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February 24, 2009

To the Honorable Senate and House of Representatives:

I am filing for your consideration the attached legislative proposal, entitled, "An Act to Reform, Rebuild, and Renew the Transportation System of the Commonwealth for the Twenty-First Century."

Our current transportation system is in disarray. It suffers from a hodgepodge of six different public and quasi-public bureaucracies, overseen by a variety of different boards, which are not directly accountable to the people. The Turnpike Authority and the MBTA have been saddled with over \$4 billion in Big Dig-related debt, putting those entities in financial peril, causing tremendous toll and fare pressure, and constraining our ability to make investments elsewhere. The RTAs remain chronically underfunded and road and bridge repairs are needed in every corner of the Commonwealth. The lack of sustainable funding for all of these needs, moreover, is threatening our long-term economic security.

The non-partisan Transportation Finance Commission has concluded that, if we continue down the same path, we would underfund our roads, bridges, and rails by \$15 to \$19 billion over the next 20 years. The Commission stated that "the real cost of this neglect will be felt in our regional economy and in our way of life." "Business as usual," they wrote, "will not suffice." It is high time that we address the challenges brought on by decades of neglect and willful blindness.

A safe, efficient, and cost-effective transportation system is critical to building a strong Commonwealth. To get there from where we are today,

we will need both comprehensive reform and a new infusion of revenue. This bill addresses both needs.

First, the bill creates a consolidated, simplified Massachusetts Department of Transportation ("MassDOT"), under the authority of the Secretary of Transportation, with four divisions: Highway, Rail and Transit, Aviation and Port, and the Registry of Motor Vehicles. The bill abolishes the Massachusetts Turnpike Authority, the Massachusetts Aeronautics Commission, and the Outdoor Advertising Board, and replaces the board at the MBTA. This simplification will eliminate redundancy, streamline operations, reduce personnel by about 300, increase efficiency, and save money, which will be plowed back into deferred maintenance.

Second, the bill includes a number of reforms designed to cut costs, improve efficiency, and restore a measure of the public's confidence. These include moving all transportation employees, including those at the MBTA and at the Turnpike, to the same group insurance plans as other public employees, and aligning the MBTA pension system with the state pension system. The "23 years and out" rule, for example, where MBTA employees start receiving a full pension after 23 years of service regardless of age, must come to an end.


The bill also creates a new dedicated Transportation Fund that will be used to finance, maintain, repair, and expand our transportation network. The bill follows the lead of the Senate and authorizes public-private partnerships, particularly with respect to non-core assets where the proceeds can help us pay for our transportation needs, including paying down debt. The bill facilitates moving MassHighway employees off the capital budget and back onto the regular payroll, generating even more long-term savings. And the bill will begin to restore the public's trust in the integrity of their government, by creating an Office of Performance Management and a Private Project Ombudsman to improve transparency and accountability.

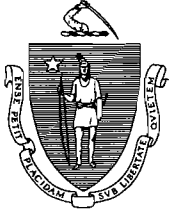
The bill is also environmentally responsible. It includes new "buy green" and "build green" requirements and authorizes a new green car sliding scale for vehicle registrations. It also calls for the creation of a Healthy Transportation Compact to strengthen our focus on, and relationship to, health and transportation.

Reforms are vital and therefore central to the bill. But as the Transportation Finance Commission demonstrated, we cannot secure our economic future and the public's safety on the roads, rails, and bridges with reforms alone. Accordingly, this bill includes a 19-cent increase in the gas tax, adjusted for inflation annually beginning in 2011. By restricting the use of gas tax revenues to transportation purposes, as this bill does, taxpayers will be assured that their money is dedicated exclusively to transportation projects. Finally, and importantly, the bill establishes regional equity requirements to ensure that communities all across the Commonwealth benefit from the proposed new revenues, whereby a proportional amount of resources will be expended on road and bridge projects in each region of the state.

I urge your prompt and favorable action on the bill. Secretary Aloisi and I welcome your questions, comments, and suggestions, and look forward to tackling this complex challenge together.

Respectfully submitted,





The Commonwealth of Massachusetts

IN THE YEAR TWO THOUSAND AND NINE

AN ACT TO REFORM, REBUILD AND RENEW THE TRANSPORTATION SYSTEM OF THE COMMONWEALTH FOR THE TWENTY-FIRST CENTURY.

Whereas, The deferred operation of this act would tend to defeat its purposes, which is to immediately provide for reforms and improvements to the Commonwealth's transportation system, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. It is hereby found and declared that it is in the best interests of the Commonwealth and its citizens to have a safe, modern, reliable, environmentally responsible, efficient, and cost-effective transportation system. Transportation is vital to the future of the Commonwealth and is a key factor in its continued economic development. While Massachusetts is fortunate to possess many transportation assets, including a large public transit network, expansive roadways, and a compact pattern of development that supports sustainable growth, it also faces many challenges to preserve and strengthen its infrastructure for the future. In particular, the present transportation system suffers from limited oversight, several large agencies and authorities with independent policy-making functions, and a lack of sustainable financing. For these reasons, the Commonwealth must enact meaningful reform to radically simplify its transportation system, make it more accountable to the people, and set it on a sustainable path to flourish well into this century.

It is hereby found and declared that routine and programmed maintenance are the cornerstones of a safe and reliable system. A strong transportation system demands improved transportation infrastructure as

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well as increased public transportation service throughout the Commonwealth through better use of existing resources and prioritizing equity throughout all regions. As the Massachusetts Transportation Finance Commission reported in 2007, the current underfunding and need to reform the present transportation systems to maintain the Commonwealth's current highway and transit system levels are matters of extreme urgency.

It is hereby found and declared that the Commonwealth must continue to build upon the strong foundation of reforms initiated by the General Court in 2004, recommended by the Transportation Finance Commission, and implemented through the recent formation of the Massachusetts mobility compact. The citizens of the Commonwealth deserve a transportation system that is well-managed, accountable, and transparent.

It is hereby found and declared that meaningful action is necessary to address the current and chronic underfunding of the transportation system. Two of the Commonwealth's independent transportation authorities are chronically underfunded, lack the ability to routinely raise revenue needed to support the systems for which they are responsible, and teeter on insolvency. In order to effectively address this funding crisis, real reform requires sufficient resources to address the system's presently unmet needs. True reform demands that any new revenue derived from transportation sources must be entirely and exclusively dedicated to transportation investment and maintenance.

It is hereby found and declared that there exists an urgent need for a stable and assured method of financing the planning, acquisition, engineering, construction, reconstruction, repair, maintenance, rehabilitation, and improvement of the Commonwealth's transportation system, including financing the Commonwealth's share under federal-aid highway, federal transit, and rail projects, and the Commonwealth's share for public highways, mass transportation, and other transportation-related projects. Meeting this need will enable the Commonwealth to construct and maintain the safe, balanced, sound and efficient transportation system necessary for the well-being of the Commonwealth's citizens.

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

SECTION 3. Sections 57, 58, and 59 of said chapter 6, as appearing in the 2006 Official Edition, are hereby repealed.

SECTION 4. Section 8C of said chapter 6A, inserted by chapter 233 of the acts of 2008, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

(a) There shall be established a structurally deficient bridge improvement program coordination and oversight council. The council shall consist of a chair appointed by the governor, the secretary of 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 5. Sections 19, 19½, 19A, and 103 of said chapter 6A, as most recently amended by chapter 86 of the acts of 2008, are hereby repealed.

SECTION 6. Section 104 of chapter 6A of the General Laws, as inserted by section 3 of chapter 303 of the acts of 2008, is hereby repealed.

MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

SECTION 7. The General Laws, as appearing in the 2006 Official Edition, are hereby amended by inserting the following new chapter:

Chapter 6C. Massachusetts Department of Transportation

Section 1. The executive office of transportation and public works shall consist of the Massachusetts department of transportation and its constituent divisions and authorities. The department of

transportation, under the supervision and direction of the executive office, shall serve as the sole state transportation agency of the executive department for the following purposes: (1) directing, leading, developing, coordinating, administering, managing, and implementing transportation policies and programs related to planning, acquisition, engineering, construction, reconstruction, repair, maintenance, rehabilitation, improvement, and financing; (2) directing, supervising, and managing the organization and conduct of the business affairs of the divisions, and other entities within the department of transportation to improve administrative efficiency and program effectiveness and to preserve fiscal resources; and (3) directing, developing, and implementing effective policies, regulations, and programs to assure the coordination and quality of roadway, rail and transit, airport and port infrastructure and security, and vehicular registration and regulation as provided by the secretary within the department. The department and its constituent divisions and authorities shall not be subject to the supervision and regulation of any city, town or local licensing authority except as specifically provided in any general or special law.

Section 2. The department of transportation shall function as a single, integrated state agency and shall contain the following administrative units: the highway division, the rail and transit division, the aviation and port division, and the division of motor vehicles, to be known as the registry of motor vehicles. The Massachusetts bay transportation authority and the regional transit authorities shall be within the rail and transit division, and the Massachusetts port authority shall be within the aviation and port division.

Nothing in this chapter shall be construed as conferring any powers or imposing any duties upon the secretary with respect to the foregoing authorities except as expressly provided by law.

Section 3. The governor shall appoint a secretary of transportation and public works, also referred to in this chapter as the “secretary of transportation” or the “secretary”, who shall serve at the pleasure of the governor and shall act as the executive officer in all matters pertaining to the direction, administration, management, operation, regulation, planning, fiscal and policy development and implementation functions and affairs within the department of transportation. The secretary shall appoint, with the

approval of the governor, directors for the divisions within the department of transportation. The secretary may appoint an undersecretary and one or more deputy secretaries or assistant secretaries as he sees fit in order to carry out the purposes of this chapter. Except for the position of undersecretary, which shall be unclassified, any such position shall be classified in accordance with the provisions of section 45 of chapter 30.

Section 4. The secretary may: (1) direct, operate, administer, and implement the programs of roadway, general aviation, rail and transit, and vehicular registration and regulation, and, in cooperation with the authorities within the department, of transit, airports, and seaports, for the design, construction, repair, maintenance, capital improvement, development, and planning of the transportation facilities throughout the department, as appropriate; (2) direct, coordinate, and supervise the administration of the department to promote economy and efficiency and to leverage federal funding and private sector investment; (3) develop and administer a long-term state-wide transportation plan for the Commonwealth that includes planning for intermodal and integrated transportation; (4) develop and administer procedures to be used for transportation project selection; (5) establish criteria, including criteria that will result in the reduction of greenhouse gases, for project selection to be used in the procedures developed pursuant to clause (4); (6) enter into agreements within the department, its administrative units, and the authorities within the department to improve administrative efficiency, policy coordination and implementation, transportation planning, program effectiveness and to preserve and make optimal use of fiscal resources; (7) pursuant to chapter 30A, make, amend and repeal rules and regulations for the direction, management, and administration of the department, its offices, and its programs; (8) execute all instruments necessary for carrying out the business of the department; (9) acquire, own, hold, dispose of, lease and encumber property, real, personal, and mixed in the name of the department; (10) enter into agreements and transactions with federal, state and municipal agencies and other public institutions and private individuals, partnerships, firms, corporations, associations and other entities on behalf of the department; (11) enter into single contracts for design, construction, maintenance, and operation of a transportation facility over a contractually defined period in accordance with applicable law; (12) apply for and accept

funds, including grants, on behalf of the Commonwealth in accordance with applicable law; (13) delegate any of the foregoing powers to the undersecretary or to a director having charge of an administrative unit within the department; (14) designate, to any employee of the department, the authority to sit on any boards or commissions for which the secretary is a member as the secretary's designee; (15) fix and revise by regulation from time to time and charge and collect, rates, fees, rentals, and other charges in a comprehensive and uniform manner in accordance with section 3B of chapter 7 of the General Laws; and (16) administer, without further appropriation, the Massachusetts Mobility Fund and the Deferred Maintenance Trust Fund.

Section 5. The secretary shall apply for, accept, and expend, subject to appropriation, on behalf of the Commonwealth, any gift, loan, or grant-in-aid from the federal government, or any agency or instrumentality thereof for demonstration projects and programs as may become available to the Commonwealth for the purpose of energy conservation for improved transportation management systems.

Section 6. The secretary shall collaborate with other state agencies to reduce greenhouse gas emissions to achieve the greenhouse gas emissions limits established in chapter 21N and in accordance with section 4 of this chapter and all other applicable laws.

The secretary shall adopt and implement a buy green initiative for department projects in furtherance of the greenhouse gas emission limits established under chapter 21N, and a build green initiative for the construction of new transportation facilities over ten thousand square feet in accordance with applicable law.

Section 7. Notwithstanding the provisions of any general or special law to the contrary, the proceeds received from the disposition of any interest in real property shall be deposited into the Massachusetts Transportation Fund.

Section 8. The department shall be organized and shall function as a single state agency including, but not limited to, for the purposes of the accounting and financial system of the Commonwealth. The secretary shall, notwithstanding the provisions of any general or special law to the contrary, identify and consolidate administrative activities and functions common to the separate offices, divisions, and authorities within the department and may designate such functions “core administrative functions” in order to improve administrative efficiency and preserve fiscal resources. Common functions that may be designated core administrative functions include, but shall not be limited to, human resources, financial management, information technology, legal, procurement, and asset management. All employees performing functions so designated and approved shall be employed directly by the secretary. The department may make such services available to the offices, divisions, and authorities within the department.

Offices within the Department of Transportation

Section 9. Office of Performance Management and Innovation

(a) The secretary shall operate and administer an office of performance management and innovation within the department that shall among other things, administer the provisions of this section and coordinate the efforts of the Massachusetts mobility compact in accordance with section 12 of this chapter. All divisions, agencies, and authorities of the department shall report to the office of performance management and innovation with regard to setting goals and establishing performance measures to improve the department’s operations and the delivery of transportation services and projects in the Commonwealth.

The office of performance management and innovation shall be charged with evaluating the goals and measures established by the divisions, agencies, and authorities and monitoring the results reported. The office shall recommend such changes to proposed goals and measures as are appropriate to align goals and measures with the strategic priorities of the secretary. The office shall report regularly to the public

on the progress agencies, departments and divisions are making at achieving stated goals. The office shall be responsible for the establishment and, in cooperation with each of the divisions, operation of an asset management system for all departments and shall report regularly on the condition of assets and infrastructure. Reports on performance shall include measures of: (i) maintenance activity and results; (ii) usage on all modes of transportation; (iii) operational performance; and (iv) planning, design and construction, including on-time and on-budget project delivery.

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

The office will be responsible to report publicly and transparently and to make all reports available through an online system.

(b) The secretary shall establish a performance measurement system for the administrative units and authorities within the department, which shall establish program goals, measure program performance against those goals and report publicly on progress to improve the effectiveness of transportation design and construction, service delivery and policy decision-making.

Performance measurements shall be made for all modes of transportation, for at least the then current fiscal year and the previous 5 fiscal years. Performance measurements shall include the number of projects completed, the percentage of projects completed early or on time, the percentage of projects completed under budget or on-budget, the number of projects in construction phase and the percentage of projects advertised early or on time. Performance measurements shall include usage information for all modes of transportation, including measures of throughput, utilization and ridership. This information shall be presented with measurements of congestion, on-time performance, where appropriate, and incidents that have caused delays or closures. Performance measurements shall include assessments of

maintenance performance by asset class, mode and region, including a breakdown of highway pavement, bridge and Massachusetts bay transportation authority track, for subway and commuter rail, and Commonwealth-owned freight rail, by condition level, with an explanation of current year and future year planned maintenance expenditures and their expected result. Reporting on planned maintenance programming shall include an assessment of the categories of maintenance-related activity as described in the American Association of Highway and Transportation Officials' Maintenance Manual for Roadways and Bridges. The department shall expand and enhance the project information system developed by the highways division and shall develop additional means to establish a centralized system, available on the internet, to document performance measurements and the progress and status of all planning, design, construction, and maintenance projects of the department of transportation, the highway division, and all road and bridge projects of any city or town that are funded, in whole or in part, by the Commonwealth. A municipality shall have access to the system at no cost, shall enter such information into the system as may be required by the department, and shall otherwise fully participate in the system as a condition of receiving financial assistance from the Commonwealth. All information in the project information system shall be a public record unless the release of such information is exempt from public disclosure pursuant to state or federal law. A report of the project information system and performance measurements shall be published annually and made available to the public not later than December 31 of each year. The report shall also be filed annually with the clerks of the senate and house of representatives, the chairs of the house and senate committees on ways and means and the senate and house chairs of the joint committee on transportation and with the secretary of administration and finance. The performance measurement system shall require each division to develop a strategic plan for program activities and performance goals.

Section 10. Office of Transportation Planning

There shall be within the department an office of transportation planning which shall oversee and administer the planning responsibilities of the department, and which shall be under the supervision and

control of the secretary. The secretary shall appoint an executive director who shall be skilled and experienced in the field of transportation planning and shall not be subject to chapter 31 or to section 9A of chapter 30. Said director may be removed for cause by the secretary. Said office shall serve as the principal source of transportation planning for state-level transportation projects, and shall develop the Commonwealth's transportation-related programs as more particularly set forth in this section. In addition, the office of transportation planning shall work in coordination with regional planning agencies in the Commonwealth, and shall serve as the principal source of transportation planning for local and regional transportation projects. Said office shall conduct research, surveys, demonstration projects and studies in cooperation with the federal government, said regional planning agencies, regional transit authorities, municipalities, other governmental agencies, and appropriate private organizations in order to support local and regional planning, deliver transportation programs, and execute demonstration projects.

Said office of transportation planning shall be responsible for the preparation of a comprehensive and coordinated intermodal transportation plan for the Commonwealth. Said plan shall include planning to improve and maintain facilities and equipment for all modes of transportation in the Commonwealth, including highways and roads, passenger rail and other public transportation, freight rail, aviation, shipping, pedestrian facilities, bicycle facilities, and water transportation. Said plan shall ensure an equitable allocation of investments in transportation across the regions of the Commonwealth. Said plan shall include any program for the disposition of capital assets. Said plan shall include transportation improvement projects for the department of transportation and all of its constituent divisions and authorities that own or operate transportation facilities, including the Massachusetts bay transportation authority, the regional transit authorities, and the Massachusetts port authority. Said plan shall be developed in consultation with said divisions and authorities, the Commonwealth development coordinating council, the metropolitan planning organizations, the regional planning agencies, and the transportation finance commission. Said plan shall be prepared in coordination with comprehensive urban development plans and in cooperation with said other agencies so far as practicable.

The office of transportation planning shall be responsible for planning and programs that promote sustainable transportation, and that will: (i) maintain and expand transportation options that maximize mobility, reduce congestion, conserve fuel, and improve air quality; (ii) prioritize alternative modes including rail, bus, boat, rapid and surface transit, shared-vehicle and shared-ride services, bicycling, and walking; and (iii) invest strategically in existing and new passenger and freight transportation infrastructure that supports sound economic development consistent with established smart growth objectives. The office of transportation planning shall be responsible for bicycle and pedestrian planning, water transportation planning, and the management of transportation programs promoting congestion mitigation and air quality improvements, travel options, safe routes to school, alternative fuels, and other planning initiatives and programs that promote sustainable transportation.

Consistent with sections 4 and 6 of this chapter, the office of transportation planning shall be responsible for research and planning in support of the implementation of chapter 21N of the General Laws and chapter 298 of the acts of 2008. The office shall undertake planning and research tasks and coordinate with the executive office of energy and environmental affairs on issues related to historic, current, and projected future transportation-generated emissions of carbon dioxide and other greenhouse gases and technology, policy, and legal issues related to developing and implementing market-based compliance mechanisms for transportation-generated greenhouse gases.

The office of transportation planning shall conduct plans and work with the divisions, municipalities, other public agencies, private organizations, and other parties as appropriate in order to ensure consideration for equitable bicycle and pedestrian access in the planning and development of all transportation facilities. Consistent with the most current edition of the MassHighway Project Development and Design Guide, or its successor, the office of transportation planning shall give consideration in the design, construction, and maintenance of transportation facilities for all new construction and reconstruction projects, including resurfacing, restoring and rehabilitation improvement projects, to ensure safe and contiguous routes for all users, including individuals of all ages and abilities, pedestrians, bicyclists, transit vehicles and riders, and motorists.

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

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

Section 11. Office of Outdoor Advertising

There shall be an office of outdoor advertising within the department, for the purpose of regulating and controlling, in the public interest, the erection and maintenance of billboards, signs, or other advertising devices in accordance with state and federal law. The office shall be under the administration and supervision of an executive officer who shall be an employee of the department. The executive officer shall arrange for the cooperation of district engineers of the highway division and other field employees of the highway division in reporting the location of billboards, signs or other advertising devices along state highways, and in enforcing the rules and regulations of the office. Whenever any action by the office is required to be in writing, such writing shall be sufficient when signed by the executive officer. The executive officer shall make an annual report for the preceding calendar year setting forth the number of permits granted, the number of permits refused, the number of hearings held, the number of illegal

signs removed, and other relevant matters to the general court and to the director of the highway division in January of each year.

Programs Within the Department of Transportation

Section 12. Massachusetts Mobility Compact.

(a) As used in this section the following words shall have the following meanings unless the context clearly requires otherwise:

“Compact”, the Massachusetts mobility compact.

“Department”, the department of transportation and divisions within said department, including the highway division, the rail and transit division, the aviation and port division, and the registry of motor vehicles.

“Independent agencies”, shall include, without limitation the Massachusetts bay transportation authority, the Massachusetts port authority, the Woods Hole, Martha’s Vineyard, and Nantucket steamship authority, and the Massachusetts association of regional transit authorities.

“Secretary”, the secretary of transportation and public works, also referred to as the “secretary of transportation”.

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

(b) There shall be a Massachusetts mobility compact, which shall be headed and coordinated by the secretary. The department, and all state and independent agencies shall be members of the compact. The compact shall improve the delivery of transportation services in the Commonwealth by communicating regularly and more effectively and by adopting a cooperative and coordinated approach to transportation

planning, design, construction, operation and maintenance aimed principally at: (1) increasing mobility for people and goods within and through the Commonwealth in a safe, secure, environmentally sustainable and efficient manner; (2) promoting and adopting administrative efficiency and program improvement initiatives between and among transportation agencies and authorities; and (3) sharing best practice techniques for implementation across transportation modes.

(c) Members of the compact may issue purchase or work orders and execute contracts between and among themselves, and may make use of the Massachusetts mobility compact fund, established in section 86 of this chapter, for the purpose of accomplishing the objectives of this section without regard to any procurement requirements; provided, however, that nothing in this section shall exempt the department or an independent or state agency from the public construction bidding statutes including, but not limited to, chapter 30, chapter 149 and chapter 149A.

(d) The secretary shall conduct regular meetings of the members of the compact.

Section 13. Healthy Transportation Compact.

