
1098 operated by the Massachusetts Port Authority; and (iii) the vehicular
1099 bridges and appurtenances under the control of the department of
1100 conservation and recreation, to the authority pursuant to this chapter.

1101 Section 14. The authority may charge and collect and from time to
1102 time fix and revise tolls for transit over the turnpike and the different
1103 parts or sections thereof, subject to such classifications of vehicles and

1104 manners of collection as the authority determines desirable and subject to
1105 section 3. Such tolls shall be so fixed and adjusted as to provide, at a
1106 minimum, funds sufficient with other revenues, if any, to pay (a) costs
1107 incurred in furtherance of this chapter related to the turnpike including,
1108 but not limited to, the cost of owning, maintaining, repairing,
1109 reconstructing, improving, rehabilitating, policing, using, administering,
1110 controlling and operating the turnpike; and (b) the principal of,
1111 redemption premium, if any, and the interest on notes or bonds relating
1112 to the turnpike as the same shall become due and payable and to create
1113 and maintain reserves established for any of the authority's corporate
1114 purposes. Such tolls shall not be subject to supervision, regulation,
1115 approval or disapproval by any department, division, commission, board,
1116 bureau or agency of the commonwealth or any political subdivision
1117 thereof. The authority shall maintain the confidentiality of all
1118 information including, but not limited to, photographs or other recorded
1119 images and credit and account data, relative to account holders who
1120 participate in its electronic toll collection system. Such information shall
1121 not be a public record and shall be used for enforcement purposes only
1122 with respect to toll collection regulations. An account holder may, upon
1123 written request to the authority, have access to all information pertaining
1124 solely to the account holder. For each violation of applicable authority
1125 regulations related to electronic toll collection, a violation notice shall be
1126 sent to the registered owner of the vehicle in violation. The notice shall
1127 include the registration number of the vehicle, the state of issuance of
1128 such registration and the date, time and place of the violation. The notice
1129 may be based in whole or in part upon inspection of any photographic or
1130 other recorded image of a vehicle and the written certification by a state
1131 police officer or other person employed by or under contract with the
1132 authority or its electronic toll collection system contractor that it is so
1133 based shall be prima facie evidence of the facts contained therein and
1134 shall be admissible in any administrative or judicial proceeding to
1135 adjudicate the liability for such violation.

1136 (b) The authority shall not charge or collect a toll for transit through
1137 the Callahan tunnel, the Sumner tunnel or the Ted Williams tunnel by
1138 official emergency vehicles of the commonwealth or any municipality,
1139 political subdivision or instrumentality thereof; provided further, that the
1140 authority may not charge and collect tolls for transit through the Callahan
1141 tunnel, the Sumner tunnel or the Ted Williams tunnel by private
1142 passenger vehicles registered in the East Boston section of the city of
1143 Boston or the South Boston section of the city of Boston, as the Boston

1144 transportation department has determined the geographical boundaries of
1145 said sections of Boston, that are greater than the tolls in effect for
1146 vehicles registered in said East Boston section at existing tunnel toll
1147 facilities on the effective date of section 14 of chapter 102 of the acts of
1148 1995; provided further, that the authority may not charge and collect tolls
1149 for transit through the Callahan or Sumner tunnels to private passenger
1150 vehicles registered in the North End section of the city of Boston, as the
1151 Boston transportation department has determined the geographical
1152 boundaries of such section, that are greater than the tolls in effect for
1153 such transit through either the Sumner tunnel or Callahan tunnel for
1154 vehicles on the effective date of section 14 of chapter 102 of the acts of
1155 1995; provided further, that the authority shall continue operation of the
1156 50 per cent toll discount program approved by the Massachusetts
1157 Turnpike Authority board of directors in open meeting on June 28, 2002
1158 for account holders who participate in the authority's electronic toll
1159 collection system; and provided further, that the tolls collected for transit
1160 over or through the Maurice J. Tobin Memorial Bridge by private
1161 passenger vehicles registered in the city of Chelsea or the Charlestown
1162 neighborhood of the city of Boston shall not be greater than the tolls in
1163 effect for such vehicles as of January 1, 2009 pursuant to the Resident
1164 Commuter Permit Program, so called.

1165 (c) All revenue received from tolls, rates, fees, rentals, and other
1166 charges for transit over or through all tolled roads, bridges or tunnels
1167 shall be applied exclusively to: (i) the payment of existing debt service
1168 on said tolled roads; and (ii) the cost of owning, maintaining, repairing,
1169 reconstructing, improving, rehabilitating, policing, using, administering,
1170 controlling and operating said tolled roads.

1171 Section 15. The authority and its employees shall be subject to
1172 chapter 150E and, for purposes of said chapter 150E, the authority shall
1173 be deemed to be an employer or public employer and a legislative body.
1174 The authority may designate a representative to act in its interest in labor
1175 relations matters with its employees. Rights and obligations under the
1176 most recent existing or expired collective bargaining agreements with
1177 respect to employees transferred to the authority and with respect to all
1178 employee organizations representing such employees at the time of
1179 transfer, except to the extent expressly inconsistent with this chapter,
1180 shall be assumed by, and imposed upon, the authority and employees
1181 transferred to the authority who are subject to such agreements shall
1182 continue to be represented by the employee organizations that are parties
1183 to such agreements until such time as they elect to be otherwise

1184 represented in accordance with said chapter 150E. Existing bargaining
1185 units shall remain in full force and effect for those employees transferred
1186 to the authority until the expiration of the collective bargaining units
1187 covering those employees. Collective bargaining agreements in effect at
1188 the time of transfer shall continue in effect until their stated expiration
1189 date and successor negotiations shall be conducted and resolved between
1190 the authority and the employee organizations representing employees
1191 covered by such collective bargaining agreements in accordance with
1192 chapter 150E and this chapter. The terms and conditions of expired
1193 collective bargaining agreements under renegotiation at the time of
1194 transfer shall be observed by the authority and the authority shall
1195 conclude and resolve negotiations for successor agreements with the
1196 employee organizations representing employees covered by such
1197 collective bargaining agreements in accordance with said chapter 150E
1198 and this chapter.

1199 Nothing in this section shall be construed as conferring upon the
1200 employees of the authority the right to strike, nor as detracting from the
1201 obligations of the authority and the employees to submit all grievances
1202 and other disputes to arbitration.

1203 Section 15A. Notwithstanding section 13, the authority or any
1204 organizations representing employees of the authority shall not be
1205 permitted to submit any dispute over the terms of a collective bargaining
1206 agreement to arbitration except in accordance with sections 15A through
1207 15E, inclusive; provided, however, that this section shall not limit the
1208 rights of organizations representing employees of the authority to submit
1209 grievances to arbitration in accordance with the collective bargaining
1210 agreement between the parties.

1211 Section 15B. In the event the directors and any organizations
1212 representing employees of the authority have not reached an agreement
1213 within 90 days from the date of the expiration of the agreement, either
1214 party may notify the other that it desires mediation. The parties may
1215 agree upon a person to serve as a mediator or, if unable to agree on said
1216 mediator, either party or the parties acting jointly may petition the board
1217 of conciliation and arbitration to appoint a mediator from a list of
1218 qualified persons maintained by the board.

1219 After a reasonable period of mediation, not to exceed 45 days from
1220 the date of appointment, said mediator shall issue a report indicating the
1221 results of his services in resolving the impasse. If at the conclusion of
1222 mediation the impasse still exists, the mediator shall so certify. In the
1223 event, the mediator shall certify in his report the last best offer of each

1224 party on each unresolved issue which has been submitted to mediation
 1225 and shall also certify the agreement of the parties on each issue on which
 1226 agreement has been reached and shall submit such certifications to the
 1227 arbitrator selected by the parties. In such event, so long as the mediator
 1228 shall also certify that the parties have bargained in good faith, either
 1229 party may notify the other that it desires arbitration of the dispute. Within
 1230 10 days of said notice, the parties shall meet to select a single neutral
 1231 arbitrator. If, within 15 days, the parties fail to select such single
 1232 arbitrator, either party may forthwith petition the board of conciliation
 1233 and arbitration to request a list of 5 arbitrators from the American
 1234 Arbitration Association and said Association shall certify to the board
 1235 that such arbitrators on the list it provides possess the qualifications as
 1236 provided in section 30. The parties shall thereupon meet to select such
 1237 arbitrator by striking 1 name each until 1 name remains and that person
 1238 shall serve as the neutral arbitrator. If, after 10 days, one of the parties
 1239 declines to strike their names, the other party shall strike 2 names and the
 1240 board shall forthwith select the arbitrator from the remaining 3 names.

1241 Section 15C. The single arbitrator, whether agreed upon by the
 1242 parties or selected by the board of conciliation and arbitration, shall be a
 1243 legal resident of the commonwealth and shall be experienced in state and
 1244 local finance.

1245 Section 15D. The arbitrator shall rely primarily on the following
 1246 factors in determining the basis for an award:

1247 (a) the financial ability of the authority to meet additional costs,
 1248 which shall include, but not be limited to: (i) the statutory requirement
 1249 that the authority produce revenues in excess of expenses; (ii) the
 1250 financial ability of the individual communities and the commonwealth to
 1251 meet additional costs; (iii) the average per capita tax burden, average
 1252 annual income and sources of revenue within the commonwealth, and the
 1253 effect of any arbitration award on the respective property tax rates of the
 1254 cities and towns within the authority's district;

1255 (b) the overall compensation presently received by the employees,
 1256 having regard not only for wages for time actually worked but also for
 1257 wages for time not worked, including vacations, holidays and other
 1258 excused time;

1259 (c) all benefits received by the employees, including insurance,
 1260 pension, as well as the continuity and stability of employment;

1261 (d) the hazards of employment, physical, educational and mental
 1262 qualifications, job training and skills involved;

1263 (e) a comparison of wages, hours, and conditions of employment of
1264 the employees involved in the arbitration proceedings with the wages,
1265 hours and conditions of employment of other employees performing
1266 similar services within the commonwealth and with other employees
1267 generally in public and private employment within the commonwealth;

1268 (f) the average consumer price for goods and services, commonly
1269 known as the cost of living;

1270 (g) changes in any of the foregoing circumstances during the
1271 pendency of the arbitration proceedings;

1272 (h) such other factors, not confined to the foregoing, which are
1273 normally or traditionally taken into consideration in the determination of
1274 wages, hours and conditions of employment through voluntary collective
1275 bargaining, mediation, fact-finding, arbitration or otherwise between
1276 parties, in the public service of the commonwealth, and which are not
1277 precluded from bargaining under section 13; and

1278 (i) The stipulation of the parties.

1279 Section 15E. The arbitrator shall be limited in making his award to
1280 choosing between the last best offers of the parties on each issue as
1281 certified in the mediator's report or any award in the range between the
1282 last best offers of the parties. The arbitrator shall make no award on any
1283 issue found by him to be not authorized by law to be submitted to
1284 arbitration, but shall state such finding in his written opinion. Within 30
1285 calendar days of an award, the arbitrator shall issue a written opinion
1286 inclusive of an analysis of all statutory factors applicable to the
1287 proceedings. Any determination by the arbitrator, if supported by
1288 material and substantial evidence on the record, shall be binding upon the
1289 parties and upon the appropriate legislative or appropriating body and
1290 may be enforced at the insistence of either party or by the arbitrator in
1291 the superior court. The scope of arbitration shall be limited to wages,
1292 hours and conditions of employment and shall not include any provisions
1293 for any cost of living adjustment which are based on changes in the
1294 consumer price index after the expiration of the contract period covered
1295 by the award. In addition, any wage or salary adjustments shall be
1296 expressed in per cent or dollar amounts, and in no case shall there be any
1297 provision for salary adjustments to occur after the expiration of the
1298 contract period covered by the award.

1299 The cost, if any, of the mediation and of arbitration proceedings
1300 exclusive of the expenses of the individual parties provided for under
1301 sections 15 to 19, inclusive, shall be divided equally by the parties and

1302 shall be in accordance with a schedule of payments established by the
1303 American Arbitration Association.

1304 Section 16. The authority shall be deemed to be a public agency for
1305 purposes of, and shall be subject to section 39M of chapter 30 and
1306 sections 44A to 44H, inclusive, of chapter 149, and shall comply with
1307 requirements applicable to an independent public authority for
1308 publication of contract information in the central register established
1309 pursuant to section 29A of chapter 9. The authority shall not be subject to
1310 supervision under section 22 of chapter 7, but may enter into agreements
1311 under 22A and 22B of said chapter 7 and in all respects not governed by
1312 general or special laws expressly made applicable to the authority shall
1313 adhere to good business practices to be determined by the authority in its
1314 procurement of equipment, materials, property, supplies and services.

1315 Section 17. The authority shall, for the purposes of compliance with
1316 state finance law, operate as a state agency as this term is defined in
1317 section 1 of chapter 29 and shall be subject to the provisions applicable
1318 to agencies under the control of the governor including, but not limited
1319 to, chapter 29, chapter 7A, chapter 7, and chapter 10; provided, however,
1320 that the comptroller may identify any additional instructions or actions
1321 necessary for the authority to manage fiscal operations in the state
1322 accounting system and meet statewide and other governmental
1323 accounting and audit standards. Unless otherwise exempted by law or the
1324 applicable central service agency, the authority shall participate in any
1325 other available commonwealth central services including, but not limited,
1326 to the state payroll system pursuant to section 31 of chapter 29, and may
1327 purchase other goods and services provided by state agencies in
1328 accordance with comptroller provisions. This section shall not apply to
1329 the Massachusetts Bay Transportation Authority, the Massachusetts Port
1330 Authority or the regional transit authorities. The comptroller may
1331 chargeback the authority for the transition and ongoing costs for
1332 participation in the state accounting and payroll systems and may retain
1333 and expend such costs without further appropriation for the purposes of
1334 this section.

1335 Section 18. Each fiscal year the authority shall submit an annual
1336 finance plan to the secretary of administration and finance, and updates
1337 to such plan, in accordance with guidance issued by said secretary.

1338 Section 19. (a) The authority may provide by resolution at 1 time or
1339 from time to time for the issuance of bonds of the authority to refinance
1340 the bonds issued prior to July 1, 2009 pursuant to chapter 81A and the
1341 financing obligations of the Massachusetts Turnpike Authority relating to

1342 the turnpike and the metropolitan highway system. Any such bonds will
1343 be special obligations of the authority payable solely from monies
1344 credited to the fund. Bonds issued pursuant to this section shall not be
1345 general obligations of the commonwealth or any political subdivision
1346 thereof and shall not constitute a debt or a pledge of the faith and credit
1347 of the commonwealth or any such political subdivision.

1348 (b) Bonds may be issued and sold in such manner and on such terms
1349 and conditions as the authority may determine, with the approval of the
1350 secretary of administration and finance. The bonds shall be signed by the
1351 chairperson and treasurer of the authority or shall bear their facsimile
1352 signature and shall bear the official seal of the authority or a facsimile
1353 thereof, attested to by the signature of a duly appointed officer of the
1354 authority.

1355 (c) Bonds may be secured by a trust agreement entered into by the
1356 authority, which trust agreement may pledge or assign all or part of the
1357 monies credited to the fund and rights to receive the same, whether
1358 existing or coming into existence and whether held or thereafter
1359 acquired, and the proceeds thereof. The authority may enter into
1360 additional security, insurance or other forms of credit enhancement
1361 which may be secured on a parity or subordinate basis with the bonds. A
1362 pledge in any such trust agreement or credit enhancement agreement
1363 shall be valid and binding from the time such pledge shall be made
1364 without any physical delivery or further act, and the lien of such pledge
1365 shall be valid and binding as against all parties having claims of any kind
1366 in tort, contract or otherwise, irrespective of whether such parties have
1367 notice thereof.

1368 Any such pledge shall be perfected by filing of the trust agreement or
1369 credit enhancement agreement in the records of the authority, and no
1370 filing need be made pursuant to chapter 106. Any such trust agreement or
1371 credit enhancement agreement may establish provisions defining defaults
1372 and establishing remedies and other matters relating to the rights and
1373 security of the holders of the bonds or other secured parties as may be
1374 reasonable and proper, including provisions relating to the establishment
1375 of reserves, acceleration of maturities, restrictions on the individual right
1376 of action by bondholders and covenants setting forth the duties of and
1377 limitations on the authority, and may also regulate the custody,
1378 investment and application of monies.

1379 (d) Any such bonds shall be deemed to be investment securities
1380 pursuant to chapter 106, shall be securities in which any public officer,
1381 fiduciary, insurance company, financial institution or investment

1382 company may properly invest funds and shall be securities which may be
1383 deposited with any public custodian for any purpose for which the
1384 deposit of bonds is authorized by law.

1385 (e) Any such bonds, their transfer and the income therefrom,
1386 including profit on the sale thereof, shall at all times be exempt from
1387 taxation by and within the commonwealth.

1388 (f) The provisions hereof relating to bonds shall also be applicable to
1389 the issuance of notes insofar as such provisions may be appropriate
1390 therefore.

1391 (g) Notwithstanding the foregoing, no existing rights of the holders of
1392 the bonds issued by the Massachusetts Turnpike Authority pursuant to
1393 chapter 81A shall be impaired hereby, and the authority, as successor in
1394 interest to the Massachusetts Turnpike Authority, shall maintain the
1395 covenants of the trust indentures pertaining to such bonds so long as such
1396 bonds shall remain outstanding.

1397 Section 20. The office of the attorney general shall appear for the
1398 authority, its divisions, departments, agencies, and officers, but not
1399 including the Massachusetts Bay Transportation Authority, the regional
1400 transit authorities and the Massachusetts Port Authority and their
1401 officers, in all suits and other civil proceedings in which the authority is a
1402 party or interested, or in which the official acts and doings of said
1403 divisions, departments, agencies and officers are called into question, to
1404 the same extent and in the same manner as provided to the
1405 commonwealth and state departments, officers and commissions under
1406 section 3 of chapter 12. The authority and its divisions, departments and
1407 agencies, not including the Massachusetts Bay Transportation Authority,
1408 the regional transit authorities and the Massachusetts Port Authority,
1409 shall be generally considered to be an agency of the commonwealth for
1410 purposes of chapter 12.

1411 Section 21. (a) The authority may take by eminent domain in
1412 accordance with the provisions of chapter 79 or any alternative method
1413 now or hereafter provided by general law, any public land and any fee
1414 simple absolute or lesser interest in private property or part thereof or
1415 rights therein as it may deem necessary for carrying out the provisions of
1416 this chapter.

1417 (b) Whenever a parcel of private property so taken is used in whole or
1418 in part for residential purposes, the owner of such parcel may, within 30
1419 days of the date of the authority's notice to vacate such parcel, appeal to
1420 the authority for a postponement of the date set for such vacating,
1421 whereupon the authority shall grant to the owner a postponement of 3

1422 months from the date of such appeal; provided, however, that the appeal
1423 for such postponement shall be in the form of a written request to the
1424 authority sent by registered mail, return receipt requested; and provided,
1425 further, that the provisions of section 40 of said chapter 79 shall govern
1426 the rights of the authority and of any person whose property shall be so
1427 taken.

1428 (c) The authority shall have power, in the process of constructing,
1429 reconstructing, repairing, rehabilitating, improving, policing, using or
1430 administering all or any part of the state highway system to take by
1431 eminent domain pursuant to chapter 79, such land abutting the state
1432 highway system as it may deem necessary or desirable for the purposes
1433 of removing or relocating all or any part of the facilities of any public
1434 utility, including rail lines, and may thereafter lease the same or convey
1435 an easement or any other interest therein to such utility company upon
1436 such terms as it, in its sole discretion, may determine. Notwithstanding
1437 the provisions of any general or special law to the contrary, the
1438 relocation of the facilities of any public utility, including rail lines, in
1439 accordance with the provisions of this section shall be valid upon the
1440 filing of the plans thereof with the department of telecommunications
1441 and energy, if applicable.

1442 Section 22. Except as otherwise provided by law, any sale of real
1443 property shall be awarded, after advertisement for bids, to the bidder who
1444 is the highest responsible bidder. The authority shall have the right to
1445 reject all bids and to read-advertise for bids. Before any real property
1446 shall be so sold or conveyed, notice that such real property is for sale
1447 shall be publicly advertised in 2 daily newspapers of general circulation
1448 published in the city of Boston, and, if such real property is located in
1449 any other city or town, in a newspaper of general circulation published in
1450 such other city or town, once a week for 3 successive weeks. Such
1451 advertisements shall state the time and place where all pertinent
1452 information relative to the real property to be sold or conveyed may be
1453 obtained and the time and place of opening the bids in answer to such
1454 advertisements and that the authority reserves the right to reject any or all
1455 such bids. All bids in response to advertisements shall be sealed and shall
1456 be publicly opened by the authority. Said authority may require, as
1457 evidence of good faith, that a deposit of a reasonable sum, to be fixed by
1458 the authority, accompany the proposals. The provisions of this paragraph
1459 shall not be applicable to any sale of real property by the authority to the
1460 commonwealth or any city, town or public instrumentality nor to a sale

1461 of real property which is determined by the authority to have a fair
1462 market value of \$5,000 or less.

1463 The authority may sell the buildings or other structures upon any
1464 lands taken by it or may remove the same and shall sell, if a sale be
1465 practicable or, if not, shall lease, if a lease be practicable, any lands or
1466 rights or interest in lands or other property taken or purchased for the
1467 purposes of this chapter, whenever the same shall, in the opinion of the
1468 authority, cease to be needed for such purpose.

1469 Notwithstanding any general or special law to the contrary, all
1470 counties, cities, towns and other political subdivisions and all public
1471 agencies, authorities and commissions of the commonwealth are hereby
1472 authorized and empowered to lease, lend, grant or convey to the
1473 authority at its request upon such terms and conditions as the proper
1474 authorities of such counties, cities, towns, political subdivisions,
1475 agencies, authorities and commissions may deem reasonable and fair and
1476 without the necessity for any advertisement, order of court or other
1477 action or formality, other than the regular and formal action of the
1478 authorities concerned, any real property, improvements or personal
1479 property which may be necessary or convenient to the effectuation of the
1480 authorized purposes of the authority, including public roads, bridges and
1481 other real property, improvements or personal property already devoted
1482 to public use.

1483 Section 23. Notwithstanding chapters 134 and 147, if money, goods
1484 or other property which has been abandoned, mislaid or lost on the
1485 premises of the authority comes into the possession of said authority and
1486 remains unclaimed for a period of 120 days, the authority may sell the
1487 same, excepting money so unclaimed, at public auction after notice of
1488 such sale has been published for 3 successive weeks in a newspaper
1489 published in the city or town wherein such sale shall occur. The net
1490 proceeds of such sale, after deducting the cost of storage and the
1491 expenses of the sale, and all money so unclaimed, shall be paid into and
1492 become the property of the authority and may be deposited in fund. If
1493 such property is in the possession of the authority and remains unclaimed
1494 for a period of 120 and is of the value of \$3 or less, the authority may
1495 donate the same to a charitable organization.

1496 Section 24. The superior court department of the trial court shall have
1497 jurisdiction to enforce rights and duties created by the provisions of this
1498 chapter, and on complaint of the authority may restrain violations of the
1499 authority's regulations and otherwise enforce by any appropriate remedy,
1500 including without limiting the generality of the foregoing, injunctive

1501 relief, the regulations, licenses, permits, orders, penalties and charges of
1502 the authority. Penalties and charges established by or under authorization
1503 of this chapter shall be collected for the account of the authority and paid
1504 over to the authority. Except for rights of action expressly conferred
1505 upon the authority, no provision of this chapter shall create private rights
1506 of action in enforcement proceedings.

1507 Section 25. The authority and its corporate existence shall continue
1508 until terminated by law; provided, however, that no such law shall take
1509 effect so long as the authority shall have bonds outstanding without
1510 adequate provision for the complete payment or satisfaction thereof.
1511 Upon termination of the authority, the title to all funds and other
1512 properties owned by it which remain after the payment or satisfaction of
1513 all bonds of the authority shall vest in the commonwealth. The
1514 obligations, debts and liabilities of the authority shall be assumed by and
1515 imposed upon the commonwealth.

1516 Section 26. (a) All state, county and municipal agencies,
1517 instrumentalities, commissions and authorities of the commonwealth
1518 may undertake activities, programs and projects in conjunction with the
1519 authority in furtherance of the purposes of this chapter, including without
1520 limiting the generality of the foregoing, to join in investigations and
1521 studies, and to grant applications and applications for project approvals.

1522 (b) Except with respect to real property acquired or held for purposes
1523 described in Article XCVII of the Amendments to the Constitution, all
1524 local bodies and all public agencies, instrumentalities, commissions and
1525 authorities of the commonwealth, are hereby authorized and empowered
1526 to lease, lend, grant or convey to the authority upon such terms and
1527 conditions as the proper authorities of such public bodies, public
1528 agencies, instrumentalities, commissions and authorities of the
1529 commonwealth may deem appropriate and without the necessity of any
1530 action or formality other than the regular and formal action of said public
1531 bodies, agencies, instrumentalities, commissions and authorities of the
1532 commonwealth any interest in any real or personal property which may
1533 be necessary or convenient to effect the purposes of the authority.

1534 (c) In order to determine, as a basis for legislative action, whether or
1535 not barrier tolls are the best practice in collecting transportation
1536 revenues, there is hereby established a commission which shall be known
1537 as the Commonwealth Toll Collection Commission, for the purpose of
1538 conducting a study on whether or not barrier free tolling is a more
1539 effective way to collect revenues and the cost of establishing such a
1540 system.

1541 Section 27. The secretary, undersecretaries, commissioners, and
1542 directors of the department shall be sworn to the faithful performance of
1543 their official duties. Each secretary, undersecretary, commissioner, and
1544 director shall conduct themselves in a manner so as to render decisions
1545 that are fair and impartial and in the public interest; avoid impropriety
1546 and the appearance of impropriety in all matters under their jurisdiction;
1547 avoid all prohibited communications; require staff and personnel subject
1548 to their direction and control to observe the same standards of fidelity
1549 and diligence; disqualify themselves from proceedings in which their
1550 impartiality might reasonably be questioned; refrain from financial or
1551 business dealings which would tend to reflect adversely on impartiality,
1552 although the secretary, undersecretaries, commissioners, and directors
1553 may hold and manage investments which are not incompatible with the
1554 duties of their office or the provisions of this section; conform to such
1555 additional rules as may be prescribed by the secretary from time to time.

1556 Section 28. Chapter 12A shall apply to the authority.

1557 Section 29. The books of the authority shall be subject to a biennial
1558 audit by the auditor of the commonwealth.

1559 Section 30. (a) The authority shall, in addition to any other reports
1560 required pursuant to this chapter, annually submit to the governor, the
1561 chairman of the senate ways and means committee, the chairman of the
1562 house ways and means committee, the secretary of administration and
1563 finance, and the comptroller within 90 days after the end of its fiscal year
1564 a complete and detailed report which shall include, without limitation:
1565 audited financial statements by an independent accounting firm relating
1566 to the operations, properties, and capital facility expenditures, including
1567 costs of land acquisitions, of the authority maintained in accordance with
1568 generally accepted accounting principles so far as applicable, and audited
1569 by an independent certified public accountant firm.

1570 (b) Every 5 years thereafter, the authority shall submit to the
1571 governor, the president of the senate, the speaker of the house of
1572 representatives, the chairman of the senate committee on ways and
1573 means, the chairman of the house committee on ways and means and the
1574 chairmen of the joint committee on transportation a progress report on
1575 the authority's attainment of its statutory purposes. Each such 5-year
1576 progress report shall be prepared by the authority with the assistance of
1577 an independent citizen panel which shall include persons selected by the
1578 authority and approved by the respective advisory boards who are
1579 experienced in environmental protection, civil engineering and public
1580 management and finance. Said reports shall include recommendations

1581 concerning the future activities of the authority including, but not limited
1582 to, changes in this act or the authority's administrative procedures
1583 necessary or desirable for improving the delivery of services. The costs
1584 of preparing the reports of said authority shall be provided for in the
1585 current expense budgets of said authority.

1586 Section 31. (a) The exercise of the powers granted by this chapter
1587 shall be in all respects for the benefit of the people of the commonwealth
1588 and for the improvement of their health and living conditions and as the
1589 operation and of the authority shall constitute the performance of
1590 essential governmental functions, the authority shall not be required to
1591 pay any taxes or assessments, except as otherwise provided by this
1592 chapter and the notes or bonds issued under this chapter, their transfer
1593 and the income therefrom, including any profit made on the sale thereof,
1594 at all times shall be free from taxation by and within the commonwealth.

1595 (b) The lands and tangible personal property of the authority shall be
1596 deemed to be public property used for essential public and governmental
1597 purposes and shall be exempt from taxation and from betterments and
1598 special assessments.

1599 Section 32. (a) There shall be within the authority a department of
1600 transportation and infrastructure which shall be under the supervision,
1601 direction and control the secretary. The secretary shall be appointed by
1602 the governor pursuant to paragraph 2 of section 2. The secretary shall be
1603 the executive and administrative head of the department and shall be
1604 responsible for administering and enforcing the provisions of law relative
1605 to the department and to each administrative unit thereof. The secretary
1606 shall act as the executive officer in all matters pertaining to the
1607 administration, management, operation, regulation, planning, fiscal and
1608 policy development functions and affairs of the departments, agencies,
1609 commissions, offices, boards, divisions, and other agencies within the
1610 executive office. The secretary shall serve at the pleasure of the board,
1611 shall receive such salary as may be determined by law, and shall devote
1612 his full time to the duties of his office. In the case of an absence or
1613 vacancy in the office of the secretary, or in the case of disability as
1614 determined by the board, the board may designate an acting secretary to
1615 serve as secretary until the vacancy is filled or the absence or disability
1616 ceases. The acting secretary shall have all the powers and duties of the
1617 secretary and shall have similar qualifications as the secretary.

1618 (b) The department shall contain the following administrative units:
1619 the highway division, the mass transit division, the aeronautics division,

1620 the division of constituent and municipal services; and the division of
1621 motor vehicles, to be known as the registry of motor vehicles.

1622 (c) The secretary shall, notwithstanding the provisions of chapter 30
1623 and section 9A of chapter 31 and subject to the approval of the governor,
1624 appoint 5 undersecretaries: 1 of whom shall be the undersecretary for
1625 highways and shall be a person of skill and experience in the fields of
1626 highway management and public works; 1 of whom shall be the
1627 undersecretary for mass transit and shall be a person of skill and
1628 experience in the fields of rail transportation or mass transit; 1 of whom
1629 shall be the undersecretary for aeronautics and shall be a person of skill
1630 and experience in the field of aeronautics; 1 of whom shall be the
1631 undersecretary for constituent and municipal services who shall be a
1632 person of skill and experience in management; and 1 of whom shall be
1633 the undersecretary for motor vehicle enforcement, who shall be known as
1634 the registrar of motor vehicles and shall be a person of skill and
1635 experience in management and motor vehicle law. Each undersecretary
1636 shall receive such salary as the secretary shall determine, subject to the
1637 approval of the board, and shall devote his full time to the duties of his
1638 office.

1639 (d) Subject to appropriation and consistent with subsection (e), the
1640 secretary may appoint such persons as he shall deem necessary to
1641 perform the functions of the department; provided, however, that section
1642 9A of chapter 30 and chapter 31 shall not apply to any person holding
1643 any such appointment. Every person so appointed to any position in the
1644 department shall have experience and skill in the field of such position.
1645 So far as practicable in the judgment of the secretary, appointments to
1646 such positions in the executive office shall be made by promoting or
1647 transferring employees of the commonwealth serving in positions which
1648 are classified under said chapter 31, and such appointments shall at all
1649 times reflect the professional needs of the administrative unit affected. If
1650 an employee serving in a position which is classified under said chapter
1651 31 or in which an employee has tenure by reason of said section 9A of
1652 said chapter 30 shall be appointed to a position within this office which
1653 is not subject to the provisions of said chapter 31, the employee shall
1654 upon termination of his service in such position be restored to the
1655 position which he held immediately prior to such appointment; provided,
1656 however, that his service in such position shall be determined by the civil
1657 service commission in accordance with the standards applied by said
1658 commission in administering said chapter 31. Such restoration shall be
1659 made without impairment of his civil service status or tenure under said

1660 section 9A of said chapter 30 and without loss of seniority, retirement or
1661 other rights to which uninterrupted service in such prior position would
1662 have entitled him. During the period of such appointment, each person so
1663 appointed from a position in the classified civil service shall be eligible
1664 to take any competitive promotional examination for which he would
1665 otherwise have been eligible.

1666 Section 33. (a) The department of transportation shall serve as the
1667 principal agency of the executive department for the following purposes:
1668 (1) developing, coordinating, administering and managing transportation
1669 policies, planning and programs related to design, construction,
1670 maintenance, operations and financing; (2) supervising and managing the
1671 organization and conduct of the business affairs of the divisions,
1672 agencies, commissions, offices, boards, divisions, and other entities
1673 within the department to improve administrative efficiency and program
1674 effectiveness and to preserve fiscal resources; (3) developing and
1675 implementing effective policies and programs to assure the coordination
1676 and quality of roadway, transit, airport and port infrastructure and
1677 security provided by the secretary and all of the divisions, agencies,
1678 commissions, offices, boards, divisions, authorities and other entities
1679 within the department.

1680 (b) The following state agencies shall be within the department of
1681 transportation: the highway division, including the government center
1682 commission established by section 1 of chapter 635 of the acts of 1960,
1683 the mass transit division, the aeronautics division, the division of
1684 constituent and municipal services, the registry of motor vehicles
1685 division and all other state agencies within the department, except the
1686 division of motorboats and the division of waterways. The Massachusetts
1687 Bay Transportation Authority, the Massachusetts Port Authority, the
1688 Massachusetts Turnpike Authority and any regional transportation
1689 authorities established under chapter 161 or 161B shall also be within the
1690 jurisdiction of the department.

1691 (d) Subject to the approval of the board the secretary may: (1) operate
1692 and administer the programs of roadway design, construction, repair,
1693 maintenance, capital improvement, development, and planning through
1694 the division of highways and other agencies within the department, as
1695 appropriate; (2) coordinate and supervise the administration of the
1696 department and its agencies to promote economy and efficiency and to
1697 leverage federal funding; (3) develop, in consultation with the
1698 commonwealth development coordinating council, and administer a
1699 long-term state-wide transportation plan for the commonwealth that

1700 includes planning for intermodal and integrated transportation; (4)
1701 develop, based on a public hearing process, procedures to be used for
1702 transportation project selection; (5) establish criteria for project selection
1703 to be used in the procedures developed pursuant to clause (4); (6) enter
1704 into agreements with commissions, offices, boards, divisions, authorities
1705 and other entities within the department to improve divisions, agencies,
1706 administrative efficiency and program effectiveness and to preserve
1707 fiscal resources; (7) pursuant to chapter 30A, make, amend and repeal
1708 rules and regulations for the management and administration of the
1709 department and agencies within the department; (8) execute all
1710 instruments necessary for carrying out the business of the department and
1711 its agencies; (9) acquire, own, hold, dispose of, lease and encumber
1712 property in the name of the department and its agencies; (10) enter into
1713 agreements and transactions with federal, state and municipal agencies
1714 and other public institutions and private individuals, partnerships, firms,
1715 corporations, associations and other entities on behalf of the department
1716 or its agencies; and (11) apply for and accept funds, including grants, on
1717 behalf of the commonwealth in accordance with applicable law. The
1718 secretary may delegate any of the foregoing powers to an officer having
1719 charge of a division, office, division or other administrative unit within
1720 the executive office.

1721 (f) The secretary shall collaborate with other state agencies to reduce
1722 greenhouse gas emissions to achieve the greenhouse gas emission limits
1723 established in chapter 21N.

1724 Section 34. (a) The secretary may from time to time, subject to
1725 appropriation, establish within the department such administrative units
1726 as may be necessary for the efficient and economical administration of
1727 the department, and when necessary for such purpose, may abolish any
1728 such administrative unit, or may merge any 2 or more units, as the
1729 secretary deems advisable. The secretary shall prepare and keep current a
1730 statement of the organization of the department, of the assignment of its
1731 functions to its various administrative units, offices and employees, and
1732 of the places at which and the methods whereby the public may receive
1733 information or make requests. Such statement shall be known as the
1734 department's description of organization. A current copy of the
1735 description of organization shall be kept on file in the office of the
1736 secretary of state and in the office of the secretary of administration.

1737 Section 35. The secretary shall apply for, accept and expend, subject
1738 to appropriation, on behalf of the commonwealth, any gift, loan or grant-
1739 in-aid from the federal government, or any agency or instrumentality

1740 thereof for demonstration projects and programs as may become
1741 available to the commonwealth for the purpose of energy conservation
1742 for improved transportation management systems or for improved
1743 transportation management systems.

1744 Section 36. There shall be established within the authority a healthy
1745 transportation compact. The secretary and the secretary of health and
1746 human services shall work cooperatively to adopt best practices to
1747 increase efficiency to achieve positive health outcomes through the
1748 coordination of land use, transportation and public health policy. The
1749 compact shall consist of the secretary or his designee, the secretary of
1750 health and human services or his designee, the secretary of energy and
1751 environmental affairs or his designee, the undersecretary of
1752 transportation for highways or his designee, the undersecretary of
1753 transportation for mass transit or his designee, and the commissioner of
1754 public health or his designee.

1755 The secretary and the secretary of health and human services, or their
1756 designees, shall serve as co-chairpersons of the compact. The
1757 chairpersons shall convene and preside at meetings of the compact,
1758 determine the agenda of the compact, direct its work and, as appropriate
1759 to particular subject matters, establish and direct subgroups of the
1760 compact, which shall consist exclusively of the compact's members. The
1761 compact shall: (i) promote inter-secretariat cooperation and the
1762 establishment of a healthy transportation policy, including appropriate
1763 mechanisms to minimize duplication and overlap of state and federal
1764 programs and services; (ii) develop a healthy transportation framework
1765 that increases access to healthy transportation alternatives that reduce
1766 greenhouse gas emissions, improves access to services for persons with
1767 mobility limitations and increases opportunities for physical activities;
1768 (iii) develop methods to increase bicycle and pedestrian travel,
1769 incorporate the principles, findings and recommendations of the
1770 Massachusetts bicycle transportation plan and establish a framework for
1771 implementation of the Bay State Greenway Network; (iv) develop and
1772 implement, in consultation with the bicycle and pedestrian advisory
1773 board established in section 11A of chapter 21A, administrative and
1774 procedural mechanisms, including the promulgation of rules and
1775 regulations, consistent with the most current edition of the Project
1776 Development and Design Guide, or its successor, to encourage the
1777 construction of complete streets, designed and operated to enable safe
1778 access for pedestrians, bicyclists, motorists and bus riders of all ages to
1779 safely move along and across roadways in urban and suburban areas; (v)

1780 establish methods to implement the use of health impact assessments to
 1781 determine the effect of transportation projects on public health and
 1782 vulnerable populations; (vi) facilitate access to the most appropriate,
 1783 cost-effective transportation services within existing resources for
 1784 persons with mobility challenges; (vii) expand service offerings for the
 1785 Safe Routes to Schools program; (viii) explore opportunities and
 1786 encourage the use of public-private partnerships with private and
 1787 nonprofit institutions; (ix) seek to establish an advisory council with
 1788 private and nonprofit advocacy groups as the compact sees fit; (x)
 1789 institute a health impact assessment for use by planners, transportation
 1790 administrators, public health administrators and developers; and (xi)
 1791 develop and implement a method for monitoring progress on achieving
 1792 the goals of this section and provide any other recommendations that
 1793 would, in the judgment of the compact, advance the principles set forth
 1794 in this section.

1795 Section 37. There shall be established by the department a
 1796 Massachusetts mobility compact, which shall be headed and coordinated
 1797 by the secretary. The department, and all state and independent agencies
 1798 shall be members of the compact. The compact shall improve the
 1799 delivery of transportation services in the commonwealth by
 1800 communicating regularly and more effectively and by adopting a
 1801 cooperative and coordinated approach to transportation planning, design,
 1802 construction, operation and maintenance aimed principally at: (i)
 1803 increasing mobility for people and goods within and through the
 1804 commonwealth in a safe, secure, environmentally sustainable and
 1805 efficient manner; (ii) promoting and adopting administrative efficiency
 1806 and program improvement initiatives between and among transportation
 1807 agencies and authorities; and (iii) sharing best practice techniques for
 1808 implementation across transportation modes.

1809 Members of the compact may issue purchase or work orders and
 1810 execute contracts between and among themselves for the purpose of
 1811 accomplishing the objectives of this section without regard to any
 1812 procurement requirements; provided, however, that nothing in this
 1813 section shall exempt the department or an independent or state agency
 1814 from the public construction bidding statutes including, but not limited
 1815 to, chapter 30, chapter 149 and chapter 149A.

1816 The secretary shall conduct regular meetings of the members of the
 1817 compact.

1818 Section 38. (a) The department shall utilize life-cycle cost modeling
 1819 for all projects. Life-cycle costs shall mean all relevant costs of a

1820 transportation asset's lifespan including, but not limited to, planning,
1821 study, design, purchase or lease, operation, maintenance, repair,
1822 replacement and disposal. The department shall utilize life-cycle cost
1823 modeling during the project planning and selection process for all of its
1824 constituent agencies, as defined in subsection (b) of section 19.

1825 (b) Life-cycle cost information shall be presented as part of the
1826 public disclosure process in all project planning documents in equal
1827 proportion to initial delivery cost estimates. Project planning shall
1828 include the identification of funding to minimize life-cycle costs
1829 throughout the life of each asset.

1830 Section 39. The secretary shall annually submit a complete and
1831 detailed report of the department's activities within 90 days after the end
1832 of the fiscal year to the clerk of the house of representatives, the clerk of
1833 the senate, the chairs of the joint committee on transportation and the
1834 chairs of the house and senate committees on ways and means.

1835 Section 40. As used in sections 40 to 51, inclusive, the following
1836 words shall, unless the context clearly requires otherwise, have the
1837 following meanings:-

1838 'Department', the department of transportation.

1839 'Division', the division of highways.

1840 'Secretary', the secretary of the department of transportation.

1841 'Undersecretary', the undersecretary of transportation for highways.

1842 Section 41. There shall be within the department a Massachusetts
1843 division of highways, which shall perform such functions as the secretary
1844 may determine in relation to the administration, implementation, and
1845 enforcement of the department's authority over state highways. The
1846 division shall be under the supervision and control of the undersecretary.
1847 The undersecretary shall be the executive and administrative head of the
1848 division and shall be responsible for administering and enforcing the
1849 provisions of law relative to the division and to each administrative unit
1850 thereof. The duties given to the undersecretary in this chapter and in any
1851 other general or special law shall be exercised and discharged subject to
1852 the direction, control and supervision of the secretary.

1853 Section 42. The division shall be responsible for the administration
1854 and enforcement of chapter 81, and for the administration and
1855 management of the state highway system. The division shall: (1)
1856 administer the design, construction, reconstruction, repair, rehabilitation,
1857 improvement, operation, and maintenance of roads and bridges within
1858 the commonwealth; (2) enter into any contracts and agreements
1859 necessary or desirable to carry out its purposes; (3) make, and from time

1860 to time revise, regulations for the conduct of the business of the division,
1861 and all regulations otherwise required by law; (4) collaborate with other
1862 agencies and authorities as may be appropriate in fields related to
1863 transportation, development, public safety and security; (5) prepare and
1864 submit to the governor, the board and the general court an annual report
1865 containing in substance the description of the organization of the
1866 division, and with the approval of the secretary, reviewing the work of
1867 the division, recommending legislation and other action by the governor
1868 and the general court, and (6) submit such other reports as the secretary
1869 or the general court may require from time to time.

1870 Section 43 The division shall be responsible for the administration
1871 and enforcement of chapter 81, and for the administration and
1872 management of the state highway system and the Maurice J. Tobin
1873 Memorial Bridge. The division shall: (1) administer the design,
1874 construction, reconstruction, repair, rehabilitation, improvement,
1875 operation, and maintenance of roads and bridges within the
1876 commonwealth; (2) enter into any contracts and agreements necessary or
1877 desirable to carry out its purposes; (3) make, and from time to time
1878 revise, regulations for the conduct of the business of the division, and all
1879 regulations otherwise required by law; (4) collaborate with other
1880 agencies and authorities as may be appropriate in fields related to
1881 transportation, development, public safety and security; (5) prepare and
1882 submit to the governor, the board and the general court an annual report
1883 containing in substance the description of the organization of the
1884 division, and with the approval of the secretary, reviewing the work of
1885 the division, recommending legislation and other action by the governor
1886 and the general court, and (6) submit such other reports as the secretary
1887 or the general court may require from time to time.

1888 Section 44. (a) The undersecretary may from time to time, subject to
1889 appropriation and the approval of the secretary, establish within the
1890 division such administrative units, district or other offices as may be
1891 necessary for the efficient and economical administration of the division,
1892 and when necessary for such purpose, may abolish any such
1893 administrative unit, or may merge any 2 or more units, as the
1894 undersecretary deems advisable; provided, however, that the
1895 undersecretary shall establish the following units: highway engineering,
1896 highway construction, and highway maintenance. Each such unit shall be
1897 under the direction, control, and supervision of the undersecretary. The
1898 undersecretary shall assign to all officials, agents, and employees of the
1899 units their respective duties. The undersecretary shall prepare and keep

1900 current a statement of the organization of the division, of the assignment
1901 of its functions to its various administrative units, offices and employees,
1902 and of the places at which and the methods whereby the public may
1903 receive information or make requests. Such statement shall be known as
1904 the division's description of organization. A current copy of the
1905 description of organization shall be kept on file in the office of the
1906 secretary of state and in the office of the secretary of administration.

1907 (b) The undersecretary may appoint and remove without regard to
1908 chapter 31, but with the approval of the secretary, a chief engineer; 5
1909 deputy chief engineers; an assistant chief engineer; a highway and
1910 structures engineer; a bridge engineer; highway engineers; district
1911 highway engineers; a general counsel to serve in the office of the
1912 commissioner; a director to serve in the division of administrative
1913 services; 4 executive assistants to the commissioner; a personnel
1914 director; a director of the right of way bureau; and a director of public
1915 information. The total number of appointments to be made by the
1916 commissioner under this paragraph shall not exceed 35. No person
1917 holding an appointment under this paragraph shall be subject to section
1918 9A of chapter 30 or chapter 31. Nothing in this section shall be deemed
1919 to exempt the positions named herein from sections 45 to 50, inclusive,
1920 of said chapter 30. So far as practicable in the judgment of the
1921 commissioner, appointments to said positions not classified under said
1922 chapter 31 shall be made by promoting employees of the commonwealth
1923 serving in positions so classified. Any person appointed to the position of
1924 chief engineer, deputy chief engineer, assistant chief engineer, highway
1925 and structures engineer, bridge engineer, highway engineer or district
1926 highway engineer, shall be a person of experience and skill as an
1927 engineer and shall be: (i) an employee of the division holding an office
1928 or position classified under said chapter 31 with permanent status of
1929 senior civil engineer or higher; (ii) a registered professional engineer; or
1930 (iii) a person who has received the degree of Bachelor of Science in an
1931 appropriate engineering discipline from an accredited college or
1932 university. Where an employee of the commonwealth having permanent
1933 status in a position classified under or having tenure by reason of section
1934 9A of said chapter 30 is so promoted to such unclassified position, upon
1935 termination of service in such unclassified position the employee shall be
1936 restored to the position from which he was promoted; or to a position
1937 equivalent thereto in the salary grade in the same state agency; or if he
1938 had been promoted in accordance with said chapter 31 during promotion
1939 in the unclassified position, to the position to which he was so promoted

1940 or to a position equivalent thereto in salary grade in the same state
 1941 agency. In cases of restoration under said section 9A of said chapter 30
 1942 or said chapter 31, such restoration shall be without impairment of civil
 1943 service status or tenure under said section 9A of said chapter 30, and
 1944 without loss of the seniority, retirement and other rights to which
 1945 uninterrupted service in the position would have entitled the employee;
 1946 provided, however, that if his service in such unclassified position has
 1947 been terminated for cause, the employee's right to be restored shall be
 1948 determined by section 43 of said chapter 31. During the period of such
 1949 appointment the person so appointed shall be eligible to take any
 1950 competitive promotional examination for which he would otherwise have
 1951 been eligible.

1952 Section 45. (a) The undersecretary shall establish a procedure for
 1953 recommending to the secretary approval or disapproval of all contracts,
 1954 including specifications, made by the division, and any changes,
 1955 alterations, amendments, or modifications thereof and for contract
 1956 appeals of all claims made under any contract with the division with the
 1957 exception of claims subject to section 39Q of chapter 30. Any person
 1958 aggrieved by a decision of the secretary acting in regard to contract
 1959 appeals may bring suit against the commonwealth for recovery of
 1960 damages based on such claim under chapter 258.

1961 To assist the secretary and undersecretary in performing this function,
 1962 the governor may appoint and remove a person of legal training and
 1963 experience, who shall be a member of the bar of the commonwealth, to
 1964 the position of hearing examiner. The hearing examiner shall devote full
 1965 time during business hours to the duties of his position. The position
 1966 shall be classified in accordance with section 45 of chapter 30 and the
 1967 salary shall be determined in accordance with section 46C of said chapter
 1968 30. The secretary may refer any dispute concerning contracts, contract
 1969 specifications or the execution of contracts not subject to the aforesaid
 1970 section 39Q of said chapter 30 to the hearing examiner for a report on the
 1971 matter including a recommendation as to the disposition of the dispute.

1972 The hearing examiner shall hear all claims by contractors from
 1973 determinations of the division with the exception of claims subject to
 1974 said section 39Q of said chapter 30; and shall, after hearing, render to the
 1975 secretary a report of the matter including a recommendation as to the
 1976 disposition of the claim. Said examiner shall at the request of the
 1977 contractor or of the division or on his own motion summon witnesses and
 1978 require the production of books and records and take testimony under

1979 oath. Such reports shall be maintained as public records in a place and
1980 form fully accessible to the public.

1981 Section 46. With the approval of the personnel administrator, the
1982 commissioner may establish in the department a program of engineering
1983 internship and, may recruit qualified persons to serve in the department
1984 as highway engineer interns. Every effort shall be made to recruit
1985 qualified persons who reflect the diversity of the Commonwealth.

1986 The number of persons employed in the department as highway
1987 engineer interns shall at no time exceed 7, nor may such highway
1988 engineer interns employed by the department be placed in a salary grade
1989 higher than that of a junior civil engineer in the department.

1990 No person shall be appointed or employed as a highway engineer
1991 intern except upon requisition made by the commissioner and upon
1992 certification by the personnel administrator from an eligible list prepared
1993 in accordance with the provisions of chapter 31 and the rules made
1994 thereunder; provided, however, that the administrator shall establish such
1995 eligible list before June 1 in each calendar year by holding a competitive
1996 examination which shall be open only to persons who, as candidates for
1997 the degree of Bachelor of Science in engineering are enrolled in at least
1998 the junior year as students in any college of the commonwealth, or are
1999 Massachusetts residents attending a college of recognized standing
2000 outside the commonwealth, and to persons who, within the 4 years next
2001 preceding, have been awarded the degree of Bachelor of Science in
2002 engineering from a college of recognized standing. The eligible list
2003 established each year shall expire upon the establishment of the eligible
2004 list in the following year. No person shall be certified for appointment as
2005 a highway engineer intern unless he has been awarded the degree of
2006 Bachelor of Science in engineering.

2007 Upon appointment as a highway engineer intern, made in accordance
2008 with chapter 31 and the rules made thereunder, the appointee shall sign
2009 an agreement binding him to serve as highway engineer intern for a
2010 minimum of 2 years unless his employment is sooner terminated by the
2011 commissioner. It shall be the duty of the commissioner to rotate the
2012 assignments of each intern during his period of employment in order that
2013 he may acquire diversified experience in the engineering programs of the
2014 department.

2015 The names of persons appointed as highway engineer interns shall be
2016 entered in order of date of appointment on a list to be known as
2017 'Highway Engineer Intern List' in the division of civil service.

2018 Upon completion of 2 years of employment as interns under
2019 agreements provided for in this section, persons shall be eligible without
2020 further examination for appointment as junior civil engineers providing a
2021 vacancy exists in said title in the department and, upon requisition of the
2022 commissioner, the names of such persons shall be certified for
2023 appointment by the personnel administrator from the Highway Engineer
2024 Intern List, in accordance with the rules of the civil service commission,
2025 except that the basis of certification shall be the order of appointment to
2026 such Highway Engineer Intern List.

2027 Section 47. The commissioner may establish a co-operative engineer
2028 program and may enter into agreements with colleges of recognized
2029 standing within the commonwealth, including colleges which have
2030 summer programs, which have established a curriculum leading to a
2031 degree of Bachelor of Science in engineering on a so-called co-operative
2032 basis, contemplating regularly rotating work activity in the field of
2033 engineering and an equal period of classroom training. He may employ
2034 persons enrolled as candidates for the degree of Bachelor of Science in
2035 engineering in any such colleges to serve in the department in the
2036 position of student engineer; provided, however, that the position of
2037 student engineer shall be in a grade lower than that of junior civil
2038 engineer in the department; and provided, further, that at no time shall
2039 the number of persons employed in the department as student engineers
2040 exceed 8. Upon completion of not less than 2 years of employment as
2041 student engineer, a person shall be eligible to apply for the examination
2042 for highway engineer intern. No person shall be employed as a student
2043 engineer for more than 6 years.

2044 Section 48. (a) There shall be within the department a real estate
2045 appraisal review board. The board shall consist of not less than 3 nor
2046 more than 5 members to be appointed by the governor, 2 of whom shall
2047 be certified general real estate appraisers licensed by the board of real
2048 estate appraisers pursuant to section 92 of chapter 13. Members of the
2049 board shall be appointed for terms of 3 years or until a successor is
2050 appointed. Members shall be eligible to be reappointed and may be
2051 compensated at a rate to be determined by the department. Members of
2052 the board shall be state employees for the purposes of chapter 268A. A
2053 chairman of the board shall be elected annually from the membership.
2054 The department shall provide administrative support to the council as
2055 requested. In the event of a vacancy on the board, the governor shall
2056 appoint a new member consistent with this section to fulfill the
2057 remainder of the unexpired term.

2058 (b) The department shall not purchase or acquire by eminent domain
2059 any real property or any interest in real property with a value in excess of
2060 \$300,000 without the written approval of the board.

2061 (c) The board shall meet periodically, but not less than twice each
2062 year. The board shall keep a public record of all meetings, votes and
2063 other business.

2064 (d) The board shall submit an annual report of its activities during the
2065 preceding fiscal year not later than September 1 to the governor, the
2066 secretary of the executive office of transportation and public works, the
2067 commissioner, the chairs of the joint committee on transportation and the
2068 chairs of the house and senate committees on ways and means.

2069 Section 48A. The division shall submit to the road and bridge
2070 advisory board, pursuant to section 51, all contracts, plans, agreements,
2071 requests for proposals and memoranda of understanding relative to land
2072 use plans, air rights, zoning restrictions and environmental impacts
2073 associated with the development on any land owned by the division
2074 within the turnpike and the metropolitan highway system. The road and
2075 bridge advisory board shall, within 30 days from receipt of all contracts,
2076 plans, agreements and memoranda of understanding submitted by the
2077 division for review, provide comments and recommendations to the
2078 division. The division shall prepare a written response to the reports of
2079 the road and bridge advisory board and shall state the basis for any
2080 substantial divergence between the actions of the division and the
2081 recommendations contained in such reports of the road and bridge
2082 advisory board. The division shall not proceed with the final execution
2083 of such contracts, plans, agreements, requests for proposals, and
2084 memoranda of understanding prior to the review of the advisory board
2085 pursuant to section 51.

2086 Section 48B. (a) There shall be a road and bridge advisory board to
2087 the division to consist of 13 members, 5 of whom shall be appointed by
2088 the governor, 1 of which shall be a resident of a municipality within the
2089 turnpike corridor from the New York state border east to the junction of
2090 interchange 8, 1 of which shall be a resident of a municipality within the
2091 turnpike corridor from the junction of interchange 8 east to the junction
2092 of interchange 14, 1 of which shall be a resident of Essex or Middlesex
2093 county provided that the member does not reside in a municipality that is
2094 a member of the metropolitan area planning council, 1 of which shall be
2095 a resident of Norfolk, Plymouth or Bristol county provided that the
2096 member does not reside in a municipality that is a member of the
2097 metropolitan area planning council, 2 of whom shall be appointed by the

2098 mayor of the city of Boston, 1 of whom shall be appointed by the
 2099 commissioner of the division of capital asset management and
 2100 maintenance, 2 of whom shall be appointed by the metropolitan area
 2101 planning council, 1 of which shall be a resident of the metrowest
 2102 subregion of the metropolitan area planning council, 2 of whom shall be
 2103 appointed by the Massachusetts Association of Planning Directors who
 2104 shall be a resident of a municipality within the turnpike corridor and 1 of
 2105 whom shall be appointed by an environmental organization. Each
 2106 member of the road and bridge advisory board shall have 1 vote. A
 2107 majority of members shall constitute a quorum and the road and bridge
 2108 advisory board may act by such majority vote represented in the quorum.

2109 (b) For the conduct of its business, the road and bridge advisory board
 2110 shall adopt and may revise and amend bylaws. The road and bridge
 2111 advisory board shall convene its first meeting within 60 days after the
 2112 transfer of the state highway system to the division and shall thereafter
 2113 convene regular meetings in accordance with its bylaws.

2114 The road and bridge advisory board shall annually elect a chairperson
 2115 and vice chairperson and any other officers that the road and bridge
 2116 advisory board shall determine. Each member of the road and bridge
 2117 advisory board shall serve for a term of 1 year and shall be eligible for
 2118 reappointment. In the event of a vacancy, a successor shall be named by
 2119 the person or organization who originally appointed the vacated member
 2120 and such successor shall serve for the remainder of the unexpired term.
 2121 Each member of the road and bridge advisory board shall serve without
 2122 compensation but may be reimbursed, as an expense of said road and
 2123 bridge advisory board, for all reasonable expenses incurred in the
 2124 performance of its duties as approved by the road and bridge advisory
 2125 board.

2126 (c) The purposes of the road and bridge advisory board shall be:

2127 (i) to review and prepare comments on all documents submitted to it
 2128 pursuant to section 50 and to make recommendations to the division
 2129 within 30 days of receipt of such documents;

2130 (ii) to coordinate and share information and best practices in matters
 2131 of the operation and maintenance of roads and bridges and the
 2132 development of adjacent land and air rights;

2133 (iii) to make recommendations to the division on tolls for its roads
 2134 and bridges;

2135 (iv) to hold hearings, which may be held jointly with the division at
 2136 the discretion of the road and bridge advisory board and the division, on
 2137 matters relating to the division;

2138 (v) to review the annual report of the division and to prepare
2139 comments thereon to the division and the governor, and to make such
2140 examinations of the reports on the division's records and affairs as the
2141 road and bridge advisory board deems appropriate; and

2142 (vi) to make recommendations to the governor and the general court
2143 respecting the division and its road and bridge programs. The road and
2144 bridge advisory board shall have all powers necessary or convenient to
2145 carry out and effectuate the forgoing purposes.