There is hereby established within the department of transportation a healthy transportation compact. The secretary of transportation and the secretary of health and human services are hereby authorized and directed to further cooperation, adoption of best practices, and increased efficiency for the purposes of achieving positive health outcomes through the coordination of land use, transportation, and public health policy. The membership of the healthy transportation compact shall consist of the secretary of transportation, the secretary of health and human services, the secretary of energy and environmental affairs, the director of the highway division, the director of rail and transit, and the commissioner of public health, or their designees.

The secretary of transportation and the secretary of health and human services or their designees, shall serve as co-chairpersons of the compact. The chairpersons shall convene and preside at meetings of the

compact, determine the agenda of the compact, direct its work, and as appropriate to particular subject matters, establish and direct subgroups of the compact, which shall consist exclusively of the compact's members. The compact on healthy transportation shall:

(a) promote inter-secretariat cooperation and the establishment of a healthy transportation policy for the Commonwealth including appropriate mechanisms to minimize duplication and overlap of state and federal programs and services;

(b) develop a healthy transportation framework that increases access to healthy transportation alternatives that reduce greenhouse gas emissions, improves access to services for persons with mobility limitations and increases opportunities for physical activities;

(c) develop methods to increase bicycle and pedestrian travel throughout the Commonwealth, incorporate the principles, findings and recommendations of the Massachusetts Bicycle Transportation Plan and establish a framework for implementation of the Bay State Greenway Network;

(d) develop and implement, in consultation with the Massachusetts Bicycle and Pedestrian advisory board established pursuant to section 11A of chapter 21A of the General Laws, administrative and procedural mechanisms, including the promulgation of rules and regulations, consistent with the most current edition of the MassHighway Project Development and Design Guide, or its successor, to encourage the construction of complete streets, so-called, designed and operated to enable safe access for pedestrians, bicyclists, motorists and bus riders of all ages to safely move along and across roadways in urban and suburban areas;

(e) establish methods to implement the use of health impact assessments to determine the effect of transit projects on public health and vulnerable populations;

(f) facilitate access to the most appropriate, cost-effective transportation services within existing resources for persons with mobility challenges;

(g) expand service offerings for Safe Routes to Schools;

(h) explore opportunities and encourage the use of public-private partnerships with private and non-profit institutions in the implementation of this section;

(i) seek to establish an advisory council with private and non-profit advocacy groups as the compact sees fit;

(j) institute a health impact assessment for use by planners, transportation administrators, public health administrators and developers;

(k) develop and implement a method for monitoring progress on achieving the goals of this section and provide any other recommendations that would, in the judgment of the compact, advance the principles set forth in this section; and

(l) complete, in consultation with the department of public health, not later than September 30, 2010, a comprehensive baseline study of the health effects of particulate air pollution from surface and air transportation in Massachusetts. The study shall focus on understanding the health impacts from fine and ultrafine particulate matter upon populations that are located within 500 feet of any roadway with 50,000 or more motor vehicle trips per day, or any rail line regularly used by diesel locomotives or any airport with more than 500 enplanements per week as reported between January 1, 2007 and January 1, 2008; provided, further, that said study may include, but shall not be limited to, examining respiratory and cardiovascular disease and cancer incidence that may be affected by exposure to traffic-related particles. The following departments and agencies of the Commonwealth shall provide information relevant to this

study: the department of environmental protection, the department of public health, and the central transportation planning staff of the Boston metropolitan planning organization.

Section 14. Small Town Road Assistance Program.

(a) The secretary may establish a small town rural assistance program to assist towns with populations of 7,000 or less in undertaking projects to design, construct, reconstruct, widen, resurface, rehabilitate and otherwise improve roads and bridges or for the construction of chemical storage facilities. The program shall provide grant funds to towns for projects authorized by this section. The amount of each grant shall not exceed \$750,000.

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

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

(d) In evaluating the project and the level of funding, the secretary shall consider, without limitation, the following: (1) the extent to which the project will have a beneficial impact upon the economy and public safety of an applicant town; (2) the availability of funds for the project under other state or federal

programs; (3) the likelihood of funding under other state or federal programs; (4) the financial ability of the town to fund the project from its own sources; (5) the ability of the town to enter the capital markets to obtain borrowed funds for the project; and (6) the amount of state and federal highway funds expended or to be expended in the town.

Section 15. Public Works and Intermodal Transit Center Economic Development Program.

(a) The secretary may establish a program to assist municipalities with non-federally reimbursable intermodal transit center economic development projects, to design, construct, repair and improve roads, roadways, rail lines, and other transit oriented or related facilities, as deemed necessary for economic development by the secretary in consultation with the secretary of economic development upon the petition of an appropriate local governmental body in accordance with this section and any rules or regulations promulgated by the secretary in accordance with this section. The rules and regulations shall govern the criteria by which the funds shall be distributed and the method by which a municipality may apply for such funds.

(b) The secretary may commit the funds pursuant to this section by executing a grant or other contractual agreement with a municipality and, upon execution, the funds so committed shall be made available as a grant directly to the municipality which has entered into an agreement without further review or approval of the department. Each agreement shall contain assurances satisfactory to the secretary that the municipality will award a construction contract for the project which is the subject of the agreement not later than 180 days after the date of execution of the agreement.

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

(d) The secretary may, through execution of a grant or other contractual agreement as provided in

subsection (b), commit an amount of funds up to but not exceeding the aggregate amount of funds returned by municipalities under subsection (3) to any other municipality which has otherwise complied with the applicable requirements for such projects, including the terms and conditions provided in this section.

Section 16. Gateway Cities Program.

(a) The secretary may establish a gateway cities assistance program to assist cities and towns with more than 35,000 inhabitants but fewer than 175,000 inhabitants where (1) the unemployment rate is at least 1.5 per cent higher than the statewide average, (2) the median income of the city or town is 80 per cent or less of the state median income, and (3) the per capita income is below the state average per capita income, in undertaking projects to design, construct, reconstruct, widen, resurface, rehabilitate and otherwise improve roads and bridges and other related public works facilities as deemed necessary for economic development by the department upon the petition of an appropriate local governmental body in accordance with this section and any rules or regulations promulgated by the secretary in accordance with this section. The rules and regulations shall govern the criteria by which the funds shall be distributed and the method by which a municipality may apply for such funds.

(b) The secretary may commit the funds pursuant to this section by executing a grant or other contractual agreement with a municipality and, upon execution, the funds so committed shall be made available as a grant directly to the municipality which has entered into an agreement without further review or approval of the division. Each agreement shall contain assurances satisfactory to the director that the municipality will award a construction contract for the project which is the subject of the agreement not later than 180 days after the date of execution of the agreement.

(c) In the event that a contract is not awarded by the municipality within the period provided in

subsection (b), the secretary may require, by written notification to the municipality, that the funds paid to it by the Commonwealth pursuant to the agreement shall be returned forthwith to the Commonwealth.

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

Section 17. Regional Mobility Assistance Program.

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

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

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

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

Section 18. Private Project Ombudsman.

The secretary shall designate an employee of the department as a private project ombudsman to assist municipalities and private entities to develop and advance projects critical to the economic development of a community and connecting to the state transportation system, and to ensure regional equity in the transportation system. The secretary is authorized to establish guidelines outlining the responsibilities and obligations of the private project ombudsman, which shall include, but not be limited to, sufficient authority and experience in the field of real estate development and economic development to supervise, assist, and provide necessary guidance for municipal or private entity projects and the authority, subject to the secretary's approval, to review project proposals and expedite project development where possible.

The department shall establish and charge a reasonable fee to cover the costs of processing, reviewing, and approving a project proposal submitted to the private project ombudsman by a municipality or private entity.

Section 19. Public-Private Partnerships.

The department is hereby authorized to enter into one or more agreements with a private entity for the purposes of developing, financing, designing, constructing, operating, maintaining, managing or leasing new or existing publicly owned transportation assets in accordance with requirements outlined in sections 19 through 31 of this chapter.

Section 20. As used in sections 19 through 31 of this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Department”, MassDOT or the Massachusetts department of transportation.

“Operator”, a private entity that has entered into a public-private agreement with a department.

“Private entity”, any natural person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, non-profit entity, or other business entity, or any combination thereof.

“Public-private agreement”, the agreement between a private entity and the department that relates to the lease, development, financing, design, construction, maintenance, management, or operation of a publicly owned transportation asset.

“Public-private initiative”, means an arrangement between the department and a private entity, the terms of which are stated in a public-private agreement, that provides for (i) the financing, design, construction, maintenance, operation, and management of a publicly-owned transportation asset, or (ii) the lease of a publicly owned transportation asset for a period not to exceed ninety years to a private entity.

“Publicly owned transportation asset”, any highway, road, bridge, tunnel, overpass, ferry, airport, public transportation facility, seaport facility, rail facility, intermodal facility, and any building, structure,

parking area, land and rights in land, or other facility or asset, owned by the Commonwealth and under the control of the department, or owned by an authority within the department.

“User fees”, the rate, toll, fee, or other charges imposed for use of all or part of a publicly owned transportation asset.

Section 21. Notwithstanding the provisions of any general or special law to the contrary, the department may (i) solicit and accept a proposal for a public-private initiative in accordance with the provisions set forth herein, (ii) accept an unsolicited proposal for a public-private initiative in accordance with the provisions set forth herein, or (iii) accept a proposal made following the solicitation of alternatives to an unsolicited proposal in accordance with the provisions set forth herein.

Section 22. (a) The department shall, in soliciting and selecting a private entity with which to enter into a public-private initiative, utilize an open and competitive selection process as set forth in this section and section 24.

(b) The department’s solicitation shall require the private entity to provide a description of the general reputation, qualifications, industry experience, and financial capacity of the private entity; (ii) the proposed approach to financing the project; (iii) the private entity’s commitment to fair labor practices; (iv) proposed benefits to the Commonwealth, including estimated financial return to the Commonwealth; (v) proposed costs to be borne by the Commonwealth; (vi) a proposed comprehensive risk management protocol; and (vii) qualifications, capabilities, and experience of the proposed project manager and key personnel.

(c) The department’s solicitation shall provide private entities with a reasonable time to respond to the request.

(d) A private entity may identify those portions of a proposal that it considers to be confidential, proprietary information or trade secrets and shall provide justification upon request as to why these materials should not be disclosed. Such information shall be considered exempt from disclosure under the terms of sub-paragraph 26(g) of section 7 of chapter 4 of the General Laws.

Section 23. (a) The department may receive, consider, evaluate, and accept an unsolicited proposal for a public-private initiative if the proposal (i) is independently originated and developed by the proposer; (ii) benefits the public; (iii) is prepared without department input or supervision; and (iv) includes sufficient detail and information for the department to evaluate the proposal in an objective and timely manner, including information responsive to the mandatory information in section 22(b). Within 30 days after receiving an unsolicited proposal, the department shall undertake a preliminary evaluation of the unsolicited proposal to determine if the proposal complies with the requirements stated herein. The department may charge a reasonable fee to cover its costs to process, review, and evaluate an unsolicited proposal. If the unsolicited proposal does not, in the sole determination of the department, comply with the requirements of this section, the department shall return the proposal without further action. If the unsolicited proposal complies with the requirements of this section, the department shall solicit alternatives in accordance with paragraph (b).

(b) If an unsolicited proposal complies with the requirements of paragraph (a), the department shall advertise the unsolicited proposal for the purpose of receiving competitive proposals for the same proposed facility. The advertisement shall outline the general nature and scope of the unsolicited proposal, including a description of the proposed project, shall require the submission of the information required in section 22(b) and shall specify a reasonable time period by which competitors must submit a competing proposal to the department. Unsolicited proposals and competitive proposals may also designate materials to be exempt from disclosure as set forth in section 22(d).

Section 24. (a) As set forth herein, the department shall evaluate (i) all proposals resulting from a solicitation and (ii) an original unsolicited proposal and any competing proposals that the department determines, in its sole discretion, are comparable in nature and scope. The department may conduct good faith discussions with, and invite oral presentations from, each proposer in order to assist its evaluation. The department shall evaluate proposals using the following factors: (i) novel methods, approaches, or concepts demonstrated by the proposal; (ii) the general reputation, qualifications, industry experience, and financial capacity of the private entity; (iii) the proposed approach to financing the project; (iv) the private entity's commitment to fair labor practices and compliance with state prevailing wage laws; (v) proposed benefits to the Commonwealth, including estimated financial return to the Commonwealth; (vi) a proposed comprehensive risk management protocol; and (viii) qualifications, capabilities, and experience of the proposed project manager and key personnel. The department may utilize expert services of other Commonwealth agencies or outside consultants to assist in the evaluation of any proposals.

(b) After evaluating the proposals, the department may, in its sole discretion, based on a determination of what is most advantageous to the Commonwealth: (i) accept a proposal generated from a solicitation; (ii) accept an unsolicited proposal and reject any competing proposals; (iii) reject an unsolicited proposal and accept a comparable competing proposal; or (iv) reject all proposals. The decision of the department shall be made in writing to each proposer, and shall contain a clear and specific explanation of the basis of the department decision, which shall include a determination that a selected proposal is the most advantageous to the Commonwealth. In no case shall the department be liable for injury, damages, fees, or costs associated with its decision to reject any or all proposals unless such decision was subject to fraud or collusion.

Section 25. (a) After selecting a solicited or unsolicited proposal for a public-private initiative, the department may enter into a public-private agreement with the selected private entity or any configuration of private entities. No public-private agreement regarding a highway, road, bridge, tunnel, airport, rail facility or public transportation facility shall be valid unless it has been approved and executed by both

the secretary of administration and finance and the governor. With respect to publicly owned transportation assets that are owned or operated by an authority within the department, no public-private agreement shall be executed without prior approval of the authority.

(b) The public-private agreement shall provide for, as applicable, the planning, acquisition, financing, development, design, construction, reconstruction, replacement, improvement, maintenance, management, repair, leasing, and operation of a publicly owned transportation asset.

(c) The financing mechanism included in a public-private agreement may include the imposition and collection of user fees and the development or use of other revenue sources.

(d) A public-private agreement between the department and a private entity shall, at a minimum, contain provisions outlining in specific terms: (1) which party will assume responsibility for which specific project elements and the timing of the assumption of responsibility; (2) the type of property or other interest, if any, the private entity will have in the facility; (3) if and how the parties will share costs of development of the project; (4) if and how the parties will allocate financial responsibility for the project; (5) allocation of liability and liability for nonperformance; (6) any incentives for performance; (7) any accounting and auditing standards to be used to evaluate progress on the project; (8) other terms and conditions as the department may deem in the public interest; (9) the term of the public-private agreement; (10) a description of the actions the department may take to ensure proper maintenance of the transportation facility; (11) whether user fees will be collected on the transportation facility and the basis by which such user fees shall be determined and modified; (12) compliance with applicable federal, state, and local laws; (13) grounds for default and for termination of the public-private agreement by the department or operator; (14) procedures for amendment of the agreement; and (15) other terms and conditions as the department sees fit.

(e) Notwithstanding the provisions of any general or special law to the contrary, the revenues generated from any public private agreement shall be deposited into the Massachusetts transportation fund; provided, however, that all revenue generated from a public-private agreement requiring the prior approval of an authority shall not be deposited into the Massachusetts Transportation Fund unless otherwise agreed to by said authority.

Section 26. In the event of termination of the public-private agreement, the authority and duties of the operator cease, except for any duties and obligations that extend beyond the termination as provided in the public-private agreement, and the transportation facility reverts to the department and shall be dedicated to the department for public use.

Section 27. (a) Upon the occurrence and during the continuation of material default by the operator, not related to an event of force majeure, the department may: (1) elect to take over the transportation facility, including the succession of all right, title, and interest in the transportation facility, subject to any liens on revenues previously granted by the private entity; and (2) terminate the public-private agreement and exercise any other rights and remedies that may be available.

(b) In the event that the department elects to take over a transportation facility under subsection (a), the department: (1) shall collect and pay any revenues that are subject to lien to satisfy any obligation; (2) may develop and operate the transportation facility, impose or continue user fees for the use of the transportation facility, and comply with the service contracts; and (3) may solicit proposals for the maintenance and operation of the transportation facility under section 25.

Section 28. (a) The department may accept from the United States, or any of its agencies, funds that are available to the Commonwealth for carrying out this chapter and public-private partnerships, whether the funds are made available by grant, loan, or other financial assistance, including but not limited to

financing arrangements available pursuant to the Transportation Infrastructure Finance and Innovation Act under 23 U.S.C. 181 et seq., or any other applicable federal law.

(b) The department may enter into agreements or other arrangements with the United States or any of its agencies as may be necessary for carrying out the purposes of this chapter.

(c) The department may accept from any source any grant, donation, gift, or other form of conveyance of land, money, other real or personal property, or other item of value made to the Commonwealth or the department for carrying out the purposes of this chapter.

(d) Any transportation facility may be financed in whole or in part by contribution of any funds or property made by any private entity or affected jurisdiction that is party to a public-private agreement under this chapter.

(e) The department may combine federal, state, local, and private funds to finance a transportation facility under this chapter.

Section 29. The department may, if applicable, exercise the power of eminent domain to acquire property, rights of way, or other rights in property for transportation projects that are part of a public-private initiative; provided, however, the disposition of any interest in real property must comply with section 7 of this chapter.

Section 30. (a) All law enforcement officers of the Commonwealth and of an affected local jurisdiction shall have the same powers and jurisdiction within the limits of a transportation facility subject to a public-private agreement as existing prior to execution of said agreement and shall have access to the transportation facility at any time for the purpose of exercising such powers and jurisdiction.

(b) The traffic and motor vehicle laws of the Commonwealth, or if applicable, any affected local jurisdiction shall be the same on the transportation facility as those laws applied to conduct on similar transportation facilities in the state or local jurisdiction.

(c) Punishment for violations of traffic and motor vehicle laws of the Commonwealth, or if applicable, any affected local jurisdiction on the transportation facility shall be as prescribed by law for conduct occurring on similar transportation facilities in the Commonwealth or local jurisdiction.

Section 31. The secretary shall, consistent with the provisions of sections 19 to 31, (i) administer the public-private partnership program with a focus on non-core transportation assets under the department's control, and (ii) encourage the authorities, within the department, to maximize potential revenue through public-private partnerships.

Highway Division

Section 32. (a) There shall be an administrative unit within the department of transportation known as the highway division. The division shall include the former Massachusetts turnpike authority and the former department of highways, except the division of motorboats, the division of waterways, and the division of motor vehicles, at the time and in the manner as more particularly set forth in this chapter.

As the administrative unit within the department responsible for these matters, the division, under the supervision and direction of the secretary, shall: (1) administer the design, construction, reconstruction, repair, rehabilitation, improvement, operation, and maintenance of the assets within its jurisdiction; (2) enter into any contracts and agreements necessary or desirable to carry out its purposes; (3) make, and from time to time revise, regulations for the conduct of the business of the division, and all regulations otherwise required by law; (4) collaborate with other agencies and authorities as may be appropriate in fields related to transportation, development, public safety and security; (5) prepare and submit to the governor and the general court an annual report containing in substance the description of the organization of the division, and with the approval of the secretary, reviewing the work of the division,

recommending legislation and other action by the governor and the general court, and (6) submit such other reports as the secretary or the General Court may require from time to time.

The division shall be under the direction of a director, who shall be appointed by the secretary, with approval by the governor, and who shall serve the pleasure of the secretary. The director shall be responsible for administering and enforcing the provisions of this section relative to the administration of each bureau or other section thereof under his or her control and supervision unless otherwise provided herein. The director shall be exempt from chapter 31 and the position of director shall be classified in accordance with section 45 of chapter 30. The director shall receive such salary as the secretary shall determine, provided such salary shall be in accordance with section 46C of said chapter 30. The director shall be appointed with due regard to his or her fitness, by reason of his or her experience in matters relating to transportation infrastructure, including roads and bridges, such as their construction, operations, financing or other relevant experience relative to the efficient exercise of his powers and duties. The director shall administer this section and the General Laws, rules and regulations that grant powers to or impose duties upon the division, subject to the direction and supervision of the secretary.

(b) The director shall establish a procedure for recommending to the secretary approval or disapproval of all contracts, including specifications, made by the division, and any changes, alterations, amendments, or modifications thereof and for contract appeals of all claims made under any contract with the division with the exception of claims subject to section 39Q of chapter 30. Any person aggrieved by a decision of the secretary acting in regard to contract appeals may bring suit against the Commonwealth for recovery of damages based on such claim.

To assist the secretary and director in performing these functions and duties, the governor may appoint and remove a person of legal training and experience, who shall be a member of the bar of the Commonwealth, to the position of administrative law judge, who shall serve as hearing examiner. The administrative law judge shall devote full time during business hours to the duties of his position. The position shall be classified in accordance with section 45 of chapter 30 and the salary shall be determined

in accordance with section 46C of said chapter 30. The secretary may refer any dispute concerning contracts, contract specifications or the execution of contracts not subject to the aforesaid section 39Q of said chapter 30 to the administrative law judge for a report on the matter including a recommendation as to the disposition of the dispute.

The administrative law judge shall hear all claims by contractors from determinations of the division with the exception of claims subject to said section 39Q of said chapter 30; and shall, after hearing, render to the secretary a report of the matter including a recommendation as to the disposition of the claim. Said administrative law judge, shall at the request of the contractor or of the director of the division or on his own motion, summon witnesses and require the production of books and records and take testimony under oath. Such reports shall be maintained as public records in a place and form fully accessible to the public.

(c) The director shall appoint and may remove all employees in the division, subject to the approval of the secretary. From time to time the director may, subject to appropriation and regulation, employ such consultants as he may consider necessary.

(d) The director shall collaborate with other state agencies to reduce greenhouse gas emissions to the limits established in chapter 21N.

(e) The director, on behalf of and under the supervision and direction of the secretary, may promulgate rules and regulations to effectuate the purposes of this chapter.

Section 33. (a) The following shall be assets of the department, administered through its highway division, and shall be state highways or facilities for all purposes and shall be considered a part of the Massachusetts state highway system as defined in section 13 of chapter 81 of the General Laws: (i) all former assets held by the department of highways; (ii) all land, buildings, highways, bridges, tunnels and other highway elements of whatever description formerly under the care, custody, and control of the

Massachusetts turnpike authority, effective as of the date of the assumption by the department of all obligations related to such facilities; (iii) the Tobin memorial bridge formerly under the care, custody, and control of the Massachusetts port authority, effective as of the date of the transfer of said bridge to the department; and (iv) all bridges and related appurtenances, as documented in accordance with applicable law, formerly under the care, custody, and control of the department of conservation and recreation, effective as of the date of transfer of said bridges and appurtenances to the department.

(b) The secretary shall appoint a manager to serve as director of system integration, whose primary responsibility shall be to develop a plan and oversee the implementation of the merger and integration of the organizations and assets comprising the highway division.

Section 34. The highway division shall be comprised of the following offices: highway engineering, highway construction, highway maintenance, and such other offices as the director may determine to be necessary. Each such office shall be under the direction, control, and supervision of the director. The director shall assign to all officials, agents, and employees of the divisions their respective duties.