2146 (d) The road and bridge advisory board may incur expenses, not to
2147 exceed \$50,000 annually for expenditures authorized under subsection
2148 (b) and for personnel and office expenses. Such expenses shall be paid
2149 by the division in the current fiscal year from its operating budget and,
2150 for each year thereafter, shall be provided for in the current expense
2151 budget of the division.

2152 (e) The road and bridge advisory board shall be deemed to be a
2153 governmental body for purposes of, and shall be subject to, section 11A
2154 ½ of chapter 30A and shall also be subject to section 10 of chapter 66.

2155 Section 49. (a) The department of highways may provide functional
2156 replacement of real property in public ownership whenever the
2157 department has acquired such property in whole or in part under this
2158 chapter or when such property is significantly and adversely affected as a
2159 result of the acquisition of property for a highway or highway-related
2160 project and whenever the department determines that functional
2161 replacement is necessary and in the public interest. For the purposes of
2162 this section, 'functional replacement' shall mean the replacement,
2163 pursuant to chapter 7, requiring authorization of the general court prior to
2164 disposition of real property, including either land or facilities thereon, or
2165 both, which will provide equivalent utility, and 'real property in public
2166 ownership' shall mean any present or future interest in land, including
2167 rights of use, now existing or hereafter arising, held by an agency,
2168 authority, board, bureau, commission, department, division or other unit,
2169 body, instrumentality or political subdivision of the commonwealth.
2170 This section shall not constitute authorization by the general court as
2171 required by said chapter 7.

2172 (b) Whenever the department determines it is necessary that a utility
2173 or utility facility, as defined under federal law, be relocated because of
2174 construction of a project which is to be reimbursed federally in whole or
2175 in part, then such facility shall be relocated by the department or by the
2176 owner thereof in accordance with an order from the department;
2177 provided, however, that the commonwealth shall reimburse the owner of

2178 such utility or utility facility for the cost of relocation subject to the
 2179 limitations in subsections (e) and (f) and in accordance with the
 2180 following formula: (1) for any utility facility that is to be reimbursed
 2181 federally in whole or in part, the department shall reimburse the owner to
 2182 the extent that the cost of relocating the utility facility is reimbursed by
 2183 the federal government; and (2) for the relocation of any utility facility
 2184 over \$50,000 that does not qualify for federal reimbursement, the
 2185 department may reimburse the owner in accordance with the owner's
 2186 ability to meet the following schedule: if the utility performs the
 2187 relocation in a manner consistent with the department's policies and not
 2188 later than the target date established by the department for the project,
 2189 the department shall reimburse the utility at least 50 per cent but not
 2190 more than 80 per cent of the costs of relocating the utility facility. Failure
 2191 to comply with an order from the department shall be subject to
 2192 enforcement under chapter 81 of the General Laws.

2193 (c) Any relocation of facilities carried out under this section which is
 2194 not performed by employees of the owner shall be subject to sections 26
 2195 to 27F inclusive of chapter 149 of the General Laws.

2196 (d) Notwithstanding any general or special law to the contrary, any
 2197 utility facility that is required to be relocated because of the construction
 2198 of a project federally funded under the Federal-Aid Highway Act of 1982
 2199 and the Federal-Aid Highway Act of 1987 may be relocated temporarily
 2200 above ground during the construction of the project.

2201 (e) The total cost to the commonwealth for reimbursements for utility
 2202 relocations under this section that are not reimbursed federally in whole
 2203 or in part shall not exceed \$25,000,000 annually, and shall not be
 2204 credited toward the costs of the annual statewide road and bridge
 2205 program.

2206 (f) A utility relocation shall be eligible for reimbursement under this
 2207 section only if it is completed to the satisfaction of the department within
 2208 target dates established by the department and in accordance with design
 2209 criteria set forth by the department for the relocation in a manner that
 2210 facilitates the timely completion of the affected project.

2211 Section 50. Notwithstanding section 4F or any other general or
 2212 special law to the contrary, the commonwealth, through the department
 2213 of highways, may reimburse the owner of an underground utility or
 2214 utility facility whenever such underground utility or utility facility has
 2215 been relocated because of construction of a project which is to be
 2216 reimbursed federally in whole or in part. The reimbursement authorized

2217 herein shall be to the extent that the cost of relocating the facility is
2218 reimbursed by the federal government.

2219 Section 50A. In addition to any other power the authority may have to
2220 make leases, the authority may lease at one time or from time to time for
2221 terms not to exceed ninety-nine years, upon such terms and conditions as
2222 the authority in its discretion deems advisable, air rights over land owned
2223 or held by the authority in connection with the turnpike and the Boston
2224 extension portion of the metropolitan highway system, including rights
2225 for support, access, utilities, light and air, for such purposes as, in the
2226 opinion of the authority, shall not impair the construction, full use,
2227 safety, maintenance, repair, operation or revenues of the turnpike or the
2228 metropolitan highway system; provided, however, that any such lease for
2229 a period of forty years or more shall be subject to the approval of the
2230 governor. Any lease granted under this section may, with the consent of
2231 the authority, be assigned, pledged or mortgaged and the lien of such
2232 pledge or mortgage may be foreclosed by appropriate action.

2233 Use of air rights leased under this section respecting land within the
2234 territorial limits of the city of Boston and the construction and occupancy
2235 of buildings or other things erected or affixed pursuant to any such lease
2236 shall be made in accordance with the provisions of the state building
2237 code enacted pursuant to chapter one hundred and forty-three and such
2238 other requirements as the authority deems necessary or advisable to
2239 promote the public health, convenience and safety of persons and
2240 property but shall not be subject to any other building, fire, garage,
2241 health or zoning law or any building, fire, garage, health or zoning
2242 ordinance, rule or regulation applicable in the city of Boston.

2243 The authority shall not lease any air rights in a particular location
2244 unless it shall find that the construction and use of buildings or other
2245 things to be erected or affixed pursuant to any such lease shall be in no
2246 way detrimental to the maintenance, use and operation of the turnpike or
2247 the metropolitan highway system and, in the city of Boston, unless the
2248 authority shall also find, after consultation with the mayor that the
2249 construction and use of such buildings or other things shall preserve and
2250 increase the amenities of the community.

2251 The construction or occupancy of any building or other thing erected
2252 or affixed under any lease under this section of air rights respecting land
2253 outside the territorial limits of the city of Boston shall be subject to the
2254 building, fire, garage, health and zoning laws and the building, fire,
2255 garage, health and zoning ordinances, by-laws, rules and regulations

2256 applicable in the city or town in which such building or other thing is
2257 located.

2258 A copy of all leases granted by the authority under this section shall
2259 be filed by the authority with the governor and with the mayor or
2260 chairperson of the board of selectmen of the respective city or town and
2261 such leases shall be deemed to be public records within the meaning of
2262 chapter sixty-six.

2263 Neither such air rights nor any buildings or other things erected or
2264 affixed pursuant to any such lease nor the proceeds from any such lease
2265 shall be taxed or assessed to the authority under any general or special
2266 law; provided, however, that buildings and other things erected or affixed
2267 pursuant to any such lease shall be taxed to the lessee thereof or his
2268 assigns in the same manner and to the same extent as if such lessee or his
2269 assigns were the owners of the land in fee; provided, further, that no part
2270 of the value of the land shall be included in any such assessment; and
2271 provided, further, that payment of any such taxes shall not be enforced
2272 by a lien upon or sale or taking of such land except that the leasehold
2273 estate may be sold or taken by the collector of taxes of the city or town
2274 wherein such real estate is situated for the nonpayment of any tax
2275 assessed as aforesaid in the manner provided by law for the sale or taking
2276 of real estate for nonpayment of local taxes. Such collector shall have for
2277 the collection of taxes assessed under this section all other remedies
2278 provided by the General Laws for the collection of taxes by collectors of
2279 cities and towns.

2280 The authority shall include in any lease of such air rights a provision
2281 whereby the lessee agrees, in the event that the foregoing tax provision is
2282 determined by any court of competent jurisdiction to be inapplicable, to
2283 pay annually to the city or town wherein such building or other thing
2284 leased is located, a sum of money in lieu of taxes which would otherwise
2285 be assessed for such year.

2286 Section 51. As used in sections 51 to 54, inclusive, the following
2287 words shall, unless the context clearly requires otherwise, have the
2288 following meanings:-

2289 'Department', the department of transportation.

2290 'Division', the Massachusetts transit division.

2291 'Secretary', the secretary of the department of transportation.

2292 'Undersecretary', the undersecretary of transportation for mass
2293 transit.

2294 Section 52. There shall be within the department a Massachusetts
2295 transit division, which shall perform such functions as the secretary may

determine in relation to the administration, implementation, and enforcement of the executive office's authority over mass transit systems. The division shall be under the supervision and control of the undersecretary. The undersecretary shall be the executive and administrative head of the division and shall be responsible for administering and enforcing the provisions of law relative to the division and to each administrative unit thereof. The duties given to the undersecretary in this chapter and in any other general or special law shall be exercised and discharged subject to the direction, control and supervision of the secretary.

Section 53. The division shall be responsible for overseeing, coordinating, and planning all transit and rail matters throughout the commonwealth. The division shall administer and manage: the freight and rail programs of the department pursuant to chapter 161C and the intercity bus capital assistance program pursuant to chapter 161D. The division shall oversee and coordinate the activities of the Massachusetts Bay Transportation Authority established pursuant to chapter 161A, the regional transit authorities and regional transit authority council established pursuant to 161B. The division shall take such steps as may be necessary to provide for the development, promotion, preservation and improvement of an adequate, safe, efficient and convenient rail system for the movement of passengers. In carrying out the purposes of this section, the division shall seek to encourage and develop rail services which promote and maintain the economic well-being of citizens and which preserve the environment and the natural resources.

Section 54. The undersecretary may from time to time, subject to appropriation and the approval of the secretary, establish within the division such administrative units as may be necessary for the efficient and economical administration of the division, and when necessary for such purpose, may abolish any such administrative unit, or may merge any 2 or more units, as the undersecretary deems advisable; provided, however, that the undersecretary shall establish the following units: highway engineering, highway construction, highway maintenance. Each such unit shall be under the direction, control, and supervision of the director. The director shall assign to all officials, agents, and employees of the units their respective duties. The undersecretary shall prepare and keep current a statement of the organization of the division, of the assignment of its functions to its various administrative units, offices and employees, and of the places at which and the methods whereby the public may receive information or make requests. Such statement shall

2336 be known as the division's description of organization. A current copy of
2337 the description of organization shall be kept on file in the office of the
2338 secretary of state and in the office of the secretary of administration.

2339 Section 54A. There shall be within the Mass Transit division a
2340 ridership advocate. The ridership advocate shall serve without
2341 compensation and may attend all meetings of the board of the authority,
2342 all meetings of any subsidiary board or committee, and all meetings of
2343 any board or committee within the Massachusetts bay transportation
2344 authority established in chapter 161A. The ridership advocate shall be
2345 granted access to all authority reports and financial documents. The
2346 ridership advocate shall advocate on behalf of the riders of the public
2347 transit system to ensure that the public transit system maintains high
2348 standards of quality and punctuality

2349 Section 55. As used in sections 55 to 57, inclusive, the following
2350 words shall, unless the context clearly requires otherwise, have the
2351 following meanings:-

2352 'Department', the department of transportation.

2353 'Division', the division of motor vehicles.

2354 'Secretary', the secretary of the department of transportation.

2355 'Undersecretary', the undersecretary of transportation for motor
2356 vehicles.

2357 Section 56. There shall be within the department a division of motor
2358 vehicles, to be known as the registry of motor vehicles, which shall
2359 perform such functions as the secretary may determine in relation to the
2360 administration, implementation, and enforcement of the department's
2361 authority over motor vehicles. The division shall be under the
2362 supervision and control of the undersecretary, who shall be known as the
2363 registrar of motor vehicles. The undersecretary shall be the executive and
2364 administrative head of the division and shall be responsible for
2365 administering and enforcing the provisions of law relative to the division
2366 and to each administrative unit thereof. The duties given to the
2367 undersecretary in this chapter and in any other general or special law
2368 shall be exercised and discharged subject to the direction, control and
2369 supervision of the secretary. The undersecretary shall appoint a deputy
2370 registrar, assistant to the registrar, hearings officers, and supervising
2371 inspectors and may appoint such other officers and employees as may be
2372 necessary to carry out the work of the division. In the event of a vacancy
2373 in the office of registrar, his powers and duties shall be exercised and
2374 performed by the deputy registrar until a registrar is duly qualified.

2375 Section 57. The undersecretary may from time to time, subject to
2376 appropriation and the approval of the secretary, establish within the
2377 division such administrative units as may be necessary for the efficient
2378 and economical administration of the division, and when necessary for
2379 such purpose, may abolish any such administrative unit, or may merge
2380 any 2 or more units, as the undersecretary deems advisable. The
2381 undersecretary shall assign to all officials, agents, and employees of the
2382 units their respective duties. The undersecretary shall prepare and keep
2383 current a statement of the organization of the division, of the assignment
2384 of its functions to its various administrative units, offices and employees,
2385 and of the places at which and the methods whereby the public may
2386 receive information or make requests. Such statement shall be known as
2387 the division's description of organization. A current copy of the
2388 description of organization shall be kept on file in the office of the
2389 secretary of state and in the office of the secretary of administration.

2390 Section 58. As used in sections 58 to 61, inclusive, the following
2391 words shall, unless the context clearly requires otherwise, have the
2392 following meanings:-

2393 'Department', the department of transportation.

2394 'Division', the Massachusetts aeronautics division.

2395 'Secretary', the secretary of the department of transportation.

2396 'Undersecretary', the undersecretary of transportation for aeronautics.

2397 Section 59. There shall be within the department a Massachusetts
2398 aeronautics division, which shall perform such functions as the secretary
2399 may determine in relation to the administration, implementation, and
2400 enforcement of the executive office's authority over aviation. The
2401 division shall be under the supervision and control of the undersecretary.
2402 The undersecretary shall be the executive and administrative head of the
2403 division and shall be responsible for administering and enforcing the
2404 provisions of law relative to the division and to each administrative unit
2405 thereof. The duties given to the undersecretary in this chapter and in any
2406 other general or special law shall be exercised and discharged subject to
2407 the direction, control and supervision of the secretary.

2408 Section 60. The division shall be responsible for the administration
2409 and enforcement of sections 35 through 52, inclusive, of chapter 90 and
2410 other laws relating to aeronautics.

2411 Section 61. The undersecretary may from time to time, subject to
2412 appropriation and the approval of the secretary, establish within the
2413 division such administrative units as may be necessary for the efficient
2414 and economical administration of the division, and when necessary for

2415 such purpose, may abolish any such administrative unit, or may merge
 2416 any 2 or more units, as the undersecretary deems advisable. The
 2417 undersecretary shall assign to all officials, agents, and employees of the
 2418 units their respective duties. The undersecretary shall prepare and keep
 2419 current a statement of the organization of the division, of the assignment
 2420 of its functions to its various administrative units, offices and employees,
 2421 and of the places at which and the methods whereby the public may
 2422 receive information or make requests. Such statement shall be known as
 2423 the division's description of organization. A current copy of the
 2424 description of organization shall be kept on file in the office of the
 2425 secretary of state and in the office of the secretary of administration.

2426 Section 62. As used in sections 62 to 69, inclusive, the following
 2427 words shall, unless the context clearly requires otherwise, have the
 2428 following meanings:-

2429 'Department', the department of transportation.

2430 'Division', the division of constituent and municipal services.

2431 'Secretary', the secretary of the department of transportation.

2432 'Undersecretary', the undersecretary of transportation for constituent
 2433 and municipal services.

2434 Section 63. There shall be within the department a division of
 2435 constituent and municipal services, which shall perform such functions
 2436 as the secretary may determine in relation to the administration,
 2437 implementation, and enforcement of the department's authority over, and
 2438 outreach to, municipalities and constituents of the department. The
 2439 division shall be under the supervision and control of the undersecretary.
 2440 The undersecretary shall be the executive and administrative head of the
 2441 division and shall be responsible for administering and enforcing the
 2442 provisions of law relative to the division and to each administrative unit
 2443 thereof. The duties given to the undersecretary in this chapter and in any
 2444 other general or special law shall be exercised and discharged subject to
 2445 the direction, control and supervision of the secretary.

2446 Section 64. (a) The division shall serve as the principal point of
 2447 contact for municipalities and other governmental bodies concerning all
 2448 matters under the jurisdiction of the department, including without
 2449 limitation, providing advice and technical assistance to municipalities
 2450 and other governmental bodies seeking said advice and with any other
 2451 matter the secretary may deem appropriate.

2452 (b) The division shall serve as private project ombudsman to assist
 2453 municipalities and private entities with the development of projects
 2454 critical to the economic development of a community and connecting to

2455 the state transportation system, and to ensure regional equity in the
2456 transportation system.

2457 (c) The division shall establish a reasonable fee for the costs of
2458 processing, reviewing, and approving a project proposal submitted by a
2459 municipality or private entity.

2460 Section 65. The undersecretary may from time to time, subject to
2461 appropriation and the approval of the secretary, establish within the
2462 division such administrative units as may be necessary for the efficient
2463 and economical administration of the division, and when necessary for
2464 such purpose, may abolish any such administrative unit, or may merge
2465 any 2 or more units, as the undersecretary deems advisable. The director
2466 shall assign to all officials, agents, and employees of the units their
2467 respective duties. The undersecretary shall prepare and keep current a
2468 statement of the organization of the executive office, of the assignment
2469 of its functions to its various administrative units, offices and employees,
2470 and of the places at which and the methods whereby the public may
2471 receive information or make requests. Such statement shall be known as
2472 the division's description of organization. A current copy of the
2473 description of organization shall be kept on file in the office of the
2474 secretary of state and in the office of the secretary of administration.

2475 Section 66. (a) The undersecretary may, in cooperation with the
2476 undersecretary for highways, establish a small town rural assistance
2477 program to assist towns with populations of 7,000 or less in undertaking
2478 projects to design, construct, reconstruct, widen, resurface, rehabilitate
2479 and otherwise improve roads and bridges or for the construction of
2480 chemical storage facilities. The program shall provide grant funds to
2481 towns for projects authorized by this section, and towns shall be eligible
2482 to receive one grant every 5 fiscal years. The amount of the grant shall
2483 not exceed \$500,000.

2484 (b) The undersecretary shall establish rules and regulations to govern
2485 the application and distribution of grants under this section. The rules
2486 and regulations shall include provisions for joint applications by 2 or
2487 more eligible towns for a single project serving those towns. Funds so
2488 distributed may be apportioned to reflect the percentage of the project
2489 located in each town. Receipt of a grant which is part of a joint
2490 application shall not preclude a town from receiving additional funds
2491 under a separate application; provided, however, that the total amount
2492 distributed to any 1 town shall not exceed the maximum amount allowed
2493 under this section. Any rules or regulations, or any amendment or repeal

2494 of any rules or regulations promulgated pursuant to this section shall be
2495 filed with the clerks of the senate and house of representatives.

2496 (c) A town with a population of 7,000 or less may, by vote at an
2497 annual town meeting or at a special town meeting called for that purpose
2498 or, in a municipality having a town council form of government, by the
2499 town council, make application to the commissioner for financial
2500 assistance in undertaking a project described in this section. The
2501 application shall include the proposed cost of the project, the proposed
2502 location of the project and any other information specified by the rules or
2503 regulations.

2504 (d) In evaluating the project and the level of funding, the
2505 undersecretary shall consider, without limitation, the following: (1) the
2506 extent to which the project will have a beneficial impact upon the
2507 economy and public safety of an applicant town; (2) the availability of
2508 funds for the project under other state or federal programs; (3) the
2509 likelihood of funding under other state or federal programs; (4) the
2510 financial ability of the town to fund the project from its own sources; (5)
2511 the ability of the town to enter the capital markets to obtain borrowed
2512 funds for the project; and (6) the amount of state and federal highway
2513 funds expended or to be expended in the town.

2514 (e) The commissioner shall report annually to the house and senate
2515 committees on ways and means and the joint committee on transportation
2516 on the status of all small town rural assistance applicants.

2517 Section 67. (a) The undersecretary may, in cooperation with the
2518 undersecretary for highways, establish a program to assist municipalities
2519 with non-federally-reimbursable public works economic development
2520 projects, to design, construct, repair and improve roads, roadways and
2521 other related public works facilities, as deemed necessary for economic
2522 development by the undersecretary upon the petition of an appropriate
2523 local governmental body in accordance with this section and any rules or
2524 regulations promulgated by the secretary in accordance with this section.
2525 The rules and regulations shall govern the criteria by which the funds
2526 shall be distributed and the method by which a municipality may apply
2527 for such funds. Any rules or regulations or any amendment or repeal of
2528 any rules or regulations shall be filed with the clerks of the senate and
2529 house of representatives.

2530 (b) The undersecretary may, upon approval of the board, commit the
2531 funds pursuant to this section by executing a grant or other contractual
2532 agreement with a municipality and, upon execution, the funds so
2533 committed shall be made available as a grant directly to the municipality

2534 which has entered into an agreement without further review or approval
2535 of the department. Each agreement shall contain assurances satisfactory
2536 to the undersecretary that the municipality will award a construction
2537 contract for the project which is the subject of the agreement not later
2538 than 180 days after the date of execution of the agreement.

2539 (c) In the event that a contract is not awarded by the municipality
2540 within the period provided in subsection (b), the undersecretary may
2541 require, by written notification to the municipality, that the funds paid to
2542 it by the commonwealth pursuant to the agreement shall be returned
2543 forthwith to the commonwealth.

2544 (d) The undersecretary may, through execution of a grant or other
2545 contractual agreement as provided in subsection (b), commit an amount
2546 of funds up to but not exceeding the aggregate amount of funds returned
2547 by municipalities under subsection (c) to any other municipality which
2548 has otherwise complied with the applicable requirements for such
2549 projects, including the terms and conditions provided in this section.

2550 (e) The undersecretary shall report annually to the house and senate
2551 committees on ways and means and the joint committee on transportation
2552 on the status of all public works economic development applicants.

2553 Section 68. (a) The undersecretary shall establish a gateway cities
2554 assistance program to assist cities and towns with more than 35,000
2555 inhabitants but fewer than 225,000 inhabitants where (1) the
2556 unemployment rate is higher than the statewide average, (2) the median
2557 income of the city or town is less of the state median income, (3) the per
2558 capita income is below the state average per capita income, and (4) the
2559 percentage of the city or town's population having attained at least a
2560 bachelor's degree is below the state percentage of population having
2561 attained at least a bachelor's degree, in undertaking projects to design,
2562 construct, reconstruct, widen, resurface, rehabilitate and otherwise
2563 improve roads, bridges, railways, airports, seaports, intermodal transit
2564 facilities and other related public works facilities as deemed necessary
2565 for economic development by the department upon the petition of an
2566 appropriate local governmental body in accordance with this section and
2567 any rules or regulations promulgated by the secretary in accordance with
2568 this section. The rules and regulations shall govern the criteria by which
2569 the funds shall be distributed and the method by which a municipality
2570 may apply for such funds.

2571 (b) The undersecretary may, subject to appropriation, commit the
2572 funds pursuant to this section by executing a grant or other contractual
2573 agreement with a municipality and, upon execution, the funds so

2574 committed shall be made available as a grant directly to the municipality
 2575 which has entered into an agreement without further review or approval
 2576 of the division. Each agreement shall contain assurances satisfactory to
 2577 the director that the municipality will award a construction contract for
 2578 the project which is the subject of the agreement not later than 180 days
 2579 after the date of execution of the agreement.

2580 (c) In the event that a contract is not awarded by the municipality
 2581 within the period provided in subsection (b), the undersecretary may
 2582 require, by written notification to the municipality, that the funds paid to
 2583 it by the commonwealth pursuant to the agreement shall be returned
 2584 forthwith to the commonwealth.

2585 (d) The undersecretary may, through execution of a grant or other
 2586 contractual agreement as provided in subsection (b), commit an amount
 2587 of funds up to but not exceeding the aggregate amount of funds returned
 2588 by municipalities under subsection (c) to any other municipality which
 2589 has otherwise complied with the applicable requirements for such
 2590 projects, including the terms and conditions provided in this section.

2591 Section 69. (a) The undersecretary shall establish a regional mobility
 2592 assistance program to assist cities and towns in geographic regions of the
 2593 commonwealth with public works improvements and enhancements for
 2594 transportation-related projects as deemed necessary by the department
 2595 for the (1) development, rehabilitation, and improvement of tourism
 2596 expansion corridors, (2) protection of historic centers, (3) promotion of
 2597 improved mobility and access from neighboring states, and (4)
 2598 promotion of local economic growth and reliability for transportation
 2599 facilities in rural and less accessible regions of the commonwealth. The
 2600 undersecretary may promulgate rules or regulations or implement such
 2601 other procedures in accordance with this section, which shall govern the
 2602 criteria by which the funds shall be distributed and the method by which
 2603 a regional project shall be selected.

2604 (b) The undersecretary may, subject to appropriation, commit the
 2605 funds pursuant to this section through projects to be undertaken by the
 2606 highway division or by executing a grant or other contractual agreement
 2607 with a municipality and, upon execution, the funds so committed shall be
 2608 made available as a grant directly to the municipality which has entered
 2609 into an agreement without further review or approval of the department.
 2610 Each agreement shall contain assurances satisfactory to the secretary that
 2611 the municipality will award a construction contract for the project which
 2612 is the subject of the agreement not later than 180 days after the date of
 2613 execution of the agreement.

2614 (c) In the event that a contract is not awarded by the municipality
2615 within the period provided in subsection (b), the undersecretary may
2616 require, by written notification to the municipality, that the funds paid to
2617 it by the commonwealth pursuant to the agreement shall be returned
2618 forthwith to the commonwealth.

2619 (d) The undersecretary may, through execution of a grant or other
2620 contractual agreement as provided in subsection (b), commit an amount
2621 of funds up to but not exceeding the aggregate amount of funds returned
2622 by municipalities under subsection (c) to any other municipality which
2623 has otherwise complied with the applicable requirements for such
2624 projects, including the terms and conditions provided in this section.