Section 35. The director of the highway division shall, with the approval of the secretary, establish such bureaus, sections, districts and other offices as shall be necessary for efficient and economical administration of the division, and, if necessary for such purpose, may from time to time with the approval of the secretary of transportation consolidate or abolish the same. The director shall prepare and keep current a general statement of the organization of the division, of the assignment of functions to its various sub-units, officials and employees, and of the established places at which and the methods whereby the public may secure information or make requests, such statement to be known as the division's "description of organization." He or she shall file with the state secretary an attested copy of such description and of each amendment thereto.

Section 36. (a) There shall be within the division a real estate appraisal review board. The board shall consist of not less than 3 nor more than 5 members to be appointed by the governor, 2 of whom shall be certified general real estate appraisers licensed by the board of real estate appraisers pursuant to section 92 of chapter 13. Members of the board shall be appointed for terms of 3 years or until a successor is appointed. Members shall be eligible to be reappointed and may be compensated at a rate to be determined by the secretary. Members of the board shall be state employees for the purposes of chapter 268A. A chairman of the board shall be elected annually from the membership. The division shall provide administrative support to the board as requested. In the event of a vacancy on the board, the governor shall appoint a new member consistent with this section to fulfill the remainder of the unexpired term.

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

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

(d) The board shall submit an annual report of its activities during the preceding fiscal year not later than September 1 to the governor, the secretary of the department of transportation, the director of highways, the chairs of the joint committee on transportation, the chairs of the house and senate committees on ways and means, and the secretary of administration and finance.

Section 37. The director may establish and implement within the highway division a program of engineering internship and, may recruit qualified persons to serve in the division as highway engineer interns.

Section 38. The director shall establish a co-operative engineer program and may enter into agreements with colleges of recognized standing within the Commonwealth, including colleges which have summer programs that have established a curriculum leading to a degree of bachelor of science in engineering on a so-called co-operative basis, contemplating regularly rotating work activity in the field of engineering and an equal period of classroom training. He or she may employ persons enrolled as candidates for the degree of bachelor of science in engineering in any such colleges to serve in the division in the position of student engineer, provided that the position of student engineer shall be in a grade lower than that of junior civil engineer in the division, and provided that at no time shall the number of persons employed in the division as student engineers exceed eight.

Section 39. (a) The highway division may provide functional replacement of real property in public ownership whenever the division has acquired such property in whole or in part under this chapter or when such property is significantly and adversely affected as a result of the acquisition of property for a highway or highway-related project and whenever the division determines that functional replacement is necessary and in the public interest. For the purposes of this section, “functional replacement” shall mean the replacement, pursuant to chapter 7, requiring authorization of the general court prior to disposition of real property, including either land or facilities thereon, or both, which will provide equivalent utility, and “real property in public ownership” shall mean any present or future interest in land, including rights of use, now existing or hereafter arising, held by an agency, authority, board, bureau, commission, department, division or other unit, body, instrumentality or political subdivision of the Commonwealth. This section shall not constitute authorization by the general court as required by said chapter 7.

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

utility or utility facility for the cost of relocation subject to the limitations in subsection (e) and in accordance with the following formula: (i) for any utility facility that is to be reimbursed federally in whole or in part, the division shall reimburse the owner to the extent that the cost of relocating the utility facility is reimbursed by the federal government; and (ii) for the relocation of any utility facility over \$50,000 that does not qualify for federal reimbursement, the division may reimburse the owner in accordance with the owner's ability to meet the following schedule: if the utility performs the relocation in a manner consistent with the division's policies and not later than the target date established by the division for the project, the division shall reimburse the utility at least 50 per cent but not more than 80 per cent of the costs of relocating the utility facility. Failure to comply with an order from the division shall be subject to enforcement under chapter 81 of the General Laws.

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

(d) Notwithstanding the provisions of any general or special law to the contrary, any utility facility that is required to be relocated because of construction may be relocated temporarily above ground during the construction of the project.

(e) A utility relocation shall be eligible for reimbursement under this section only if it is completed to the satisfaction of the division within target dates established by the division and in accordance with design criteria set forth by the division for the relocation in a manner that facilitates the timely completion of the affected project. The total cost to the Commonwealth for reimbursements for utility relocations under this section that are not reimbursed federally in whole or in part shall not exceed \$10,000,000, annually, which amount shall not be credited toward the costs of the annual statewide road and bridge program.

Section 40. Notwithstanding section 39 or the provisions of any other general or special law to the contrary, the Commonwealth, through the highway division, may reimburse the owner of an underground

utility or utility facility whenever such underground utility or utility facility has been relocated because of construction of a project which is to be reimbursed federally in whole or in part. The reimbursement authorized herein shall be to the extent that the cost of relocating the facility is reimbursed by the federal government.

Section 41. (a) The division may assess a civil administrative penalty to any person, defined as any agency, or political subdivision of the Commonwealth, any state, public or private corporation or authority, individual, trust, firm, joint stock company, partnership, association or other entity or any group thereof or any officer, employee or agent thereof, who fails to comply with any provision of any regulation, order, license or approval issued or adopted by the division, or of any law which the division has the authority or responsibility to enforce, if the noncompliance occurred after the division had given written notice of the noncompliance, and if, reasonable time, as determined by the division and stated in the notice, has elapsed for coming into compliance. The division may assess this penalty without prior written notice if the failure to comply: (1) was part of a pattern of noncompliance and not an isolated instance, (2) was willful and not the result of mistake, negligence, or error, (3) resulted in significant impact on public health, safety or welfare, or (4) consisted of knowingly making, or causing any person to make, a false, inaccurate, incomplete or misleading statement in a document submitted to or required to be kept by the division. A penalty assessed under this section shall be an alternative to any other civil penalty that may be prescribed by law. For the purpose of determining whether the noncompliance was part of a pattern of noncompliance and not an isolated instance, the division shall consider, but shall not be limited to, whether the division had previously notified the person of a noncompliance on 2 occasions during the previous 4-year period or of any noncompliance with the same provision of a law, regulation, order, license or approval during the previous 5-year period. If a person who has received a notice of noncompliance fails to come into compliance within the time period stated in the notice, the civil administrative penalty may be assessed by the division upon such person from the date of receipt of the notice.

(b) Whenever the division seeks to assess a civil administrative penalty on any person, the division shall cause to be served upon such person, either by service, in hand, or by certified mail, return receipt requested, a written notice of its intent to assess a civil administrative penalty which shall include a concise statement of the alleged act or omission for which such civil administrative penalty is sought to be assessed, each law, regulation, order, license or approval which has not been complied with as a result of such alleged act or omission, the amount which the division seeks to assess as a civil administrative penalty for each alleged act or omission, a statement of the person's right to an adjudicatory hearing on the proposed assessment, the requirements with which the person must comply in order to avoid being considered to have waived the right to an adjudicatory hearing and the manner of payment thereof if such person elects to pay the penalty and waive an adjudicatory hearing. After written notice of noncompliance or intent to assess a civil administrative penalty has been given, each additional day during which the noncompliance occurs or continues shall constitute a separate offense and shall be subject to a separate civil administrative penalty if reasonable efforts have not been made to promptly come into compliance.

(c) Whenever the division seeks to assess a civil administrative penalty on any person, that person shall have the right to an adjudicatory hearing under chapter 30A.

(d) A person on whom a penalty has been assessed under this section shall be considered to have waived the right to an adjudicatory hearing unless, within 21 days after receipt of date of the division's notice that it seeks to assess a civil administrative penalty, the person files with the division a written statement denying the violations alleged by the division in the notice, or asserting that the money amount of the proposed civil administrative penalty is excessive. In any adjudicatory hearing authorized under chapter 30A, the division shall be required to prove by a preponderance of the violations alleged by the division.

(e) If a person waives his right to an adjudicatory hearing, the proposed civil administrative penalty shall be final immediately upon such waiver.

(f) If a civil administrative penalty is assessed at the conclusion of an adjudicatory hearing, the civil administrative penalty shall be final after 30 days if no action for judicial review of the decision is commenced under chapter 30A.

(g) Any person who institutes proceedings for judicial review of the final assessment of a civil administrative penalty shall place the full amount of the final assessment in an interest-bearing escrow account in the custody of the clerk-magistrate of the reviewing court. The establishment of this interest-bearing escrow account shall be a condition precedent to the jurisdiction of the reviewing court unless the party seeking judicial review demonstrates in a preliminary hearing held within 20 days after the filing of the complaint either the presence of a substantial question for review by the court or an inability to pay. In this event, the court may grant an extension or waiver of the interest-bearing escrow account or may require, in lieu of the interest-bearing escrow account, the posting of a bond payable directly to the Commonwealth in the amount of 125 per cent of the assessed penalty. If, after judicial review, in a case where the requirement for an escrow account has been waived, and in cases where a bond has been posted in lieu of such requirement, the court affirms, in whole or in part, the assessment of a civil administrative penalty the division shall be paid the amount thereof together with interest at the rate set forth in section 6C of chapter 231. If, after review in a case where an interest-bearing escrow account has been established, the court affirms the assessment of the penalty, in whole or in part, the division shall be paid the amount thereof together with the accumulated interest on it in the interest-bearing escrow account. If the court sets aside the assessment of a civil administrative penalty in a case where the amount of the penalty has been deposited in an interest-bearing escrow account, the person on whom the civil administrative penalty was assessed shall be repaid the amount so set aside, together with the accumulated interest thereon.

(h) Each person who fails to pay a civil administrative penalty on time, and each person who issues a bond pursuant to this section and who fails to pay to the Commonwealth on time the amount required hereunder, shall be liable to the Commonwealth for up to 3 times the amount of the civil administrative penalty, together with costs, plus interest from the time the civil administrative penalty became final and

attorneys' fees, including all costs and attorneys' fees incurred directly in the collection of this amount. The rate of interest shall be the rate set forth in section 6C of chapter 231. Notwithstanding the provisions of any general or special law to the contrary, including the limitations and considerations set forth in this section, the division may require that the amount of a civil administrative penalty imposed pursuant to this section exceed the economic benefit realized by a person for noncompliance.

(i) In determining the amount of each civil administrative penalty, the division shall include, but not be limited to, the following factors: (1) the actual and potential impact on public health, safety and welfare of the failure to comply; (2) the actual and potential damages suffered, and actual or potential costs incurred, by the Commonwealth, or by any other person; (3) whether the person being assessed the civil administrative penalty took steps to prevent noncompliance, to promptly come into compliance and to remedy and mitigate whatever harm might have been done as a result of such noncompliance; (4) whether the person being assessed the civil administrative penalty has previously failed to comply with any regulation, order, license or approval issued or adopted by the division, or any law which the division has the authority or responsibility to enforce; (5) making compliance less costly than noncompliance; (6) deterring future noncompliance; (7) the financial condition of the person being assessed the civil administrative penalty; and (8) the public interest.

(j) No civil administrative penalty assessed hereunder shall be less than \$100. For each of the following failures to comply, the civil administrative penalty shall not exceed \$25,000 in each instance: (1) a failure to comply that is part of a pattern of noncompliance and not an isolated instance; and (2) knowingly making, or causing any person to make, any false, inaccurate, incomplete or misleading statement in any document submitted to or required to be kept by the division.

(1) a failure to comply that is part of a pattern of noncompliance and not an isolated instance; and (2) knowingly making, or causing any person to make, any false, inaccurate, incomplete or misleading statement in any document submitted to or required to be kept by the division.

Section 42. The highway division is authorized, in accordance with section 3B of chapter 7 of the General Laws, to 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 Tobin memorial bridge, the Ted Williams tunnel, the Sumner tunnel, and the Massachusetts turnpike, which, for purposes of this chapter, shall be defined as the limited access express toll highway, designated as interstate highway route 90, and all bridges, tunnels, overpasses, underpasses, interchanges, parking facilities, entrance plazas, approaches, connecting highways, service stations, restaurants, tourist information centers and administration, storage, maintenance and other buildings now owned or operated by the Massachusetts turnpike authority, and any additional highway, tunnel and bridge components as the general court has from time to time determined, extending from the town of West Stockbridge on the Commonwealth's border with New York state to, but not including, the interchange of interstate highway route 90 and state highway route 1A in the East Boston section of the city of Boston; provided, however, notwithstanding the provisions of any general or special law to the contrary, the department, the highway division, and, for so long as it shall continue to exist, the Massachusetts turnpike authority are hereby directed to modernize or automate the system of collection of tolls on at least that portion of the Massachusetts turnpike extending from the town of West Stockbridge on the Commonwealth's border with New York State to and including the interchange of interstate route 95 and interstate route 90 in the town of Weston. In connection with such efforts, the department shall cooperate with the commissioner of the department of revenue to establish, through regulation, a revised system of reimbursement to users of all or portion of the turnpike in a manner different than the current system of reimbursement pursuant to section 7 of chapter 64A of the General Laws, which shall include consideration of the use of improved technology, including the current FastLane program, so-called. The promulgation of any such regulation shall be completed in accordance with applicable law, on or before July 1, 2010, and shall be preceded by no fewer than two public hearings held in communities served by the turnpike. Upon the effective date of such regulations, the provisions of said regulations, which are inconsistent with said section 7 of said chapter 64A, shall govern.

The division shall convene at least two public hearings, to be within the metropolitan Boston area for proposed changes in the toll structure on the Tobin memorial bridge, the Ted Williams tunnel, or the Sumner tunnel, or in a community within the Massachusetts turnpike corridor for proposed changes in toll structure on the Massachusetts turnpike. 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 one week comment period, after each such hearing, during which written testimony and comments shall be accepted.

The division may 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 Tobin memorial bridge, the Ted Williams tunnel the Sumner tunnel, or the Massachusetts turnpike.

Section 43. Notwithstanding the provisions of any general or special law to the contrary, residents with private vehicles registered in the town of Winthrop, the city of Chelsea, and in the East Boston section of the city of Boston, the Charlestown section of the city of Boston, the South Boston section of the city of Boston, and the North End section of the city of Boston, as the Boston transportation department has determined the geographical boundaries of such sections, from time to time, shall pay a toll fixed at \$.50 above the one-way full rapid transit fare as established from time to time, by the Massachusetts bay transportation authority, for use of any tolled bridge or harbor tunnels into the city of Boston. This toll shall increase automatically consistent with any Massachusetts bay transportation authority authorized increase in the price of the one-way full fare; provided, however, at no time shall a resident eligible for the program identified in this section be required to pay a toll greater than the toll established in accordance with section 42 of this chapter.

Rail and Transit Division

Section 44. There shall be an administrative unit within the department known as the rail and transit division. Within this unit shall be the freight and rail programs of the department pursuant to chapter 161C of the General Laws, the Massachusetts bay transportation authority, the regional transit authorities and regional transit authority council. The unit shall be responsible for overseeing, coordinating, and planning all transit and rail matters throughout the Commonwealth, subject to section 4 of this chapter.

The division shall be under the direction of a director, who shall be appointed by the secretary with the approval of the governor, and who shall serve at the secretary's pleasure. The director shall be responsible for administering and enforcing the provisions of this section, subject to the supervision of the secretary.

The director shall be exempt from chapter 31 and the position of director shall be classified in accordance with section 45 of chapter 30. The director shall receive such salary as the secretary shall determine, provided such salary shall be in accordance with section 46C of said chapter 30. The director shall be appointed with due regard to his or her fitness, by reason of his or her experience in matters relating to transportation infrastructure, including transit and rail properties, such as their construction, operations, financing or other relevant experience relative to the efficient exercise of his powers and duties. The director shall administer this section and the General Laws, rules, and regulations that grant powers to or impose duties upon the division, subject to the direction and supervision of the secretary.

Registry of Motor Vehicles

Section 45. There shall be an administrative unit within the department known as the registry of motor vehicles. Within this unit shall be the intelligent transportation systems office. The unit shall be responsible for overseeing, coordinating and planning all motor vehicle and intelligent transportation systems matters throughout the Commonwealth, subject to section 4 of this chapter.

The registry shall be under the direction of a director, to be known as the registrar of motor vehicles, who shall be appointed by the secretary, with the approval of the governor, and who shall serve at the pleasure of the secretary. The director shall be responsible for administering and enforcing the provisions of this section, subject to the supervision of the secretary of transportation.

The registrar shall be exempt from chapter 31 and the position of registrar shall be classified in accordance with section 45 of chapter 30. The registrar shall receive such salary as the secretary shall determine, provided such salary shall be in accordance with section 46C of said chapter 30. The registrar shall be appointed with due regard to his or her fitness, by reason of his or her training, experience, capacity, and interests in the field of administration or administering the laws relating to motor vehicles. The registrar shall administer this section and the General Laws, rules, and regulations that grant powers to or impose duties upon the registry, subject to the direction and supervision of the secretary. In addition the registrar may appoint, subject to approval of the secretary, a deputy registrar, assistant to the registrar, hearings officers, and supervising inspectors and such other officers and employees as may be necessary to carry out the work of the registry. In the event of a vacancy in the office of registrar, the deputy registrar shall exercise the duties of the administrative unit until such time as the secretary appoints a new registrar. The registrar shall, in addition to the authority conferred upon him or her by any other provision of law, and subject to the approval of the secretary, have the power to make rules and regulations for the registry of motor vehicles.

Aviation and Port Division

Section 46. There shall be an administrative unit within the department of transportation known as the aviation and port division. The division shall have general supervision and control over aeronautics and shall assume all duties, obligations, and responsibilities formerly administered by the Massachusetts aeronautics commission. Within this unit shall be the Massachusetts port authority. This unit shall be

responsible for overseeing, coordinating, and planning all general aviation matters throughout the Commonwealth, subject to section 4 of this chapter.

The division shall be under the direction of a director, who shall be appointed by the secretary with the approval of the Governor, and who shall serve at the secretary's pleasure. The director shall be responsible for administering and enforcing the provisions of this section, and the duties given to the director 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 of transportation.

The division, subject to approval by the secretary, may incur such expenses as may be necessary to administer and enforce this chapter and to advocate for and promote aeronautics within the Commonwealth.

The division shall be provided with suitable offices at the General Edward Lawrence Logan International Airport and elsewhere within the Commonwealth as the director may determine.

The director shall be exempt from chapter 31 and the position of director shall be classified in accordance with section 45 of chapter 30. The director shall receive such salary as the secretary shall determine, provided such salary shall be in accordance with section 46C of said chapter 30. The director shall be appointed with due regard to his or her fitness, by reason of aeronautical training and knowledge of and relevant practical experience in aeronautics, for the efficient exercise of his powers and duties. The director shall administer this section and the General Laws, rules and regulations that grant powers to or impose duties upon the division, subject to the direction and supervision of the secretary, and shall be responsible for coordinating with the Seaport Advisory Council.

Section 47. (a) The division may represent the Commonwealth in matters relative to aeronautics before boards, commissions, departments or other agencies of the federal government and other states and international conferences, and before committees of the Congress of the United States.

(b) For the purpose of carrying out the provisions of this chapter relating to the aviation division, and for the purpose of protecting and ensuring the general public interests, safety, and the safety of persons receiving instructions concerning, or operating or using, aircraft and of persons and property being transported in aircraft, and for the purpose of developing and promoting aeronautics within the Commonwealth, the division may perform such acts, may issue and amend such orders and may with the approval of the secretary, make and amend such reasonable general or special rules and regulations as it deems necessary; provided, however, that such rules and regulations shall not be inconsistent with, or contrary to, any act of the Congress of the United States relating to aeronautics or any regulations promulgated or standards established pursuant thereto. No rule or regulation of the division shall apply to airports, restricted landing areas, or air navigation facilities owned or operated by the United States within the Commonwealth.

(c) The division shall foster air commerce and general aviation within the Commonwealth and for such purpose shall: (1) encourage the establishment of airports and air navigation facilities and the development of education in aeronautics; (2) make recommendations to the secretary and to the general court as to necessary legislation or action pertaining thereto; (3) consult with the Federal Aviation Administration and other agencies of the federal government in carrying forward research and development in aeronautics; (4) exchange with the Federal Aviation Administration and with other state agencies and governments through existing governmental channels information pertaining to civil air navigation.

(d) The division may: (1) co-operate with the federal government, and with any agency or department thereof, in the acquisition, establishment, construction, enlargement, improvement, protection, equipment, maintenance and operation of airports and other air navigation facilities within the Commonwealth, and comply with the provisions of federal law, and any rules and regulations made thereunder, for the expenditure of federal funds for or in connection with such airports or other navigation facilities; (2) accept and receive federal funds, and also other funds, public or private, for and on behalf of the Commonwealth or as agent for any subdivision thereof, for the acquisition, establishment, construction,

enlargement, improvement, protection, equipment, maintenance and operation of Airports and other air navigation facilities within the Commonwealth or such subdivisions, or jointly; provided that, if federal funds are received for such work, such funds shall be accepted upon such terms and conditions as may be prescribed by federal law; (3) advise and co-operate with any political subdivision of this state or of any other state in all or any matters relating to aeronautics. For such purpose the division may confer with, or hold joint hearings with, any federal or state aeronautical agency in connection with any provision of this chapter relating to aeronautics; and (4) co-operate with the United States Department of Defense and the Westover Metropolitan Corporation with respect to the use of, and economic development potential of, the Westover Air Reserve Base and the Westover Metropolitan Airport located in the cities of Chicopee and Ludlow and the town of Granby.

(e) The division shall enforce the provisions of this chapter relating to aeronautics, and all orders, rules and regulations made pursuant thereto and other laws of the Commonwealth relating to aeronautics, and shall have and may exercise for any or all of such purposes such powers and authority as may be reasonably necessary therefore. Every state, county, and municipal officer charged with the enforcement of laws in their respective jurisdiction shall assist and co-operate with the division in such enforcement.

Section 48. (a) The director shall be the executive officer of the division and shall administer the rules, regulations, and orders issued and promulgated by the division and all other laws of the Commonwealth which grant powers to or impose duties upon the division, subject to approval by the secretary. The director may employ such employees and assistants as may be necessary to carry out purposes of the aviation division. Each employee of the division including the director, shall be reimbursed for all necessary traveling and other expenses incurred by him in the discharge of his official duties.

(b) The director, or his or her designee, shall be authorized to hold investigations, inquiries, and hearings concerning all matters covered in sections 46 to 84 and any rules or regulations promulgated by the division.

(c) The director of aviation, or his or her designee, shall have and exercise throughout the Commonwealth all the powers of constables, except the service of civil process, and of police officers, including the power to arrest any person who, in the presence of the director, or designee, making the arrest, commits a breach of the peace which violates any provision of the aviation law as contained in this chapter or the rules and regulations established by the division and they may serve all process issued by the courts with respect to the enforcement of such laws. Any officer authorized to make arrests, providing such officer is in uniform or displaying his badge of office conspicuously on his outer coat or garment, may arrest without a warrant any person who operates an aircraft and who does not have in his possession a license to operate an aircraft granted by federal authority; or who violates any statute or regulation relating to the operation or control of aircraft; or who operates said aircraft while under the influence of an intoxicating substance; or who refuses to produce a pilot or aircraft license or registration upon request; or who uses an aircraft without authority.

(d) The pilot-in-command of any aircraft carrying passengers for hire may take such action as is reasonably necessary to restrain any person who interferes with, or threatens to interfere with, the operation of the aircraft. The person so restrained may be placed in the charge of a police officer in the city or town where the aircraft next lands within the Commonwealth, to be taken to a lawful place of detention. Complaint shall be made against the person arrested, by the officer taking him to the place of detention, to a district court having jurisdiction over such offenses committed in the city or town where such person is detained and such court shall have jurisdiction of the case.

Section 49. As used in sections 46 to 84 of this chapter, the following words and phrases shall, unless the context clearly requires otherwise, have the following meanings:

“Aeronautics”, transportation by aircraft; the operation, construction, repair or maintenance of aircraft, aircraft power plants and accessories; the repair, packing and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair or maintenance of airports,

restricted landing areas or other air navigation facilities; and instruction in flying or ground subjects pertaining thereto.

“Aeronautics instructor”, any person who for hire engages in giving instructions or offering to give instruction in flying or ground subjects pertaining thereto.

“Air navigation facility”, any facility, other than one owned or controlled by the federal government, used in, available for use in, or designed for use in, aid of air navigation, including airports, restricted landing areas, and any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities, or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking off, navigation and landing of aircraft, or the safe and efficient operation or maintenance of an airport or restricted landing area, and any combination of any or all of such facilities.

“Air school”, (1) any aeronautics instructor who is duly certified and maintains a pilot certificate in accordance with Federal Aviation Administration regulations and advertises, represents, or holds himself out as giving or offering to give instruction in flying or ground subjects pertaining thereto; and (2) any person who advertises, represents or holds himself out as giving or offering to give instruction in flying or ground subjects pertaining thereto, whether for or without hire.

“Aircraft”, any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.

“Airport”, any area of land or water other than a restricted landing area, which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

“Airport Hazard”, any structure, object of natural growth or use of land which obstructs the air space required for the flight of aircraft navigating in an approach area for the purpose of landing, taking off or transiting an airport or restricted landing area.

“Airman”, any person who engages, as the person in command, or as pilot, mechanic or member of the crew, in the navigation of aircraft while under way, and any person who is directly in charge of the inspection, maintenance, overhauling or repair of aircraft engines, propellers or appliances, and any person who serves in the capacity of aircraft dispatcher or air-traffic control-tower operator; but does not include any person employed outside the United States, or any person employed by a manufacturer of aircraft, aircraft engines, propellers or appliances, to perform duties as inspector or mechanic in connection therewith, or any person performing inspection or mechanical duties in connection with aircraft owned or operated by him.

“Airworthy”, an aircraft that conforms to its Federal Aviation Administrator, or successor entity, type design and certification and in a condition safe for operation.

“Citation”, a notice to an offender upon which the director, or his or her designee, shall record one or more civil infractions which are to be disposed of under procedures in sections 46 to 84.

“Civil aircraft”, any aircraft other than a public aircraft.

“Civil infraction”, a violation of any statute, regulation, rule or directive that is to be disposed of under the civil procedures in sections 46 to 84 of this chapter.

“Civil penalty”, the monetary amount scheduled as payment for a civil infraction.

“Dealer in aircraft” or “aircraft dealer”, any person who engages in a business a substantial part of which consists of the manufacture, sale, or exchange of aircraft.

“Director”, the executive director of the Massachusetts aviation and port division.

“Division”, the Massachusetts aviation and port division within the Massachusetts department of transportation.

“Federal Aviation Administration”, the Federal Aviation Administration of the United States Department of Transportation, or its successor entity.

“General Aviation”, the section of the aviation industry that excludes both military and commercial passenger transport. Examples of general aviation include private flying, air charter, flight training, air ambulance, and gliding.

“Navigable Air Space”, airspace at and above the minimum flight altitudes as prescribed by the Federal Aviation Administration, including airspace needed for safe takeoff and landing.

“Offense”, a violation of sections 46 to 84 of this chapter, or any directives issued, or regulations promulgated, by the division.

“Operation of aircraft” or “operate aircraft”, the use, navigation or piloting of aircraft in the air space over this Commonwealth or upon any airport within this Commonwealth. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control, in the capacity of owner, lessee or otherwise, of the aircraft, is deemed to be engaged in the operation of aircraft.

“Public aircraft”, an aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of any state, territory or possession of the United States, or the District of Columbia, but not including any government-owned aircraft engaged in carrying persons or property for commercial purposes.

“Person”, any individual, firm, partnership, corporation, company, association, joint stock association; and includes any trustee, receiver, assignee or other similar representative thereof.

“Restricted landing area”, any area of land or water other than an airport which is used, or is made available, for the landing and take-off of aircraft; provided, that the use of such an area meets minimum standards for aircraft operations on land or water as established by the division.

Section 50. (a) The safety, welfare and protection of persons and property in the air and on the ground requires that the navigable air space overlying the Commonwealth in the approaches to, and the air traffic

pattern area of, airports approved by the division be maintained in a reasonably unobstructed condition for the safe flight of aircraft, and therefore, in the exercise of the police power, the location and height of structures and the use of land thereto related is regulated as provided in sections 46 to 84 of this chapter.

(b) Airport Vegetation Management Projects (VMP), including those relating to airports owned or operated by the Massachusetts port authority, that are required for public safety reasons, to comply with Federal Aviation Administration and division regulations, orders or advisories to prevent vegetation from penetrating an airport approach or safety surface, shall be exempt from regulation by any local wetlands authority acting pursuant to any local ordinance or by-law and from any rule, regulation or order of any municipal conservation commission or other board or official issued under any local ordinance, bylaw, or regulation that may in any way interfere with such activities. Removal of vegetation in wetlands associated with an airport shall be in compliance with section 40 of chapter 131 and with the limited project provisions provided in 310 CMR 10.00.

(c) If any tree is allowed to grow in such a manner as to become an airport hazard or in violation of any regulation adopted by the division, then the division, the administrative agency of a city or town, city council, or selectmen, as the case may be, may request its owner to remove or trim it so that it will no longer constitute such a hazard, or immediately if public safety is in jeopardy, and, if said owner neglects or refuses to comply with such request within sixty days, then said division, city or town administrative agency, city council, or selectmen may enter upon the owner's land and remove or trim said tree. No part of the expense of such removal or trimming shall be charged to the owner of the tree.

Section 51. No person shall construct or alter the height of a structure without a permit issued by the division, if any part of the structure is located within a protected surface associated with a runway of a public-use airport possessing a valid operating certificate issued by the division or the Federal Aviation Administration. A protected surface shall be defined in accordance with any applicable regulations, directives, orders or advisory criteria promulgated by the Federal Aviation Administration.

Section 52. All permit applications shall be made to the division on forms developed by said division. If such application is granted, the permit shall specify the location of such structure or a defined area within which it shall be located, its maximum height, and, in conformity with federal laws and regulations in so far as applicable, the obstruction markers, marking, lighting or other visual identification characteristics to be installed thereon or in its vicinity. If not inconsistent with federal laws and regulations, the permit may require that lights flash at intervals and in a specified pattern.

If such application is denied pursuant to the division's airspace review criteria, notice thereof shall be given the applicant by certified mail at the address specified in the application. The applicant may, within twenty days thereafter, file a written request with the division for a public hearing. Such hearing shall be subject to the provisions of chapter thirty A.

Section 53. The provisions of section 51 shall not be construed to prohibit the maintenance, repair, or replacement nor to require any change in the height or location of any structure existing prior to the initial approval of an airport by the division or prior to the construction of a runway or landing strip at an airport so approved.

Notwithstanding the provisions of section 51 no addition in height or otherwise may be made to any structure which exceeded a height of one hundred and twenty-five feet above ground prior to the initial approval, after January 1, 1960, of an airport by the division or prior to the construction of a runway or landing strip at an airport so approved after said date.

For the purposes of this section initial approval shall be construed to include reapproval where approval has been withdrawn for a period following initial approval.

Section 54. The division shall prepare and revise from time to time a plan for the development of airports and air navigation facilities in the Commonwealth. Such plan shall specify, in terms of general location and type of development, the projects considered by the division to be necessary to provide a system of airports adequate to meet the current and reasonably anticipated needs of civil aeronautics within the Commonwealth. In formulating and revising such plan the division shall consider the probable technological developments in the science of aeronautics, the protection and safety of persons operating aircraft, the needs of the national defense program, air commerce and private flying in order that locations of such airports and air navigation facilities will provide the greatest safety, security and utility. In carrying out this section the division may make such surveys, studies and investigations as it may deem necessary or desirable.

The division may construct, establish and maintain air navigational facilities within the Commonwealth for the convenience and safety of persons operating, using or traveling by aircraft, and for the safety of the general public. The division on behalf of the Commonwealth may take by eminent domain under chapter 79 or 80A, or acquire by purchase, gift or otherwise, such property as may be necessary to fulfill the requirements of this section.

Section 55. (a) Each city or town before acquiring any property within the Commonwealth for the purpose of establishing, constructing, enlarging or improving thereon an airport or restricted landing area, shall apply to the division for a certificate of approval of the site. Before granting a certificate of approval for an airport or restricted landing area, the division may, and upon the request of a resident of such city or town shall, hold a public hearing in the city or town where such airport or restricted landing area is to be located and at least seven days' notice of such hearing shall be published by the division in a newspaper of general circulation in such city or town. The director is authorized to hold such a hearing.

(b) No such certificate of approval of a site for an airport or restricted landing area shall be issued by the division if such airport or area is situated on any lake or pond outside the metropolitan area, unless such

site has previously been approved by the mayor and city council of the city, or at an annual or special town meeting of the town, within which the same is located.

(c) All airports, restricted landing areas, and air navigation facilities shall conform to plans and specifications approved by the division and shall not be in conflict with the state airport plan and no such airport, restricted landing area or air navigation facility shall be maintained or operated unless a certificate of approval of the maintenance and operation thereof is granted and is continued in force by the division; provided, that no such certificate of approval with respect to a restricted landing area or air navigation facility on which public funds have been expended shall confer an exclusive right for the use thereof.

(d) The above subsections (a), (b), and (c) shall not apply to restricted landing areas designed for non-commercial private use, nor to any airport, restricted landing area or other air navigation facility owned or operated within the Commonwealth by the federal government; provided, that each person constructing or maintaining a restricted landing area for non-commercial private use shall so inform the division in writing; and provided, further, that such person shall construct and maintain said restricted landing area designed for non-commercial private use in such manner as shall not endanger the public safety.

(e) A city or town in which is situated the whole or any portion of an airport, restricted landing area, or a restricted landing area for non-commercial private use may, as to so much thereof as is located within its boundaries, make and enforce rules and regulations relative to the use and operation of aircraft on said airport, restricted landing area, or restricted landing area for non-commercial private use. Such rules and regulations, ordinances or by-laws shall be submitted to the division and shall not take effect until approved by the division.

(f) All approvals or licenses of airports or restricted landing areas granted by the division prior to the effective date of this section shall remain in effect, unless otherwise conflicting with the state airport plan, any provision of this chapter, or rules and regulations promulgated by the division or the Federal Aviation Administration.

Section 56. The division is hereby authorized to expend such sums as may be appropriated for the purpose of reimbursing cities or towns for airport construction as provided in section 57. Such reimbursements shall be subject to the provisions and restrictions of said section 57 and of section 80, and the division may, without appropriation, receive and distribute such federal funds as may be available therefore; provided, that such expenditures are otherwise in accordance with law.

Section 57. The division, when it considers such assistance desirable and feasible, may provide, without charge, engineering or other technical services to any city or town requesting such services in connection with the acquisition, construction, establishment, enlargement, improvement or protection of any airport or restricted landing area which conforms to the state airport plan.

Section 58. Whenever any city or town undertakes, in conformity with the state airport plan, the acquisition, construction, establishment, enlargement, improvement or protection of an airport and has appropriated sufficient funds, which together with funds available under this section, shall equal at least 5 per cent of the cost thereof, the state treasurer, at the request of the division, shall pay to or reimburse such city or town from such funds as have been appropriated for such purposes, such amount, not exceeding 95 per cent of the cost of such work, as may be determined by the division.

If any such city or town appropriates sufficient funds, which, together with the funds available under this section, is equal to one hundred per cent of the cost thereof, the state treasurer, at the request of the division, shall pay to or reimburse such city or town from such funds as have been appropriated for such purpose, such amount, not exceeding 95 per cent of the cost of such work, as may be determined by the division.

Section 59. The provisions of sections 46 to 84 of this chapter, applicable to any city or town shall apply to airports and air navigation facilities owned or operated by any county, except for the method of appointment of the airport commission thereof, which commission shall be appointed by the county commissioners.

Section 60. The director, with the approval of the secretary, shall have the authority to promulgate rules, regulations, orders, and directives for establishing security standards for all airports and restricted landing areas in the Commonwealth, so long as such standards are not contrary to or inconsistent with mandatory federal security standards. The division may cooperate with other local, state, and federal authorities in matters of security, including the sharing of information, for the protection of the Commonwealth and national security interests.

Each public-use airport and each public-use restricted landing area, through its manager, shall prepare an Airport Security Plan that must be submitted to and approved by the division. The Airport Security Plan shall be developed under guidelines and regulations issued by the division through security directives. An Airport Security Plan submitted and approved by the federal Transportation Security Administration in accordance with federal law shall be considered sufficient to comply with the requirements of this section.

The Airport Security Plan shall be considered Sensitive Security Information under Title 49 of the Code of Federal Regulations Part 1520 and shall not be subject to disclosure under the Public Records Act.

Any authorized representative of the division shall be permitted to inspect any airport, airfield, restricted landing area, aviation facility, hangar, or aircraft for the purpose of determining compliance with security standards established by the division.

The Massachusetts aviation and port division shall be authorized to access all Criminal Offender Record Information and to order and receive background checks completed by the Department of State Police on its employees, appointees, agents, and persons with whom the division enters into a contract, agreement, certification, or license.

Section 61. (a) The division shall have the authority to issue civil citations and to impose and collect fines and to impose other penalties for violation of aeronautics laws contained in sections 46 to 84 of this chapter, including any rules and regulations established by the division. The director, or his or her designee, after determining that a violation has occurred, is authorized to cite the offender for such violation by issuing a civil citation.

(b) The director, or his or her designee, shall request, and the offender shall provide, the offender's name, address and a form of identification. If the infraction involves the operation of an aircraft, the director, or his or her designee, shall request the examination of the offender's current airman and medical certificates, if applicable, as well as an examination of the aircraft, if any, involved in the violation.

(c) The director, or his or her designee, shall issue a written citation to the offender at the time and place of the violation, if possible, and the offender shall sign the citation acknowledging its receipt. If it is not possible to serve the offender with a citation at the time of the infraction, the director, or his or her designee, shall mail a copy of the citation, by certified mail, return receipt requested, to the offender at the offender's last known address, within 10 working days of the date the citation was issued.

(d) If the director, or his or her designee, is unable to identify the offender, a citation shall be sent to the registered owner of the aircraft involved in the violation as appearing on the records of the division or the Federal Aviation Administration. The issuance of the citation shall be deemed to be sufficient notice to the alleged offender. Proof of registration shall be prima facie evidence that the registrant is the offender.

(e) Each citation served shall include, (1) the name and address of the offender and the federal registration number of the aircraft involved, if any; (2) date, time and place of the offense; (3) description of the offense alleged; (4) signature of the director, or his or her designee, issuing the citation; (5) amount of penalty derived from a schedule established by the division and promulgated by statute or regulation; (6) instructions and time limits for paying the penalty; and (7) procedures for requesting a non-criminal hearing.

(f) The offender shall remit full payment of the penalty within 30 days of the date of the citation, by mailing or delivering a bank check or money order payable to the Commonwealth at the address stated on the citation. Payment in full of the specified penalty and any late payment penalty shall operate as final disposition of the matter and no record shall be entered in any criminal or probation records of the court. Late payment charges in the amount of 10% of the penalty shall be assessed, in addition to the penalty, for each 30 days, or part thereof, while the citation is unpaid.

(g) In lieu of initial payment, the offender may request, in writing within 30 calendar days from the date of the citation, a non-criminal hearing to be held before the director, or his or her designee. All hearings shall comply with chapter 30A of the General Laws.

(h) The director, or his or her designee, shall issue an adjudicatory decision for or against the offender. If the offender is found liable, the director, or his or her designee, shall require the offender to pay, within 21 calendar days from the date of the finding or a longer time as may be determined by the director, or his or her designee, an amount not to exceed the scheduled penalty established for the offense by regulation or statute.

(i) If the offender fails to timely render payment of the citation, fails to timely request a hearing, fails to appear for a scheduled hearing or fails to render payment of the citation upon an order of the court, the

division may seek a criminal complaint against the offender without conducting a preliminary hearing pursuant to section 35A of chapter 218 of the General Laws.

(j) All fees, fines, and penalties collected by the aviation and port division shall be deposited into the Massachusetts Transportation Fund as established by section 85 of this chapter.

Section 62. In accordance with the authority and powers conferred in sections 46, 47, and 48 of this chapter, and notwithstanding the provisions of any city charter, or local ordinance or by-law to the contrary, the division shall adopt uniform airport approach regulations, in accordance with any applicable federal laws, regulations, directives and advisory circulars. Said regulations shall apply to all public-use airports within the Commonwealth.

Section 63. (a) In any case in which, in the opinion of the city council of a city, or the selectmen of a town, in which the real estate hereinafter referred to is located, or owning the airport in question, the public interest requires the establishment of protection to the approaches of a publicly owned airport by the acquisition of certain real estate or rights in real estate in the vicinity of such airport rather than by airport approach regulations adopted by the division, such city or town may take by eminent domain under chapter 79 or chapter 80A, or acquire by purchase or otherwise, such air rights, easements or other estate or interest in such real estate as will provide adequate protection. A city or town which has acquired real estate or rights therein as aforesaid may from time to time in like manner take or otherwise acquire additional real estate or rights therein, or may discontinue in whole or in part rights already so acquired.

(b) Whenever airport approach regulations have been adopted or amended by the division and the public safety and convenience require the removal, lowering, or alteration of a structure or tree not conforming to such regulations, the city or town owning the airport to which such regulations relate may take by eminent domain under chapter 79 or chapter 80A, or acquire by purchase or otherwise, the land upon

which such structure or tree stands, or such an air right, easement or other estate or interest therein, as may be necessary.

Section 64. The director may conduct investigations or hearings relative to matters covered by any provision of sections 46 to 84 of this chapter, or of any order, rule or regulation of the division, and shall conduct investigations relative to any accident involving personal injury occurring in connection with aeronautics within the Commonwealth.

The division shall report to the Federal Aviation Administration accidents within the Commonwealth, and so far as possible, shall preserve, protect and prevent the removal of the component parts of any aircraft involved in any such accident being investigated by it.

Section 65. The superior court shall have jurisdiction to enforce any lawful rule, regulation, or order made by the division, and may compel the attendance of and the giving of testimony by witnesses before the division or any member thereof, in the same manner and to the same extent as before said court.

Section 66. Any person failing to comply with any requirement, or violating any provision, of sections 46 to 84 of this chapter, or any rules and regulations for the enforcement of sections 46 to 84 made by the division, and in full force and effect, shall be punished by a fine, as established by the division, not to exceed ten thousand dollars, or by imprisonment for not less than one month nor more than six months, or both. Whoever operates an aircraft with a percentage, by weight, of alcohol in their blood of eight one hundredths or greater, or while under the influence of intoxicating liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, all as defined in section 1 of chapter 94C, or the vapors of glue, shall be punished by imprisonment for not less than one month nor more than two years.

Section 67. Any person aggrieved by any rule or regulation promulgated by the division, or by any ruling, decision or order under any provision of sections 46 to 84 of this chapter may, within thirty days after the effective date of such rule or regulation or within thirty days after such ruling, decision or order, appeal to the superior court.

Section 68. Flight of aircraft over the lands and waters of this Commonwealth, within the navigable air space, shall be lawful unless at such a low altitude as to be imminently dangerous to persons or property lawfully on the land or water beneath.

Section 69. The public safety requiring, and the advantages of uniform regulation making it desirable in the interest of aeronautical progress, that a person engaging within this Commonwealth in navigating or operating aircraft in any form should have the qualifications necessary for obtaining and holding a pilot's license, permit or certificate, issued by the Federal Aviation Administration or other proper licensing authority, no person shall operate or navigate any aircraft in this Commonwealth unless such person is the holder of an appropriate effective pilot's license, permit or certificate, issued by said authority; provided, that this restriction shall not apply to persons operating military aircraft of the United States or possessions thereof, public aircraft of any state or territory, or any aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operation of such licensed aircraft, nor to persons operating model aircraft, nor to any person piloting an aircraft which is equipped with fully functioning dual controls when a certificated instructor is in full charge of one set of said controls and such flight is solely for instruction or for the demonstration of said aircraft to a bona fide prospective purchaser thereof, nor to qualified airmen operating an aircraft on the ground at an airport, except on a landing area.

Section 70. The public safety requiring, and the advantages of uniform regulation making it desirable in the interest of aeronautical progress, that aircraft operated within this Commonwealth should conform with respect to design, construction, and air-worthiness to the standards prescribed by the United States government with respect to navigation of civil aircraft subject to its jurisdiction, no aircraft shall be operated or navigated within the Commonwealth unless such aircraft has an appropriate effective license, permit or certificate, issued by the Federal Aviation Administration or other proper licensing authority and is registered by said authority; provided, that this restriction shall not apply to military aircraft of the United States or possessions thereof, public aircraft of any state or territory, aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operation of such licensed aircraft, nor to model aircraft operated in accordance with such regulations as the division may prescribe; provided, further, that the division may waive the provisions of this section for the purpose of inspection or test flights of a non-passenger carrying aircraft.

Section 71. Each owner or operator of an airworthy aircraft based in Massachusetts or dealer in aircraft in Massachusetts shall register said aircraft or federal dealer's aircraft certificate in such a manner as the division may by regulation prescribe.

(a) Subject to the limitations of paragraphs (b) and (c), every person who owns or operates an airworthy aircraft shall register the aircraft with the division during each calendar year in which the aircraft is based within the Commonwealth for 60 cumulative days or more. Every dealer in aircraft shall register a federal dealer's aircraft registration certificate with the division. The division may charge fees for each such registration certificate and for each renewal thereof. Further, the division may charge for the registration of each federal dealer's aircraft registration certificate for each aircraft in the dealer's possession operated solely for the purpose of sale or demonstration. The amounts of said fees and charges shall be determined annually by the secretary of administration and finance. Such fees shall be in lieu of all personal property taxes on aircraft authorized by any law, ordinance, or by-law. Registration certificates issued after

expiration of the first 6 months of the annual registration period, as prescribed by the division, shall be issued upon payment of 50 per cent of the annual fee.

If the annual registration fee is not received by the division on or before December 31, a late fee in an amount determined by the division may be assessed in addition to the specified annual registration fee. The timely annual registration of all airworthy aircraft and dealers in aircraft shall be the sole responsibility of aircraft owners and dealers. The deadline for registration renewal of all airworthy aircraft and for dealer's in aircraft is December 31.