2625 SECTION 7. Said chapter 6C, inserted by section 6, is hereby
2626 amended by striking out section 3 and inserting in place thereof the
2627 following section:-

2628 Section 3. (a) The authority shall have all powers necessary or
2629 convenient to carry out and effectuate its purposes, including, without
2630 limiting the generality of the foregoing, the power:

2631 (1) to adopt and amend by-laws, regulations and procedures for the
2632 governance of its affairs and the conduct of its business for the
2633 administration and enforcement of this chapter; provided, however, that
2634 regulations adopted by the authority shall be adopted pursuant to chapter
2635 30A;

2636 (2) to adopt an official seal and a functional name;

2637 (3) to delegate to the department any powers granted to the
2638 authority by this chapter necessary for the commonwealth to be in
2639 compliance with 23 U.S.C section 302;

2640 (4) to maintain offices at places within the commonwealth as it
2641 may determine and to conduct meetings of the authority in accordance
2642 with the by-laws of the authority and the second paragraph of section 59
2643 of chapter 156B;

2644 (5) to direct, operate, administer, and implement the programs of
2645 roadway, general aviation, rail and transit, and vehicular registration and
2646 regulation, and, in cooperation with the department for the design,
2647 construction, repair, maintenance, capital improvement, development,
2648 and planning of the transportation facilities throughout the department, as
2649 appropriate;

2650 (6) to direct, coordinate, and supervise the administration of the
2651 department to promote economy and efficiency and to leverage federal
2652 funding and private sector investment;

- 2653 (7) to develop and administer a long-term state-wide transportation
2654 plan for the commonwealth that includes planning for intermodal and
2655 integrated transportation;
- 2656 (8) to develop and administer procedures to be used for
2657 transportation project selection;
- 2658 (9) to establish criteria, including criteria that will result in the
2659 reduction of greenhouse gases, for project selection to be used in the
2660 procedures developed pursuant to clause (7);
- 2661 (10) to enter into agreements and transactions with federal, state and
2662 municipal agencies and other public institutions and private individuals,
2663 partnerships, firms, corporations, associations and other entities on
2664 behalf of the department;
- 2665 (11) to institute and administer the Massachusetts Transportation
2666 and Infrastructure Fund, the Massachusetts Mobility Fund and the
2667 Deferred Maintenance Trust Fund for the purposes of making
2668 appropriations, allocations, grants or loans to leverage development and
2669 investments in transportation investment; and
- 2670 (12) to administer, without further appropriation, the Massachusetts
2671 Transportation and Infrastructure Fund, the Massachusetts Mobility Fund
2672 and the Deferred Maintenance Trust Fund;
- 2673 (13) to sue and be sued in its own name, plead and be impleaded;
- 2674 (14) to own, construct, maintain, repair, reconstruct, improve,
2675 rehabilitate, use, police, administer, control and operate the state
2676 highway system, the metropolitan highway system and the turnpike, or
2677 any part thereof; provided, however, that the provisions of chapter 91
2678 shall not apply to the authority, except for any parts or areas thereof
2679 subject to said chapter 91 on March 1, 1997;
- 2680 (15) to acquire sites abutting the state highway system, the
2681 metropolitan highway system or the turnpike, and to construct or contract
2682 for the construction of buildings and appurtenances for gasoline stations,
2683 restaurants, parking facilities, tourist information centers and other
2684 services and to lease such facilities in such manner and under such terms
2685 as it may determine;
- 2686 (16) to issue notes or bonds for any of its corporate purposes related
2687 to the turnpike payable solely from turnpike revenues or portions thereof
2688 pledged for their payment and to refund its notes or bonds pertaining to
2689 the turnpike or any part thereof or payable from such revenues, as
2690 provided in this chapter;
- 2691 (17) to issue notes or bonds for any of its corporate purposes related
2692 to the metropolitan highway system payable solely from the metropolitan

2693 highway system revenues or portions thereof pledged for their payment
2694 and to refund its notes or bonds pertaining to the metropolitan highway
2695 system or any part thereof or payable from such revenues, as provided in
2696 this chapter;

2697 (18) to issue bonds, notes and other evidences of indebtedness as
2698 provided in this chapter;

2699 (19) to fix and revise from time to time and charge and collect tolls
2700 for transit over the metropolitan highway system and the turnpike;
2701 provided, however, that it shall furnish upon request to a user of the
2702 metropolitan highway system and turnpike a toll receipt showing the
2703 amount of toll paid, the classification of the vehicle, the date of payment
2704 and place of exit from said metropolitan highway system and turnpike;
2705 provided, further, that the authority shall convene at least 2 public
2706 hearings, each to be held in a community within the turnpike corridor, at
2707 least 30 days prior to the effective date of any proposed change in toll
2708 structure on the turnpike and shall allow for a 1 week comment period,
2709 after each such hearing, during which written testimony and comments
2710 shall be accepted;

2711 (20) to appoint officers and employees and to engage accountants,
2712 architects, attorneys, engineers, planners, real estate experts and other
2713 consultants as may be necessary in its judgment to carry out the purposes
2714 of this act and fix their compensation;

2715 (21) to acquire real and personal property, or any interest in real or
2716 personal property, by gift, purchase, transfer, foreclosure, lease or
2717 otherwise including rights or easements; to hold, sell, assign, lease,
2718 encumber, mortgage or otherwise dispose of any real or personal
2719 property, or any interest therein, or mortgage any interest owned by it or
2720 under its control, custody or in its possession; to release or relinquish any
2721 right, title, claim, lien, interest, easement or demand however acquired,
2722 including any equity or right of redemption in property foreclosed by it;
2723 to take assignments of leases and rentals, proceed with foreclosure
2724 actions, or take any other actions necessary or incidental to the
2725 performance of its corporate purposes;

2726 (22) to place and maintain or grant permission by easement or
2727 otherwise to any public utility, corporation or person to place and
2728 maintain on or under or within the state highway system, the
2729 metropolitan highway system or the turnpike, or any part thereof, ducts,
2730 pipes, pipelines, mains, conduits, cables, wires, towers, poles or other
2731 structures to be so located as not to interfere with the safe and convenient
2732 operation and maintenance of the state highway system, the metropolitan

2733 highway system or the turnpike, and to contract with any such public
2734 utility, corporation or person for such permission on such terms and
2735 conditions as may be fixed by the authority;

2736 (23) to designate the locations and establish, limit and control such
2737 points of ingress to and egress from the state highway system, the
2738 metropolitan highway system or the turnpike, as may be necessary,
2739 convenient or desirable in the judgment of the authority to insure the
2740 proper operation and maintenance of the state highway system, the
2741 metropolitan highway system or the turnpike, and to prohibit entrance to
2742 the state highway system, the metropolitan highway system or the
2743 turnpike, from any point or points not so designated;

2744 (24) to (i) construct grade separations at locations where the state
2745 highway system, the metropolitan highway system or the turnpike,
2746 intersect with or abut public highways or rail lines and to change and
2747 adjust the lines and grades of such highways or rail lines so as to
2748 accommodate the same to the design of such grade separation; and (ii)
2749 change the location of any portion of any public highway or rail line
2750 which intersects or abuts the state highway system, the metropolitan
2751 highway system or the turnpike, in order to improve the safety or
2752 efficiency of the state highway system, the metropolitan highway system
2753 or the turnpike; provided, however, that if the authority shall find it
2754 necessary to change the location of a public highway, it shall reconstruct
2755 the same in as good a condition as the original highway and at such
2756 location as the authority deems most favorable; provided, however, that
2757 all costs incident to construction, realignment or reconstruction
2758 conducted pursuant to this clause shall be borne by the authority;

2759 (25) to enter upon any lands, waters and premises in the
2760 commonwealth, after 30 days' notice by registered or certified mail and
2761 without the necessity of any judicial orders or other legal proceedings,
2762 for the purpose of making surveys, soundings, drillings and examinations
2763 as the authority may deem necessary, convenient or desirable for
2764 carrying out the purposes of this chapter and such entry shall not be
2765 deemed a trespass nor shall an entry for such purposes be deemed an
2766 entry under any condemnation proceedings which may be then pending;
2767 provided, however, that the authority shall provide reimbursement for
2768 any actual damage resulting to such lands, waters and premises as a
2769 result of such activities; and provided, further, that the commonwealth
2770 hereby consents to the use of all lands owned by it, including lands lying
2771 underwater, which are deemed by the authority to be necessary,
2772 convenient or desirable for the construction, operation or maintenance of

2773 the state highway system, the metropolitan highway system or the
2774 turnpike;

2775 (26) to make and enter into all contracts and agreements necessary,
2776 convenient or desirable in the performance of its duties and the execution
2777 of its powers under this chapter; provided, however, that sections 26 to
2778 29, inclusive, and sections 44A to 44J, inclusive, of chapter 149 and
2779 sections 39F to 39M, inclusive, of chapter 30 shall apply to contracts of
2780 the authority to the same extent and in the same manner as they are
2781 applicable to the commonwealth; provided, however, that
2782 notwithstanding the provisions of this clause, the authority may, with the
2783 approval of the secretary of the executive office of administration and
2784 finance, without competitive bids and notwithstanding the provisions of
2785 any general or special law to the contrary, award a contract, otherwise
2786 subject to this section, limited to the performance of emergency repairs
2787 necessary to preserve the safety of persons or property;

2788 (27) to invest any funds held in reserves or sinking funds, or the
2789 Massachusetts Transportation Infrastructure Fund, or any funds not
2790 required for immediate disbursement, in such investments as may be
2791 provided in any financing document relating to the use of such funds, or,
2792 if not so provided, as the board may determine;

2793 (28) to review and recommend changes in laws, rules, programs,
2794 and policies of the state and its agencies and subdivisions to further
2795 transportation financing, infrastructure and development within the
2796 commonwealth;

2797 (29) to appear in its own behalf before boards, commissions,
2798 departments or other agencies of municipal, state or federal government;

2799 (30) to obtain insurance;

2800 (31) to apply for and accept subventions, grants, loans, advances
2801 and contributions from any source of money, property, labor or other
2802 things of value, to be held, used and applied for its corporate purposes;

2803 (32) to adopt a fiscal year to conform with the fiscal year of the
2804 commonwealth;

2805 (33) to receive and apply its revenues to the purposes of the
2806 authority without appropriation or allotment by the commonwealth or
2807 any political subdivision thereof;

2808 (34) to enter into agreements with other parties, including, without
2809 limiting the generality of the foregoing, government agencies,
2810 municipalities, authorities, private transportation companies, railroads,
2811 and other concerns, providing (i) for construction, operation and use of
2812 any mass transportation facility and equipment held or later acquired by

2813 the authority; provided, however, that any agreement entered into by the
2814 authority for the construction or acquisition of mass transportation
2815 facilities or equipment of more than \$1,000,000, which is financed in
2816 whole or in part from the proceeds of bonds the debt service payments on
2817 which are assisted by the commonwealth or made from the dedicated
2818 revenue source, shall not become effective until approved by the
2819 secretary of the executive office of administration and finance; (ii) for
2820 joint or cooperative operation of any mass transportation facility and
2821 equipment with another party; (iii) for operation and use of any mass
2822 transportation facility and equipment for the account of the authority, for
2823 the account of another party or for their joint account; or (iv) for the
2824 acquisition of any mass transportation facility and equipment of another
2825 party where the whole or any part of the operations of such other party
2826 takes place within the area constituting the authority; provided, further,
2827 that any such other party may enter into any such agreements, subject to
2828 such provisions of law as may be applicable; and provided, further, that
2829 any agreement with a private company under this chapter which is to be
2830 financed from the proceeds of bonds or bond anticipation notes and
2831 which provides for the rendering of transportation service by such
2832 company and for financial assistance to such company by subsidy, lease
2833 or otherwise shall include such service quality standards for such service
2834 as the authority may deem appropriate and shall not bind the authority
2835 for a period of longer than 1 year from its effective date, but this shall not
2836 prohibit agreements for longer than 1 year if the authority's obligations
2837 thereunder are subject to annual renewal or annual cancellation by the
2838 board's authority; and provided, further, that such agreements may
2839 provide for cash payments for services rendered, but not more than will
2840 permit any private company a reasonable return;

2841 (35) to establish transit facilities and related infrastructure,
2842 including terminals, stations, access roads, and parking, pedestrian access
2843 facilities and bicycle parking and access facilities as may be deemed
2844 necessary and desirable; and provided, further, that the authority may
2845 charge reasonable fees for the use of such facilities as it may deem
2846 desirable;

2847 (36) to lend money to and to acquire or hold obligations issued by
2848 public bodies or other users at such prices and in such manner as the
2849 authority shall deem advisable and sell such bonds acquired or held by it
2850 at prices without relation to cost and in such manner as the authority
2851 shall deem advisable and to secure its own issues of bonds with such
2852 obligations held by it;

2853 (37) to act, through the department, as the central entity and
2854 coordinating organization for transportation initiatives on behalf of the
2855 commonwealth and to work in collaboration with governmental entities,
2856 bodies, centers, institutes and facilities to advance the commonwealth's
2857 interests and investments in transportation;

2858 (38) to enter into agreements with public and private entities that
2859 deal primarily with transportation and infrastructure development, in
2860 order to distribute and provide leveraging of monies or services for the
2861 purposes of furthering transportation development in the commonwealth
2862 and promoting overall economic growth within the commonwealth by
2863 fostering collaboration and investments in transportation initiatives in the
2864 commonwealth;

2865 (39) to provide and pay for such advisory services and technical
2866 assistance as may be necessary or desired to carry out the purposes of
2867 this chapter;

2868 (40) to establish and collect such fees and charges as the authority
2869 without further appropriation shall determine to be reasonable and
2870 consistent with this chapter; and to receive and apply revenues from fees
2871 and charges to the purposes of the authority or allotment by the
2872 commonwealth or any political subdivision thereof;

2873 (41) to disburse, appropriate, grant, loan or allocate funds for the
2874 purposes of investing in transportation initiatives as directed in this
2875 chapter;

2876 (42) to provide assistance to local entities, local authorities, public
2877 bodies and private corporations for the purposes of maximizing
2878 opportunities for transportation and development initiatives in the
2879 commonwealth;

2880 (43) to prepare, publish and distribute, with or without charge, as
2881 the authority may determine, such studies, reports and bulletins and other
2882 material as the authority deems appropriate;

2883 (44) to exercise any other powers of a corporation organized under
2884 chapter 156B;

2885 (45) to take any actions necessary or convenient to the exercise of
2886 any power or the discharge of any duty provided for by this chapter;

2887 (46) to enter into agreements or other transactions with any person,
2888 including without limitation any public entity or other governmental
2889 instrumentality or agency in connection with its powers and duties under
2890 this chapter; and

2891 (47) to delegate any of the foregoing powers to an undersecretary or
2892 to a director having charge of an administrative unit within the
2893 department.

2894 SECTION 8. Section 22B1/2 of chapter 7 of the General Laws, as
2895 appearing in the 2006 Official Edition, is hereby amended by striking
2896 out, in line 31, the word 'Turnpike' and inserting in place thereof the
2897 following words:- Transportation and Infrastructure.

2898 SECTION 9. Section 22G of said chapter 7, as so appearing, is
2899 hereby amended by striking out, in line 62, the word 'Turnpike' and
2900 inserting in place thereof the following words:- Transportation and
2901 Infrastructure.

2902 SECTION 9A. Chapter 7 of the General Laws is hereby amended by
2903 adding the following 14 sections:-

2904 Section 57. As used in sections 57 to 70, inclusive, the following
2905 words shall have the following meanings, unless the context clearly
2906 requires otherwise:-

2907 (a) 'Affected jurisdiction', any city or town, or other unit of
2908 government within the commonwealth in which all or part of a
2909 transportation facility is located or any other public entity directly
2910 affected by the transportation facility.

2911 'Architectural and engineering services',: (1) professional services of
2912 an architectural or engineering nature, as defined by applicable state law,
2913 which are required to be performed or approved by a person licensed,
2914 registered or certified to provide such services as described in this
2915 definition; (2) professional services of an architectural or engineering
2916 nature performed by contract that are associated with research, planning,
2917 development, design, construction, alteration or repair of real property;
2918 and (3) such other professional services of an architectural or engineering
2919 nature, or incidental services, which members of the architectural and
2920 engineering professions and employees thereof may logically or
2921 justifiably perform, including: studies, investigations, surveying,
2922 mapping, tests, evaluations, consultations, comprehensive planning,
2923 program management, conceptual designs, plans and specifications,
2924 value engineering, construction phase services, soils engineering,
2925 drawing reviews, preparation of operating and maintenance manuals and
2926 other related services.

2927 'Authority', the Massachusetts Transportation and Infrastructure
2928 Authority.

2929 'Construction', the process of building, altering, repairing, improving
2930 or demolishing any transportation facility, including any structure,

2931 building or other improvements of any kind to real property.
2932 'Construction' shall not include the routine operation, routine repair or
2933 routine maintenance of any existing transportation facility, including
2934 structures, 393 buildings or real property.
2935 'Force majeure', an uncontrollable force or natural disaster not within
2936 the power of the operator or the commonwealth.
2937 'Contract', any agreement, including a public-private agreement for
2938 the procurement, operation or disposal under sections 57 to 70, inclusive,
2939 of a transportation facility by the authority.
2940 'Contract modification', any written alteration in specifications,
2941 delivery point, rate of delivery, period of performance, price, quantity or
2942 other provisions of any contract accomplished by mutual action of the
2943 parties to the contract.
2944 'Contractor', any person having a contract with the authority under
2945 sections 57 to 70, inclusive.
2946 'Cooperative purchasing', procurement conducted by, or on behalf of,
2947 an affected jurisdiction.
2948 'Design-build-finance-operate-maintain', a project delivery method in
2949 which the authority enters into a single contract for design, construction,
2950 finance, maintenance and operation of a transportation facility over a
2951 contractually defined period. No public funds shall be appropriated to
2952 pay for any part of the services provided by the contractor during the
2953 contract period.
2954 'Design-building-operate-maintain', a project delivery method in
2955 which the authority enters into a single contract for design, construction,
2956 maintenance and operation of a transportation facility over a
2957 contractually defined period. All or a portion of the funds required to pay
2958 for the services provided by the contractor during the contract period
2959 shall either be appropriated by the commonwealth or by the authority
2960 prior to award of the 416 contract or secured by the commonwealth or by
2961 the authority through fare, toll or user charges.
2962 'Design requirements', the written description of the transportation
2963 facility or service to be procured under sections 57 to 70, inclusive,
2964 including:
2965 (1) required features, functions, characteristics, qualities and
2966 properties required by the authority;
2967 (2) the anticipated schedule, including start, duration and completion;
2968 and
2969 (3) estimated budgets as applicable to the specific procurement for
2970 design, construction, operation and maintenance; provided, however, that

2971 design requirements may, include drawings and other documents
2972 illustrating the scale and relationship of the features, functions and
2973 characteristics of the project.

2974 Independent peer reviewer services', additional architectural and
2975 engineering services provided to the authority in design-building-
2976 operate-maintain or design-build-finance-operate-maintain procurements
2977 to confirm that the key elements of the professional engineering and
2978 architectural design provided by the contractor are in conformance with
2979 the applicable standard of care.

2980 'Maintenance', includes routine operation, routine maintenance,
2981 routine repair rehabilitation, capital maintenance, maintenance
2982 replacement and any other categories of maintenance that may be
2983 designated by the authority.

2984 'Material default', failure of a contractor to perform any duties under
2985 a public-private agreement which jeopardizes delivery of adequate
2986 service to the public and remains unsatisfied after a reasonable period of
2987 time and after the operator has received written notice from the authority
2988 of the failure.

2989 'Operate', any action to operate, maintain, repair, rehabilitate, 439
2990 improve, equip or modify a transportation facility, including the design
2991 and construction of repairs, improvements or modifications to a
2992 transportation facility.

2993 'Operator', a private entity that has entered into a public-private
2994 agreement to provide design-build-finance-operate-maintain or design-
2995 building-operate-maintain services under sections 57 to 70, inclusive.

2996 'Private entity', a natural person, corporation, general partnership,
2997 limited liability

2998 company, limited partnership, joint venture, business trust, public
2999 benefit corporation, nonprofit entity or other business entity.

3000 'Proposal development documents', drawings and other design
3001 related documents that are sufficient to fix and describe the size and
3002 character of a transportation facility as to architectural, structural,
3003 mechanical and electrical systems, materials, and such other elements as
3004 may be appropriate to the applicable project delivery method.

3005 'Public-private agreement', the contract between a private entity and
3006 the authority that relates to the development, financing, maintenance or
3007 operation of a transportation facility subject to sections 57 to 70,
3008 inclusive.

3009 'Request for proposals', all documents, whether attached to or
3010 incorporated by reference, utilized for soliciting proposals for a
3011 transportation facility under sections 57 to 70, inclusive.

3012 'Responsible bidder or offeror', a person who has the capability in all
3013 respects to fully perform the contract requirements, and the integrity and
3014 reliability to assure good faith performance.

3015 'Responsive bidder', a person who has submitted a bid which
3016 conforms 461 in all material respects to the invitation for bids.

3017 'Transportation facility', new or existing highway, road, bridge,
3018 tunnel, overpass, ferry, airport, public transportation facility, terminal
3019 facility, vehicle parking facility, seaport facility, rail facility, intermodal
3020 facility or similar facility open to the public and used for the
3021 transportation of persons or goods, and any building, structure or
3022 networks of buildings, structures, pipes, controls and equipment that
3023 provide transportation services, including rolling stock and equipment,
3024 and any building, structure, parking area, appurtenances or other property
3025 needed to operate such facility that is subject to a public-private
3026 agreement.

3027 'User fees', the rate, toll, fee or other charges imposed by an operator
3028 or by the authority for use of all or part of a transportation facility.

3029 'Utility', a privately, publicly or cooperatively owned line, facility or
3030 system for producing, transmitting or distributing communications, cable
3031 television, power, electricity, light, heat, gas, oil, crude products, water,
3032 steam, waste, storm water not connected with highway drainage, or any
3033 other similar commodity, including any fire or police signal system or
3034 street lighting system, which directly or indirectly serves the public.

3035 Section 58. (a) Notwithstanding any general or special law to the
3036 contrary, the board of directors of the authority, in conjunction with the
3037 special public-private partnership infrastructure oversight commission
3038 established in section 70, may solicit proposals enter into contracts for
3039 design-build-finance-operate-maintain or design-building-operate-
3040 maintain services with that responsible and responsive offeror submitting
3041 the proposal that is most advantageous to the authority through the sale,
3042 lease, operation and maintenance of a transportation facility within the
3043 commonwealth; provided, however, that such proposal shall be in full
3044 compliance with all applicable requirements of federal, state and local
3045 law, including section 484 26 to 27H, inclusive, of chapter 149; provided
3046 further, that any such contract shall not be subject to the competitive bid
3047 requirements set forth in sections 38A½ to 38O, inclusive, section 39M
3048 of chapter 30, or sections 44A to 44M, inclusive, of chapter 149; and

3049 provided further, that each such contract shall be awarded pursuant to
3050 chapter 30B except for clause (3) of paragraph (b) and paragraphs (e) and
3051 (g) of section 6, clause (4) of section 13 and section 16 of said chapter
3052 30B.

3053 (b) (1) In soliciting and selecting a private entity with which to enter
3054 into a public-private agreement for design-build-finance-operate-
3055 maintain or design-building-operate-maintain services, the authority shall
3056 utilize the following competitive sealed proposals procurement approach:

3057 (2) each request for proposals for design-building-operate-maintain
3058 and design-build-finance-operate-maintain services:

3059 (A) shall include design requirements;

3060 (B) shall solicit proposal development documents; and

3061 (C) may, if the authority determines that the cost of preparing
3062 proposals is high, considering the size, estimated price and complexity of
3063 the procurement:

3064 (i) prequalify offerors by issuing a request for qualifications in
3065 advance of the request for proposals; and

3066 (ii) select a short list of responsible offerors prior to discussions and
3067 evaluations, provided that the number of proposals that will be
3068 shortlisted is stated in the request for proposals and prompt public notice
3069 is provided to all offerors as to which proposals have been shortlisted; Or

3070 (iii) pay stipends to unsuccessful offerors; provided, however, that the
3071 amount of such stipends and the terms under which such stipends shall
3072 be paid shall be included in the request for proposals;

3073 (3) adequate public notice of the request for proposals shall be
3074 provided;

3075 (4) proposals shall be opened so as to avoid disclosure of contents to
3076 competing offerors during the process of negotiation and a register of
3077 proposals shall be prepared by the authority and shall be open for public
3078 inspection after contract award; and

3079 (5) (A) The request for proposals shall state the relative importance of
3080 price and other factors and sub-factors, if any. (B) Each request for
3081 proposals for design-building-operate-maintain and design-build-finance-
3082 operate-maintain: (i) shall state the relative importance of:

3083 (1) demonstrated compliance with the design requirements;

3084 (2) offeror qualifications;

3085 (3) financial capacity;

3086 (4) project schedule;

3087 (5) elimination of existing public debt with respect to the
3088 transportation facility;

3089 (6) lowest user charges or price over the term of the design-building-
3090 operate-maintain and design-build-finance-operate-maintain contract;
3091 and

3092 (7) other factors, if any;

3093 (ii) shall, if the contract price is estimated to exceed \$10,000,000, if
3094 the contract period of operations and maintenance is 5 years or longer, or
3095 if circumstances established by the authority, require each offeror to
3096 identify an independent peer reviewer whose competence and
3097 qualifications to provide such services shall be an additional evaluation
3098 factor in the award of the contract; and

3099 (iii) shall not include, as an evaluation factor in the award of the 526
3100 contract, the amount, if any, paid by a contractor to the authority for
3101 procurement using design-building-operate-maintain and design-build-
3102 finance-operate-maintain.

3103 (6) As provided in the request for proposals, and under regulations
3104 issued by the authority, discussions may be conducted with responsible
3105 offerors who submit proposals determined to be reasonably susceptible
3106 of being selected for award for the purpose of clarification to assure full
3107 understanding of, and responsiveness to, the solicitation requirements.
3108 Offerors shall be accorded fair and equal treatment with respect to any
3109 opportunity for discussion and revision of proposals, and such revisions
3110 may be permitted after submissions and prior to award for the purpose of
3111 obtaining best and final offers. In conducting discussions, there shall be
3112 no disclosure of any information derived from proposals submitted by
3113 competing offerors.

3114 (7) Award shall be made to the responsible offeror whose proposal
3115 conforms to the solicitation and is determined in writing to be the most
3116 advantageous to the acquiring agency, taking into consideration the price
3117 and the evaluation factors set forth in the request for proposals. No other
3118 factors or criteria shall be used in the evaluation. The contract file shall
3119 contain the basis upon which the award is made. Written notice of the
3120 award of a contract to the successful offeror shall be promptly provided
3121 to all offerors.

3122 (8) The authority may provide debriefings that furnish the basis for
3123 the source selection decision and contract award.

3124 (c) (1) A private entity may request a review, prior to submission of a
3125 solicited proposal, by the authority of information that the private entity
3126 has identified as confidential or proprietary to determine whether such
3127 information is subject to disclosure under section 10 of chapter 66 or
3128 clause twenty sixth of section 7 of chapter 4.

3129 (2) The authority shall take appropriate action to protect confidential
3130 or proprietary information that a private entity provides as part of a
3131 solicited proposal and that is exempt from disclosure under said section
3132 10 of chapter 66 and said clause twenty sixth of said section 7 of aid
3133 chapter 4.

3134 Section 59. (a) The request for proposals shall contain the proposed
3135 form of contract or Public-private agreement to be executed between the
3136 successful offeror and the authority upon award, and shall have been
3137 approved as to content and form by the special public-private
3138 infrastructure oversight commission and by the authority before the
3139 request for proposals is issued, pursuant to section 58. The inspector
3140 general and the attorney general shall have 30 days from the receipt of a
3141 draft of the proposed form of contract to notify the special public-private
3142 infrastructure oversight commission in writing of any material objections
3143 to the draft form of contract. Before issuing any request for proposal, the
3144 authority shall prepare a written response to reports submitted to it by the
3145 special public-private infrastructure oversight commission which
3146 response shall state the basis for any substantial divergence between the
3147 actions of the authority and the recommendations contained in such
3148 reports of said commission. The authority and the successful offeror shall
3149 only make nonmaterial changes in the content and form of the public
3150 private agreement contained in the request for proposals.

3151 (b) (1) After selecting a solicited or unsolicited proposal for a public-
3152 private initiative, the authority shall enter into the public-private
3153 agreement for the subject transportation facility with the selected private
3154 entity.

3155 (2) An affected jurisdiction may be a party to a public-private
3156 agreement entered into by the authority and a selected private entity or
3157 combination of private entities.

3158 (c) A public-private agreement under sections 57 to 70, inclusive, 571
3159 shall provide for the following:

3160 (1) the planning, acquisition, engineering, financing, development,
3161 design, construction, reconstruction, replacement, improvement,
3162 maintenance, management, repair, leasing or operation of a
3163 transportation facility including provisions for the replacement and
3164 relocation of utility facilities;

3165 (2) the term of the public-private agreement, which shall not exceed
3166 50 years without written approval of the governor;

3167 (3) the type of property interest, if any, the private entity shall have in
3168 the transportation facility;

3169 (4) a description of the actions the authority may take to ensure
3170 proper maintenance of the transportation facility;
3171 (5) whether user fees will be collected on the transportation facility
3172 and the basis by which such user fees shall be determined and modified;
3173 (6) compliance with applicable Federal, state and local laws;
3174 (7) grounds for termination of the public-private agreement by the
3175 authority or operator;
3176 (8) procedures for amendment of the agreement by mutual agreement
3177 and for changes in the agreement by written order from the authority.
3178 (9) review and approval by the authority of the operator's plans for
3179 the development and operation of the transportation facility;
3180 (10) inspection by the authority and the independent peer reviewer of
3181 the design and construction of, or improvements to, the transportation
3182 facility;
3183 (11) maintenance by the operator of a policy of liability insurance or
3184 self-insurance reasonably acceptable to the authority;
3185 (12) filing by the operator, on a periodic basis, of appropriate
3186 financial statements in a form acceptable to the authority;
3187 (13) filing by the operator, on a periodic basis, of traffic reports,
3188 service quality standards as defined in section 3 of chapter 81D, ridership
3189 reports, on time performance reports, or other reports identified by the
3190 authority, in a form acceptable to the authority;
3191 (14) financing obligations of the operator and the authority;
3192 (15) apportionment of expenses between the operator and the
3193 authority;
3194 (16) the rights and duties of the operator, the authority, and other state
3195 and local governmental entities with respect to use of the transportation
3196 facility;
3197 (17) the rights and remedies available in the event of default or delay;
3198 (18) the terms and conditions of indemnification of the operator by
3199 the authority, as required by applicable law;
3200 (19) assignment, subcontracting or other delegation of responsibilities
3201 of the operator or the authority under the agreement to third parties,
3202 including other private entities and other state agencies;
3203 (20) sale or lease to the operator of private property related to the
3204 transportation facility;
3205 (21) if, and how, the parties shall share costs of development of the
3206 project;
3207 (22) if, and how, the parties shall allocate financial responsibility for
3208 cost overruns;

3209 (23) liability for nonperformance;
3210 (24) any incentives for performance;
3211 (25) any accounting and auditing standards to be used to evaluate
3212 progress on the project;
3213 (26) the operator's plans to obtain a labor and material payment bond,
3214 in accordance with section 29 of chapter 149 of the General Laws,
3215 covering all construction, reconstruction, or maintenance, including
3216 capital maintenance, work of the project and require the payment of
3217 prevailing wages for labor performed on the project in accordance with
3218 sections 26 to 27H, inclusive, of said chapter 149;
3219 (27) the operator's plans for labor harmony for the entire term of the
3220 agreement, including construction, reconstruction and capital and routine
3221 maintenance and adequate remedies to address the operator's failure to
3222 maintain labor harmony which shall include, but not be limited to,
3223 assessment of liquidated damages and contract termination.
3224 (28) traffic enforcement and other policing issues, subject to section
3225 66 including any reimbursement by the private entity for such services;
3226 and
3227 (29) other terms and conditions.
3228 Section 60. Upon the end of the term of the public-private agreement
3229 or in the event of termination of the public-private agreement, the
3230 authority and duties of the operator shall cease, except for any duties and
3231 obligations that extend beyond the termination as provided in the public-
3232 private agreement, and all the rights, title and interest in such
3233 transportation facility shall revert to the authority and shall be dedicated
3234 to the authority for public use.
3235 Section 61. (a) Upon the occurrence and during the continuation of a
3236 material default by an operator, not caused by an event of force majeure,
3237 and upon the failure by the contractor or its financing institution on the
3238 contractor's behalf, to cure such material default within 30 days of
3239 written notice of such default by the authority, the authority may:
3240 (1) elect to take over the transportation facility, including the
3241 succession of all right, title and interest in the transportation facility; and
3242 (2) terminate the public-private agreement and exercise any other
3243 rights and remedies available.
3244 (b) In the event that the authority elects to take over a transportation
3245 facility under subsection (a), the authority:
3246 (1) shall make interim payments, on behalf of the contractor and for
3247 the contractor's account, of any amounts subject to a mechanics lien law
3248 of the commonwealth;

3249 (2) may develop and operate the transportation facility, impose user
3250 fees for the use of the transportation facility, and comply with any
3251 service contracts; and

3252 (3) may solicit proposals for the maintenance and operation of the
3253 transportation facility under section 58.