(b) Possession of the appropriate effective federal aircraft certificate or dealer's certificate and the payment of the appropriate fee shall be the only requisites for registration of an aircraft or dealer in aircraft.

(c) The provisions of this section shall not apply to:

(1) an aircraft owned by and used exclusively in the service of any government, including the government of the United States or of any state thereof, or political subdivision thereof, which is not engaged in carrying persons or property for commercial purposes;

(2) an aircraft registered under the laws of a foreign country; or

(3) an aircraft engaged principally in federally certificated scheduled airline operation as provided by the Federal Aviation Administration, or its successor.

Section 72. Upon appropriation and subject to all applicable provisions of law, airports and air navigation facilities may be established from time to time and may be maintained and operated by any city or town as provided in sections 46 to 84 this chapter.

Section 73. In any city or town in which an Airport is established under section 72, or under any other provision of law, there shall be established a board consisting of an odd number of members not less than three nor more than eleven in number, to be called the airport commission, which shall have the custody, care and management of the municipal airport of said city or town. Of the members appointed at least one shall be a person having experience in aeronautics. An airport commission may be established as herein provided in any city or town for the purpose of establishing an airport therein. Except as provided otherwise in any special law, enacted prior to January first, nineteen hundred and forty-seven, relating to an airport commission in any city or town, the members of the airport commission shall be appointed, in cities, by the mayor with the approval of the city council, and in towns by the selectmen. In the initial appointment of the members of such an airport commission, their terms shall be so arranged that one third of the members, as nearly as possible, will expire each year; and thereafter when the term of any member expires his successor shall be appointed to serve for the term of three years and, in each instance, until the qualification of his successor. Vacancies in the commission shall be filled for the unexpired term by the appointing authority. The members of said airport commission shall annually choose one of their members as chairman. The airport commission may appoint an airport manager who shall be qualified by general management experience and aeronautical knowledge and shall be the executive officer of said commission, and may also appoint an assistant airport manager who shall be qualified as aforesaid. Neither the airport manager nor the assistant airport manager shall be subject to chapter thirty-one. The assistant airport manager shall act in place of the airport manager at such times and under such conditions as the airport commission may direct. The airport manager, and the assistant airport manager when acting in place of the airport manager under the direction of the airport commission, shall be responsible to said commission for the proper maintenance and operation of such airport and of all facilities under his

supervision. Subject to appropriation, said commission shall appoint such other officers and employees as its work may require and shall fix the salaries of all officers and employees appointed or employed by it.

Section 74. Any airport commission may let or lease, for a period not exceeding twenty years, those land areas at any airport under its control which are used for airport purposes, under such terms and conditions as it may prescribe, for hangars, shops, storage, industrial purposes, offices and other space rental, and for concessions, and may lease any other areas at such an airport for any purpose; provided, however, an airport commission may let or lease said land and other areas for a period greater than twenty years with the written approval of the mayor and the city council in cities or the approval of a town meeting; provided, further that no such airport in the cities of New Bedford and Beverly shall be let or leased except with the approval of the mayor and the city council, or in the town of Southbridge by vote of the town.

Section 75. For the purpose of establishing an airport, the airport commission of a city or town, whenever appropriations have been made therefore, may take property by eminent domain under chapter 79 or chapter 80A of the General Laws, or may acquire property by purchase, lease or otherwise, both within and without its territorial limits for airport purposes and may so take or acquire such easements in airport hazards outside the boundaries of an airport or airport site as may be necessary for the removal or the prevention of the establishment of any airport hazard. For the purpose of making surveys or examinations relative to any proposed taking by eminent domain, such airport commission or its authorized agent may make a reasonable entry upon land.

Section 76. An airport commission shall determine the charges or rentals for the use of any properties, facilities, installations, landing fees, concessions, uses and services and shall determine the terms and

conditions under which contracts may be executed by the commission on behalf of such city or the town. Such charges or rentals shall be reasonable and shall be established with due regard to the property used and the expenses to the airport commission of the operation thereof. In all such contracts as may be executed for the foregoing privileges or licenses or any of them the public shall not be deprived of its rightful, legal and uniform use of such properties, facilities, and installations.

Section 77. The airport commission of any city or town shall be authorized to expend any funds granted to, or received from any source or appropriated by, such city or town for airport purposes and may make contracts for the maintenance, operation, construction, enlargement and improvement of the airport and for the purchase of materials, supplies and equipment pursuant to the laws of the Commonwealth governing the making of like contracts; provided, that where such maintenance, operation, construction, enlargement and improvement of the airport, and purchase of materials, supplies and equipment, is financed wholly or partly with federal moneys, the airport commission may act in the manner prescribed by the federal authorities, acting under the laws of the United States, and any rules or regulations made thereunder, notwithstanding any other law of the Commonwealth to the contrary.

Section 78. An airport commission shall adopt rules and regulations for the use of municipal airports and for the safety of the public within the limits of airports under its control, whether such airport facilities are within or without the territorial limits of the city or town. Such rules and regulations shall not be effective until approved by the division and promulgated in the same manner that by-laws and ordinances are required to be promulgated. Such rules and regulations shall conform to and be consistent with the laws of the Commonwealth and the rules and regulations of the division, and shall not be inconsistent with or contrary to any federal law relating to aeronautics or any regulations promulgated or standards established pursuant thereto.

Section 79. Any airport commission established by law obtaining an offer for a grant of federal funds shall designate the aviation and port division as its agent to receive federal moneys and receipt therefore

in its behalf, and shall enter into an agreement with said division prescribing the terms and conditions of such agency in accordance with federal laws, rules and regulations and applicable laws of the Commonwealth.

Every such airport commission may invite bids for any contract involving the acquisition, establishment, construction, enlargement, protection, equipment, maintenance or operation of an airport, the site for which has been approved as provided by section 55, and shall submit every such proposed contract to the division for approval. After approval has been given, said airport commission may award such contracts; provided, that the liability incurred shall not exceed the funds available therefore, including the appropriation voted and the amount of any gift or bequest, together with the amount or amounts stated in any existing agreements for the allotment or grant of funds by the federal government or Commonwealth, or both.

If a city or town shall have an agreement with the federal government or the Commonwealth whereby such government or Commonwealth grants such city or town a sum of money to be used, with funds provided by said city or town, for an airport, and shall be required primarily to pay that portion of the expense for which reimbursement is to be received from such grant, or grants, the treasurer of such city or town, with the approval of the mayor or selectmen, as the case may be, in anticipation of the proceeds of such grant, or grants, may incur debt, which shall be outside the debt limit, to an amount not exceeding the amount of the grant or grants, as shown by the grant agreement or agreements and may issue notes therefore payable in not more than two years from their dates. Any loan issued under this section for a shorter period than two years may be refunded by the issue of other notes maturing within the required period; provided, that the period from the date of issue of the original loan to the date of maturity of the refunding loan shall not be more than two years. The proceeds of the grant or grants, so far as necessary, shall be applied to the discharge of the loan.

Section 80. All contracts for the acquisition, establishment, construction, enlargement, improvement, protection, equipment, maintenance or operation of airports or other air navigation facilities, made by an airport commission itself or through the division, shall be made pursuant to the laws of the Commonwealth governing the making of like contracts; provided, however, that where such acquisition, establishment, construction, enlargement, improvement, protection, equipment, maintenance or operation is financed wholly or partly with federal moneys the airport commission, or the division as its agent, may let contracts in the manner prescribed by the federal authorities, acting under the laws of the United States, and any rules or regulations made thereunder, notwithstanding any other law of the Commonwealth to the contrary.

Section 81. Neither the Commonwealth nor any city, town, or other authority shall give or grant any contract, license, permit or franchise to any person for the transportation of persons for hire by a public or private carrier, or to any person engaged in the business of leasing motor vehicles through a car rental business, or any similar system, which contract, license, permit or franchise by its terms purports to give to such a person, public carrier, private carrier or lessor, as the case may be, an exclusive right to receive or deliver passengers or engage in said business of leasing motor vehicles at or on the property of any publicly owned or controlled airport or any airport constructed in whole or in part with federal, state or other public funds.

Section 82. (a) Except to the extent inconsistent with then current law, two or more municipalities, by vote of the city council in a city with the approval of the mayor or by vote of a town meeting in a town, may agree to establish, maintain and operate an Airport as a joint enterprise, in this section referred to as a joint airport. For the purposes of this section, the foregoing authorization, in so far as it relates to the establishment of a joint airport, shall be deemed also to authorize the acquisition, construction, enlargement and improvement thereof, including other action involving capital expenditures in

connection with such an airport, all of which action shall be comprehended within the meaning of the words “establish”, “establishing” and “establishment”, and such authorization, in so far as it relates to the maintenance and operation of such an airport, shall be deemed also to authorize the regulation, protection, policing, alteration or repair thereof, including other action involving expenditures, other than capital expenditures, in connection with such an airport, all of which action shall be comprehended within the meaning of the words “maintain and operate”, “maintaining and operating” and “maintenance and operation.” Within thirty days after such votes have been passed the mayor and city council of cities and selectmen of towns which have so voted shall meet and draft a tentative agreement covering the contemplated action or actions. Said tentative agreement when completed shall be submitted and may be resubmitted to the director of accounts in the department of corporations and taxation for approval as to its financial provisions and to the division for approval as to its other provisions. The agreement, as approved by the division and said director, shall become effective when agreed to by the mayor and city council of each such city and the town meeting of each such town. Any reference in this section to the mayor of a city shall, in case of a city having a Plan E form of government, be deemed to refer to its city manager.

(b) In addition to the provisions covering the requirements contained in this section, such an agreement shall include, but shall not be limited to, provision for the following:

(1) Establishing a joint airport commission for the purpose of exercising as agent all of the powers relative to the joint airport granted to each participating municipality, specifying the terms of office and compensation of each member of such a commission.

(2) Choice by the joint airport commission of officers of the joint enterprise including a treasurer who may be treasurer of one of the participating municipalities and who shall be custodian of the joint airport fund and shall deposit with the director of accounts a bond running to such municipalities with a surety company authorized to transact business in the Commonwealth as surety, for the faithful performance of his duties as treasurer of the joint enterprise, in such form and upon such conditions as said director may

require. Said director shall cause an audit to be made of the accounts of the joint enterprise and may cause subsequent audits to be made of such accounts annually, and for this purpose he and his duly accredited agents shall have access to all necessary books, papers and records. Upon completion of such audit, copies of the report thereof shall be sent to the treasurer of the joint enterprise and to the mayor, selectmen, and city or town clerk of each participating municipality.

(3) Establishing a joint airport fund into which there shall be deposited the proportionate share of the cost and expenses incident to the establishing, maintaining and operating of the joint airport, all revenues obtained from or on account of the joint airport and all federal, state and other contributions or loans and from which disbursement shall be made by order of the joint airport commission.

(4) Specifying the proportionate interest of each participating municipality in the joint airport and its proportionate share of the cost and expenses and indebtedness incident to the establishing, maintaining and operating thereof, which proportionate interest and share shall be determined on the basis of the taxable valuations of said municipalities as last established by the general court as a basis for state and county taxes or on any other basis agreed upon.

(5) Terminating the joint enterprise and liquidating its affairs.

(6) Amending the agreement, provided that any amendment thereof providing for the enlargement of the joint airport or any alteration or improvement thereof involving capital expenditures shall become effective only when agreed to by the mayor and city council of each participating city and the town meeting of each participating town.

(c) The joint airport commission from time to time shall determine the amounts necessary to be raised to establish the joint airport and shall apportion the balance needed, over and above the amount available for such purposes in the joint airport fund, among the several participating municipalities on the basis set forth in the agreement and shall promptly thereafter notify said municipalities of such apportionment by sending notice to the mayor, in the case of a city, and to the selectmen, in the case of a town. There shall

be no referendum to the voters on any action taken under this paragraph by the legislative body of any participating municipality. In case any such municipality fails to pay over to the treasurer of the joint enterprise the amount of its apportionment within the time specified in the agreement for such payment, the treasurer of such municipality shall forthwith certify such amount to the board of assessors of his municipality who shall include such amount in the tax levy next following the certification, and the amount when raised shall be paid over by the treasurer of such municipality to the treasurer of the joint enterprise.

The joint airport commission shall determine the amounts necessary to be raised to maintain and operate the joint airport and shall apportion the balance needed, over and above the amount available for such purposes in the joint airport fund, among the several participating municipalities on the basis set forth in the agreement and shall promptly thereafter notify the treasurers of said municipalities of such apportionment. Every treasurer so notified shall, annually in December, certify the amount of such apportionment to the board of assessors of his municipality, who shall, unless funds are available from appropriations or otherwise, include such amount in the tax levy of the following year, and the amount of such apportionment shall be paid over by the treasurer of such municipality to the treasurer of the joint enterprise within the time specified in the agreement for such payment.

Action by a participating municipality in establishing, maintaining and operating a joint airport shall be authorized to the same extent and subject to the same provisions of law as in the case of like action by such municipality independently with respect to an airport, except as otherwise provided in this section and except that the joint airport commission is authorized to acquire property by eminent domain, purchase or otherwise for purposes of the joint airport in the names of the participating municipalities but only within the territorial limits of such municipalities, and each of such municipalities shall have the same interest in the property so acquired that it has in the joint airport under the agreement.

Section 83. Notwithstanding the provisions of any general or special law to the contrary, no city or town shall limit or restrict the authority of an airport commission, as established by sections 46 to 84 this chapter and specifically with regard to an airport commission's authority over the management, operation, and control of an airport, through charter provision, local ordinance or by-law, or regulation.

Section 84. Except as otherwise specifically provided in sections 46 to 84, nothing contained therein shall apply to the Massachusetts port authority, or to an airport owned or operated by the Massachusetts port authority, nor shall anything contained therein be interpreted so as to confer any jurisdiction over said authority or its activities.

Section 85. Massachusetts Transportation Fund.

There is hereby set up on the books of the Commonwealth a separate fund to be known as the Massachusetts Transportation Fund, hereinafter called the Fund, which shall be used exclusively for financing transportation-related purposes. The secretary shall be authorized to enter into agreements with the Massachusetts bay transportation authority, the Massachusetts port authority, the regional transit authorities, and, for so long as it shall continue to exist, the Massachusetts turnpike authority, to commit any funds generated from fares, fees, tolls, or any other revenue sources, including, but not limited to, from federal sources of these authorities to the Fund. There shall be credited to the Fund all fees received by the registrar of motor vehicles pursuant to section 34 of chapter 90, all user fees collected for any transportation-related pilot project conducted by the department, all toll and non-toll revenue collected by the department after assumption of the assets, obligations, and liabilities of the Massachusetts turnpike authority, all tolls collected by the department after transfer of the Tobin memorial bridge by the Massachusetts port authority to said department, all revenue collected by the department through public-private partnerships authorized by section 19 through 31 of this chapter, all contributions and assessments paid into the treasury of the Commonwealth by cities, towns or counties for maintaining, repairing, improving and constructing ways, whether before or after the work is completed, all refunds and rebates

made on account of expenditures on ways by the department of transportation, all receipts paid into the treasury of the Commonwealth and directed to be credited to the Massachusetts Transportation Fund under chapter 64A, 64E, 64F, or any other applicable general or special law, all monies received by the department for the sale or lease of property, all monies received by the Commonwealth in satisfaction of claims by the Commonwealth for damage to highway and bridge safety signs, signals, guardrails, curbing and other highway and bridge related facilities, and all receipts received by the state treasurer under the provisions of section 8 of chapter 10 on behalf of the registrar or for other surface transportation, as defined herein. Said Fund, subject to appropriation, shall be used as follows:

(1) Such portion as is authorized shall be expended to carry out the provisions of law relative to the use and operation of motor vehicles and trailers and for expenses authorized to administer the law relative to the taxation of the sales of gasoline and certain other motor vehicle fuel;

(2) The balance then remaining shall be used:

(a) For expenditure, under the direction of said department, for maintaining, repairing, improving and constructing town and county ways and bridges, sidewalks adjacent to such ways and bridges, bikeways and other projects eligible for funding as a transportation enhancement project as described in the Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-240, salt storage sheds, bikeways and public use off-street parking facilities related to mass transportation, for engineering services and expenses related to highway transportation enhancement and mass transportation purposes, for care, repair, storage, replacement, purchase and long-term leasing of road building machinery, equipment and tools, for the erection and maintenance of direction signs and warning signs and for necessary or beneficial improvements to unpaved town and county ways together with any money which any town or county may appropriate for such purposes to be used on the same ways, sheds, bikeways, bridges, machinery, equipment, tools and facilities. Such engineering services, including surveying services, shall only be performed by architectural, engineering or surveying firms prequalified by the department;

provided, however, that a municipality may seek a waiver of this requirement from the department if the municipality demonstrates to the satisfaction of the department that it is cost prohibitive to use a prequalified firm. Such ways, sheds, bikeways, bridges, machinery, equipment, tools and facilities shall remain town or county ways, sheds, bikeways, bridges, machinery, equipment, tools and facilities. No revenue credited to the Fund shall be transferred from said Fund to any other fund of the Commonwealth for any other purpose. The department shall withhold or withdraw the unexpended balance of any funds assigned by it under this subdivision if the town fails to comply with the official standards for traffic control established by the department or with any provision of a traffic control agreement negotiated between the department and the town, as required by the United States Secretary of Commerce under section 109 of Title 23 of the United States Code. In this subdivision the word "town" shall include city;

(b) For expenditure, under the direction of said department, for maintaining, repairing and improving state highways and bridges, including bridges and appurtenances managed until July 1, 2009 by the department of conservation and recreation, and for the turnpike and the metropolitan highway system managed until dissolution by the Massachusetts turnpike authority;

(c) For expenditure, under the direction of said department, in addition to federal aid payments received under section 30 of chapter 81 of the General Laws, for construction of state highways;

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

(e) For expenditure to meet the cost of maintenance of boulevards and parkways under the care, custody, and control of the department of conservation and recreation, and the Commonwealth's share of the cost of construction of boulevards within said district now or hereafter authorized;

(f) For expenditure for the operations of the department, and any authorities within the department;

(g) For contributions to regional transit authorities under section 23 of chapter 161B of the General Laws;

(h) For expenditure, under the direction of the department, for infrastructure improvements to transportation facilities throughout the Commonwealth;

(i) For regional expenditure, under the direction of the department, for highway division projects in the five geographic regions of the Commonwealth consistent with the boundaries of the five highway division districts as existing on July 1, 2009; provided that the Commonwealth's total five year capital expenditures for road and bridge projects in any region, including but not limited to expenditures made from the Fund, shall not be less than seventy-five percent of the following number: the annual percentage of the total motor vehicle fuel tax generated by that region multiplied by the highway division's five year historic capital expenditures, excluding personnel costs;

(j) For expenditures to pay debt service on any bonds directly secured by all or a portion of the revenues credited to the Fund and to reimburse the general fund for the payment of debt service costs on all or a portion of the other outstanding bonds issued by the Commonwealth, or issued on behalf of the Commonwealth, for transportation-related purposes;

(k) For expenditures to meet any debt obligations following the dissolution of the Massachusetts turnpike authority and assumption of assets, obligations, and liabilities by the department;

(l) For expenditures, subject to an agreement entered into with the department, to meet any debt obligations of the Massachusetts bay transportation authority or Massachusetts port authority;

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

(n) For expenditure, under the direction of the department, to administer the workforce retraining initiative; and

(o) For expenditure, not to exceed \$500,000 annually, under the direction of the department, without further appropriation, for the purposes of a study regarding the efficacy of an innovative technology pilot program. As part of any such program, the secretary is hereby authorized to establish rules and regulations, in consultation with the department of revenue, regarding the reimbursement of motor vehicle fuel taxes. The department shall prepare a report to the clerks of the senate and house of representatives, the chairs of the house and senate committees on ways and means, and the senate and house chairs of the joint committee on transportation regarding such study no later than December 31, 2010.

All purposes for which funds could have been expended under section 20 of chapter 29 of the General Laws, as in effect immediately prior to July 1, 2009, shall be purposes for which funds may be expended from the Massachusetts Transportation Fund established by this section. Any existing or future balance in the Infrastructure Fund, established pursuant to said section 20, shall be credited to the Fund, provided that such crediting shall not affect in any way the obligations of the Commonwealth relating to special obligation bonds issued pursuant to said section 20, and the pledge of pledged funds, as defined in said section 20, to secure the payment of such bonds is hereby ratified and confirmed in all respects and shall remain in full force and effect as long as any such special obligation bonds issued as of July 1, 2009 remain outstanding in accordance with their terms and secured by funds in the Fund.

Section 86. (a) There hereby is established in the Massachusetts Transportation Fund, a sub-fund to be known as the Massachusetts Mobility Compact Fund, hereinafter referred to as the Mobility Fund. The secretary of transportation, hereinafter the secretary, shall administer the Mobility Fund and shall be its trustee. The department of transportation shall accept and disburse monies, without further appropriation, from the Mobility Fund to and from member organizations of the Massachusetts mobility compact solely for the authorized purposes of the Mobility Fund as set forth in this section; provided, however, that no monies shall be disbursed from the Mobility Fund unless the secretary certifies, in writing, that the requested disbursements conform with the purposes as set forth in this section and with the Massachusetts mobility compact established pursuant to section 12 of this chapter. The department shall keep written records specifying the amount of each approved disbursement from the Mobility Fund and a description of the work for which the disbursement was approved. The Mobility Fund shall be credited by any appropriations, bond proceeds or other monies authorized by the General Court and specifically designated to be credited thereto, such additional funds as are deposited by any member organization of the Massachusetts mobility compact, any federal grants or private investment capital which may properly be applied in furtherance of the objectives of the Mobility Fund, and any other monies which may be available to the Mobility Fund for the purposes of the Mobility Fund from any other source or sources.

(b) The Fund shall be held and applied by the secretary for the purposes of implementing the Massachusetts mobility compact established pursuant to section 12 of this chapter.

Section 87. There is hereby established in the Massachusetts Transportation Fund, a sub-fund to be known as the Transportation Deferred Maintenance Trust Fund, hereinafter referred to as the Deferred Maintenance Fund. The Deferred Maintenance Fund shall consist of all monies credited or transferred to the Deferred Maintenance Fund from any other fund or source pursuant to law.

The secretary of transportation, in consultation with the secretary of administration and finance, shall be the trustee of the Deferred Maintenance Fund and shall expend monies in the fund or, as appropriate,

allocate monies in the fund to other agencies, without further appropriation, to design or construct maintenance and repairs to the Commonwealth's roads and bridges. The secretary of transportation shall use the funds to maintain the roads and bridges in good repair, working order, and condition, in an efficient manner and at a reasonable cost.

SECTION 8. Sections 1, 2, 3, 4A, 4B, 9, 13, and 14 of chapter 16 of the General Laws, as so appearing, are hereby repealed.

SECTION 9. Sections 4C, 4D, 4E, 4F, and 4G of said chapter 16, inserted by section 6 of chapter 303 of the acts of 2008, are hereby repealed.