3254 Section 62. (a) (1) The authority may issue and sell bonds or notes of
3255 the authority for the purpose of providing funds to carry out sections 57
3256 to 70, inclusive, with respect to the development, financing or operation
3257 of a transportation facility or the refunding of any bonds or notes,
3258 together with any costs associated with the transaction.

3259 (2) Any bond or note issued under this section:

3260 (A) constitutes the corporate obligation of the authority;

3261 (B) shall not constitute a debt of the commonwealth within the
3262 meaning or application of the constitution of the commonwealth; and

3263 (C) shall be payable solely as to both principal and interest from:

3264 (i) the revenues from a lease to the authority, if any;

3265 (ii) proceeds of bonds or notes, if any;

3266 (iii) investment earnings on the proceeds of bonds or notes; or

3267 (iv) other funds available to the authority for such purpose.

3268 (b) (1) For the purpose of financing a transportation facility, 662 the
3269 authority and operator may apply for, obtain, issue and use private
3270 activity bonds available under any Federal law or program.

3271 (2) Any bonds, debt, other securities or other financing issued for the
3272 purposes of sections 57 to 70, inclusive, shall not be considered a debt of
3273 the commonwealth or any political subdivision thereof state or a pledge
3274 of the faith and credit of the state or any political subdivision of the
3275 commonwealth.

3276 (c) Nothing in this section shall limit a local government or any
3277 authority of the commonwealth to issue bonds for transportation projects.

3278 Section 63. (a) (1) The authority may accept from the United States or
3279 any of its agencies funds that are available to the commonwealth for
3280 carrying out sections 57 to 70, inclusive, whether the funds are made
3281 available by grant, loan or other financial assistance.

3282 (2) The authority may enter into agreements or other arrangements
3283 with the United States or any of its agencies as may be necessary for
3284 carrying out the purposes of sections 57 to 70, inclusive.

3285 (b) The authority may accept from any source any grant, donation,
3286 gift, or other form of conveyance of land, money, other real or personal
3287 property, or other item of value made to the commonwealth or the
3288 authority for carrying out the purpose of sections 57 to 70, inclusive.

3289 (c) Any transportation facility may be financed in whole or in part by
3290 contribution of any funds or property made by any private entity or
3291 affected jurisdiction that is party to a public private agreement under
3292 sections 57 to 70, inclusive.

3293 (d) The authority may combine Federal, state, local and private funds
3294 to finance a transportation facility under sections 57 to 70, inclusive.

3295 Section 64. (a) Section 9 of 685 chapter 81B shall apply to: (1) a
3296 transportation facility; and

3297 (2) tangible personal property used exclusively with a transportation
3298 facility that is:

3299 (A) owned by the authority and leased, licensed, financed or
3300 otherwise conveyed to an operator; or

3301 (B) acquired, constructed or otherwise provided by an operator on
3302 behalf of the authority.

3303 Section 65. The authority may exercise the power of eminent domain
3304 to acquire property, rights of way or other rights in property for
3305 transportation projects that are part of a public-private agreement for
3306 design-build-finance-operate-maintain or design-build-operate-maintain
3307 services.

3308 Section 66. (a) Law enforcement officers of the commonwealth and
3309 of an affected local jurisdiction shall have the same powers and
3310 jurisdiction within the limits of a transportation facility as they have in
3311 their respective areas of jurisdiction and access to the transportation
3312 facility at any time for the purpose of exercising such powers and
3313 jurisdiction.

3314 (b) The traffic and motor vehicle laws of the commonwealth and, if
3315 applicable, any local By laws or ordinances shall apply to a
3316 transportation facility.

3317 Section 67. An operator under sections 57 to 70, inclusive, and any
3318 utility whose facility is to be crossed or relocated shall cooperate fully in
3319 planning and arranging the manner of the crossing or relocation of the
3320 utility facility. This section shall not limit or otherwise affect the right of
3321 such utility to compensation for such relocation to the extent provided by
3322 law.

3323 Section 68. Nothing in sections 57 to 70, inclusive, shall limit any
3324 waiver of the sovereign immunity of the commonwealth or any officer or
3325 employee of the commonwealth with respect to the participation in or
3326 approval of all or any part of the transportation facility or its operation.

3327 Section 69. The authority may adopt rules and regulations to carry out
3328 sections 57 to 70, inclusive.

3329 Section 70. There shall be established a special public-private
3330 partnership infrastructure oversight commission to comment on and
3331 approve all requests for proposals for design-build-finance-operate-
3332 maintain or design-building-operate-maintain services, pursuant to
3333 section 59.

3334 The commission shall have 9 members, none of whom shall be
3335 employees of the executive branch, members of the General Court, nor
3336 employees of the Legislature, including the following: 4 members who
3337 shall reside in different geographic regions of the commonwealth, to be
3338 appointed by the governor to service terms of 2 years; 1 member, who
3339 shall not be a member of the general court, to be appointed by the
3340 president of the senate to serve a term of 2 years; 1 member, who shall
3341 not be a member of the general court, to be appointed by the speaker of
3342 the house of representatives to serve a term of 2 years; 1 member who
3343 shall not be an employee of the department of the state treasurer, to be
3344 appointed by the treasurer, to serve a term of 2 years; the state auditor, or
3345 his designee; and 1 representative from the Massachusetts Organization
3346 of State Engineers and Scientists, to serve a term of 2 years. Each of the
3347 members of the commission shall be an expert with experience in the
3348 fields of transportation law, public policy, public finance, management
3349 consulting, transportation, or organizational change. One of the
3350 members appointed by the governor shall be an expert in the field of
3351 public finance. One of the members appointed by the governor shall be
3352 an expert in the field of management consulting or organizational
3353 change. One of the members appointed by the governor shall be an
3354 expert in the field of transportation. One of the members shall be
3355 appointed by the governor to serve as chairperson of the commission.
3356 The members appointed by the governor may be eligible for
3357 reappointment, provided however that no member appointed by the
3358 governor may serve more than three terms. The members of the
3359 commission shall be appointed no later than August 30, 2009. No
3360 member shall have served as a legislative agent for the period of 5 years
3361 prior to his appointment. No director shall have been a registered
3362 legislative agent, as defined in section 39 of chapter 3 for a period of at
3363 least 5 years prior to his appointment, no director shall have been a
3364 member or employee of the general court or an employee of the
3365 executive branch for a period of 2 years prior to his appointment, and no
3366 director shall have been employed by an organization that has business
3367 before the authority, or any predecessor agency or authority, for a period
3368 of at least 2 years prior to his appointment. Whenever the authority

3369 notifies the commission of its intent to issue a request for proposal for
 3370 design-build-finance-operate-maintain or design-building-operate-
 3371 maintain services, the authority shall submit a draft of the request for
 3372 proposal to the commission for its review and approval. As provided in
 3373 section 58, no request for proposal shall be issued by the authority for a
 3374 public-private agreement for design-build-finance-operate-maintain or
 3375 design-build-operate-maintain services without the commission's written
 3376 approval. The commission shall provide an initial written response to the
 3377 request for proposal within 15 days. For each request for proposal for
 3378 design-build-finance-operate-maintain or design-building-operate-
 3379 maintain services, the commission shall report on issues surrounding the
 3380 request for proposal, including, but not limited to: (1) the status of
 3381 current employees; (2) the policy and regulatory structure for overseeing
 3382 a privately operated transportation facility and ongoing legislative
 3383 oversight; (3) issues of taxation, profitsharing and resolution of new
 3384 revenue producing ideas; (4) advertising and marketing; (5) use of new
 3385 technologies; (6) lease terms and termination clauses; (7) additional
 3386 responsibilities by both the private infrastructure operator and the
 3387 commonwealth during the lease period; (8) the financial valuation of the
 3388 commonwealth transportation facility; and (9) the anticipated advantages
 3389 of entering into the anticipated public private agreement for design-
 3390 build-finance-operate-maintain or design-building-operate-maintain
 3391 services.

3392 The report shall be delivered within 30 days of the commission's
 3393 approval of a request for proposal for design-build-finance-operate-
 3394 maintain or design-building-operate-maintain services to the secretary
 3395 for administration and finance, the house committee on ways and means,
 3396 the senate committee on ways and means, the chairmen of the joint
 3397 committee on transportation, and the state auditor.

3398 In order to submit the commission's written approval of a request for
 3399 proposal for design build finance operate maintain or design build
 3400 operate maintain services to the state auditor, the commission's process
 3401 shall be sufficient to satisfy the requirements of sections 52 to 55,
 3402 inclusive.

3403 Whenever the comments and recommendations of the state auditor
 3404 are required for any action by the authority, under sections 52 to 55,
 3405 inclusive, of chapter 7, that approval shall be deemed to have been
 3406 granted within 30 days of submission thereof, unless the state auditor has
 3407 communicated his disapproval to the authority, in writing. The state
 3408 auditor's report shall include reasons why such proposed request for

3409 proposal is financially detrimental to the commonwealth and how the
3410 commission erred in its findings.

3411 Any research, analysis or other staff support that the commission
3412 reasonably requires shall be provided by the Massachusetts
3413 Transportation and Infrastructure Authority.

3414 SECTION 10. Section 53 of said chapter 7, as so appearing, is
3415 hereby amended by inserting, the first time it appears, after the word
3416 'Turnpike', in line 6, the following words:- the Massachusetts
3417 Transportation and Infrastructure.

3418 SECTION 11. Section 9A of chapter 10 of the General Laws, as so
3419 appearing, is hereby amended by striking out, in line 5, the word
3420 'Turnpike' and inserting in place thereof the following words:-
3421 Transportation and Infrastructure.

3422 SECTION 12. Section 63 of chapter 10 of the General Laws is
3423 hereby repealed.

3424 SECTION 13. Section 63A of said chapter 10, inserted by section 4
3425 of chapter 303 of the acts of 2008, is hereby repealed.

3426 SECTION 14. Section 69A of said chapter 10 of the General Laws is
3427 hereby repealed.

3428 SECTION 15. Sections 1 to 14 of chapter 16 of the General Laws are
3429 hereby repealed.

3430 SECTION 16. Section 11A of chapter 21A of the General Laws, as
3431 appearing in the 2006 Official Edition, is hereby amended by striking
3432 out, in line 1, the words 'executive office' and inserting in place thereof
3433 the following word:- department.

3434 SECTION 17. Said section 11A of said chapter 21A, as so appearing,
3435 is hereby further amended by striking out, in line 6, the words 'the
3436 commissioner of highways' and inserting in place thereof the following
3437 words:- the undersecretary of the division of highways.

3438 SECTION 17A. Subparagraph (C) of section 2 of chapter 21J of the
3439 General Laws, as appearing in the 2006 Official Edition, is hereby
3440 amended by striking the sentence contained in lines 41-43, inclusive, and
3441 inserting in place thereof the following:- The department shall deposit
3442 all receipts collected pursuant to this section as follows: (i) an amount
3443 appropriated by the legislature for reimbursements rendered pursuant to
3444 this chapter shall be deposited into the General Fund; and (ii) the
3445 remainder of the receipts shall be deposited into the Capital Employees
3446 Transition Fund, established pursuant to section 2AAAA of chapter 29.

3447 SECTION 18. Section 13A of chapter 22 of the General Laws, as so
3448 appearing, is hereby amended by striking out, in line 198, the word

3449 'Turnpike' and inserting in place thereof the following words:-
3450 Transportation and Infrastructure.

3451 SECTION 19. Section 29 of Chapter 22C of the General Laws, as
3452 appearing in the 2006 Official Edition, is hereby amended by striking, in
3453 lines 1 and 2, the words 'Massachusetts Turnpike Authority' : and
3454 inserting in place thereof the words 'Massachusetts Transportation and
3455 Infrastructure Authority'.

3456 Said chapter of said section is hereby further amended by inserting, in
3457 line 3, after the word 'authority' the following words 'on the Turnpike
3458 and the Metropolitan Highway System'.

3459 Said chapter of said section is hereby further amended by striking, in
3460 line 28, the word 'chairman' and inserting in place thereof the word:-
3461 Secretary.

3462 SECTION 19A. Section 61 of Chapter 22C of the General Laws, as
3463 appearing in the 2006 Official Edition, is hereby amended by striking, in
3464 lines 1 and 2, the words 'Massachusetts Turnpike Authority' and
3465 inserting in place thereof the words:- Massachusetts Transportation and
3466 Infrastructure Authority.

3467 SECTION 20. Section 61 of said chapter 22C is hereby repealed.

3468 SECTION 21. Section 13C of chapter 23A of the General Laws, as
3469 appearing in the 2006 Official Edition, is hereby amended by striking
3470 out, in line 44, the word 'Turnpike' and inserting in place thereof the
3471 following words:- Transportation and Infrastructure.

3472 SECTION 22. Section 3I of said chapter 23A, as so appearing, is
3473 hereby amended by striking out, in line 5, the words 'executive office'
3474 and inserting in place thereof the following word:- department.

3475 SECTION 23. Section 59 of said chapter 23A, is hereby further
3476 amended by striking out, in line 25, the word 'Turnpike' and inserting in
3477 place thereof the following words:- Transportation and Infrastructure.

3478 NO SECTION 24.

3479 SECTION 25. Section 1 of chapter 29 of the General Laws, as so
3480 appearing, is hereby amended by striking out, in line 99, the word
3481 'Turnpike' and inserting in place thereof the following words:-
3482 Transportation and Infrastructure.

3483 SECTION 26. Section 2E of said chapter 29 is hereby repealed.

3484 SECTION 27. Said chapter 29 is hereby amended by striking out
3485 section 2O, as amended by section 3 of chapter 233 of the acts of 2008,
3486 and inserting in place thereof the following section:-

3487 Section 2O. When authorized by a vote, taken by the yeas and nays,
3488 of two-thirds of each house of the general court present and voting

3489 thereon, including any authorization in effect as of July 1, 2009, the state
3490 treasurer, upon the request of the governor, is hereby authorized to issue
3491 bonds of the commonwealth as hereinafter provided. Any such bonds
3492 shall be special obligations of the commonwealth payable solely from
3493 monies credited to the Commonwealth Transportation Fund established
3494 pursuant to section 2ZZZ of chapter 29; notwithstanding any general or
3495 special law to the contrary, including without limitation section 60A of
3496 chapter 29, such bonds shall not be general obligations of the
3497 commonwealth. Bonds may be issued in such manner and on such terms
3498 and conditions as the state treasurer may determine in accordance with
3499 the provisions of this paragraph and, to the extent not inconsistent with
3500 the provisions hereof, provisions of general law for the issuance of bonds
3501 of the commonwealth. Bonds may be secured by a trust agreement
3502 entered into by the state treasurer, with the concurrence of the secretary
3503 of administration and finance and the secretary of transportation, on
3504 behalf of the commonwealth, which trust agreement may pledge or
3505 assign all or any part of monies credited to the Commonwealth
3506 Transportation Fund and rights to receive the same, whether existing or
3507 coming into existence and whether held or thereafter acquired, and the
3508 proceeds thereof. The state treasurer is also authorized, with the
3509 concurrence of the secretary of administration and finance and the
3510 secretary of transportation, to enter into additional security, insurance or
3511 other forms of credit enhancement which may be secured on a parity or
3512 subordinate basis with the bonds. A pledge in any such trust agreement
3513 or credit enhancement agreement shall be valid and binding from the
3514 time such pledge shall be made without any physical delivery or further
3515 act, and the lien of such pledge shall be valid and binding as against all
3516 parties having claims of any kind in tort, contract or otherwise,
3517 irrespective of whether such parties have notice thereof. Any such pledge
3518 shall be perfected by filing of the trust agreement or credit enhancement
3519 agreement in the records of the state treasurer, and no filing need be
3520 made under chapter 106. Any such trust agreement or credit
3521 enhancement agreement may establish provisions defining defaults and
3522 establishing remedies and other matters relating to the rights and security
3523 of the holders of the bonds or other secured parties as determined by the
3524 state treasurer, including provisions relating to the establishment of
3525 reserves, the issuance of additional or refunding bonds, whether or not
3526 secured on a parity basis, the application of receipts, monies or funds
3527 pledged pursuant to such agreement, hereinafter referred to as 'pledged
3528 funds', and other matters deemed necessary or desirable by the state

3529 treasurer for the security of such bonds, and may also regulate the
3530 custody, investment and application of monies. Any such bonds shall be
3531 deemed to be investment securities under chapter 106, shall be securities
3532 in which any public officer, fiduciary, insurance company, financial
3533 institution or investment company may properly invest funds and shall be
3534 securities which may be deposited with any public custodian for any
3535 purpose for which the deposit of bonds is authorized by law. Any such
3536 bonds, their transfer and the income therefrom, including profit on the
3537 sale thereof, shall at all times be exempt from taxation by and within the
3538 commonwealth.

3539 The provisions hereof relating to bonds shall also be applicable to the
3540 issuance of notes insofar as such provisions may be appropriate
3541 therefore.

3542 In order to increase the marketability of any such bonds or notes
3543 issued by the commonwealth, and in consideration of the acceptance of
3544 payment for any such bonds or notes, the commonwealth covenants with
3545 the purchasers and all subsequent holders and transferees of any such
3546 bonds or notes that while any such bond or note shall remain
3547 outstanding, and so long as the principal of or interest on any such bond
3548 or note shall remain unpaid, (i) no pledged funds shall be diverted from
3549 the Commonwealth Transportation Fund, (ii) in any fiscal year of the
3550 commonwealth, unless and until an appropriation has been made which
3551 is sufficient to pay the principal, including sinking fund payments, of and
3552 interest on all such bonds and notes of the commonwealth and to provide
3553 for or maintain any reserves, additional security, insurance or other form
3554 of credit enhancement required or provided for in any trust agreement
3555 securing any such bonds or notes, no pledged funds shall be applied to
3556 any other use and (iii) so long as such revenues are necessary, as
3557 determined by the state treasurer in accordance with any applicable trust
3558 agreement or credit enhancement agreement, for the purposes for which
3559 they have been pledged, and notwithstanding the provisions of any
3560 general or special law to the contrary, the rates of the fees collected
3561 pursuant to section 33 and 34 of chapter 90 and of the excises imposed in
3562 chapters 64A, 64E, and 64F shall not be reduced below the amount in
3563 effect at the time of issuance of any such bond or note. The
3564 implementation by the commonwealth of a program of imposing
3565 roadway use fees in lieu of any tax on motor vehicle fuel imposed under
3566 chapter 64A shall be permitted and not constitute in any way a violation
3567 of the covenants contained in this paragraph or in any trust agreement or
3568 credit enhancement agreement pursuant to which special obligation

3569 bonds may be issued in accordance with this section, but only to the
3570 extent that an amount of roadway use fees equal to the amount of tax
3571 imposed under chapter 64A that is either refunded or not collected as a
3572 result of such program are applied under any applicable trust agreement
3573 or credit enhancement agreement in lieu of such taxes.

3574 SECTION 28. Section 2DD of said chapter 29 is hereby repealed.

3575 SECTION 29. Said chapter 29 is hereby further amended by
3576 inserting after section 2YYY the following section:-

3577 Section 2ZZZ. There shall be established and set up on the books of
3578 the commonwealth a separate fund to be known as the Commonwealth
3579 Transportation Fund, hereinafter called the fund, which shall be used
3580 exclusively for financing transportation-related purposes. There shall be
3581 credited to the fund all fees received by the registrar of motor vehicles
3582 pursuant to section 34 of chapter 90, all receipts paid into the treasury of
3583 the commonwealth and directed to be credited to the Commonwealth
3584 Transportation Fund pursuant to chapter 64A, 64E, 64F, or any other
3585 applicable general or special law, and all amounts appropriated into the
3586 fund by the general court. The fund shall be subject to appropriation and
3587 shall be used for transportation related expenses of the authority,
3588 including to pay or to reimburse the General Fund for payment of debt
3589 service on bonds issued by, or otherwise payable pursuant to a lease or
3590 other contract assistance agreement by, the commonwealth previously
3591 issued for transportation purposes.

3592
3593 Notwithstanding the foregoing, the crediting of receipts from the tax
3594 imposed pursuant to chapter 64A to the fund shall not affect in any way
3595 the obligations of the commonwealth relating to notes issued pursuant to
3596 sections 9 to 10D, inclusive, of chapter 11 of the acts of 1997 and the
3597 pledge of receipts from the portion of the tax per gallon imposed
3598 pursuant to said chapter 64A equal to 10 cents per gallon, to secure the
3599 payment of such bonds under the circumstances described in the trust
3600 agreements relating to such notes is hereby ratified and confirmed in all
3601 respects and shall remain in full force and effect as long as any such
3602 notes issued as of July 1, 2009 remain outstanding in accordance with
3603 their terms and secured by funds in the fund.

3604 SECTION 29A. Chapter 29 of the General Laws, as so appearing, is
3605 hereby amended by inserting after section 2ZZZ the following section:-

3606 Section 2AAAA. There shall be established and set upon the books of
3607 the commonwealth a separate fund to be known as the Capital
3608 Employees Transition Fund, hereinafter referred to as the fund, which

3609 shall be administered by the department of transportation. There shall be
 3610 credited to the fund: (a) 60 percent of all receipts collected pursuant to
 3611 section 2 of chapter 21J; and (b) any appropriations authorized by the
 3612 general court. Amounts credited to the fund shall be expended by the
 3613 department, in addition to any revenues appropriated by the general court
 3614 from the Commonwealth Transportation Fund, for the purpose of paying
 3615 for a portion of the department's operating costs that would have
 3616 otherwise been paid by bond proceeds. Operating costs may include, but
 3617 shall not be limited to, the full-time personnel expenses of the
 3618 department, as well as any expenses incurred by the department as part
 3619 of its normal operations. The comptroller shall certify payments,
 3620 including payments during the accounts payable period, in anticipation of
 3621 revenues from the fund for the purpose of making authorized
 3622 expenditures; provided however, that no expenditure shall cause the fund
 3623 to be in deficit at the end of a fiscal year.

3624 SECTION 30. Section 23 of said chapter 29, as appearing in the 2006
 3625 Official Edition, is hereby amended by striking out, in lines 11 and 12,
 3626 the word 'Turnpike' and inserting in place thereof the following words:-
 3627 Transportation and Infrastructure.

3628 SECTION 31. Section 64 of said chapter 29, as so appearing, is
 3629 hereby amended by striking out, in line 27, the word 'Turnpike' and
 3630 inserting in place thereof the following words:- Transportation and
 3631 Infrastructure.

3632 SECTION 32. Section 64A of said chapter 29, as so appearing, is
 3633 hereby further amended by striking out, in line 47, the word 'Turnpike'
 3634 and inserting in place thereof the following words:- Transportation and
 3635 Infrastructure.

3636 SECTION 33. Chapter 30 of the General Laws is hereby amended by
 3637 inserting after section 39S the following section:-

3638 Section 39T. Notwithstanding section 8 of chapter 268A, and in
 3639 addition to any other existing statutory authorizations, the following
 3640 agencies and authorities may, in their discretion, evaluate and implement
 3641 competitively procured owner controlled insurance programs, and may
 3642 permit the use of contractor controlled insurance programs, on projects
 3643 having estimated construction costs equal to or greater than \$50,000,000:
 3644 (a) the division of capital asset management and maintenance, (b) the
 3645 department of transportation, (c) the department of conservation and
 3646 recreation, (d) the Massachusetts Port Authority, (e) the Massachusetts
 3647 Water Resources Authority, (f) the Massachusetts State Colleges
 3648 Building Authority, and (g) the University of Massachusetts Building

3649 Authority; provided, however, that in the case of the department of
3650 transportation, the statewide road and bridge program shall be considered
3651 to be 1 project on which an owner controlled insurance program may be
3652 instituted.

3653 SECTION 34. Section 1 of chapter 32 of the General Laws is hereby
3654 amended by striking out, in line 203, as so appearing, the word
3655 'Turnpike' and inserting in place thereof the following words:-
3656 Transportation and Infrastructure.

3657 SECTION 35. Said section 1 of said chapter 32 is hereby further
3658 amended by inserting after the word 'connector', in line 211, as
3659 appearing in the 2006 Official Edition, the following words:- , the
3660 Massachusetts Transportation and Infrastructure Authority.

3661 SECTION 36. Section 2 of said chapter 32, as so appearing, is
3662 hereby further amended by striking out, in lines 29 and 30, the word
3663 'Turnpike' and inserting in place thereof, in each instance, the following
3664 words:- Transportation and Infrastructure.

3665 SECTION 37. Section 5 of said chapter 32, as so appearing, is
3666 hereby amended by striking out, in line 40, the word 'Turnpike' and
3667 inserting in place thereof the following words:- Transportation and
3668 Infrastructure.

3669 SECTION 38. Section 7 of said chapter 32, as so appearing, is
3670 hereby amended by striking out, in line 208, the word 'Turnpike' and
3671 inserting in place thereof the following words:- Transportation and
3672 Infrastructure.

3673 SECTION 39. Section 11 of said chapter 32, as so appearing, is
3674 hereby amended by striking out, in lines 177 and 184, the word
3675 'Turnpike' and inserting in place thereof, in each instance, the following
3676 words:- Transportation and Infrastructure.

3677 SECTION 40. Section 14 of said chapter 32, as so appearing, is
3678 hereby amended by striking out, in line 9, the word 'Turnpike' and
3679 inserting in place thereof the following words:- Transportation and
3680 Infrastructure.

3681 SECTION 41. Section 15 of said chapter 32, as so appearing, is
3682 hereby amended by striking out, in line 21, the word 'Turnpike' and
3683 inserting in place thereof the following words:- Transportation and
3684 Infrastructure.

3685 SECTION 42. Section 20 of said chapter 32, as so appearing, is
3686 hereby further amended by striking out, in lines 334, 336, and in line
3687 815, the word 'Turnpike' and inserting in place thereof, in each instance,
3688 the following words:- Transportation and Infrastructure.

3689 SECTION 43. Said section 20 of said chapter 32, as so appearing, is
3690 hereby amended by striking out subsection (4 1/2).

3691 SECTION 44. Subdivision (7) of section 22 of said chapter 32 is
3692 hereby amended by striking out paragraph (e).

3693 SECTION 45. Section 23 of said chapter 32, as so appearing, is
3694 hereby amended by striking out, in lines 10 and 19, the word 'Turnpike'
3695 and inserting in place thereof the following words:- Transportation and
3696 Infrastructure.

3697 SECTION 46. Section 24 of said chapter 32, as so appearing, is
3698 hereby amended by striking out, in line 9, the word 'Turnpike' and
3699 inserting in place thereof the following words:- Transportation and
3700 Infrastructure.

3701 SECTION 47. Section 25 of said chapter 32, as so appearing, is
3702 hereby amended by striking out, in line 96, the word 'Turnpike' and
3703 inserting in place thereof the following words:- Transportation and
3704 Infrastructure.

3705 SECTION 48. Section 28 of said chapter 32, as so appearing, is
3706 hereby amended by striking out, in line 233, the word 'Turnpike' and
3707 inserting in place thereof the following words:- Transportation and
3708 Infrastructure.

3709 SECTION 49. Said section 28 of said chapter 32, as so appearing, is
3710 hereby further amended by striking out, in lines 234, 247, 250, 254 and
3711 258, the word 'Turnpike' and inserting in place thereof, in each instance,
3712 the following words:- Transportation and Infrastructure.

3713 SECTION 50. Section 102 of said chapter 32, as so appearing, is
3714 hereby amended by striking out, in lines 76 and 77, the word 'Turnpike'
3715 and inserting in place thereof the following words:- Transportation and
3716 Infrastructure.

3717 SECTION 51. Section 2 of chapter 32A of the General Laws is
3718 hereby amended by inserting after the word 'authority', in line 12, as so
3719 appearing, the following words:- , the Massachusetts Transportation and
3720 Infrastructure Authority, the Massachusetts Bay Transportation
3721 Authority, the Massachusetts Turnpike.

3722 SECTION 52. Section 24 of chapter 40B of the General Laws, as so
3723 appearing, is hereby amended by striking out, in line 14, the word
3724 'Turnpike' and inserting in place thereof the following words:-
3725 Transportation and Infrastructure.

3726 SECTION 53. Section 10 of chapter 63 of the General Laws is
3727 hereby repealed.

3728 SECTION 54. Section 5 of chapter 59 of the General Laws is hereby
3729 amended by striking out clause thirty-eighth, as so appearing, and
3730 inserting in place thereof the following clause:-

3731 Thirty-eighth, In determining the valuation, for city and town tax
3732 purposes, of any privately owned airport, the value of any improvements
3733 on or to the landing area shall not be included, so long as the owner
3734 grants free use of said landing area to the general public for the landing,
3735 taking off and taxiing of aircraft; provided, however, that said airport
3736 meets the minimum requirements set forth by the aeronautics division in
3737 rules and regulations issued pursuant to section 39 of chapter 90, and is
3738 certified by the aeronautics division to be included within the needs of
3739 civil aeronautics as established by the state airport plan prepared
3740 pursuant to section 30A of said chapter 90, and is approved for
3741 commercial operation by the aeronautics division.

3742 SECTION 55. Section 7 of chapter 64A of the General Laws, as so
3743 appearing, is hereby amended by striking out, in line 12, the word
3744 'Turnpike' and inserting in place thereof the following words:-
3745 Transportation and Infrastructure.

3746 SECTION 56. Chapter 64A of the General Laws is hereby amended
3747 by striking out section 13, as amended by section 4 of chapter 233 of the
3748 acts of 2008, and inserting in place thereof the following section:-

3749 Section 13. All sums received from the excise imposed on aviation
3750 fuel, and related penalties, forfeitures, interest, costs of suits and fines,
3751 less all amounts for reimbursement under sections 7 and 7A, shall be
3752 credited to the Commonwealth Transportation Fund and may be used for
3753 airport development projects approved and carried out at airports and
3754 landing facilities under 49 U.S.C. App. s 2210; and all other sums
3755 received under the excise imposed in section 4, and relative penalties,
3756 forfeitures, interest, costs of suits and fines, less all amounts for
3757 reimbursement under said sections 7 and 7A, shall be credited as follows:
3758 (i) 99.85 percent shall be credited to the Commonwealth Transportation
3759 Fund to be used for transportation-related purposes; and (ii) 0.15 percent
3760 shall be credited to the Inland Fisheries and Game Fund, established by
3761 section 2C of chapter 131.

3762 SECTION 57. Section 5 of chapter 64E of the General Laws, as
3763 appearing in the 2006 Official Edition, is hereby amended by striking
3764 out, in line 8, the word 'Turnpike' and inserting in place thereof the
3765 following words:- Transportation and Infrastructure.
3766

3767 SECTION 58. Said chapter 64E is hereby further amended by
3768 striking out section 13, as so appearing, and inserting in place thereof the
3769 following section:-

3770 Section 13. All sums received under this chapter as excises,
3771 penalties, forfeitures, interest, costs of suits and fines shall be credited to
3772 the Commonwealth Transportation Fund to be used for transportation-
3773 related purposes.

3774 SECTION 59. Section 3 of chapter 64F of the General Laws, as so
3775 appearing, is hereby amended by striking out, in line 10, the word
3776 'Turnpike' and inserting in place thereof the following words:-
3777 Transportation and Infrastructure.

3778 SECTION 60. Said chapter 64F is hereby further amended by
3779 striking out section 14, as so appearing, and inserting in place thereof the
3780 following section:-

3781 Section 14. All sums received under this chapter as excises,
3782 penalties, forfeitures, interest, costs of suits and fines shall be credited to
3783 the Commonwealth Transportation Fund to be used for transportation-
3784 related purposes.

3785 SECTION 61. Section 25A of chapter 64H of the General Laws, as
3786 so appearing, is hereby amended by striking out, in line 3, the word
3787 'commission' and inserting in place thereof the following word:-
3788 division.

3789 SECTION 62. Section 26A of chapter 64I of the General Laws, as so
3790 appearing, is hereby amended by striking out, in line 3, the word
3791 'commission' and inserting in place thereof the following word:-
3792 division.

3793 SECTION 63. Section 1 of chapter 81 of the General Laws, as so
3794 appearing, is hereby amended by striking out, in line 1, the word
3795 'department' and inserting in place thereof the following word:- division.

3796 SECTION 64. Chapter 81A of the General Laws is hereby repealed.

3797 SECTION 65. Section 7A of chapter 85 of the General Laws, as
3798 appearing in the 2006 Official Edition, is hereby amended by striking
3799 out, in line 34, the word 'Turnpike' and inserting in place thereof the
3800 following words:- Transportation and Infrastructure.

3801 SECTION 66. Section 1 of chapter 90 of the General Laws, as so
3802 appearing, is hereby amended by striking out the definition of
3803 'Department' and inserting in place thereof the following definition:-

3804 'Department', the division of highways.

3805 SECTION 67. Section 1A of said chapter 90 is hereby amended by
3806 striking out the words 'or by the Massachusetts Turnpike Authority, the

3807 Massachusetts Bay Transportation Authority or the Massachusetts Port
3808 Authority', inserted by section 16 of chapter 303 of the acts of 2008, and
3809 inserting in place thereof the following words:- or the Massachusetts
3810 Transportation and Infrastructure Authority, the Massachusetts Bay
3811 Transportation Authority or the Massachusetts Port Authority.

3812 SECTION 68. Section 7A of said chapter 90, as so appearing, is
3813 hereby amended by striking out, in line 94, the words 'Highway Fund'
3814 and inserting in place thereof the following words:- Commonwealth
3815 Transportation Fund, established under section 2ZZZ of chapter 29.

3816 SECTION 69. Section 20G of said chapter 90, is hereby amended by
3817 striking out, in line 2, the word 'Turnpike' and inserting in place thereof
3818 the following words:- Transportation and Infrastructure.

3819 SECTION 70. Said chapter 90 is hereby amended by striking out
3820 section 34, as most recently amended by section 15 of chapter 302 of the
3821 acts of 2008, and inserting in place thereof the following section:-

3822 Section 34. The fees received under the preceding sections, together
3823 with all other fees received by the registrar or any other person under the
3824 laws of the commonwealth relating to the use and operation of motor
3825 vehicles and trailers shall be disposed of as follows: (i) an amount equal
3826 to the costs associated with the administration and enforcement of laws
3827 relative to the use and operation of motor vehicles and trailers and the
3828 operation of the division of motor vehicles shall be deposited into the
3829 General Fund; (ii) \$2 from every motorcycle registration issued pursuant
3830 to section 2 shall be deposited into the General Fund and used solely for
3831 the purpose of promoting and advancing motorcycle safety; (iii) all fees
3832 from the issuance of veterans plates pursuant to section 2, in excess of
3833 the fees set for the registration of the motor vehicle, shall be deposited
3834 into the General Fund; and (iv) any amount remaining after compliance
3835 with clause (i), (ii) and (iii) shall be deposited into the Commonwealth
3836 Transportation Fund established pursuant to section 2ZZZ of chapter 29.

3837 SECTION 71. Section 34½ of said chapter 90 is hereby repealed.

3838 SECTION 72. Section 35 of said chapter 90, as appearing in the 2006
3839 Official Edition, is hereby amended by striking out, in line 74, the word
3840 'commission' and inserting in place thereof the word:- division.

3841 SECTION 73. Said section 35 of said chapter 90, as so appearing, is
3842 hereby further amended by striking out, in lines 75 and 76, the words
3843 'the director of aeronautics employed by the commission' and inserting
3844 in place thereof the following words:- the undersecretary for aeronautics.

3845 SECTION 74. Section 50 of said chapter 90, as so appearing, is
3846 hereby amended by striking out, in line 5, the words 'chairman of the

3847 commission' and inserting in place thereof the following words:-
3848 undersecretary for aeronautics.

3849 SECTION 75. Section 1 of chapter 90C of the General Laws, as
3850 appearing in the 2006 Official Edition, is hereby amended by striking
3851 out, in line 59, the word 'Turnpike' and inserting in place thereof the
3852 following words:- Transportation and Infrastructure.

3853 SECTION 76. Section 1 of chapter 90E of the General Laws, as so
3854 appearing, is hereby amended by striking out, in line 16, the word
3855 'department' and inserting in place thereof the following word:- division.

3856 SECTION 77. Said section 1 of said chapter 90E, as so appearing, is
3857 hereby further amended by striking out, in line 17, the words
3858 'commissioner of' and inserting in place thereof the following words:-
3859 undersecretary for.

3860 SECTION 78. Section 1 of chapter 90H of the General Laws, as so
3861 appearing, is hereby amended by striking out, in line 4, the word
3862 'department' and inserting in place thereof the following word:- division.

3863 SECTION 79. Said section 1 of said chapter 90H, as so appearing, is
3864 hereby further amended by striking out, in line 5, the words
3865 'commissioner of' and inserting in place thereof the following words:-
3866 undersecretary for.

3867 SECTION 80. The first paragraph of section 35 of chapter 92 of the
3868 General Laws, as so appearing, is hereby amended by adding the
3869 following sentence:- The commission shall submit its plans for any such
3870 connection to the secretary of transportation and the undersecretary for
3871 highways so that it may be included in their capital plans.

3872 SECTION 81. Section 251 of chapter 112 of the General Laws, as
3873 appearing in section 2 of chapter 232 of the acts of 2008, is hereby
3874 amended by striking out the second sentence and inserting in place
3875 thereof the following sentence:- Such instrumentalities shall include, but
3876 not be limited to, the Massachusetts Transportation and Infrastructure
3877 Authority, the Massachusetts Bay Transportation and the Massachusetts
3878 Water Resources Authority, and all plans for sheet metal work in such
3879 buildings and shall be subject to the approval of the board.

3880 SECTION 82. Section 1A of chapter 119A of the General Laws, as
3881 appearing in the 2006 Official Edition, is hereby amended by striking
3882 out, in line 82, the word 'Turnpike' and inserting in place thereof the
3883 following words:- Transportation and Infrastructure.

3884 SECTION 83. Section 40A of chapter 131 of the General Laws, as so
3885 appearing, is hereby amended by striking out, in line 95, the word

3886 'commission' and inserting in place thereof the following words:-
3887 division.

3888 SECTION 84. Section 45 of said chapter 131, as so appearing, is
3889 hereby amended by striking out, in line 36, the word 'commission' and
3890 inserting in place thereof the following words:- division.

3891 SECTION 85. Section 21 of chapter 142 of the General Laws is
3892 hereby amended by striking out, in line 5, the word 'Turnpike' and
3893 inserting in place thereof the following words:- Transportation and
3894 Infrastructure.

3895 SECTION 86. Section 3A of chapter 143 of the General Laws, as so
3896 appearing, is hereby amended by striking out in line 27, the word
3897 'Turnpike' and inserting in place thereof the following words:-
3898 Transportation and Infrastructure.

3899 SECTION 87. Section 94 of said chapter 143, as so appearing, is
3900 hereby amended by striking out, in line 10, the word 'Turnpike' and
3901 inserting in place thereof the following words:- Transportation and
3902 Infrastructure.

3903 SECTION 88. Section 73 of said chapter 152, as so appearing, is
3904 hereby amended by striking out, in line 5, the word 'Turnpike' and
3905 inserting in place thereof the following words:- Transportation and
3906 Infrastructure.

3907 SECTION 89. Said section 73 of said chapter 152, as so appearing, is
3908 hereby further amended by striking out, in line 9, the words 'any police
3909 officer of'.

3910 SECTION 90. Said section 73 of said chapter 152, as so appearing, is
3911 hereby further amended by inserting after the first sentence the following
3912 sentence:- Notwithstanding the provisions of any general or special law
3913 to the contrary, any present and former Massachusetts bay transportation
3914 authority employee or retiree entitled to compensation under section 31,
3915 34, 34A, 35, 35A or 36 and who is also entitled to a pension by reason of
3916 the same injury shall elect whether he will receive such compensation or
3917 such pension, and shall not receive both, except in the manner and to the
3918 extent provided by section 14 of chapter 32; provided, further, that the
3919 requirement to make said election shall apply to all former Massachusetts
3920 bay transportation authority employees or retirees presently receiving or
3921 entitled to receive benefits under section 31, 34, 34A, 35, 35A or 36 and
3922 who are also receiving or entitled to a pension by reason of the same
3923 injury.

3924 SECTION 91. Section 1 of chapter 159A of the General Laws, as so
3925 appearing, is hereby amended by striking out, in line 12, the word

3926 'Turnpike' and inserting in place thereof the following words:-
3927 Transportation and Infrastructure.

3928 SECTION 92. Section 1 of chapter 161A of the General Laws, as so
3929 appearing, is hereby amended by striking out the definition of
3930 'Department' and inserting in place thereof the following definition:-

3931 'Department', the Massachusetts transit division within the
3932 department of transportation.

3933 SECTION 93. Said section 1 of said chapter 161A, as so appearing,
3934 is hereby further amended by striking out the definition of 'Secretary'
3935 and inserting in place thereof the following definition:-

3936 'Secretary', the undersecretary of transportation for mass transit
3937 within the department of transportation.

3938 SECTION 94. Section 3 of said chapter 161A, as so appearing, is
3939 hereby amended by striking out, in lines 12 to 16, inclusive, the words '
3940 provided, however, the authority may bind itself by contract to employ
3941 not more than five senior officers but no such contract shall be for a
3942 period of more than five years'.

3943 SECTION 94A. Section 3 of chapter 161A of the General Laws, as
3944 appearing in the 2006 Official Edition, is hereby amended by striking
3945 out, in line 83, the word 'chapter' and inserting in place thereof the
3946 following words:- chapter; provided, however, that such facilities shall
3947 comply with local zoning ordinances and regulations with respect to any
3948 commercial, above ground sign advertising in or on such facilities and
3949 equipment, unless such sign (i) receives approval by the local governing
3950 body (ii) does not exceed the dimensions of the building or transit station
3951 or stop to which it is affixed (iii) is solely related to mass transportation
3952 services and operations or (iv) is affixed to a mobile transit vehicle.

3953 SECTION 94B. Said section 3 of said chapter 161A of the General
3954 Laws, as appearing in the 2006 Official Edition, is hereby amended by
3955 striking out subsection (n) and inserting in place thereof the following
3956 subsection:-

3957 (n) To sell, lease or otherwise contract for advertising in or on the
3958 facilities of the authority; provided, however, that that such facilities
3959 shall comply with local zoning ordinances and regulations with respect to
3960 any commercial, above ground sign advertising in or on such facilities,
3961 unless such sign (i) receives approval by the local governing body (ii)
3962 does not exceed the dimensions of the building or transit station or stop
3963 to which it is affixed (iii) is solely related to mass transportation services
3964 and operations or (iv) is affixed to a mobile transit vehicle. No structure

3965 shall be constructed with the purpose of circumventing the intent of this
3966 paragraph.

3967 SECTION 95. Said chapter 161A is hereby further amended by
3968 striking out section 7, as so appearing, and inserting in place thereof the
3969 following section:-

3970 Section 7. The authority shall be governed and its corporate powers
3971 exercised by a board of directors. The authority shall consist of the
3972 governor, who shall serve as chairperson, and 4 additional members
3973 appointed by the governor for a term of 3 years, 2 of whom shall be
3974 experts in the field of public or private transportation finance; 1 of whom
3975 shall have practical experience in transportation planning and policy; and
3976 1 of whom shall be a registered civil engineer with at least 10 years
3977 experience. Any person appointed to fill a vacancy in the office of a
3978 member of the board shall be appointed in a like manner and shall serve
3979 for only the unexpired term of such member. Any member shall be
3980 eligible for reappointment. Any member may be removed from his
3981 appointment by the governor for cause. The governor may appoint a
3982 designee pursuant to section 6A of chapter 30. A majority of the
3983 directors shall constitute a quorum, which shall be required to take any
3984 particular action. The directors shall meet monthly; provided, however,
3985 that said meeting shall occur no later than the fifteenth day of the month.
3986 Each meeting shall provide a sufficient opportunity for public comment.

3987 NO SECTION 96.

3988 SECTION 97. Section 20 of said chapter 161A, as so appearing, is
3989 hereby amended by striking out, in line 2, the word 'March 1' and
3990 inserting in place thereof the following word:- March 15.

3991 SECTION 98. Said section 20 of said chapter 161A, as so appearing,
3992 is hereby further amended by striking out, in line 4, the word 'March 15'
3993 and inserting in place thereof the following word:- April 15.

3994 SECTION 99. Section 38 of said chapter 161A, as so appearing, is
3995 hereby amended by striking out, in lines 4 and 5, the words 'to the same
3996 extent as though the authority were a street railway company'.

3997 SECTION 100. Said section 38 of said chapter 161A, as so
3998 appearing, is hereby further amended by striking out the second
3999 paragraph.

4000 SECTION 101. Section 43 of said chapter 161A, as so appearing, is
4001 hereby amended by striking out, in line 7, the words 'not less than'.

4002 SECTION 102. Said section 43 of said chapter 161A, as so
4003 appearing, is hereby further amended by striking out the second
4004 paragraph and inserting in place thereof the following paragraph:-

4005 For the purposes of this section, the term ‘railroad’ shall include any
4006 person, railroad corporation or other legal entity in the business of
4007 providing rail transportation which contracts or enters into a legal
4008 agreement with the Massachusetts Bay Transportation Authority for the
4009 provision or accommodation of commuter rail services. For the purposes
4010 of this section, the term ‘commuter rail services’ shall include all
4011 services performed by a railroad pursuant to a contract or any other
4012 agreement with the Massachusetts Bay Transportation Authority in
4013 connection with the transportation of rail passengers including, but not
4014 limited to, the operation of trains, trackage and equipment, or the
4015 construction, reconstruction or maintenance of railroad equipment, tracks
4016 and any appurtenant facilities or the provision of trackage rights over
4017 lines owned by any such railroad.

4018 SECTION 103. Section 1 of chapter 161B of the General Laws, as so
4019 appearing, is hereby amended by striking out the definition of
4020 ‘Department’ and inserting in place thereof the following definition:-

4021 ‘Department’, the Massachusetts transit division within the
4022 department of transportation.

4023 SECTION 104. Said section 1 of said chapter 161B, as so appearing,
4024 is hereby further amended by striking out the definition of ‘Secretary’
4025 and inserting in place thereof the following definition:-

4026 ‘Secretary’, the undersecretary of transportation for mass transit
4027 within the department of transportation.

4028 SECTION 105. Section 2 of chapter 161C of the General Laws, as so
4029 appearing, is hereby amended by striking out the definition of ‘Executive
4030 office’ and inserting in place thereof the following definition:-

4031 ‘Executive office’, the Massachusetts transit division within the
4032 department of transportation.

4033 SECTION 106. Said section 1 of said chapter 161C, as so appearing,
4034 is hereby further amended by striking out the definition of ‘Secretary’
4035 and inserting in place thereof the following definition:-

4036 ‘Secretary’, the undersecretary of transportation for mass transit
4037 within the department of transportation.

4038 SECTION 107. Section 2 of chapter 161D of the General Laws, as so
4039 appearing, is hereby amended by striking out the definition of ‘Executive
4040 office’ and inserting in place thereof the following definition:-

4041 ‘Executive office’, the Massachusetts transit division within the
4042 department of transportation.

4043 SECTION 108. Said section 2 of said chapter 161D, as so appearing,
4044 is hereby further amended by striking out the definition of ‘Secretary’
4045 and inserting in place thereof the following definition:-

4046 ‘Secretary’, the undersecretary of transportation for mass transit
4047 within the department of transportation.

4048 SECTION 109. Section 1 of chapter 218 of the General Laws, as so
4049 appearing, is hereby amended by striking out, in line 243, the word
4050 ‘Turnpike’ and inserting in place thereof the following words:-
4051 Transportation and Infrastructure.

4052 SECTION 110. Section 1 of chapter 258 of the General Laws, as so
4053 appearing, is hereby amended by inserting after the word ‘including’, in
4054 line 40, the following words:- the Massachusetts Transportation and
4055 Infrastructure Authority, the Massachusetts Bay Transportation
4056 Authority, any duly constituted regional transit authority, and the
4057 Massachusetts Turnpike Authority.

4058 SECTION 111. Said section 1 of chapter 258 of the General Laws, as
4059 so appearing, is hereby amended by striking out, in lines 50 to 52,
4060 inclusive, the words ‘the Massachusetts Bay Transportation Authority,
4061 the Massachusetts Port Authority, the Massachusetts Turnpike’ and
4062 inserting in place thereof the following words:- the Massachusetts Port
4063 Authority, the Massachusetts Transportation and Infrastructure.

4064 SECTION 112. Said section 1 of said chapter 258, as so appearing, is
4065 hereby further amended by adding the following definition:-

4066 ‘Serious bodily injury’, bodily injury which results in a permanent
4067 disfigurement, or loss or impairment of a bodily function, limb, or organ.

4068 SECTION 113. The first paragraph of section 10 of said chapter 258,
4069 as so appearing, is hereby amended by adding the following subsection:-

4070 (k) any claim against the Massachusetts Bay Transportation Authority
4071 for a serious bodily injury.

4072 SECTION 114. Section 8 of chapter 268A of the General Laws, as so
4073 appearing, is hereby amended by inserting after the word ‘bonds’, in line
4074 13, the following words:- ; provided, further, that this section shall not
4075 prohibit any state, county or municipal employee or any person acting on
4076 behalf of such employee, or any state, county or municipal agency, with
4077 respect to any public building or construction project, from evaluating
4078 and implementing an owner controlled insurance program, so called,
4079 where such evaluation has resulted in a determination that
4080 implementation of an owner controlled insurance program as a risk
4081 management tool associated with the public building or construction

4082 contract is in the best interests of the state, county, or municipality
4083 issuing and responsible for the public building or construction contract.

4084 SECTION 115. Section 1 of chapter 465 of the acts of 1956 is hereby
4085 amended by inserting after subsection (a) the following new subsection:-

4086 (a½) The words advisory board shall mean the advisory board
4087 established pursuant to section 36 of this act.

4088 SECTION 116. Said chapter 465 is hereby further amended by
4089 adding the following section:-

4090 Section 36. (a) There shall be an advisory board to the authority
4091 consisting of a voting representative of each of the following cities and
4092 towns: Braintree, Bedford, Brookline, Cambridge, Chelsea, Cohasset,
4093 Concord, Everett, Hingham, Hull, Lexington, Lincoln, Malden, Melrose,
4094 Medford, Milton, Nahant, Quincy, Revere, Somerville, Weymouth, and
4095 Winthrop, Worcester; provided, further, that the city of Boston shall have
4096 7 voting representatives, 1 of whom shall be a resident of the Beacon Hill
4097 or South End sections of the city of Boston, 1 of whom shall be a
4098 resident of the East Boston section of the city of Boston, 1 of whom shall
4099 be a resident of the Dorchester or Roxbury sections of the city of Boston,
4100 1 of whom shall be a resident of the Charlestown section of Boston, 1 of
4101 whom shall be a resident of the South Boston section of the city of
4102 Boston, 1 of whom shall be a resident of the Roslindale or Hyde Park
4103 sections of the city of Boston, and 1 of whom shall be a resident of the
4104 West Roxbury or Jamaica Plain sections of the city of Boston. The
4105 members of the advisory board shall consist of the chief executive officer
4106 thereof; provided, however, that any chief executive officer, by writing
4107 filed with the authority, may appoint a permanent designee to serve in his
4108 stead as a member of said advisory board until the expiration of each
4109 term of office of the designating chief executive officer or the earlier
4110 vacancy of the office of the designating chief executive officer; provided,
4111 further, that if the chief executive officer of the city of Boston opts to
4112 serve as the representative for the city of Boston to the advisory board,
4113 he shall be deemed to represent the forgoing sections of the city of
4114 Boston; provided further that a permanent designee shall be versed in at
4115 least 1 of the following 3 disciplines: environmental affairs,
4116 community/airport relations or public health. For the purpose of this
4117 section, the term 'chief executive officer' shall mean the person
4118 designated as the chief executive officer under the provisions of a local
4119 charter or laws having the force of a charter, and otherwise the mayor in
4120 every city and the chairman of the board of selectmen or president of the
4121 town council, as the case may be, in every town.

4122 (b) Except as otherwise prescribed in this section, each voting
4123 representative shall cast 1 vote on the advisory board. Each voting
4124 representative of the several sections of the city of Boston as listed in
4125 paragraph (a) shall cast 1 vote. Wherein the chief executive officer of
4126 the city of Boston shall opt to serve as the representative to the advisory
4127 board for the city of Boston, he shall cast 7 votes.

4128 (c) Said advisory board may act at a regular periodic meeting called
4129 in accordance with its by-laws; or at a special meeting called by the
4130 authority; or if a majority of board members choose to do so. Except as
4131 specially provided in paragraph (f), a quorum of the advisory board shall
4132 consist of a simple majority of voting members present, and the advisory
4133 board may act, except as otherwise provided in paragraph (f), by
4134 affirmative casting of a majority of the votes represented in the quorum.
4135 The advisory board shall be deemed to be a governing body for the
4136 purposes of, and shall be subject to, section 11A½ of chapter 30A of the
4137 General Laws.

4138 (d) Said advisory board shall annually elect a chairperson, a vice-
4139 chairperson, a secretary and such officers as said advisory board might
4140 determine. Each officer may be removed by a two-thirds vote of the
4141 advisory board without cause. In the event of a vacancy, said board shall
4142 fill the vacancy for the unexpired term. Each member of said advisory
4143 board shall serve without compensation but may be reimbursed, as an
4144 expense of said advisory board, for all reasonable expenses incurred in
4145 the performance of his duties as approved by the advisory board.

4146 (e) The advisory board shall without limitation: (i) make
4147 recommendations to the authority on annual current expense expenditure
4148 budgets submitted to the advisory board under paragraph (j); (ii) hold
4149 hearings, which may be held jointly with the authority at the discretion of
4150 the advisory board and said authority, on matters relating to said
4151 authority; (iii) review the annual report of the authority and to prepare
4152 comments thereon to the authority and the governor, and to make such
4153 examinations of the reports on the authority's records and affairs as the
4154 advisory board deems appropriate; and (iv) make recommendations to
4155 the governor and the general court respecting the authority and its
4156 programs. The advisory board shall have all powers necessary or
4157 convenient to carry out and effectuate the foregoing purposes.

4158 (f) Within 30 days of receiving any proposed current expense budget
4159 of the authority or within 15 days of receiving any proposed amended
4160 expense budget of the authority, the advisory board shall hold a public
4161 hearing on matters relating to said budget for the purpose of ascertaining,

4162 for subsequent report to the authority if necessary, the views of the
4163 public thereon.

4164 (g) The advisory board shall appoint an ombudsman who, with the
4165 assistance from such staff and consultants as the advisory board may
4166 authorize and appoint, shall act for and in the name of the advisory board
4167 in the following respects: (i) preparation of analysis for the advisory
4168 board of the authority's current expense budgets, capital expenditure
4169 budgets and capital programs and their effect on the charges of said
4170 authority; (ii) representation of the advisory board to said authority on all
4171 matters pertaining to said authority's programs, operations, finances and
4172 charges; (iii) reporting regularly to the advisory board on the activities of
4173 the ombudsman and other staff of the advisory board, on the affairs of
4174 the authority, and on the effect of the authority's program and operations
4175 on residents of neighboring communities; (iv) exercising such other
4176 duties and responsibilities consistent with the powers of the advisory
4177 board as the advisory board may assign from time to time.

4178 (h) The advisory board may incur annual expenses, not to exceed
4179 \$250,000 for expenses authorized under paragraph (c) and for personnel
4180 and office expenses. Said annual expenses shall be paid by the authority.

4181 (i) The authority shall provide any information, including but not
4182 limited to, annual current expense expenditure budgets and capital
4183 expenditure reports, requested by the advisory board which are necessary
4184 for the discharge of its duties; provided, however, that the advisory board
4185 shall not be granted access to any information if it be determined by the
4186 executive director of the authority and the director of security for the
4187 authority that the release of such information would be detrimental to
4188 public safety; provided, further, that said determination shall be made in
4189 writing and said writing shall be delivered to the advisory board within 2
4190 days; and, provided, further, that said writing shall be signed by the
4191 executive director and director of security of said authority under pains
4192 and penalties of perjury.

4193 SECTION 117. Section 2 of chapter 634 of the acts of 1971, as most
4194 recently amended by section 1 of chapter 364 of the acts of 1990, is
4195 hereby further amended by striking out the second paragraph and
4196 inserting in place thereof the following paragraph:-

4197 Following acquisition of said bridges by the department, said
4198 department shall, in its sole discretion, furnish or otherwise provide for
4199 the necessary flag protection on the railroad rights-of-way of the
4200 Massachusetts Bay Transportation Authority, which may be required

4201 when the department is performing inspection, maintenance and repair,
4202 reconstruction, or replacement of any such bridges.

4203 SECTION 118. Subsection (c) of section 83 of chapter 4 of the acts
4204 of 2003, as most recently amended by section 8 of chapter 228 of the acts
4205 of 2007, is hereby amended by striking out the words 'Central Artery and
4206 Statewide Road and Bridge Infrastructure Fund established under section
4207 63 of chapter 10 of the General Laws' and inserting in place thereof the
4208 following words:- Massachusetts Transportation and Infrastructure Fund
4209 established pursuant to section 4 of chapter 6C of the General Laws.

4210 SECTION 119. (a) Notwithstanding the provisions of any general or
4211 special law to the contrary, the Massachusetts Transportation and
4212 Infrastructure Authority and the Massachusetts Turnpike Authority are
4213 hereby authorized and directed to develop and implement a transfer
4214 agreement providing for the orderly transfer and provisional appointment
4215 of personnel from the turnpike authority to the Massachusetts
4216 Transportation and Infrastructure Authority consistent with the
4217 provisions contained herein as well as the transfer of all assets, liabilities,
4218 obligations, and debt of said authority to Massachusetts Transportation
4219 and Infrastructure Authority not later than July 1, 2010; provided,
4220 further, that said transfer should be effectuated upon a vote by the
4221 Massachusetts Transportation and Infrastructure Authority to assume
4222 responsibility for the liabilities, obligations and debts of the former
4223 turnpike authority. Upon the assumption of the outstanding liabilities,
4224 obligations, and debt of the authority by the Massachusetts
4225 Transportation and Infrastructure Authority, said authority shall be
4226 dissolved and, without further conveyance or other act, all the assets,
4227 liabilities, obligations and debt as well as all rights, powers and duties of
4228 the authority shall be transferred to and assumed by Massachusetts
4229 Transportation and Infrastructure Authority. Unless specifically provided
4230 to the contrary, the terms 'turnpike,' 'Ted Williams tunnel,' 'Sumner
4231 tunnel,' and 'metropolitan highway system' as used in this section, and
4232 elsewhere in this act, shall have the meanings ascribed to them in chapter
4233 81A of the General Laws.