SECTION 10. Section 69A of chapter 10 of the General Laws, inserted by section 7 of chapter 86 of the acts of 2008, is hereby repealed.

SECTION 11. Said Chapter 10, as appearing in the 2006 Official Edition, is hereby further amended by inserting after section 35KK the following new section:-

Section 35LL. As used in this section, the following words shall, unless the context otherwise requires, have the following meanings:-

“Dedicated motor vehicle fuel tax revenue amount”, all monies received by the Commonwealth equal to \$.06 per gallon of the gross receipts for the sale of fuel as defined by section 1 of chapter 64A.

“Inflation index”, the per cent change in inflation as measured by the per cent change in the consumer price index for all urban consumers for the Boston metropolitan area as determined by the bureau of labor statistics of the United States department of labor.

(a) There shall be established and set up on the books of the Commonwealth a separate fund to be known as the Massachusetts Bay Transportation Authority Motor Vehicle Fuel Contribution Fund, hereinafter called the Contribution Fund, for the purposes of funding said authority in fiscal year 2010 and for each fiscal year thereafter.

There shall be credited to the Contribution Fund the dedicated motor vehicle fuel tax revenue amount. Amounts in the Contribution Fund shall be held by the state treasurer, or his or her designee, as trustee and not on account of the Commonwealth, and the state treasurer is hereby authorized and directed to disburse amounts in the Contribution Fund to the Massachusetts bay transportation authority, without further appropriation.

Amounts credited to the authority shall be available for expenditure for any lawful purpose, including without limitation, payment of debt service on debt obligations issued by the authority, and may be pledged to secure debt of the authority in such manner and according to such priority as the authority may determine.

Before the state treasurer disburses funds to the authority, the authority must first certify that it has made provision in its annual budget pursuant to section 20 of chapter 161A for sufficient amounts to be available to meet debt service payments or other payments due under financing obligations, including, without limitation, leases, reimbursement obligations, or interest exchange agreements, for which the Commonwealth has pledged its credit or contract assistance or is otherwise liable or as to which an authority has covenanted to maintain net cost of service or contract assistance support. Upon such certification, all amounts in the Contribution Fund shall be available for expenditure by the authority for

any lawful purpose, including without limitation, payment of debt service on debt obligations issued by said authority, and may be pledged to secure debt of said authority in such manner and according to such priority as said authority may determine.

In order to increase the marketability of any bonds or notes of the authority which may be secured by or payable from amounts held in the Contribution Fund, the sums to be credited to the Contribution Fund as aforesaid are hereby impressed with a trust for the benefit of the authority and the holders from time to time of any such bonds or notes, and, in consideration of the acceptance of payment for any such bonds or notes, the Commonwealth covenants with the purchasers and all subsequent holders and transferees of any such bonds or notes that while any such bond or note shall remain outstanding, and so long as the principal of or interest on any such bond or note shall remain unpaid, the sums to be credited to the Contribution Fund as aforesaid shall not be diverted from the purposes identified herein and, so long as such sums are necessary, as determined by the authority in accordance with any applicable trust agreement, bond resolution, or credit enhancement agreement, for the purposes for which they have been pledged, and notwithstanding the provisions of any general or special law to the contrary, the rates of the excises imposed by said chapter 64A shall not be reduced below the dedicated motor vehicle fuel tax revenue amount.

(b) The implementation by the Commonwealth of a program of imposing roadway use fees in lieu of any tax on motor vehicle fuel imposed under chapter 64A shall be permitted and not constitute in any way a violation of the covenants contained in this section or in any trust agreement or credit enhancement agreement pursuant to which special obligation bonds may be issued in accordance with this section, but only to the extent that an amount of roadway use fees equal to the amount of tax imposed under chapter 64A that is either refunded or not collected as a result of such program are applied under any applicable trust agreement or credit enhancement agreement in lieu of such taxes.

SECTION 12. Sections 29 and 61 of chapter 22C of the General Laws, as so appearing, shall be repealed as of the date of dissolution of the Massachusetts turnpike authority.

SECTION 13. Section 12F of chapter 25 of the General Laws, as so appearing, is hereby amended by inserting after the second paragraph the following paragraph:-

The commission is hereby authorized to make an assessment against each railroad corporation or railway company, based upon the intrastate operating revenues, as shown in the annual report of each of said companies to the transportation division. Each railroad corporation and railway company shall annually report by March 31 its intrastate operating revenues for the previous calendar year to the transportation division. The assessments shall be apportioned according to railroad corporation intrastate operating revenues, to produce an annual amount not greater than \$750,000, as shall be determined and certified annually by the commission as sufficient to reimburse the Commonwealth for funds appropriated by the general court for the operation of the transportation division related to railroad bridge inspections pursuant to section 83 of chapter 159. The funds may be used to compensate consultants for the purpose of railroad bridge inspections. Each company shall pay the amount assessed against it within 30 days after the date of the notice of assessment from the department. Such assessments shall be collected by the department and credited to the General Fund. Any funds unexpended in any fiscal year for the purposes for which such assessments were made shall be credited against the assessment to be made in the following fiscal year and the assessment in the following fiscal year shall be reduced by any such unexpended amount.

Such assessment shall be made at a rate as shall be determined and certified annually by the commission as sufficient to produce an annual amount of not less than \$750,000 commencing in fiscal year 2010 and in each fiscal year thereafter, plus the costs of fringe benefits and indirect costs as established by the commission.

SECTION 14. Chapter 29 of the General Laws, as most recently amended by section 3 of chapter 233 of the acts of 2008, is hereby amended by striking out section 2O and inserting in place thereof the following section:-

Section 2O. When authorized by a vote, taken by the yeas and nays, of two-thirds of each house of the general court present and voting thereon, including any authorization in effect as of July 1, 2009, the state treasurer, upon the request of the governor, is hereby authorized to issue bonds of the Commonwealth as hereinafter provided. Any such bonds shall be special obligations of the Commonwealth payable solely from monies credited to the Massachusetts Transportation Fund established pursuant to section 85 of chapter 6C of the General Laws; notwithstanding the provisions of any general or special law to the contrary, including without limitation section 60A of chapter 29, such bonds shall not be general obligations of the Commonwealth. Bonds may be issued in such manner and on such terms and conditions as the state treasurer may determine in accordance with the provisions of this paragraph and, to the extent not inconsistent with the provisions hereof, provisions of general law for the issuance of bonds of the Commonwealth. Bonds may be secured by a trust agreement entered into by the state treasurer, with the concurrence of the secretary of administration and finance and the secretary of transportation, on behalf of the Commonwealth, which trust agreement may pledge or assign all or any part of moneys credited to the Massachusetts Transportation Fund and rights to receive the same, whether existing or coming into existence and whether held or thereafter acquired, and the proceeds thereof. The state treasurer is also authorized, with the concurrence of the secretary of administration and finance and the

secretary of transportation, to enter into additional security, insurance or other forms of credit enhancement which may be secured on a parity or subordinate basis with the bonds. A pledge in any such trust agreement or credit enhancement agreement shall be valid and binding from the time such pledge shall be made without any physical delivery or further act, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise, irrespective of whether such parties have notice thereof. Any such pledge shall be perfected by filing of the trust agreement or credit enhancement agreement in the records of the state treasurer, and no filing need be made under chapter one hundred and six. Any such trust agreement or credit enhancement agreement may establish provisions defining defaults and establishing remedies and other matters relating to the rights and security of the holders of the bonds or other secured parties as determined by the state treasurer, including provisions relating to the establishment of reserves, the issuance of additional or refunding bonds, whether or not secured on a parity basis, the application of receipts, monies or funds pledged pursuant to such agreement, hereinafter referred to as "pledged funds", and other matters deemed necessary or desirable by the state treasurer for the security of such bonds, and may also regulate the custody, investment and application of moneys. Any such bonds shall be deemed to be investment securities under chapter one hundred and six, shall be securities in which any public officer, fiduciary, insurance company, financial institution or investment company may properly invest funds and shall be securities which may be deposited with any public custodian for any purpose for which the deposit of bonds is authorized by law. Any such bonds, their transfer and the income therefrom, including profit on the sale thereof, shall at all times be exempt from taxation by and within the Commonwealth.

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

In order to increase the marketability of any such bonds or notes issued by the Commonwealth, and in consideration of the acceptance of payment for any such bonds or notes, the Commonwealth covenants with the purchasers and all subsequent holders and transferees of any such bonds or notes that while any such bond or note shall remain outstanding, and so long as the principal of or interest on any such bond or

note shall remain unpaid, (i) no pledged funds shall be diverted from the Massachusetts Transportation Fund, (ii) in any fiscal year of the Commonwealth, unless and until an appropriation has been made which is sufficient to pay the principal, including sinking fund payments, of and interest on all such bonds and notes of the Commonwealth and to provide for or maintain any reserves, additional security, insurance or other form of credit enhancement required or provided for in any trust agreement securing any such bonds or notes, no pledged funds shall be applied to any other use and (iii) so long as such revenues are necessary, as determined by the state treasurer in accordance with any applicable trust agreement or credit enhancement agreement, for the purposes for which they have been pledged, and notwithstanding the provisions of any general or special law to the contrary, the rates of the fees collected pursuant to section 33 and 34 of chapter 90 and of the excises imposed in chapters 64A, 64E, and 64F shall not be reduced below the amount in effect at the time of issuance of any such bond or note. The implementation by the Commonwealth of a program of imposing roadway use fees in lieu of any tax on motor vehicle fuel imposed under chapter 64A shall be permitted and not constitute in any way a violation of the covenants contained in this paragraph or in any trust agreement or credit enhancement agreement pursuant to which special obligation bonds may be issued in accordance with this section, but only to the extent that an amount of roadway use fees equal to the amount of tax imposed under chapter 64A that is either refunded or not collected as a result of such program are applied under any applicable trust agreement or credit enhancement agreement in lieu of such taxes.

SECTION 15. Chapter 30 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after section 39S the following two sections:-

Section 39T. Notwithstanding section 8 of chapter 268A, and in addition to any other existing statutory authorizations, the following agencies and authorities may, in their discretion, evaluate and implement competitively procured owner controlled insurance programs, and may permit the use of contractor controlled insurance programs, on projects having estimated construction costs equal to or greater than \$50,000,000: (a) the division of capital asset management and maintenance, (b) the department of

transportation, (c) the department of conservation and recreation, (d) the Massachusetts Port Authority, (e) the Massachusetts Water Resources Authority, (f) the Massachusetts State Colleges Building Authority, and (g) the University of Massachusetts Building Authority; provided, however, in the case of the department of transportation, the statewide road and bridge program shall be considered to be one project on which an owner controlled insurance program may be instituted.

Section 39U. Notwithstanding the provisions of any general or special law or regulation to the contrary regarding mandatory publication of advertisements in local newspapers or newspapers of general circulation, any agency or authority of the Commonwealth shall have, as an alternative to the statutory requirements as otherwise required by law for newspaper publication, the authority to use its public internet website, the public internet website of the Commonwealth, or such other public-use government or industry trade internet websites as deemed reasonable and appropriate by said agency or authority, to publish advertisements; provided, however, publication through an internet website shall follow substantially the same format and remain posted for the same period of time as a newspaper publication.

SECTION 16. Section 5 of chapter 59 of the General Laws, as so appearing, is hereby amended by striking out clause thirty-eighth, and inserting in place thereof the following clause:-

Thirty-eighth, In determining the valuation, for city and town tax purposes, of any privately owned airport, the value of any improvements on or to the landing area shall not be included, so long as the owner grants free use of said landing area to the general public for the landing, taking off, and taxiing of aircraft; provided, said airport meets the minimum requirements set forth by the Massachusetts aviation and port division in rules and regulations issued under section 47 of chapter 6C, and is certified by the Massachusetts aviation and port division to be included within the needs of civil aeronautics as established by the state airport plan prepared under section 54 of chapter 6C, and is approved for commercial operation by the Massachusetts aviation and port division.

SECTION 17. Section 1 of chapter 64A of the General Laws, as most recently amended by section 1 of chapter 206 of the acts of 2008, is hereby amended by striking out the definition of “tax per gallon” and inserting in place thereof the following definition:-

“Tax per gallon”, shall be 40 cents per gallon effective July 1, 2009; provided, however beginning on July 1, 2011, and on the first of July each year thereafter, the tax per gallon shall be adjusted by the percent change in inflation as determined and certified by the commissioner as set forth in the following sentence and the resulting tax per gallon shall then be computed to the nearest tenth of a cent per gallon. On or prior to April 30, 2011 and each April 30 thereafter, the commissioner shall determine the inflation adjustment, if any, to be applied to the tax per gallon as determined for the prior year, as the percentage change, rounded to the nearest tenth of one percent, of the change in the average consumer price index for all consumers for Boston as determined by the Bureau of Labor Statistics of the United States Department of Labor for the most recent 12-month period ending prior to the rate determination month compared to the average consumer price index for the same 12-month period in the preceding year. For aviation fuel, “tax per gallon” shall mean 7½ percent of the average price, as determined by the commissioner, for each calendar quarter, computed to the nearest tenth of a cent per gallon; provided, however, that such tax shall not be less than 10 cents per gallon.

SECTION 18. Said chapter 64A, as most recently amended by section 4 of chapter 206 of the acts of 2008, is hereby further amended by striking out section 13 and inserting in place thereof the following section:-

Section 13. All sums received from the excise imposed on aviation fuel, and related penalties, forfeitures, interest, costs of suits and fines, less all amounts for reimbursement under sections 7 and 7A, shall be credited to the Massachusetts Transportation Fund, referred to in this section as the “Fund”, and may be

used for airport development projects approved and carried out at airports and landing facilities under 49 U.S.C. App. § 2210; and all other sums received under the excise imposed in section 4, and relative penalties, forfeitures, interest, costs of suits and fines, less all amounts for reimbursement under said sections 7 and 7A, shall be credited as follows, according to the following distributions:-

(a) For the first \$0.21 per gallon collected:-

(i) 99.85 percent shall be credited to the Fund to be used for transportation-related purposes; and (ii) 0.15 percent shall be credited to the Inland Fisheries and Game Fund, established by section 2C of chapter 131.

(b) For the second \$0.19 per gallon collected:-

(i) \$0.04 for the maintenance and operation of the assets owned by the Massachusetts turnpike authority on the effective date of this act, which amounts shall be distributed to the authority for so long as it shall continue to exist and thereafter shall remain in the Fund but shall be dedicated for such purposes; (ii) \$0.06 to the Massachusetts bay transportation authority in the manner provided for in section 35LL of chapter 10; (iii) \$0.01 to the Fund for alternative transportation funding pilot programs, the revised automated system of toll collection mandated by section 42 of chapter 6C, and other projects established by the secretary to reduce reliance on the motor vehicle fuel tax; (iv) \$0.015 to the Fund for distribution to the regional transit authorities; (v) \$0.015 to the Fund for the regional mobility assistance program to be established by the secretary in accordance with section 17 of chapter 6C; (vi) \$0.03 to the Fund to be used by the department for rail projects to be undertaken outside the city of Boston; and (viii) \$0.02 to the Fund for the payment of salaries and benefits to employees of the department whose salaries and benefits would otherwise be paid from bond funds of the Commonwealth.

(c) For any remaining amounts collected, 100 percent shall be credited to the Fund to be used for transportation-related purposes.

SECTION 19. Chapter 64E of the General Laws, as so appearing, is hereby amended by striking out section 13 and inserting in place thereof the following section:-

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

SECTION 20. Chapter 64F of the General Laws, as so appearing, is hereby amended by striking out section 14 and inserting in place thereof the following section:-

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

SECTION 21. Section 25A of chapter 64H of the General Laws, as so appearing, is hereby amended by striking out, in line 3 to 4, the words “aeronautics commission shall not register a federal certificate for an aircraft under section forty-nine of chapter ninety” and inserting in place thereof the following words:- aviation and port division shall not register a federal certificate for an aircraft under section 71 of chapter 6C.

SECTION 22. Section 26A of chapter 64I of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the words “aeronautics commission” and inserting in place thereof the following words:- aviation and port division.

SECTION 23. Section 8 of chapter 81 of the General Laws, as so appearing, is hereby amended by inserting after the word “Boston”, in line 4, the following words:- or on a public internet website of either the governmental body or the Commonwealth for non federal aid projects, and on federally funded road and bridge projects so long as the Federal Highway Administration concurs with and allows for the Commonwealth to implement and update a new advertising procedure and process.

SECTION 24. Chapter 81A of the General Laws, as so appearing, shall be repealed as of the date of dissolution of the Massachusetts turnpike authority, which shall under occur no later than July 1, 2010; provided, further, that as of such date the department of transportation shall be the successor to the financial obligations of said authority and shall be deemed to have assumed, without any further action, all rights, duties and obligations of said authority in effect as of said date, subject to section 65 of this act.

SECTION 25. Chapter 90 of the General Laws, as so appearing, is hereby amended by striking out section 2 and inserting in place thereof the following section:-

Section 2. Application Information: Applications for the registration of motor vehicles and trailers may be made by the owner thereof. The application shall contain, in addition to such other particulars as may be required by the registrar, a statement of the name, place of residence and address, email address, if applicable, date of birth of the applicant and the number of the applicant’s license to operate, if one has been issued. The application shall also contain the apartment number or unit number if the applicant’s address is in an apartment house, or family hotel, or a condominium, or a residential flat, or in a combined business and residential property. The application shall also contain a brief description of the motor vehicle or trailer, including the name of the maker, such number or numbers as may be required by the registrar to properly identify the vehicle, the character of the motor power and the type of transmission, and shall also contain a statement by the applicant under the penalties of perjury that there are no

outstanding excise tax liabilities on said motor vehicle which have been incurred by the applicant, any member of his immediate family who is a member of the applicant's household, or any business partner of the applicant. The registration fee as required in section 33 shall accompany such application. Fees for the registration of motor vehicles and trailers, and fees for distinctive plates and other additional fees as noted in this section shall be governed by section 33. Applicants for registration shall also comply with the provisions of chapter 90D.

The registrar, or his or her duly authorized agents, shall register in a database to be kept for the purpose the motor vehicle or trailer described in the application, giving to the vehicle a distinguishing mark or number to be known as the register number for that vehicle, and shall thereupon issue to the applicant a certificate of registration. The certificate shall contain the name, place of residence and address of the applicant and the register number or mark, and shall be in such form and contain such further information as the registrar may determine.

Apportioned Registrations: Notwithstanding any other provisions of law, the registrar is hereby authorized to enter into reciprocal agreements on behalf of the Commonwealth with the duly authorized representatives of any state of the United States, the District of Columbia or a state or a province of a foreign country, providing for the registration of vehicles on an apportionment or allocation basis. In exercising the authority granted herein, the registrar is expressly authorized to enter into and to become a member of the International Registration Plan, or such other designation that may, from time to time, be given to such a plan. The registrar is further authorized to promulgate and to enforce such rules and regulations as may be necessary to carry out the provisions of the International Registration Plan or any other agreement entered into under authority herein set forth. If the registrar enters into the International Registration Plan or into any other agreement under the authority herein set forth, and if the provisions set forth in said International Registration Plan or other agreements are different from provisions prescribed by law or any rules or regulations promulgated by the registrar pursuant to the authority granted hereunder to the registrar, then the agreement provisions shall prevail. The provisions set forth in this paragraph shall constitute complete authority for the registration of motor vehicles, including the

registration of fleet vehicles, within the International Registration Plan, upon an apportionment or allocation basis without reference to or application of any other law in the Commonwealth.

Transfer of Ownership. Upon the transfer of ownership of any motor vehicle or trailer its registration shall expire; provided, that, on the death, insolvency or bankruptcy of any owner of a motor vehicle or trailer, its registration shall be deemed to continue in force as a valid registration until the expiration date appearing on the certificate of registration or until the ownership of such motor vehicle or trailer is transferred by the legal representative of the estate of such owner, whichever occurs first, subject otherwise to all provisions of law applicable generally to registrations of motor vehicles or trailers; and provided, further, that if the owner of a motor vehicle or trailer for which a certificate of registration has been issued dies prior to the effective date appearing on the certificate of registration, such motor vehicle or trailer shall be deemed to be validly registered and said registration shall continue in force until the expiration date appearing on the certificate of registration, or until the ownership of such vehicle or trailer is transferred by the legal representative of the estate of such owner, whichever occurs first, subject, however, to all provisions of law applicable generally to registrations of motor vehicles or trailers.

A person who transfers the ownership of a registered motor vehicle or trailer owned by him to another or loses possession thereof or desires to transfer the registration from one motor vehicle or trailer owned by him to another motor vehicle or trailer owned by him, upon the filing of a new application and upon payment of the proper substitution fee provided in section 33, may have registered in his name for the period of time remaining before the expiration date appearing on the certificate of registration another motor vehicle or trailer; provided that if the fee provided for registration of the vehicle sought to be registered is more than the fee for registration of the vehicle transferred as aforesaid, the applicant shall pay, in addition to the substitution fee, the difference between said fees for registration. A person who has attained 18 years of age and who transfers the ownership of a registered motor vehicle or trailer owned by him to another or who loses possession thereof and who intends to transfer the registration of such motor vehicle or trailer to a newly acquired new motor vehicle or newly acquired used motor vehicle of the same type and having the same number of wheels may, subject to other provisions of this chapter, operate

such newly acquired new motor vehicle or trailer or newly acquired used motor vehicle or trailer for a period beginning from the date of transfer until five o'clock post meridian of the seventh calendar day following the date of transfer within the period for which the transferred vehicle was registered; provided, however, that the number plates issued upon registration of the transferred motor vehicle or trailer shall be attached to the newly acquired vehicle. During such period any operator of the newly acquired vehicle shall carry an original copy of the bill of sale or Motor Vehicle Purchase Contract for the newly acquired vehicle and the original certificate of registration for the motor vehicle or trailer whose registration plates were transferred to the newly acquired motor vehicle or trailer.

Cancelation of registration; Rebates; Re-registration. A person who, before the first day of the seventh month next following the effective date appearing on the certificate of registration, for any reason other than suspension or revocation surrenders his number plates and registration certificate and does not apply for registration of another vehicle but who, on or before the first day of the month next following which date shall be at least one month prior to the expiration date appearing on said certificate of registration, files in the office of the registrar a written application for a rebate shall be entitled to a rebate of one half the fee paid in excess of \$15 for the registration of a vehicle of which the plates and registration certificate have been surrendered as aforesaid; provided, that no such rebate shall be paid except upon a certificate, filed with the comptroller, setting forth the facts, and signed by the registrar, or his or her agent authorized agent; and provided, also, that the rebate shall be paid out of the fees received for the registration of motor vehicles and trailers without specific appropriation. The registrar, at his discretion, may assign to the vehicle of any person who surrenders his registration plates as herein provided, and who desires to register another vehicle, the surrendered registration number and plates of the previously registered vehicle if such registration number and plates are available and if the vehicle to be registered is of the same type and has the same number of wheels.