4234 (b) On the date the authority is dissolved, but not later than July 1,
4235 2010: (i) ownership, possession, and control of all personal property,
4236 including, but without limitation, all equipment, books, maps, papers,
4237 plans, records and documents of whatever description pertaining to the
4238 design, construction, use, operation, and general affairs of the turnpike
4239 and metropolitan highway system which are in the possession of the
4240 Massachusetts Turnpike Authority or any division, unit, officer or

4241 employee thereof shall pass to and be vested in the Massachusetts
4242 Transportation and Infrastructure Authority without consideration or
4243 further evidence of transfer and shall thereafter be in the possession and
4244 control of the highway division; (ii) ownership, possession, and control
4245 of all real property, including, without limitation, all land, buildings,
4246 highways, bridges, tunnels and other highway elements of whatever
4247 description that are owned by the Massachusetts Turnpike Authority or
4248 any division or unit thereof shall pass to and be vested in the
4249 Massachusetts Transportation and Infrastructure Authority without
4250 consideration or further evidence of transfer and shall thereafter be a part
4251 of the state highway system under the possession and control of the
4252 highway division; provided, however, that prior to such dissolution, the
4253 Massachusetts Turnpike Authority shall be authorized to transfer, for
4254 nominal consideration, to the Massachusetts Bay Transportation
4255 Authority, all of its right title and interest in the land, track and other
4256 property comprising the rail line and right of way extending from the
4257 South Bay section of the city of Boston to the city of Newton; provided,
4258 further, that the authority shall retain any portion of or interest in such
4259 rail line and right of way deemed by the authority or the highway
4260 division, with the approval of the Massachusetts Transportation and
4261 Infrastructure Authority, to be necessary for the operation of the turnpike
4262 or the metropolitan highway system; and (iii) all duly existing contracts,
4263 leases, or obligations of the Massachusetts Turnpike Authority with
4264 respect to the turnpike or metropolitan highway system which remain in
4265 force immediately prior to the effective date of the dissolution of the
4266 authority, shall be deemed to be the obligations of the Massachusetts
4267 Transportation and Infrastructure Authority. No existing right or remedy
4268 under this section shall be lost, impaired or affected by this act. The
4269 Massachusetts Transportation and Infrastructure Authority shall have
4270 authority to exercise all rights and enjoy all interests conferred upon the
4271 Massachusetts Turnpike Authority by said contracts, leases, or
4272 obligations. In the case of collective bargaining agreements, any
4273 obligations under said agreements shall expire on the stated date of
4274 expiration of such agreements.

4275 (c) The transfer of the assets, liabilities, obligations, and debt of the
4276 Massachusetts Turnpike Authority to the department under this act shall
4277 be effective upon dissolution of said authority and shall bind all persons,
4278 with or without notice and without any further action or documentation.
4279 Without derogating from the foregoing, the department of transportation
4280 may, from time to time, execute and record and file for registration with

4281 any registry of deeds or the land court or with the secretary of the
4282 commonwealth, as appropriate, a certificate confirming the
4283 commonwealth's ownership of any interest in real or personal property
4284 formerly held by the Massachusetts Turnpike Authority and transferred
4285 pursuant to the provisions of this act and establishing and confirming the
4286 limits of state highway so transferred.

4287 (d) This act shall not limit or impair the rights, remedies, or defenses
4288 of the commonwealth, the department of transportation, or the
4289 Massachusetts Turnpike Authority in or to any such action including,
4290 without limitation, the provisions of section 18 of chapter 81 and chapter
4291 258. All actions or proceedings shall be subject to the provisions of said
4292 section 18 of chapter 81 and chapter 258. Except as expressly excepted
4293 by the previous sentence, actions and proceedings against or on behalf of
4294 the Massachusetts Turnpike Authority shall continue unabated and, from
4295 and after the date of dissolution of the authority, may be completed
4296 against or by the department of transportation.

4297 (e) Prior to any transfer of assets owned by the Massachusetts
4298 turnpike authority, the undersecretary of the division of highways, in
4299 consultation with the Treasurer of the commonwealth and the executive
4300 director of the pension reserves investment management board, shall
4301 study and assess current market value of real property under the
4302 ownership, possession, and control of the Massachusetts turnpike
4303 authority, including but not limited to, any land or buildings, and
4304 determine whether such assets are surplus to the operation of the
4305 Turnpike or Metropolitan highway system, as defined by section 1 of
4306 chapter 6C, and whether such assets present the potential to meet the
4307 pension fund's assumed rate of return for investments. Any such assets
4308 deemed to be both surplus and as presenting the potential to meet the
4309 pension fund's assumed rate of return for investments, prior to being
4310 transferred to the division, may be purchased at the current market value
4311 by the pension fund, subject to the approval of the undersecretary of the
4312 division of highways and the pension reserves investment management
4313 board. Any proceeds generated from such a sale shall be deposited in the
4314 Massachusetts Transportation and Infrastructure Fund, established
4315 pursuant to section 4 of chapter 6C.

4316
4317 SECTION 120. Notwithstanding any general or special law to the
4318 contrary, any order, rule, or regulation duly promulgated, or any license,
4319 permit, certificate or approval duly granted, by or on behalf of the
4320 Massachusetts Turnpike Authority shall continue in effect from and after

4321 the date of dissolution of the authority and shall be enforced by the
4322 department of transportation until superseded, revised, rescinded or
4323 cancelled by the department of transportation.

4324 SECTION 121. Notwithstanding any general or special law to the
4325 contrary, the department shall, in consultation with the Federal Highway
4326 Administration, inventory the requirements for, and assume the
4327 responsibilities of, rehabilitating and reconstructing the turnpike and
4328 metropolitan highway system in compliance with Title 23 of the United
4329 States Code. Said inventory shall include operational and safety
4330 considerations associated with direct access to the mainline roadway
4331 from (i) maintenance, administration, and state police facilities, (ii)
4332 emergency median crossovers, and (iii) adjacent local roadways and
4333 service plazas.

4334 SECTION 122. (a) On July 1, 2009, each employee of the
4335 Massachusetts Turnpike Authority whose salary is paid out of revenue
4336 generated by the authority as defined in section 3 of chapter 81A of the
4337 General Laws, and whose salary is accounted for on the books of the
4338 Massachusetts Turnpike Authority as arising from revenue generated that
4339 authority shall become an employee of the Massachusetts Transportation
4340 and Infrastructure Authority, hereinafter referred to as the Authority.

4341 (b) On July 1, 2010, all remaining employees of the Massachusetts
4342 Turnpike Authority shall become employees of the Massachusetts
4343 Transportation and Infrastructure Authority.

4344 (c) All officers and employees of the Massachusetts Turnpike
4345 Authority transferred to the service of the Massachusetts Transportation
4346 and Infrastructure Authority shall be transferred without impairment of
4347 seniority, civil service status, retirement or other statutory rights of
4348 employees, without reduction in compensation or salary grade,
4349 notwithstanding any change in job titles or duties, without loss of
4350 accrued rights to holidays, sick leave, vacation and other benefits, and
4351 without change in union representation, except as otherwise provided in
4352 this act. Terms of service of employees of the Massachusetts Turnpike
4353 Authority shall not be deemed to be interrupted by virtue of transfer to
4354 the Massachusetts Transportation and Infrastructure Authority.

4355 (d) Rights and obligations under collective bargaining agreements
4356 with respect to employees transferred from the Massachusetts Turnpike
4357 Authority, except to the extent expressly inconsistent with this act, shall
4358 be assumed by and imposed upon the Massachusetts Transportation and
4359 Infrastructure Authority. Except to the extent expressly inconsistent with
4360 this act, any collective bargaining agreement in effect for such

4361 transferred employees immediately before the transfer date shall continue
4362 as if the employees had not been so transferred, until the expiration date
4363 of such collective bargaining agreement. The Massachusetts
4364 Transportation and Infrastructure Authority shall negotiate in good faith
4365 pursuant chapter 150E of the General Laws with respect to wages, hours
4366 and other terms and conditions of employment to become effective as of
4367 the expiration date of such collective bargaining agreement. Any expired
4368 collective bargaining agreement covering employees transferred to the
4369 Massachusetts Transportation and Infrastructure Authority for which
4370 successor contract negotiations are on-going as of March 1, 2009 shall be
4371 extended for 6 months after the effective date of the act, unless mutually
4372 agreed otherwise by the employees' exclusive bargaining representative
4373 and the Massachusetts Transportation and Infrastructure Authority, to
4374 permit the successful completion of successor negotiations. Nothing in
4375 this section shall be construed to confer upon any employee any right not
4376 held immediately prior to the date of the transfer or to prohibit any
4377 reduction of salary or grade, transfer, reassignment, suspension,
4378 discharge, layoff or abolition of position not prohibited before such date.

4379 (e) Notwithstanding any general or special law to the contrary, an
4380 employee of the Massachusetts Turnpike Authority who is hired on or
4381 after the effective date of this act shall only be eligible for health care
4382 coverage under the group insurance commission, provided that the
4383 employee meets the eligibility requirements of the group insurance
4384 commission.

4385 SECTION 123. Notwithstanding any general or special law to the
4386 contrary, upon the effective date of section 124, the Massachusetts
4387 Transportation and Infrastructure Authority established pursuant to
4388 chapter 6C shall be the successor to the financial obligations of the
4389 Massachusetts Turnpike Authority and shall be deemed to have assumed,
4390 without any further action, all rights, duties and obligations of the
4391 Massachusetts Turnpike Authority in effect as of said date.
4392 Notwithstanding the foregoing, no existing rights of the holders of the
4393 bonds issued by the Massachusetts Turnpike Authority under chapter
4394 81A of the General Laws shall be impaired hereby, and the authority, as
4395 successor in interest to the Massachusetts Turnpike Authority, shall
4396 maintain the covenants of the trust indentures pertaining to such bonds so
4397 long as such bonds shall remain outstanding.

4398 SECTION 124. (a) Notwithstanding the provisions of any general or
4399 special law to the contrary, employees of the Massachusetts Turnpike
4400 Authority who become state employees under this act and who are

4401 eligible for group insurance coverage pursuant to chapter 32A of the
 4402 General Laws shall receive the full extent of benefits provided to existing
 4403 state employees. Said employees shall cease to be eligible or insured by
 4404 the authority. The group insurance commission, hereinafter referred to as
 4405 the commission, shall provide uninterrupted coverage for group life and
 4406 accidental death and dismemberment insurance and group general or
 4407 blanket insurance providing hospital, surgical, medical, dental, and other
 4408 health insurance benefits pursuant to said chapter 32A.

4409 (b) Notwithstanding the provisions of any general or special law to
 4410 the contrary, retired employees of the Massachusetts Turnpike Authority
 4411 and the surviving spouses of active or retired authority employees who
 4412 are eligible for group insurance coverage pursuant to this section and
 4413 said chapter 32A shall have said eligibility and coverage transferred to
 4414 the commission and shall receive the full extent of benefits provided to
 4415 existing state employees. Said persons shall cease to be eligible or
 4416 insured by the authority. The commission shall provide uninterrupted
 4417 coverage for group life and accidental death and dismemberment
 4418 insurance and group general or blanket insurance providing hospital,
 4419 surgical, medical, dental, and other health insurance benefits to the extent
 4420 authorized under the provisions of said chapter 32A. All questions
 4421 relating to group insurance rights, obligations, costs and payments shall
 4422 be determined solely by the group insurance commission, and shall
 4423 include the manner and method for the payment of all required premiums
 4424 applicable to all such coverage.

4425 (c) The human resources division of the executive office for
 4426 administration and finance shall assume the obligations of the
 4427 Massachusetts Turnpike Authority to employees who become state
 4428 employees and who are covered under a health and welfare trust fund
 4429 agreement. Any monies in the authority's employees' group insurance
 4430 trust fund shall be transferred to the Group Insurance Commission Trust
 4431 Fund established pursuant to section 9 of said chapter 32A.

4432 (d) Any monies in the Massachusetts turnpike authority's claims trust
 4433 fund shall be transferred to the commission. The Massachusetts turnpike
 4434 authority's treasurer shall provide the commission with an accounting of
 4435 the claims trust fund which shall be for the 1 year period immediately
 4436 preceding the effective date and shall include a calculation of the
 4437 employee, retiree and surviving spouse contributions that are in excess of
 4438 the claims costs and expenses of the plans for which the contributions
 4439 were made. Said treasurer shall routinely forward to the commission any

4440 claims for health insurance claims made on behalf of the active
4441 employees and retirees of the authority.

4442 (e) Nothing in this section shall be construed to affect the eligibility
4443 and coverage of retired Massachusetts Turnpike Authority employees
4444 and the surviving spouses of active or retired Massachusetts Turnpike
4445 Authority employees who are eligible for group insurance coverage
4446 under a plan offered by the Massachusetts Turnpike Authority or who are
4447 insured under a plan offered by the Massachusetts Turnpike Authority.

4448 SECTION 125. (a) Notwithstanding any general or special law to the
4449 contrary: (1) the Massachusetts turnpike authority employees retirement
4450 system shall be abolished and transferred to the state employee
4451 retirement system and shall be managed by the state board of retirement
4452 pursuant to section 18 of chapter 10 of the General Laws, which board
4453 shall have with respect thereto the general powers and duties set forth in
4454 subdivision (5) of section 20 of chapter 32 of the General Laws; (2) the
4455 authority's employees who retired on or before the effective date of this
4456 act shall be members of the state retirement system, which shall pay the
4457 cost of benefits annually to such retired authority employees and their
4458 survivors; and (3) the assets, liabilities, including all accrued pension and
4459 unfunded liabilities, and all data files, papers, records, and other
4460 materials of the authority's retirement system shall be transferred from
4461 said authority retirement system to the state retirement system, subject to
4462 paragraph (a) of subsection 8 of section 3 of said chapter 32, and such
4463 other applicable provisions of law; provided, however, that the members
4464 and officers thereof shall continue to be authorized to do all such things
4465 and take all such action as may be necessary or desirable to be done or
4466 taken by them to effectuate the transfers to be made pursuant to this
4467 section.

4468 (b) Effective upon the date of dissolution of the Massachusetts
4469 Turnpike Authority or a default in its obligations under said chapter 32,
4470 the payment of all annuities, pensions, retirement allowances and refunds
4471 of accumulated total deductions and of any other benefits granted under
4472 the provisions of sections 1 to 28, inclusive, of said chapter 32 are hereby
4473 made obligations of the commonwealth in the case of any such payments
4474 from funds of the Massachusetts turnpike authority employees retirement
4475 system.

4476 SECTION 126. Notwithstanding the provisions of any general or
4477 special law to the contrary, employees of the Massachusetts Turnpike
4478 Authority who are hired after the effective date of this act shall become
4479 members of the state retirement system, and notwithstanding the

4480 provisions of any general or special law to the contrary including, but not
 4481 limited to, paragraph (c) of subdivision (8) of section 3 of chapter 32 of
 4482 the General Laws, said system shall be responsible for all liability
 4483 attributable to the service of such employees. The liabilities attributable
 4484 to the service of such employees shall be recoverable by the
 4485 commonwealth pursuant to the terms of section 8. Employees hired by
 4486 said authorities after the effective date of this act shall not be members of
 4487 either authority's retirement system.

4488 SECTION 127. Notwithstanding the provisions of any general or
 4489 special law to the contrary, on and after the effective date of this act, the
 4490 Massachusetts Turnpike Authority shall not enter into any contract to
 4491 employ a person as an employee or officer beyond July 1, 2010.

4492 SECTION 128. Notwithstanding the provisions of any general or
 4493 special law to the contrary, on and after the effective date of this act, the
 4494 Massachusetts Turnpike Authority shall not extend the term of any
 4495 collective bargaining agreement to a date after July 1, 2010, and shall not
 4496 enter into any collective bargaining agreement with an expiration date
 4497 after July 1, 2010.

4498 SECTION 129. Notwithstanding any general or special law to the
 4499 contrary, all employees of the Massachusetts Bay Transportation
 4500 Authority who are hired on or after the effective date of this act shall be
 4501 deemed 'employees' in accordance with subsection (b) of section 2 of
 4502 chapter 32A of the General Laws and shall be subject to all of said
 4503 chapter 32A, and shall not be eligible for coverage and shall not receive
 4504 benefits under any other plan offered by the Massachusetts Bay
 4505 Transportation Authority. The authority's contribution to the cost of
 4506 health insurance coverage for Massachusetts Bay Transportation
 4507 Authority employees hired after the effective date of this act shall be the
 4508 same as the provisions on the commonwealth's contributions in said
 4509 chapter 32A.

4510 SECTION 130. Notwithstanding any general or special law to the
 4511 contrary, an employee of the Massachusetts Bay Transportation
 4512 Authority who is employed by the Massachusetts Bay Transportation
 4513 Authority on the effective date of this act and who becomes and who is
 4514 eligible for group insurance coverage under insurance plans offered by
 4515 the authority or who is insured under such a plan, shall have his
 4516 eligibility and coverage transferred to the jurisdiction of the group
 4517 insurance commission effective July 1, 2010 and such person shall cease
 4518 to be eligible or insured under the plans previously offered by the
 4519 Massachusetts Bay Transportation Authority.

4520 Upon transfer to the group insurance commission all employees of the
4521 Massachusetts Bay Transportation Authority shall be deemed
4522 'employees' in accordance with subsection (b) of section 2 of chapter
4523 32A of the General Laws and shall be subject to all of the provisions of
4524 said chapter; provided, however, that a Massachusetts Bay
4525 Transportation Authority employee who was covered by a collective
4526 bargaining agreement on the date of transfer shall continue to receive the
4527 group insurance benefits required by his respective collective bargaining
4528 agreement until the expiration date of such agreement. If the
4529 Massachusetts Bay Transportation Authority has monies in an
4530 employee's group insurance trust fund related to the employees
4531 transferred to the group insurance commission, these funds shall be
4532 transferred to the group insurance commission trust fund established in
4533 section 9 of said chapter 32A.

4534 SECTION 131. Notwithstanding any general or special law to the
4535 contrary, the Massachusetts Bay Transportation Authority shall continue
4536 to provide the coverage, benefits, premium contribution ratios, and other
4537 terms, in effect as of June 30, 2010, applicable to retired employees of
4538 the Massachusetts Bay Transportation Authority and the surviving
4539 spouses of active or retired employees of the Massachusetts Bay
4540 Transportation Authority who are eligible for group insurance coverage
4541 under a plan offered by the Massachusetts Bay Transportation Authority
4542 and who have retired prior to July 1, 2010; provided, however, that
4543 employees retired prior to July 1, 2010 shall be entitled to
4544 noncontributory coverage under any health maintenance organization
4545 offered by the Massachusetts Bay Transportation Authority as of June
4546 30, 2010.

4547 SECTION 132. Notwithstanding any general or special law to the
4548 contrary, the Massachusetts Bay Transportation Authority or any
4549 successor, shall enter into an agreement to establish or amend existing
4550 retirement or pension benefits only if any employee hired after the
4551 effective date of the agreement or amendment may not receive a
4552 retirement or pension benefit prior to the completion of 25 years of
4553 credited pension service and attained 55 years of age. The Massachusetts
4554 Bay Transportation Authority is not prohibited by this section from
4555 permitting retirement prior to attaining age 55; provided, however, that
4556 either: (i) the employee is entitled to a disability pension under the
4557 Massachusetts Bay Transportation Authority retirement system; or (ii)
4558 the employee has earned the maximum percentage allowed under the
4559 retirement formula of the Massachusetts Bay Transportation Authority

4560 retirement system and that the employee waives the ability to collect a
4561 pension and retirement benefit due until attaining age 55.

4562 SECTION 133. Notwithstanding the provisions of any general or
4563 special law to the contrary, the Massachusetts Port Authority, and the
4564 Massachusetts Turnpike Authority, for so long as it shall exist, are
4565 hereby prohibited, upon the effective date of this act, from entering into
4566 any new or amended employment agreements, which fix the
4567 compensation and conditions of employment or otherwise bind said
4568 authorities to designated contract periods.

4569 SECTION 134. (a) As used in sections 136 to 138 the following
4570 words shall, unless the context clearly requires, have the following
4571 meanings:-

4572 'Authority', the Massachusetts Port Authority established pursuant to
4573 chapter 465 of the acts of 1956.

4574 'Bridge', the Maurice J. Tobin Memorial Bridge, formerly known as
4575 the Mystic River Bridge, constructed and owned by the Massachusetts
4576 Port Authority pursuant to chapter 465 of the acts of 1956.

4577 'Department', the department of transportation.

4578 'Fund', the Massachusetts Turnpike Authority Revenue Enhancement
4579 Fund established pursuant to section 4.

4580 (b) Notwithstanding any general or special law to the contrary, not
4581 later than July 1, 2009, the authority shall transfer the bridge, owned and
4582 operated by the authority, to the Massachusetts Transportation and
4583 Infrastructure Authority to be under the control of the Massachusetts
4584 Transportation and Infrastructure Authority. Ownership, possession, and
4585 control of the bridge, including, but not limited to, all equipment, books,
4586 maps, papers, plans, records and documents of whatever description
4587 pertaining to the design, construction, use, operation, and general affairs
4588 of the bridge which are in the possession of the authority or any division,
4589 unit, officer or employee thereof shall pass to and be vested in the
4590 Massachusetts Transportation and Infrastructure Authority to be under
4591 the control of the Massachusetts Transportation and Infrastructure
4592 Authority without consideration or further evidence of transfer and shall
4593 thereafter be in the ownership, possession and control of the
4594 Massachusetts Transportation and Infrastructure Authority.

4595 (c) Notwithstanding any general or special law to the contrary, bridge
4596 personnel deemed necessary by the authority for the operation,
4597 management, design, construction, reconstruction, repair, maintenance,
4598 or improvement of the bridge, transferred under subsection (b), shall be
4599 transferred to the Massachusetts Transportation and Infrastructure

4600 Authority. The terms and conditions of any collective bargaining
4601 agreement covering bridge personnel that is in effect upon the transfer of
4602 such personnel to the Massachusetts Transportation and Infrastructure
4603 Authority shall remain in effect until the stated date of expiration of such
4604 agreement, at which point the agreement shall expire; provided, however,
4605 that upon the effective date of this act, the authority shall not engage in
4606 negotiations for future collective bargaining agreements covering such
4607 employees.

4608 Notwithstanding any general or special law to the contrary, a bridge
4609 employee who is employed by the authority on the effective date of this
4610 act and who becomes an employee of the Massachusetts Transportation
4611 and Infrastructure Authority on or after July 1, 2009 and who is eligible
4612 for group insurance coverage under insurance plans offered by the
4613 authority or who is insured under such a plan, shall have his eligibility
4614 and coverage transferred to the jurisdiction of the group insurance
4615 commission effective July 1, 2009 and such person shall cease to be
4616 eligible or insured under the plans previously offered by the
4617 Massachusetts Port Authority.

4618 Upon transfer to the group insurance commission all employees of the
4619 Massachusetts Transportation and Infrastructure Authority shall be
4620 deemed 'employees' in accordance with subsection (b) of section 2 of
4621 chapter 32A of the General Laws and shall be subject to all of the
4622 provisions of said chapter 32A; provided, however, that a Maurice J.
4623 Tobin bridge employee who was covered by a collective bargaining
4624 agreement on the date of the transfer to the Massachusetts Transportation
4625 and Infrastructure Authority shall continue to receive the group
4626 insurance benefits required by his respective collective bargaining
4627 agreement until the expiration date of such agreement.

4628 If the Massachusetts Port Authority has monies in an employee's
4629 group insurance trust fund related to the bridge employees transferred to
4630 the Massachusetts Transportation and Infrastructure Authority, these
4631 funds shall be transferred to the group insurance commission trust fund
4632 established in section 9 of said chapter 32A.

4633 Nothing in this section shall be construed to affect the eligibility and
4634 coverage of retired bridge employees and the surviving spouses of active
4635 or retired bridge employees who are eligible for group insurance
4636 coverage under a plan offered by the authority or who are insured under
4637 a plan offered by the authority.

4638 (d) Notwithstanding any general or special law to the contrary, all
4639 duly existing contracts, leases, and obligations of the authority regarding

the bridge shall continue in effect and shall remain the liability of the authority; provided, however, that all contracts and obligation related to any collective bargaining agreement shall be assumed by the Massachusetts Transportation and Infrastructure Authority; and provided, further, that in the case of collective bargaining agreements, any obligations assumed by the Massachusetts Transportation and Infrastructure Authority under said agreements shall expire on the stated date of expiration of such agreements. No existing right or remedy of any character shall be lost, impaired, or affected by this act. On and after the effected date of this act, the authority shall not amend existing or negotiate any new payment in lieu of tax (PILOT) agreements. Any PILOT payments that exist as of the effective date shall continue to be paid by the authority until the transfer of the bridge is completed. Upon transfer of the bridge, the amount called for in the last payment of any PILOT still in effect as of the effected date of this act, whether that final payment was subsequently paid or is still due, shall be the basis for the conversion of PILOT payments into final, one-time payments calculated upon the present day value of a twenty-five year schedule of PILOT payments, and paid by the Massachusetts Transportation and Infrastructure Authority to the receiving parties of the PILOT agreements. Once the final, one-time PILOT payments are made, the Massachusetts Transportation and Infrastructure Authority shall not be required to enter into any new PILOT agreements.

(e) On and after the effective date of this act, the authority shall not increase its net workforce of employees working primarily on the bridge.

SECTION 135. Notwithstanding any general or special law to the contrary, the department may, in accordance with section 3B of chapter 7 of the General Laws, fix and revise by regulation from time to time and charge and collect tolls, rates, fees, rentals, and other charges for transit over or through the Maurice J. Tobin Memorial Bridge.

The department shall convene at least 2 public hearings, to be within the metropolitan Boston area for proposed changes in the toll structure on the bridge. Said public hearings shall be at least 30 days prior to the effective date of any proposed change in toll structure and shall allow for a 1 week comment period, after each such hearing, during which written testimony and comments shall be accepted.

The department shall not charge or collect a toll for transit by official emergency vehicles of the commonwealth or any municipality, political subdivision or instrumentality thereof over or through the Maurice J. Tobin Memorial Bridge.

4680 SECTION 136. Notwithstanding any general or special law to the
4681 contrary, all revenues collected by the department from fares, fees, tolls,
4682 or any other revenue sources, including, but not limited to, from federal
4683 sources from the operation of the Maurice J. Tobin Memorial Bridge
4684 shall be deposited in the Massachusetts Transportation and Infrastructure
4685 Fund established pursuant to section 4 of chapter 6C of the General
4686 Laws.

4687 NO SECTION 137.

4688 NO SECTION 138.

4689 SECTION 139. (a) The secretary of transportation shall make such
4690 plans and arrangements as may be necessary to ensure the efficient
4691 transfer of: (i) the Massachusetts turnpike authority's functions, assets,
4692 liabilities, and obligations; (ii) the Maurice J. Tobin Memorial Bridge
4693 owned and operated by the Massachusetts Port Authority; and (iii) the
4694 vehicular bridges and appurtenances under the control of the department
4695 of conservation and recreation, to the department pursuant to this act.

4696 The secretary shall have the authority to promulgate new rules and
4697 regulations as deemed necessary to effectuate the purposes of the
4698 transfers.

4699 Any order, rule or regulation duly promulgated by or on behalf of the
4700 department of highways, the Massachusetts aeronautics commission, the
4701 registry of motor vehicles, and the Massachusetts Turnpike Authority,
4702 shall continue in full force and effect to the extent consistent with this act
4703 and the laws of the commonwealth, and shall continue to be enforced,
4704 until superseded, revised, rescinded or cancelled by the secretary of
4705 transportation.

4706 SECTION 140. (a) Notwithstanding the provisions of any general or
4707 special law to the contrary, the department of transportation shall
4708 facilitate the orderly transfer of the employees, proceedings, rules and
4709 regulations, property, and legal obligations of the following functions of
4710 state government from the transferor agency to the transferee agency,
4711 defined as follows: (1) the functions of the department of highways, as
4712 the transferor agency, to the Massachusetts department of transportation,
4713 highway division, as the transferee agency; (2) the functions of the
4714 registry of motor vehicles, as the transferor agency, to the Massachusetts
4715 department of transportation, motor vehicles division, as the transferee
4716 agency; (3) the functions of the aeronautics commission, as the transferor
4717 agency, to the Massachusetts department of transportation, aeronautics
4718 division, as the transferee agency.

4719 (b) The employees of each transferor agency, including those who
4720 immediately before the effective date of this act hold permanent
4721 appointment in positions classified under chapter 31 of the General Laws
4722 or have tenure in their positions as provided by section 9A of chapter 30
4723 of the General Laws or do not hold such tenure, or hold confidential
4724 positions, are hereby transferred to the respective transferee agency,
4725 without interruption of service, without impairment of seniority,
4726 retirement or other rights of the employee, and without reduction in
4727 compensation or salary grade, notwithstanding any change in title or
4728 duties resulting from such reorganization, and without loss of accrued
4729 rights to holidays, sick leave, vacation and benefits, and without change
4730 in union representation or certified collective bargaining unit as certified
4731 by the state division of labor relations or in local union representation or
4732 affiliation. Any collective bargaining agreement in effect immediately
4733 before the transfer date shall continue in effect and the terms and
4734 conditions of employment therein shall continue as if the employees had
4735 not been so transferred. The reorganization shall not impair the civil
4736 service status of any such reassigned employee who immediately before
4737 the effective date of this act either holds a permanent appointment in a
4738 position classified under chapter 31 of the General Laws or has tenure in
4739 a position by reason of section 9A of chapter 30 of the General Laws.

4740 Notwithstanding the provisions of any general or special law to the
4741 contrary, all such employees shall continue to retain their right to
4742 collectively bargain pursuant to chapter 150E of the General Laws and
4743 shall be considered employees for the purposes of said chapter 150E.

4744 Nothing in this section shall be construed to confer upon any
4745 employee any right not held immediately before the date of said transfer,
4746 or to prohibit any reduction of salary grade, transfer, reassignment,
4747 suspension discharge layoff or abolition of position not prohibited before
4748 such date.

4749 (c) All petitions, requests, investigations and other proceedings
4750 appropriately and duly brought before each transferor agency or duly
4751 begun by each transferor agency and pending before it before the
4752 effective date of this act, shall continue unabated and remain in force, but
4753 shall be assumed and completed by the department of transportation.

4754 (d) All orders, rules and regulations duly made and all approvals duly
4755 granted by each transferor agency, which are in force immediately before
4756 the effective date of this act, shall continue in force and shall thereafter
4757 be enforced, until superseded, revised, rescinded or canceled, in
4758 accordance with law, by the department of transportation.

4759 (e) All books, papers, records, documents, equipment, buildings,
4760 facilities, cash and other property, both personal and real, including all
4761 such property held in trust, which immediately before the effective date
4762 of this act are in the custody of each transferor agency shall be
4763 transferred to the department of transportation.

4764 (f) All duly existing contracts, leases and obligations of each
4765 transferor agency shall continue in effect but shall be assumed by the
4766 respective transferee agency. No existing right or remedy of any
4767 character shall be lost, impaired or affected by this act.

4768 SECTION 141. Notwithstanding any general or special law to the
4769 contrary, the secretary of administration and finance shall establish an
4770 office of transition management for transportation within the executive
4771 office for administration and finance to accomplish the purposes of this
4772 act. Agencies from within that executive office including, but not
4773 limited to, the human resources division and the division of capital asset
4774 management and maintenance, as well as the executive office of
4775 transportation and public works and the department of labor shall staff
4776 the office.

4777 The office shall monitor compliance with this act, recommend to the
4778 secretary of transportation rules and regulations not inconsistent with this
4779 act to facilitate the orderly, expeditious transfer of assets and functions
4780 from the executive office of transportation and public works, the
4781 Massachusetts Turnpike Authority, the Massachusetts Port Authority, the
4782 department of conservation and recreation and the department of
4783 highways to the Massachusetts Transportation and Infrastructure
4784 Authority, developing administrative processes to assure continuity of
4785 employment and operations during the transitions, identifying
4786 opportunities for potential efficiencies and cost savings and
4787 recommending legislation to realize such savings and efficiencies,
4788 resolve issues or assist government agencies with the transition of
4789 transportation agencies.

4790 Ninety days after the effective date of this act and quarterly thereafter
4791 until such transition period is complete, the secretary of transportation
4792 shall submit a report to the governor, the secretary of administration and
4793 finance, the joint committee on transportation, the senate and house
4794 committees on ways and means and the clerks of the senate and the
4795 house of representatives, relative to the progression of the incorporation
4796 of the agencies and authorities into the Massachusetts Transportation and
4797 Infrastructure Authority.

4798 The report shall include, but shall not be limited to, plans for the
4799 assignment and reassignment of resources including personal, equipment
4800 and supplies into the Massachusetts Transportation and Infrastructure
4801 Authority. The reports shall also include the status of the transition of
4802 roads, bridges, parkways and any other transportation assets of the
4803 Massachusetts Turnpike Authority, the Massachusetts Port Authority, the
4804 department of conservation and recreation and the department of
4805 highways and shall further include approximate schedules for the
4806 completion of the transition.

4807 SECTION 142. (a) Notwithstanding the provisions of chapter 30B of
4808 the General Laws or any other general or special law to the contrary, the
4809 city of Worcester may, within 1 year of the effective date of this act,
4810 transfer to the Massachusetts Port Authority the Worcester regional
4811 airport, subject to the following terms and conditions: (i) the Worcester
4812 regional airport shall be transferred to the Massachusetts port authority
4813 for fair compensation which may be paid in installments and which shall
4814 be reduced by the actual amount of any expenditures, subsidies, and
4815 operational costs assumed or provided to date to or for the Worcester
4816 regional airport by said Massachusetts Port Authority, in addition to any
4817 other federal and state funding and grant assistance, and (ii) the right,
4818 title, and interest of said city in the Worcester regional airport shall be
4819 conveyed within 1 year of the effective date of this act. If the parties fail
4820 to agree to the amount of fair compensation within 6 months of the
4821 effective date of this act, the secretary of transportation and the
4822 undersecretary of transportation for aeronautics shall establish such
4823 compensation in consultation with the executive director of the
4824 Massachusetts Port Authority and the city manager of the city of
4825 Worcester; provided, however, that the terms and conditions of any such
4826 transfer, and the amount of any such compensation to be paid, shall be
4827 subject to the prior approval of the board of the authority.

4828 (b) Upon the transfer of the airport by the city of Worcester to the
4829 Massachusetts Port Authority pursuant to this section, the Massachusetts
4830 Port Authority shall be responsible for the ownership, operation, and
4831 maintenance of the Worcester regional airport and, except as otherwise
4832 agreed to by the parties, the city shall cease to be responsible for such
4833 ownership, operation, and maintenance. All warranties and all contract
4834 and indemnification rights and obligations arising out of the design,
4835 construction, operation, and maintenance of the airport shall remain in
4836 full force and effect following such transfer. The provisions of this
4837 section shall not limit or in any way impair the rights, remedies or

4838 defenses of the city of Worcester or the Massachusetts Port Authority in
4839 or to any such action.

4840 SECTION 143. The secretary of the department of transportation, in
4841 consultation with the secretary of the executive office of labor and
4842 workforce development and director of workforce development shall
4843 institute a workforce retraining initiative to mitigate potential impacts to
4844 employees displaced by the organizational efficiencies and agency
4845 restructuring directed by this act. The secretary of transportation and the
4846 secretary of labor and workforce development, or their designees, shall
4847 establish a committee to coordinate the workforce retraining initiative
4848 and adopt policies that identify and categorize displaced employees,
4849 while advancing workforce development opportunities for said
4850 employees whose lack of skills may prevent or limit their successful
4851 employment. Said committee shall include representatives from labor
4852 unions likely to be affected by this act, representatives from the business
4853 industry, and representatives from the human resources division of the
4854 executive office for administration and finance. The procedures shall
4855 outline and recommend various retraining programs available to
4856 employees identified as being displaced by this act, establish eligibility
4857 criteria and base skills requirements for the administration of these
4858 programs, promote program accountability and job placement through
4859 the division of career services and one stop career centers, identify
4860 available professional development and technical assistance needs and
4861 resources, and encourage economic diversification and industry growth
4862 through technology-focused training.

4863 The director of workforce development together with agencies and
4864 other entities that provide employment or training services in the
4865 commonwealth, shall utilize existing state and federal grant funding,
4866 including funding for workforce retraining programs at existing
4867 institutions, community colleges, labor organizations, and administrative
4868 entities to implement the workforce retraining initiative. Where
4869 applicable, the director may utilize any funds received pursuant to the
4870 federal Workforce Investment Act of 1998, 112 Stat. 936, 29 U.S.C. §
4871 2801, as amended, to provide additional funding for the workforce
4872 retraining initiative.

4873 In the event an employee displaced by the operation of this act does
4874 not have severance or other termination benefits, the department of
4875 transportation shall pay, for a period not to exceed 2 months following
4876 the date of termination of employment, the then current salary for such
4877 employee.

4878 SECTION 144. Notwithstanding the provisions of sections 9, 9A,
4879 and 10 of chapter 161B of the General Laws, or any other general or
4880 special law to the contrary, all regional transit authorities established in
4881 said chapter 161B shall move to a forward funded budgeting system. The
4882 secretary of the executive office for administration and finance is hereby
4883 directed to develop a plan and timetable for accomplishing this
4884 conversion to forward funding and to seek the necessary appropriations
4885 to implement the plan. The secretary is further authorized to promulgate
4886 rules and regulations to effectuate the purposes of this section.

4887 SECTION 145. Notwithstanding any general or special law to the
4888 contrary, the highway division of the department of transportation shall
4889 enter into an agreement with the Massachusetts Bay Transportation
4890 Authority to assume all bridge inspection responsibilities for any bridges
4891 owned and operated by said authority over the roads of the
4892 commonwealth.

4893 SECTION 146. Notwithstanding section 31 of chapter 15 of the acts
4894 of 1988 or the provisions of any other general or special law to the
4895 contrary, the Massachusetts Bay Transportation Authority is hereby
4896 authorized and approved to sell, convey, mortgage, pledge, lease,
4897 exchange, abandon or otherwise dispose of the public parking garage
4898 constructed and operated by the authority and the land acquired by the
4899 authority pursuant to such law.

4900 SECTION 147. Notwithstanding any general or special law to the
4901 contrary, the bureau for environmental health within the department of
4902 public health shall conduct a comprehensive baseline study of the health
4903 effects of particulate air pollution from surface and air transportation in
4904 Massachusetts. The study shall focus on understanding the health
4905 impacts from fine and ultrafine particulate matter upon populations that
4906 are located within 500 feet of any roadway with 50,000 or more motor
4907 vehicle trips per day, or any rail line regularly used by diesel locomotives
4908 or within 1 mile of any airport with more than 500 enplanements per
4909 week as reported between January 1, 2007 and January 1, 2008 or within
4910 one mile of the Port of Boston; provided, further, that said study may
4911 include, but shall not be limited to, examining respiratory and
4912 cardiovascular disease and cancer incidence that may be affected by
4913 exposure to traffic-related particles. The following departments and
4914 agencies of the commonwealth shall provide information to the bureau
4915 relevant to this study: the department of environmental protection, the
4916 Massachusetts Transportation and Infrastructure Authority, the
4917 department of transportation, the division of aeronautics and the central

4918 transportation planning staff of the Boston metropolitan planning
4919 organization. The bureau shall report its findings together with
4920 legislation, if any, to the house and senate committees on ways and
4921 means not later than June 30, 2010.

4922 SECTION 148. Notwithstanding any general or special law to the
4923 contrary, any employee who retires from the executive office of
4924 transportation, the highway department, the registry of motor vehicles,
4925 the Massachusetts Turnpike Authority, the Massachusetts Port Authority,
4926 the Massachusetts Bay Transportation Authority, the Massachusetts
4927 Aeronautics Commission, or the Massachusetts Transportation and
4928 Infrastructure Authority shall not be employed by the agency or authority
4929 from which the employee retired or any successor agency or authority to
4930 the agency or authority from which the employee retired, within 1 year.

4931 SECTION 149. The office of the state auditor shall perform a close
4932 out audit of each agency or authority admitted to the Massachusetts
4933 Transportation Infrastructure Authority. Said audit shall include a
4934 catalogue of any issues relating to the agency or authority's current and
4935 future finances and operations, current and future revenues or debt
4936 structure, and internal policies and procedures, that he believes are not
4937 within Financial Accounting Board Standards of practice or may violate
4938 other laws, rules and procedures of the General Laws.

4939 SECTION 150. Notwithstanding any other provision of this act or
4940 any other general or special law to the contrary, commencing on July 1,
4941 2009, all amounts of any kind received by the commonwealth which are
4942 derived from or related to the operation of the state highway system, as
4943 defined in chapter 81B of the General Laws, shall be deemed to be held
4944 in trust for and shall be transferred and paid over to the Massachusetts
4945 Transportation and Infrastructure Authority when received without
4946 further appropriation to be applied to the purposes of the authority. All
4947 amounts of any kind received by the Massachusetts Turnpike Authority
4948 which are derived from the operation of the turnpike, as defined in said
4949 chapter 81B, shall be deemed to be held in trust for and shall be
4950 transferred and paid over to the authority when received without further
4951 appropriation to be applied to the purposes of the authority.

4952 SECTION 151. The secretary of transportation shall submit a report
4953 on the progress and all expenditures related to state transportation
4954 infrastructure projects undertaken through use of federal funds received
4955 under the American Recovery and Reinvestment Act of 2009 to the
4956 clerks of the senate and house of representatives, the chairs of the senate
4957 and house committees on ways and means, the senate and house chairs of

the joint committee on transportation and the chairs of the senate and house committees on bonding, capital expenditures and state assets. The report shall include, but not be limited to: the total estimated cost of each project; the amount expended for the planning and design of each project up to the time the report is filed; the amount expended on construction of each project up to the time the report is filed; the timeline from advertisement through contract award and from the start of actual design and construction by the design build team to project completion; the time saved, if any, by employing the design build procurement method; and the estimated lifetime maintenance schedule and cost of each project, the original estimated completion date of each project and the current anticipated completion date of each project. The report shall also include the total number of employees and outside contractors and amount expended on the salaries and benefits for such employees and outside contractors that are specifically working on projects to be carried out as part of projects funded through said American Recovery and Reinvestment Act of 2009. The report shall be submitted on December 31 of each year until the culmination of any project constructed with funds authorized by said American Recovery and Reinvestment Act of 2009.

SECTION 152. All uncommitted and unexpended funds and authorizations, which have been appropriated from time to time to the executive office of transportation and public works, including any agency and authority within said executive office, including but not limited to, funds authorized in chapter 15 of the acts of 1988, chapter 33 of the acts of 1991, chapter 102 of the acts of 1994, chapter 273 of the acts of 1994, chapter 28 of the acts of 1996, chapter 113 of the acts of 1996, chapter 205 of the acts of 1996, chapter 11 of the acts of 1997, chapter 55 of the acts of 1999, chapter 87 of the acts of 2000, chapter 235 of the acts of 2000, chapter 246 of the acts of 2002, chapter 40 of the acts of 2003, chapter 291 of the acts of 2004, chapter 27 of the acts of 2007, chapter 86 of the acts of 2008, chapter 233 of the acts of 2008, and chapter 303 of the acts of 2008, shall be transferred to the department of transportation for use by the department or any of its divisions for purposes consistent with such authorizations.

SECTION 153. (a) When all payments due on account of the turnpike and the metropolitan highway system, both as defined in chapter 81B of the General Laws, shall have been made, and when all bonds issued under chapter 81A of the General Laws and the interest thereon shall have been paid or a sufficient amount of the payment of all such

4998 bonds and the interest thereon to the maturity thereof shall have been set
4999 aside in trust for the benefit of the bondholders, and contributions shall
5000 have been made to the several funds of the Massachusetts Turnpike
5001 Authority employees' retirement system established under sections 1 to
5002 28, inclusive, of chapter 32 of the General Laws such as are sufficient, in
5003 the opinion of the actuary, as defined in section 1 of said chapter 32, to
5004 provide for the payment of all amounts payable by the system after that
5005 date with respect to all persons then receiving allowances from the
5006 Massachusetts Turnpike Authority employees' retirement system and
5007 with respect to all persons who are then employees, as defined in said
5008 section 1, of the Massachusetts Turnpike Authority, whether or not any
5009 such amount is or becomes payable to any such person or the spouse or
5010 other beneficiary of any such person, such opinion to be based upon the
5011 assumption, among others, that such persons who are then employees are
5012 then or thereafter become entitled to receive retirement allowances in the
5013 amounts then provided by sections 5, 6 and 7 of said chapter 32 on the
5014 basis of the regular compensation received by, and the years of creditable
5015 service of, such persons at such date, all projects then under the control
5016 of the Massachusetts Turnpike Authority shall be operated and
5017 maintained by the division of roads and bridges of the Massachusetts
5018 Transportation and Infrastructure Authority.

5019 (b) Upon the transfer provided in subparagraph (a) the members of
5020 the Massachusetts Turnpike Authority employees' retirement system on
5021 the effective date of the dissolution of the authority who do not then
5022 transfer to or enter service in a governmental unit in which a contributory
5023 retirement system established under the provisions of sections 1 to 28,
5024 inclusive, of said chapter 32, or under corresponding provisions of earlier
5025 laws or any special law, shall continue to be members of the
5026 Massachusetts Turnpike Authority employees' retirement system and
5027 shall then be entitled to apply for and receive retirement allowances from
5028 such system in the amounts, upon the terms, subject to the conditions and
5029 with all of the related rights provided by and under sections 6, 7, 10 and
5030 12 of said chapter 32.

5031 (c) Effective upon the date of dissolution of the Massachusetts
5032 Turnpike Authority (1) the Massachusetts Turnpike Authority
5033 employees' retirement system shall continue under the provisions of
5034 sections 1 to 28, inclusive of said chapter 32; (2) the management of the
5035 Massachusetts Turnpike Authority employees' retirement system shall be
5036 transferred to the state board of retirement provided for in section 18 of
5037 chapter 10 of the General Laws which board shall have with respect

5038 thereto the general powers and duties set forth in subdivision (5) of
5039 section 20 of said chapter 32; (3) all data, files, papers and records and
5040 other materials of the retirement board provided for in paragraph (b) of
5041 subdivision (41/2) of said section 20 shall be transferred to and held by
5042 the state board of retirement; (4) the funds of the Massachusetts turnpike
5043 authority employees' retirement system in the custody of the secretary-
5044 treasurer of the authority shall be transferred to the state treasurer who
5045 shall thereafter be and perform the duties of the treasurer-custodian of
5046 such funds which shall then be held by him for the exclusive benefit and
5047 use of the members of the Massachusetts turnpike authority employees'
5048 retirement system and their beneficiaries; and (5) the retirement board
5049 provided for in said paragraph (b) of subdivision (41/2) shall be
5050 abolished; provided, however, that the members and officers thereof
5051 shall continue to be authorized to do all such things and take all such
5052 action as may be necessary or desirable to be done or taken by them to
5053 effectuate the transfers to be made pursuant to this section.

5054 (d) Effective upon the date of dissolution of the Massachusetts
5055 Turnpike Authority or a default in its obligations under chapter 32 of the
5056 General Laws, the payment of all annuities, pensions, retirement
5057 allowances and refunds of accumulated total deductions and of any other
5058 benefits granted under the provisions of sections 1 to 28, inclusive, of
5059 said chapter 32 are hereby made obligations of the commonwealth in the
5060 case of any such payments from funds of the Massachusetts turnpike
5061 authority employees' retirement system.

5062 SECTION 154. Notwithstanding any general or special law to the
5063 contrary, in making initial appointments to the board of the
5064 Massachusetts Transportation and Infrastructure Fund, the governor shall
5065 appoint 4 additional members 1 of whom shall be appointed for a term of
5066 1 year; 1 of whom shall be appointed for a term of 2 years; and 2 of
5067 whom shall be appointed for a term of 3 years.

5068 SECTION 155. Notwithstanding any general or special law to the
5069 contrary, the secretary of administration and finance may enter into such
5070 contracts or agreements with the Massachusetts Transportation and
5071 Infrastructure Authority and may transfer proceeds of the bonds and
5072 notes of the commonwealth issued for transportation purposes to the
5073 Massachusetts Transportation and Infrastructure Authority as it deems
5074 necessary to carry out the purposes of the statutory provisions
5075 authorizing such bonds or notes.

5076 SECTION 156. Notwithstanding any general or special law to the
5077 contrary, any existing or future balance in the Infrastructure Fund,

5078 established pursuant to said section 2O, shall be credited to the
5079 Transportation Fund established pursuant to section 2ZZZ of chapter 29
5080 of the General Laws, provided that such crediting shall not affect in any
5081 way the obligations of the commonwealth relating to special obligation
5082 bonds issued pursuant to said section 2O, and the pledge of pledged
5083 funds, as defined in said section 2O, to secure the payment of such bonds
5084 is hereby ratified and confirmed in all respects and shall remain in full
5085 force and effect as long as any such special obligation bonds issued as of
5086 July 1, 2009 remain outstanding in accordance with their terms and
5087 secured by funds in the fund.

5088 SECTION 157. Notwithstanding any general or special law to the
5089 contrary, the comptroller shall transfer the balance of the Highway Fund
5090 established pursuant to section 34 of chapter 90 of the General Laws to
5091 the Commonwealth Transportation Fund established pursuant to section
5092 2ZZZ of chapter 29 of the General Laws.

5093 SECTION 158. Notwithstanding any general or special law to the
5094 contrary, the comptroller shall transfer the balance of the fund to the
5095 Commonwealth Transportation Fund established under section 2ZZZ of
5096 chapter 29 of the General Laws; provided, further, that any monies owed
5097 to the fund, including any monies to be paid in connection with the
5098 settlement of any claims involving the Central Artery/Tunnel project,
5099 shall be deposited in the Commonwealth Transportation Fund.

5100 SECTION 159. Notwithstanding any general or special law to the
5101 contrary, the comptroller shall transfer the balance of the Transferred
5102 Deferred Maintenance Trust Fund to the Commonwealth Transportation
5103 Fund established pursuant to section 2ZZZ of chapter 29 of the General
5104 Laws.

5105 SECTION 160. Notwithstanding any general or special law to the
5106 contrary, any project or phase thereof that has received an opinion of the
5107 secretary of the executive office of energy and environmental affairs that
5108 it is not subject to the jurisdiction of the secretary pursuant chapter 30 of
5109 the General Laws shall be governed by the regulations and procedures in
5110 effect prior to the effective date of this act; and any project or phase
5111 thereof that has received prior to the effective date of this regulation any
5112 one or more of a variance, special permit, comprehensive permit,
5113 certificate of occupancy, or building permit followed within 5 years
5114 thereafter by a certificate of occupancy, or the developer of which has
5115 entered into an agreement with any of the department of conservation
5116 and recreation or the applicable executive office secretary to fund traffic
5117 improvements or traffic mitigation, shall in any such case be governed by

5118 the regulations and procedures in effect prior to the effective date of
5119 these regulations so long as the applicable variance, permit or certificate
5120 continues in force and effect or, if applicable, so long as such agreement
5121 has not been duly terminated on account of the failure of the project
5122 developer to meet its obligations under such agreement; in any case
5123 unless the applicant elects, in writing, to be governed by this regulation
5124 and the procedures hereunder.

5125 SECTION 160A. Notwithstanding any general or special law to the
5126 contrary, the comptroller shall transfer the balance of the Central Artery
5127 and Statewide Road and Bridge Infrastructure Fund to the
5128 Commonwealth Transportation Fund established pursuant to section
5129 2ZZZ of chapter 29 of the General Laws.

5130 SECTION 161. The provisions of this act shall not be deemed in
5131 derogation of any powers conferred upon the department and its
5132 constituent divisions and authorities by existing laws; provided, however,
5133 that insofar as the provisions of this act are inconsistent with the
5134 provisions of any general or special law, administrative order or
5135 regulation, the provisions of this act shall be controlling.

5136 SECTION 161A. Notwithstanding any general or special law to the
5137 contrary, the Massachusetts Turnpike Authority, or any successor
5138 authority or agency, shall conduct an audit of its records of the electronic
5139 toll collection system and repay an account holder who has been
5140 overcharged during the period commencing as far back as records are
5141 kept whether the holder has requested payment. Pending said audit, the
5142 Massachusetts Turnpike Authority, or any successor authority or agency
5143 shall extend the time permissible for an account holder to dispute an
5144 overcharge of the electronic toll collection system to a period of 3 years
5145 from the time of the overcharge unless the Turnpike authority, or any
5146 successor authority or agency, chooses to extend the disputing time
5147 frame longer than 3 years.

5148 SECTION 162. Section 4 of chapter 6C of the General Laws,
5149 inserted by section 6 shall take effect on July 1, 2009.

5150 SECTION 163. Section 14 of chapter 6C of the General Laws,
5151 inserted by section 6 shall take effect on July 1, 2010, or upon agreement
5152 of the Massachusetts Turnpike Authority and the Massachusetts
5153 Transportation and Infrastructure Authority.

5154 SECTION 164. Section 30 of chapter 6C of the General Laws,
5155 inserted by section 6 shall take effect on July 1, 2011.

5156 SECTION 165. Section 42 of chapter 6C of the General Laws,
5157 inserted by section 6 shall take effect on July 1, 2009.

5158 SECTION 166. Section 43 of chapter 6C of the General Laws,
5159 inserted by section 6 shall take effect on July 1, 2009 and shall expire on
5160 July 1, 2010.

5161 SECTION 167. Section 143 shall expire on November 1, 2110.

5162 SECTION 168. Section 44 of chapter 6C of the General Laws,
5163 inserted by section 6 shall take effect on July 1, 2010.

5164 SECTION 169. Sections 12, 14, 29, 51, 70, 124, 125, 137 and 159
5165 shall take effect on July 1, 2009.

5166 SECTION 170. Sections 1A, 7, 19, 64, 130 and 131 shall take effect
5167 in July 1, 2010.

5168 SECTION 171. Sections 43 and 44 shall take effect on January 1,
5169 2013.

5170 SECTION 172. Section 182, Chapter 149 of the General Laws as so
5171 appearing, is hereby amended by inserting the following paragraph at the
5172 end thereof:-

5173 A special commission, to consist of 3 members of the senate, 3
5174 members of the house of representatives, the secretary of state or his
5175 designee, the state auditor or his designee, the inspector general or his
5176 designee, the secretary of the executive off for administration and
5177 finance or her designee and the attorney general or her designee, is
5178 hereby established for the purpose of making an investigation and study
5179 of quasi-public agencies in the commonwealth, including but not limited
5180 to, the Massachusetts Turnpike Authority, Massachusetts Bay Transit
5181 Authority, Massachusetts Port Authority and the Massachusetts
5182 Transportation and Infrastructure Authority. Said commission shall
5183 examine the administrative, managerial and fiscal systems and the
5184 accountability of such agencies. Said commission shall consider issues
5185 of quasi-public agency governance, financial management practices,
5186 accounting, controls, and whether policies and procedures are in place to
5187 assure the integrity of quasi-public agency operations, expectations in
5188 law and general accepted accounting and management standards
5189 applicable to quasi-public agencies in the commonwealth. Said
5190 commission shall consider issues of accountability of quasi-public
5191 agencies to the commonwealth, including the executive and legislative
5192 branches and to the public. Said commission shall report to the general
5193 court the results of its investigation and study and its recommendations,
5194 if any, together with drafts of legislation necessary to carry such
5195 recommendations into effect by filing the same with the clerk of the
5196 senate on or before July 31, 2009.

5197 SECTION 173. Chapter 90 Section 8 is hereby amended by adding
5198 after the words 'expire on March first' in line 197 the following
5199 sentence:- The Registrar shall notify the license holder of the expiration
5200 date 30-60 days prior to the expiration of said license. The Registrar will
5201 send notice by United States mail to the last known mailing address of
5202 said individual.

5203 SECTION 174. The Massachusetts Transportation and Infrastructure
5204 Authority shall annually, not later than September 1, report to the chairs
5205 of the house and senate committees on ways and means on the
5206 efficiencies realized as a result of the implementation of this act,
5207 including without limitation, efficiencies realized pursuant to the
5208 provision of core services by the authority.

5209 SECTION 175. Sections 110, 111, 112 and 113 shall apply only to
5210 causes of action arising on or after July 1, 2009.

5211 SECTION 176. Chapter 6C of the General Laws is hereby amended
5212 by inserting the following new section at the end of the Chapter:-

5213 Real property of the authority if leased, used, or occupied in
5214 connection with a business conducted for profit, shall, at the discretion of
5215 the municipality for the privilege of such lease, use or occupancy, be
5216 valued, classified, assessed and taxed annually as of January first to the
5217 lessee, user or occupant in the same manner and to the extent as if such
5218 lessee, user or occupant were the owner thereof in fee. No tax assessed
5219 under this section shall be a lien upon the real estate to which it is
5220 assessed nor shall any tax be enforced by any sale or taking of such real
5221 estate but the interest of any lessee therein may be sold or taken by the
5222 collector of the city or town in which the real estate lies for the
5223 nonpayment of such taxes in the manner provided by law for the sale or
5224 taking of real estate for nonpayment of annual taxes. Such collector shall
5225 have for the collection of taxes under this section all other remedies
5226 provided by chapter sixty for the collection of annual taxes upon real
5227 estate.

5228 SECTION 177. Section 17A and 29A of this act shall take effect on
5229 July 1, 2010.

5230 SECTION 178. Notwithstanding any general or special law to the
5231 contrary, when all notes and bonds issued by the Massachusetts turnpike
5232 authority relating to the turnpike and payable from turnpike revenues, as
5233 defined by section 1 of chapter 6C, have been paid or a sufficient amount
5234 for the payment of all such notes or bonds and the interest thereon, to the
5235 maturity thereof, shall have been set aside in trust for the benefit of the
5236 holders of such notes or bonds and the turnpike is deemed to be in good

5237 condition and repair to the satisfaction of the division of highways and
5238 upon a 2/3 vote of the General Court, the turnpike shall thereafter be
5239 operated and maintained by the highway department free of tolls.”.