Number of plates issued. Except as provided in section 6, the registrar shall furnish, without charge, to every person whose motor vehicle is registered under this chapter, 2 number plates of suitable design, and

to every person whose trailer or motorcycle is so registered, 1 such number plate, having displayed thereon the register number assigned to that vehicle.

Period of registration validity; reflectorized plates. Any number plate furnished under this chapter shall, except in case the registrar for any valid reason extends the time, be valid only until the expiration date appearing on the certificate of registration. If the registrar extends the time he may make rules and regulations requiring the display of visible evidence upon every motor vehicle that it has been registered and that the plates in use thereon are valid. The registration of every motor vehicle and trailer registered under this chapter, except those motor vehicles and trailers owned by the Commonwealth or any political subdivision thereof that are exempt from the payment of fees provided for by section 33, shall expire at midnight of the expiration date appearing on said certificate of registration as determined by the registrar. Any plate becoming illegible because of construction defects shall be replaced by the registrar without cost. All number plates issued by the registrar of motor vehicles under this chapter shall be reflectorized in accordance with specifications prescribed by him.

Unsafe vehicles; refusal to register. If the registrar shall determine at any time that, for any reason, a motor vehicle or trailer is unsafe or improperly equipped or otherwise unfit to be operated, he may refuse to register such motor vehicle or trailer or, if it is already registered, may suspend or revoke its registration.

Emissions standards; exemptions; refusal to register; suspension or nonrenewal; penalties for fraud. The registrar shall not register any motor vehicle which does not comply with the provisions of section 142K of chapter 111 and any regulations promulgated thereunder, or qualify as an exemption under subsection (b) of said section 142K. Upon a determination that a motor vehicle is exempt under said section 142K, it shall forever be exempt and the exemption shall be noted on the title of such vehicle. Said registrar shall not register any motor vehicle which has not complied with any emission system related recall. The registrar shall not issue a registration, or if said registration has already been issued, shall suspend or not renew the registration of any motor vehicle which does not comply with the provisions of section 142M

of chapter 111 or any regulation promulgated thereunder. Whoever, through fraud or misrepresentation, procures or attempts to procure the registration of a motor vehicle in violation of the provisions of this paragraph, shall be subject to a fine of not more than \$25,000 or by imprisonment for not more than one year or both such fine and imprisonment, and shall be subject to a civil penalty of not more than \$25,000 for each such violation. Said penalties shall be in addition to any other penalties provided for any violation hereunder. The civil penalty may be assessed in an action brought on behalf of the Commonwealth in any court of competent jurisdiction.

Confidential Plates. The registrar may set reasonable standards for the issuance of and may issue registration plates in confidential status, other than with distinctive, special or general registration plates or other plates that may draw undue attention to a vehicle, if he is satisfied that the owner or usual operator of the vehicle is a person who, because of his or her public duties, may face a heightened risk of death or serious bodily harm to himself or his/her immediate family if his/her true identity, address or other personal information could be determined from a license or registration record maintained by the RMV. A fee as authorized in section 33 may be charged for the particular type of plate.

Vanity Plates. The registrar may furnish to owners of motor vehicles number plates to be known as vanity plates, which may contain a register number consisting of a group of letters or a combination of numbers and letters; provided, however, that such group or combination shall not consist of more than 6 letters or numbers or combination thereof; and provided further, that there shall be no duplication of identification. The registrar may determine such standards and qualifications for the issuance of said plates as he deems proper and shall charge an additional Vanity Plate fee upon initial issuance and renewal.

Lottery Plates. The registrar is hereby authorized and directed to conduct a lottery of any unissued or returned private passenger vehicle registration plates of not more than 4 characters which shall be issued to the winners of such lottery at no extra charge. A resident of the Commonwealth who is the registered owner of a private passenger motor vehicle registered in the Commonwealth may participate in such lottery which shall be held once in each calendar year prior to September fifteenth. The registrar may

determine such standards and qualifications for the issuance of “Lottery Plates” as he deems proper and shall charge an additional Lottery Plate fee upon initial issuance and renewal.

Reserve Plates. The registrar may furnish to owners of motor vehicles, motorcycles and trailers number plates to be known as “reserve plates” which may contain a register number consisting of a group of letters or a combination of numbers and letters; provided, however, that such group or combination shall not consist of more than 5 letters or numbers or combination thereof; and provided further, that there shall be no duplication of identification. The registrar may determine such standards and qualifications for the issuance of said plates as he deems proper and shall charge an additional Reserve Plate fee upon initial issuance and renewal.

Antique. The registrar may issue number plates for a vehicle meeting the definition of an antique motor vehicle in Section 1.

Year of Manufacture. The registrar may issue number plates for Year of Manufacture registration plates to be displayed on antique motor cars as defined in section 1 under certain circumstances and conditions as determined by the registrar by regulation.

Ambulance. The registrar may issue number plates for ambulances as defined in section 1 other than those issued to Government owned vehicles.

Auto home. The registrar may issue number plates for a vehicle meeting the definition of an Auto home as defined in Section 1.

House trailer. The registrar may issue number plates for a vehicle meeting the definition of a House trailer as defined in Section 1.

Motorcycle. The registrar may issue number plates for a vehicle meeting the definition of a Motorcycle as defined in Section 1.

School bus. The registrar may issue number plates for a vehicle meeting the definition of a School bus as defined in Section 1.

School Pupil Transport plates (7-D Vehicle). The registrar may issue without an additional registration fee, registration plates for vehicles used for the transportation of school pupils in accordance with the provisions of section seven D.

Trailer. The registrar may issue number plates for a vehicle meeting the definition of a Trailer as defined in Section 1.

Bus or Motorbus. The registrar may issue number plates for a vehicle meeting the definition of a Bus or Motorbus as defined in Section 1.

Commercial Vehicle. The registrar may issue number plates to be displayed on a Commercial vehicle, which is any motor vehicle which is not a private passenger motor vehicle, antique motor car, motorcycle, trailer, semi-trailer, auto home, house trailer, taxicab, ambulance, hearse, livery vehicle, bus, school bus, or school pupil transport vehicle. The registrar may make rules and regulations for the issuance of registration plates for commercial vehicles and may further define such vehicles.

Hearse. The registrar may issue number plates for a vehicle described as a Hearse which is any vehicle regularly used in the course of business of a licensed embalmer or a licensed funeral director. The registrar may make rules and regulations for the issuance of registration plates for hearses and may further define such vehicles by reference to regulations promulgated by the Board of Registration in Embalming and Funeral Directing.

Livery. The registrar may issue number plates for a vehicle described as a Livery vehicle, which is any limousine or other vehicle which is designed to carry fifteen or fewer passengers, including the driver, and carries passengers for hire, business courtesy, employee shuttle, customer shuttle, charter or other pre-arranged transportation, and which vehicle is not required to obtain a taxicab license pursuant to section 22 of chapter 40. The registrar may make rules and regulations governing the display and issuance of Livery plates which may include vehicles exempted from displaying such plates.

Taxicab. The registrar may issue number plates for a vehicle described as a Taxicab, which is any vehicle which carries passengers for hire, and which is licensed by a municipality pursuant to section 22 of chapter 40 as a taxicab.

Vanpool vehicle. The registrar may issue number plates on an annual basis at no fee for a vehicle described as a Vanpool vehicle which is any vehicle with a seating arrangement designed to carry seven to fifteen adults, including the driver, and is used by seven or more persons commuting on a daily basis to and from work, as classified in sections 31D through 31F of chapter 63. The registrar may make rules and regulations governing display and issuance of Vanpool plates.

Semi-trailer. The registrar may issue number plates for a vehicle defined in section 1 as a Semi-trailer.

Private Passenger Registration Number Plates. The registrar may define “private passenger motor vehicles” by rules and regulations and may adopt a design for registration number plates for use by such “private passenger motor vehicles,” which may be changed from time to time, and may issue such registration number plates as its standard registration plates for “private passenger motor vehicles” not otherwise entitled to display another type of registration plate. Whenever the registrar adopts and issues a new design as the standard registration plate for “private passenger motor vehicles” or for any other type of registration plate, he may select and implement a policy for removing the plates of the previous design

from the register of currently registered vehicles in a manner he determines to be in the best interest of the agency.

Low Speed Vehicles. The registrar may design and issue registration plates specifically for Low Speed Vehicles as that term is defined in section 1.

Snow Removal Vehicles. The registrar may issue Snow Removal Plates to commercial vehicles used exclusively for the plowing and removal of snow.

Distinctive plates. The registrar may issue number plates of a distinctive type for the following types of registrations.

(a) Honorary Consular Corps Plates. The registrar may furnish such distinctive plates to duly appointed foreign diplomatic representatives or foreign consular officers who are citizens of the United States and have been appointed as Honorary Consuls in the Commonwealth to represent a foreign country.

(b) Foreign Organization. Available to certain foreign organizations recognized by federal law and their staff members.

(c) Disability Plates (also known as Handicapped Plates or HP Plates); Disability Plates for a Disabled Veteran; Disability Plates for Certain Organizations; Placards; Emblems; Penalties for wrongful use.

(1) Disability Plates: The registrar may furnish disability registration plates, without charging a distinctive plate fee, displaying the “International Symbol of Access” for a pleasure passenger vehicle, or pick-up truck, or motorcycle used exclusively for noncommercial purposes, owned or leased by and used by:

(i) a person with a permanent impairment of vision of both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the

widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye,
or

(ii) a person who has suffered the loss or permanent loss of use of one or both feet, or of one or both hands, or who otherwise qualifies for disabled parking privileges pursuant to regulations adopted by the registrar.

(iii) a “Disabled Veteran” who, according to the records of the United States Veterans’ Administration, by reason of service in the armed forces of the United States has suffered loss or permanent loss of use of one or both feet; or loss or permanent loss of use of one or both hands or permanent impairment of vision of both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye, or any other disability; provided, however, that the medical advisory board established by section 8C may determine such other standards of disability and of qualification for the issuance of such plates or emblems as the board deems proper; and provided, further, that this sentence shall not apply to motorized bicycles.

(2) Disabled Veteran Plates: Notwithstanding the above, the registrar may issue disability registration plates displaying the words “Disabled Veteran” and the “International Symbol of Access” on a biennial basis at no fee, for one pleasure passenger vehicle or pick-up truck or motorcycle owned or leased by a veteran who, according to the records of the United States Veterans’ Administration, has been determined to have a service-connected disability rating of 60 per cent or greater by reason of service in the armed forces of the United States and:

(i) has suffered loss or permanent loss of use of one or both feet; or

(ii) loss or permanent loss of use of one or both hands; or

(iii) permanent impairment of vision of both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye; or

(iv) any other disability of such veterans who otherwise qualifies for disabled parking privileges pursuant to regulations adopted by the registrar.

(3) Disability Plates for Certain organizations. Notwithstanding the foregoing, the registrar may issue plates displaying the “International Symbol of Access” for a motor vehicle owned or leased by and used by, any organization or institution or the Commonwealth or its political subdivisions for the transportation of disabled persons when the registrar determines that such organization or institution or agency or municipality substantially and regularly provides care and transportation to disabled persons, and prominently displays the name of the organization or institution or agency or municipality on said vehicle; provided, however, that such vehicles shall include those purchased with grants and loans from the federal government for the purpose of providing transportation to meet the special needs of the elderly and the disabled.

(4) Placards: The registrar may also furnish a special parking identification placard, without charge, bearing the designation “International Symbol of Access” to any person who meets the eligibility requirements for handicapped plates prescribed herein. The placard shall be of such size and design as the registrar shall require and shall be numbered and contain such identifying features and specifications as the registrar shall deem appropriate. Upon application and for good cause shown by the applicant, the registrar may issue to any person both a plate displaying the “International Symbol of Access” and a placard described in this section. A placard may be used while a vehicle is parked in a designated parking space set aside for disabled persons from which the authorized user is entering or exiting, including immediate drop off or pick up. For the purposes of this section, “immediate” shall mean within ten minutes. Only a vehicle bearing private passenger registration plates or a private passenger vehicle

bearing a commercial registration plate or a vehicle designed and used for the transportation of disabled persons may be used in conjunction with a placard. When used by the authorized user, the placard shall be displayed so as to be readily visible through the windshield of the vehicle when parked in a designated parking space set aside for disabled persons and in accordance with instructions provided by the registrar from time to time.

(5) Emblems: The registrar may design and issue emblems containing the “International Symbol of Access” for use on disability registration plates authorized to display an appropriate emblem.

Penalties for wrongful use. Any person who wrongfully displays a Disabled Veteran or disability plate on or a placard in a motor vehicle parked in a designated parking space set aside for disabled persons or in a regular metered space or in a commercial parking space shall be subject to a fine of \$500 for a first offense and \$1,000 for a second or subsequent offense. The registrar shall suspend the operator’s license or right to operate of any person found to have violated the provisions of this section relative to the wrongful use or display of a Disabled Veteran or disability plate or parking identification placard for a period of 30 days for a first offense, for a period of 90 days for a second offense and for a period of one year for a third or subsequent offense. Such suspension shall be in addition to any other penalty, fine, suspension, revocation or requirement that may be imposed for such violation including, but not limited to, those applicable under section 37E of chapter 266. The registrar may revoke the plate or placard as issued to a person upon a finding that the person to whom the plate or placard was issued willingly and without coercion or duress authorized, permitted or allowed it to be used by another person. Nothing in this section shall be construed to extend the posted time available for parking in a space designated as commercial or to modify the provisions related to the use of a space designated as commercial other than as is specifically stated in this section. A penalty under this paragraph shall not be a surchargeable offense under section 113B of chapter 175.

(d) Governor's Council; Members of the Senate and House of Representatives; Constitutional Officers; Massachusetts members of the U.S. Senate and U.S. House of Representatives. The registrar shall furnish at his office to members of the council, senate and house of representatives and constitutional officers, plates bearing facsimiles of the seal of the Commonwealth, and the registrar shall furnish plates bearing designations of U.S. Senate and U.S. Congress for Massachusetts members of the United States Senate and United States House of Representatives respectively, suitable for attachment to a motor vehicle owned solely or in part by those members and officers and registered under this chapter. Whoever, except the members and officers aforesaid, displays or has attached to his motor vehicle while operating on the highways of the Commonwealth such a plate issued by the registrar shall be punished by a fine not exceeding twenty-five dollars.

(e) Government owned vehicles. The registrar of motor vehicles may issue distinctive registration plates for ambulances, fire engines and apparatus, police patrol wagons and other vehicles used by the police department of any city, town, state agency, state authority, park board, or sheriff's office of any county, solely for the official business of such department, agency, authority, board or office and may issue distinctive registration plates for vehicles used solely for the official business of any political subdivision of the Commonwealth, state agencies, boards and authorities.

(f) Military Service Plates. Honorable service in U.S. Armed Forces; National Guard Member; Surviving Spouses.

(1) Honorable Service in U.S. Armed Forces; Veteran's Status. The registrar may issue distinctive registration plates and emblems of specific types and designs to reflect honorable military service in the armed forces of the United States by an applicant and may issue a distinctive registration plate and emblem to a person bearing a specific relationship to a deceased holder of certain distinctive registration plates as authorized herein or in regulations of the registrar. For purposes of military service plates, "veteran" is defined as in clause forty-third of section seven of chapter four. The registrar shall only issue

the registrations plates and emblems applied for upon presentation of evidence deemed satisfactory to the registrar. The registrar shall not issue a military service registration plate or plate and emblem to an applicant who is on active duty with the armed forces of the United States if the plate or plate and emblem applied for requires status as a “veteran” to qualify for such plate. The registrar may issue the following military service registration plates and emblems with appropriate designs, which may be changed by the registrar from time to time, to residents of the Commonwealth and may adopt reasonable qualification standards by regulations for the issuance of each.

(i) Veteran. Upon payment of the registration fee and distinctive plate fee as required in section 33, the registrar shall furnish distinctive plates or emblems or plates and emblems for private passenger motor vehicles and motorcycles owned by a veteran. The surviving spouse of a veteran may retain the distinctive “VETERAN” registration plate or plate and emblem until the surviving spouse remarries or cancels or fails to renew the registration. Notwithstanding that a deceased veteran had returned a “VETERAN” registration plate or plate and emblem to the registry of motor vehicles, or failed to apply for a “VETERAN” registration plate or plate and emblem prior to his or her death, the surviving spouse may apply for and be issued, upon payment of the registration fee and distinctive plate fee as required in section 33, a “VETERAN” registration plate or plate and emblem, based upon the deceased veteran’s qualifications, and may retain the distinctive “VETERAN” registration plate or plate and emblem until the surviving spouse remarries or cancels or fails to renew the registration.

(ii) Emblems for Silver Star, Bronze Star or Distinguished Flying Cross Recipient; Branch of Service; Wartime Service Emblems for Veteran’s Plate. An owner of a private passenger motor vehicle or motorcycle who has been issued “VETERAN” plates pursuant to this section may be issued a distinctive emblem, without charge, to be affixed to such plates which identifies:

(a) the branch of the armed services in which such owner served,

(b) the receipt of the Silver Star, Bronze Star or Distinguished Flying Cross by such owner or

(c) the wartime service in which such owner served as defined in clause Forty-third of section seven of chapter four.

(iii) Veteran's Plate with Silver Star, Bronze Star or Distinguished Flying Cross. The registrar shall furnish, on a biennial basis without charge, at the request of owners of private passenger motor vehicles and motorcycles who received the Silver Star, Bronze Star or Distinguished Flying Cross a "VETERAN" plate and an emblem representing the awarding of said Silver Star, Bronze Star or Distinguished Flying Cross for one private passenger motor vehicle or motorcycle owned and principally used by such recipient.

(iv) Former Prisoners of War. The registrar shall furnish, on a biennial basis without charge, at the request of owners of private passenger motor vehicles and motorcycles who are former prisoners of war as defined in regulations of the registrar, distinctive registration plates for one private passenger motor vehicle owned and principally used by said individual or a distinctive emblem to be affixed to a "VETERAN" registration plate for a motorcycle owned and principally used by such individual.

(v) Legion of Valor. The registrar shall furnish, on an annual basis without charge, at the request of owners of private passenger motor vehicles and motorcycles who are members of the Legion of Valor of the United States of America, Inc., distinctive registration plates for one private passenger motor vehicle owned and principally used by such member or a distinctive emblem to be affixed to a "VETERAN" registration plate for a motorcycle owned and principally used by such individual.

(vi) Congressional Medal of Honor. The registrar shall furnish, on an annual basis without charge, at the request of owners of private passenger motor vehicles and motorcycles who have been awarded the Congressional Medal of Honor, distinctive registration plates bearing up to three letters designating the recipient's initials followed by the letters CMH signifying the Congressional Medal of Honor for one private passenger motor vehicle owned and principally used by such recipient or a distinctive emblem to be affixed to a "VETERAN" registration plate for a motorcycle owned and principally used by such recipient.

(vii) Order of the Purple Heart Recipient. The registrar shall furnish, on a biennial basis without charge, at the request of owners of private passenger motor vehicles and motorcycles who have been awarded the Order of the Purple Heart, distinctive registration plates bearing the words, “ORDER OF THE PURPLE HEART RECIPIENT” for one private passenger motor vehicle owned and principally used by such Purple Heart recipient or a distinctive emblem to be affixed to a “VETERAN” registration plate for a motorcycle owned and principally used by such recipient.

(viii) Pearl Harbor Survivor. The registrar shall furnish, on a biennial basis without charge, at the request of owners of private passenger motor vehicles and motorcycles who were in the military service of the United States during and who are survivors of the attack on Pearl Harbor, distinctive registration plates for one private passenger motor vehicle owned and principally used by such survivor or a distinctive emblem to be affixed to a “VETERAN” registration plate for a motorcycle owned and principally used by such survivor;

(ix) Gold Star Family. The registrar shall furnish, on a biennial basis without charge, at the request of owners of private passenger motor vehicles and motorcycles who are parents, children, siblings, grandchildren or spouses of members of the military who were killed in action, distinctive registration plates that read “Gold Star Family” for one private passenger motor vehicle owned and principally used by such persons or a distinctive ‘Gold Star Family’ emblem to be affixed to a registration plate for a motorcycle privately owned and principally used by such persons.

Surviving Spouse Use of Military Service Plates. The surviving spouse of a deceased recipient of a military service “VETERAN” plate and the surviving spouse of a deceased recipient of a Gold Star Family plate, plates for which no fee is authorized by section 33, may elect to retain the distinctive registration plate and distinctive emblem for personal use until such time as the spouse remarries or fails to renew or cancels the registration. A surviving spouse of a person who has been issued a Gold Star Family plate may retain such plate until its expiration date but only a surviving spouse who is a parent of the deceased soldier for whom the Gold Star Family plate was originally issued may renew such plate.

(2) Member of the National Guard, Non-Veteran's Status. Available to active duty members of the Massachusetts National Guard of the rank of E-2 or higher for the fee or fees authorized in section 33.

(g) MD Plates. Available to Massachusetts residents who are licensed to practice medicine in the Commonwealth. The application must be completed and certified by the Board of Registration in Medicine

(h) Ham Operator. Available for amateur radio operators who maintain an active license from the Federal Communications Commission. The plate number will be the FCC call number.

(i) News Photographer. Available for a vehicle owned by an active member of the Boston Press Photographer's Association.

(j) Disaster (Emergency Vehicle). Available on an annual basis for no fee for a special purpose motor vehicle or trailer used for the benefit of firemen, policemen, civil defense workers, and victims of fires and disasters pursuant to section 7I.

(k) Boston Celtics and Boston Bruins Plates. The registrar may issue registration plates to members of the Boston Celtics and Boston Bruins organizations. The registrar may refuse to issue new registrations for Celtics and Bruins registration plates but may renew existing registrations. These plates are separate and distinct from the registration plates issued under Section 2F of this chapter.

SECTION 26. Chapter 90 of the General Laws, as so appearing, is hereby amended by striking out section 2E and inserting in place thereof the following section:-

Section 2E. (a) The registrar shall furnish, upon application, to the owners of private passenger motor vehicles three special registration plates, one of which shall be on the theme of the right whale, one of which shall be on the theme of the Blackstone Valley of the central part of the Commonwealth, and the other on a theme representative of the environmental and natural resources of the western part of the

Commonwealth; provided, however, that the design of the plate themes shall be determined by the trustees of the Environmental Trust Fund, established by section seven of chapter two hundred and thirty-six of the acts of nineteen hundred and eighty-eight, in consultation with and subject to the approval of said registrar and, in the case of the Blackstone Valley plate, in consultation with the Blackstone Valley National Heritage Corridor Commission. There shall be a biennial fee of not less than \$40 for such plates in addition to the established registration fee for private passenger motor vehicles, such fee being payable at the time of registration of such vehicle and at each renewal thereof. The portion of the total fee remaining after the deduction of costs directly attributable to the issuance of such plates shall be deposited in said Environmental Trust Fund.

(b) The registrar shall furnish, upon application, to the owners of private passenger motor vehicles special registration plates which shall display on their face a design indicating support for the children of the Commonwealth and the words "Invest in Children". There shall be a biennial fee of not less than \$40 for such plates in addition to the established registration fee for private passenger motor vehicles, such fee being payable at the time of registration of such vehicle and at each renewal thereof. The portion of the total fee remaining after the deduction of costs directly attributable to the issuance of such plates shall be deposited within ninety days of receipt thereof in the Child Care Quality Fund established by section 2JJ of chapter twenty-nine.

(c) The registrar shall furnish, upon application, to the owners of private passenger motor vehicles special registration plates which shall display on their face a design with the image of the American flag and the words "United We Stand" to commemorate the victims and heroes of the September 11, 2001 terrorist attack and the Massachusetts Military heroes from United States military Operations Enduring Freedom, Iraqi Freedom and Noble Eagle. There shall be a fee of not less than \$40 for such plates in addition to the established registration fee for private passenger motor vehicles, which shall be payable at the time of registration of such vehicle and at each renewal thereof. The portion of the total fee remaining after the deduction of the costs directly attributable to the issuance of such plates shall be deposited in a registry

retained revenue account and of the remaining portion of such fee, 50 percent shall be directed to the Massachusetts 9/11 Fund, Inc. and distributed by such fund at its discretion for the benefit of the relatives of the Massachusetts victims of the September 11, 2001 terrorist attack on America; 25 percent shall be directed to the Massachusetts Military Heroes Fund, Inc. and distributed by such fund at its discretion for the benefit of the families of military service personnel from Massachusetts killed while in service to the United States as a result of, or in support of, Operations Enduring Freedom, Iraqi Freedom or Noble Eagle; and 25 percent shall be deposited in the Commonwealth Security Trust Fund established in section 67 of chapter 10. In the event the Massachusetts 9/11 Fund, Inc. has met its obligations to design, construct and maintain a memorial to the victims of the September 11, 2001 terrorist attack on America, any funds not necessary for the continued maintenance of the memorial shall be made available to the Massachusetts 9/11 Fund, Inc. and distributed by such fund at its discretion for the benefit of the relatives of the Massachusetts victims of the September 11, 2001 terrorist attack on America.

(d) The registrar shall make available to the owners of private passenger motor vehicles registered in the counties of Barnstable, Dukes, or Nantucket, special number plates which shall display on the face of said plate a design representing the Cape and Islands. There shall be a biennial fee for said plate of \$50 in addition to the established registration fee for passenger motor vehicles. Within 30 days after receipt of such fee, the portion of the fee remaining after the deduction of costs directly attributable to issuing such plate shall be transferred, in amounts proportional to the number of vehicles registered in each county, to the county commissioners of Dukes and Nantucket counties and, in the case of Barnstable county, 40 per cent to the Barnstable county commissioners, 40 per cent to the Cape Cod Economic Development Council, Inc. or its successor and 20 per cent to the Lower Cape Community Development Corporation; provided, however, that all amounts so transferred shall be used to promote tourism and economic development; provided, further, that twice annually the Lower Cape Community Development Corporation shall furnish to the Barnstable county commissioners a full accounting of the expenditures of such funds; and provided further, that the Cape Cod Economic Development Council, Inc. or its successor shall report twice annually to the department of economic development on the nature of all activities

taken within the preceding six months and anticipated activities in the subsequent six months including, but not limited to, a list of all programs offered and attendance at such programs, a description of any travel and tourism initiatives and any other documents or information requested by said department and shall file annually with said department and the state auditor a certified financial audit which shall be so certified by a certified public accountant. The department of economic development may suspend, by written notice to the registrar, the transfer of funds to the Cape Cod Economic Development Council, Inc. or its successor upon a determination by said department that said Council has incurred questionable costs or has engaged in an inappropriate use of funds, until such time as the matters are resolved to the satisfaction of said department.

(e) Olympic Spirit. The registrar shall furnish upon application to owners of private passenger vehicles distinctive registration plates which shall display on the face of said plate a design representing the official symbol of the United States Olympic committee. There shall be a \$50 biennial fee for said plate in addition to the established registration fee for passenger motor vehicles. The portion of said fee remaining after the deduction of cost directly attributable to issuing said plate shall be transferred to the Massachusetts United States Olympic Fund established pursuant to section thirty-five O of chapter ten;

(f) Birthplace of Basketball. The registrar shall furnish, upon application, to owners of private passenger motor vehicles special registration plates which shall display on their face a design commemorating the Basketball Hall of Fame as the "Birthplace of Basketball". The registrar shall issue such plates at the direction of the Basketball Hall of Fame. There shall be a biennial fee of not less than \$40 for such plates in addition to the established registration fee for private passenger motor vehicles, such fee being payable at the time of registration of such vehicle and at each renewal thereof. The portion of the fee remaining after the deduction of costs directly attributable to the issuance of such plates shall be transferred within 90 days of receipt thereof to the Basketball Hall of Fame education program at the Basketball Hall of Fame in the city of Springfield.

SECTION 27. Chapter Section 2F of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out, in lines 2, 3, 5, 6, 9, 12, 15, 17, 18, 21, 22, 27, and 79, each time it appears, the word “distinctive” and inserting in place thereof, in each instance, the following word:- special.

SECTION 28. Said Section 2F of said chapter 90, as so appearing, is hereby further amended by striking out, in line 10, the number “\$40” and inserting in place thereof, the following number:- \$50.

SECTION 29. Said Section 2F of said chapter 90, as so appearing, is hereby further amend by inserting after the words “subsection (a)” in line 81, the following sentence:-

There shall be a biennial fee of \$50 for such plates in addition to the established registration fee for private passenger motor vehicles, such fee being payable at the time of registration of such vehicle and at each renewal thereof.

SECTION 30. Chapter 90 of the General Laws, as so appearing, is hereby amended by striking section 33 and inserting in place thereof the following section:-

Section 33. The registrar of motor vehicles and the secretary of administration and finance or their agents shall review the various transactions performed by the registry of motor vehicles and shall adopt a simplified schedule of fees to be assessed for such transactions. Prior to adopting a simplified schedule of fees under this section, the registrar and the secretary shall review the provisions of this chapter and the regulations at 801 CMR 4.02. The registrar and secretary shall have the authority to create fees, pro-rate and round off fees, refund fees and amend existing fees, and may exempt particular types of registrations and other transactions from fees as the registrar and the secretary determine to be appropriate; provided that the registrar and secretary shall not establish a new fee for a type of registration that was issued

without charge or fee as of December 31, 2008. The secretary shall place the schedule of proposed fees in regulation format and shall adopt such regulations as required under the provision of section 3B of chapter 7. When regulations including a schedule of fees to be collected by the registrar have been promulgated, the registrar, or his or her authorized agents, shall collect the fees established therein and which shall be disposed of as required in section 34. The registrar and secretary shall review the need for amendments to such schedule on an annual basis, or on such other basis as they determine to be reasonable. Such regulations may adopt formulas for the assessment of fees based on other than a flat rate and based on other than an annual or biennial basis if such formulations are deemed reasonable and proper by the registrar and the secretary.

The registrar and the secretary of administration and finance shall be authorized to establish and collect, by regulation, registration fees, including for both new and used vehicles, on a sliding scale based upon emission ratings. Said scale shall be set by the secretary of the executive office for administration and finance, upon consultation with the secretary of the executive office of energy and environmental affairs that said fees are consistent with best available greenhouse gas emissions ratings from federal and state agencies, including but not limited to, the United States Environmental Protection Agency and the California Air Resources Board; provided, however, that any regulation should determine an appropriate methodology to account for vehicles purchased based on verifiable medical or health needs.

SECTION 31. Chapter 90 of the General Laws, as most recently amended by section 19 of chapter 303 of the Acts of 2008, is hereby further amended by striking out section 34 and inserting in place thereof the following section:-

Section 34. The fees received under the preceding sections, together with all other fees received by the registrar or any other person under the laws of the Commonwealth relating to the use and operation of motor vehicles and trailers, shall be paid by the registrar or by the person collecting the same into the treasury of the Commonwealth and disposed of as provided in section 85 of chapter 6C.

SECTION 32. Sections 35 through 52 of said chapter 90 of the General Laws, as appearing in the 2006 Official Edition, are hereby repealed.

SECTION 33. Section 40A of chapter 131 of the General Laws, as so appearing, is hereby amended by striking out, in line 95, the words “aeronautics commission” and inserting in place thereof the following words:- aviation and port division.

SECTION 34. Section 45 of said chapter 131 of the General Laws, as so appearing, is hereby amended by striking out, in line 36, the words “aeronautics commission” and inserting in place thereof the following words:- aviation and port division.

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

SECTION 36. Said section 73 of said chapter 152 of the General Laws, as so appearing, is hereby further amended by striking out, in line 9, the words “any police officer of”.

SECTION 37. Section 3 of chapter 161A of the General Laws, as so appearing, is hereby amended by striking out, in lines 12 to 16, the following words:- ; provided, however, the authority may bind itself by contract to employ not more than five senior officers but no such contract shall be for a period of more than five years.

SECTION 38. Chapter 161A of the General Laws, as so appearing, is hereby amended by striking out section 7 and replacing it with the following section:-

Section 7. The authority shall be governed by a board of 3 directors none of whom shall be compensated therefore, 1 of whom shall be the secretary of transportation who shall serve as chair of the board, 1 of whom shall be the director of the rail and transit division of the Massachusetts department of transportation, and 1 of whom shall be appointed by the governor to a two year term, and who shall be eligible for reappointment. A majority of the directors shall constitute a quorum, which shall be required to take any particular action. The directors shall meet monthly, provided that said meeting shall occur no later than the fifteenth day of the month. Each meeting shall provide a sufficient opportunity for public comment.

SECTION 39. Section 13 of said chapter 161A, as so appearing in, is hereby amended by striking out the last paragraph of clause (4) of subsection (a).

SECTION 40. Section 20 of said chapter 161A, as so appearing, is hereby amended by striking out, in line 2, the words “March 1” and inserting in place thereof the following words:- March 15.

SECTION 41. Said section 20 of said chapter 161A, as so appearing, is hereby further amended by striking out, in line 4, the words “March 15” and inserting in place thereof the following words:- April 15.

SECTION 42. Section 25 of said chapter 161A, as so appearing, is hereby amended by striking out the first paragraph, and inserting in place thereof the following paragraph:-

The directors shall have authority to bargain collectively with labor organizations representing employees of the authority and to enter into agreements with such organizations relative to wages, salaries, hours, and working conditions; provided however, that the directors shall have no authority to bargain collectively and shall have no authority to enter into collective bargaining agreements with respect to matters of inherent management rights which shall include the right:

SECTION 43. Said section 25 of said chapter 161A, as so appearing, is hereby further amended by inserting after the word “appoint”, in line 14, the following word:- assign,

SECTION 44. Section 38 of said chapter 161A, as so appearing, is hereby amended by striking out, in lines 4 to 5, the words “to the same extent as though the authority were a street railway company”.

SECTION 45. Said Section 38 of said chapter 161A, as so appearing, is hereby further amended by striking out the second paragraph.

SECTION 46. Section 43 of said chapter 161A, as so appearing, is hereby amended by striking out, in line 9, the words “not less than”.

SECTION 47. Said section 43 of said chapter 161A, as so appearing, is hereby further amended by striking out the second paragraph, and inserting in place thereof the following paragraph:-

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

SECTION 48. Section 1 of chapter 258 of the General Laws, as so appearing, is hereby amended by striking out, in lines 50 to 52, the words “the Massachusetts Bay Transportation Authority, the Massachusetts Port Authority, the Massachusetts Turnpike Authority” and inserting in place thereof the following words:- the Massachusetts Port Authority

SECTION 49. Said section 1 of said chapter 258 of the General Laws, as so appearing, is hereby further amended by inserting after the word “including,” in line 40, the following words:- the Massachusetts bay transportation authority, any duly constituted regional transit authority, and the Massachusetts Turnpike Authority.

SECTION 50. Section 8 of chapter 268A of the General Laws, as so appearing, is hereby amended by inserting after the word “bonds” as it appears in line 13, the following:- ; provided, further, that this section shall not prohibit any state, county or municipal employee or any person acting on behalf of such employee, or any state, county or municipal agency, with respect to any public building or construction project, from evaluating and implementing an owner controlled insurance program, so called, where such evaluation has resulted in a determination that implementation of an owner controlled insurance program as a risk management tool associated with the public building or construction contract is in the best interests of the state, county, or municipality issuing and responsible for the public building or construction contract.

SECTION 51. Section 2 of chapter 465 of the acts of 1956 is hereby amended by striking out the third paragraph, as most recently amended by section 12 of chapter 196 of the acts of 2004, and inserting in place thereof the following paragraph:-

One of the members shall be the secretary of transportation who shall serve as chair of the authority, and, effective as of July 1, 2009, one of the members shall be the director of the aviation and port division of the Massachusetts department of transportation. The authority shall annually elect 1 of its members as vice-chair and shall also elect a secretary-treasurer who need not be a member of the authority.

SECTION 52. Section 23 of said chapter 465 is hereby further amended by striking out the eighth paragraph thereof and inserting in place thereof following paragraph:-

Notwithstanding the provisions of chapters one hundred and thirty-four, one hundred and forty-seven and two hundred A of the general laws, if money, goods or other property which has been abandoned, mislaid or lost comes into the possession of the Authority and remains unclaimed in its possession for a period of one hundred and twenty days, the Authority may sell the same, excepting money so unclaimed, at public auction after notice of such sale has been published for three successive weeks in a newspaper published in the city or town where such sale is to take place. The net proceeds of such sale, after deducting the cost of storage and the expenses of the sale, and all money so unclaimed, shall be paid into and become the property of the Authority. If, in the opinion of the Authority, any property so abandoned, mislaid or lost which comes into the possession of the Authority and remains unclaimed in its possession for a period of one hundred and twenty days, is of the value of two hundred and fifty dollars or less, the Authority may donate the same to a charitable organization.

SECTION 53. Section 14 of chapter 102 of the acts of 1995 is hereby amended by striking out clause (2) and inserting in place thereof the following clause:-

(2) fix and revise, from time to time, and charge and collect tolls for transit over or through the Ted Williams tunnel and the Sumner tunnel sufficient to pay the aggregate cost of maintenance, operation and related expenses and costs of any kind of the authority, subject to such classifications of vehicles and manners of collection as the authority determines desirable; provided, however, that the authority may not charge or collect a toll for transit through the Sumner tunnel or the Ted Williams tunnel by official emergency vehicles of the Commonwealth or any municipality, political subdivision or instrumentality thereof.

SECTION 54. Section 14A of said chapter 102, inserted by section 21 of chapter 365 of the acts of 1996, is hereby repealed.

SECTION 55. Section 2 of chapter 634 of the acts of 1971, as most recently amended by section 1 of chapter 364 of the acts of 1990, is hereby amended by striking out the second paragraph, and inserting in place thereof the following paragraph:-

Following acquisition of said bridges by the department, said department shall, in its sole discretion, furnish or otherwise provide for the necessary flag protection on the railroad rights-of-way of the Massachusetts bay transportation authority, which may be required when the department is performing inspection, maintenance and repair, reconstruction, or replacement of any such bridges.

SECTION 56. Section 14 of chapter 233 of the Acts of 2008 is hereby repealed.

SECTION 57. Notwithstanding section 31 of chapter 15 of the acts of 1988 or the provisions of any other general or special law to the contrary, the Massachusetts bay transportation authority is hereby authorized to sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of the public parking garage constructed and operated by the authority on the land acquired by the authority pursuant to such law.

SECTION 58. Notwithstanding the provisions of any general or special law to the contrary, whenever the name "Highway Fund" appears in any general or special law, regulation, contract or other document, it

shall mean the Massachusetts Transportation Fund, established in section 85 of chapter 6C of the General Laws, and whenever the name “Transportation Deferred Maintenance Trust Fund” appears in any general or special law, regulation, contract or other document, it shall mean the Massachusetts Transportation Deferred Maintenance Trust Fund, established in section 87 of chapter 6C of the General Laws.

SECTION 59. (a) The secretary of transportation, through the director of systems integration, shall make such plans and arrangements as may be necessary to ensure the efficient transfer of (i) the Massachusetts turnpike authority’s functions, assets, liabilities, and obligations, (ii) the Tobin memorial bridge owned and operated by the Massachusetts port authority, and (iii) the vehicular bridges and appurtenances under the control of the department of conservation and recreation, to the department pursuant to this act.

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

(b) Any order, rule or regulation duly promulgated by or on behalf of the department of highways, the Massachusetts aeronautics commission, the registry of motor vehicles, and the Massachusetts turnpike authority, shall continue in full force and effect to the extent consistent with this act and the laws of the Commonwealth, and shall continue to be enforced, until superseded, revised, rescinded or cancelled by the secretary of transportation.

SECTION 60. Notwithstanding the provisions of any general or special law to the contrary, the department of transportation and the Massachusetts turnpike authority are hereby authorized and directed to develop and implement a transfer agreement providing for the orderly transfer and provisional appointment of personnel from the authority to the department of transportation consistent with the provisions contained herein as well as the transfer of all assets, liabilities, obligations, and debt of said authority to said department not later than July 1, 2010. Upon the assumption of the outstanding

liabilities, obligations, and debt of the authority by the department, said authority shall be dissolved and, without further conveyance or other act, all the assets, liabilities, obligations and debt as well as all rights, powers and duties of the authority shall be transferred to and assumed by the department. Unless specifically provided to the contrary, the terms “turnpike,” “Ted Williams tunnel,” “Sumner tunnel,” and “metropolitan highway system” as used in this section, and elsewhere in this act, shall have the meanings ascribed to them in chapter 81A of the General Laws.

On the date the authority is dissolved:

(a) ownership, possession, and control of all personal property, including, but without limitation, all equipment, books, maps, papers, plans, records and documents of whatever description pertaining to the design, construction, use, operation, and general affairs of the turnpike and metropolitan highway system which are in the possession of the Massachusetts turnpike authority or any division, unit, officer or employee thereof shall pass to and be vested in the department of transportation without consideration or further evidence of transfer and shall thereafter be in the possession and control of the highway division;

(b) ownership, possession, and control of all real property, including, without limitation, all land, buildings, highways, bridges, tunnels and other highway elements of whatever description that are owned by the Massachusetts turnpike authority or any division or unit thereof shall pass to and be vested in the department of transportation without consideration or further evidence of transfer and shall thereafter be a part of the state highway system under the possession and control of the highway division; provided, however, that prior to such dissolution, the authority shall be authorized to transfer, for nominal consideration, to the Massachusetts bay transportation authority, all of its right title and interest in the land, track and other property comprising the rail line and right of way extending from the south bay section of the city of Boston to the city of Newton; provided, further, that the authority shall retain any portion of or interest in such rail line and right of way deemed by the authority or the highway division,

with the approval of the secretary, to be necessary for the operation of the turnpike or the metropolitan highway system;

(c) all duly existing contracts, leases, or obligations of the Massachusetts turnpike authority with respect to the turnpike or metropolitan highway system, excluding collective bargaining agreements, which remain in force immediately prior to the effective date of the dissolution of the authority, shall be deemed to be the obligations of the department of transportation. No existing right or remedy under this section shall be lost, impaired or affected by the provisions of this act. The department shall have authority to exercise all rights and enjoy all interests conferred upon the Massachusetts turnpike authority by said contracts, leases, or obligations. In the case of collective bargaining agreements, any obligations under said agreements shall expire on the stated date of expiration of such agreements.\

SECTION 61. The transfer of the assets, liabilities, obligations, and debt of the Massachusetts turnpike authority to the department under this act shall be effective upon dissolution of said authority and shall bind all persons, with or without notice and without any further action or documentation. Without derogating from the foregoing, the director of the highway division may, from time to time, execute and record and file for registration with any registry of deeds or the land court or with the secretary of the Commonwealth, as appropriate, a certificate confirming the Commonwealth's ownership of any interest in real or personal property formerly held by the Massachusetts turnpike authority and transferred pursuant to the provisions of this act and establishing and confirming the limits of state highway so transferred.

SECTION 62. The provisions of this act shall not limit or impair the rights, remedies, or defenses of the Commonwealth, the department of transportation, or the Massachusetts turnpike authority in or to any such action including, without limitation, the provisions of section 18 of chapter 81 and chapter 258. All

actions or proceedings shall be subject to the provisions of said section 18 of chapter 81 and chapter 258. Except as expressly excepted by the previous sentence, actions and proceedings against or on behalf of the Massachusetts turnpike authority shall continue unabated and, from and after the date of dissolution of the authority, may be completed against or by the department of transportation.

SECTION 63. Any order, rule, or regulation duly promulgated, or any license, permit, certificate or approval duly granted, by or on behalf of the Massachusetts turnpike authority shall continue in full force and effect to the extent consistent with this act and the laws of the Commonwealth, and, from and after the date of dissolution of the authority, shall continue to be enforced, until superseded, revised, rescinded or cancelled by the director of highways, with the approval of the secretary of transportation.

SECTION 64. The department shall, in consultation with the Federal Highway Administration, inventory the requirements for, and assume the responsibilities of, rehabilitating and reconstructing the turnpike and metropolitan highway system in compliance with Title 23 of the United States Code. Said inventory shall include operational and safety considerations associated with direct access to the mainline roadway from (i) maintenance, administration, and state police facilities, (ii) emergency median crossovers, and (iii) adjacent local roadways and service plazas.

SECTION 65. The terms and conditions of any collective bargaining agreement that is in effect upon dissolution of the Massachusetts turnpike authority with respect to employees of said authority shall continue in effect until the stated expiration date of such agreement, at which point the agreement shall expire. Notwithstanding the provisions of any general or special law to the contrary, upon the effective date of this act, the authority shall not engage in negotiations for future collective bargaining agreements.

The personnel administrator of the Commonwealth, in consultation with the Massachusetts department of transportation, shall complete a study of job titles in the former Massachusetts turnpike authority. The personnel administrator, in consultation with said department, shall determine the appropriate Commonwealth job titles for former employees of the authority transferred to the department. Employees transferred to the department shall be placed in job titles as determined by the personnel administrator, and shall be paid wages and receive benefits consistent with the Commonwealth bargaining unit contract governing such job title(s). Employees not transferred to the department shall be released pursuant to the provisions of any applicable collective bargaining agreement or authority policy in place upon the effective date of this act.

SECTION 66. (a) Notwithstanding the provisions of any general or special law to the contrary, employees of the Massachusetts turnpike authority who become state employees under this act and who are eligible for group insurance coverage as provided under chapter 32A, shall receive the full extent of benefits provided to existing state employees. Said employees shall cease to be eligible or insured by the authority. In addition to the foregoing, the group insurance commission shall provide uninterrupted coverage for group life and accidental death and dismemberment insurance and group general or blanket insurance providing hospital, surgical, medical, dental, and other health insurance benefits to the extent authorized under the provisions of chapter 32A of the General Laws.

(b) Notwithstanding the provisions of any general or special law to the contrary, retired employees of the Massachusetts turnpike authority and the surviving spouses of active or retired authority employees who are eligible for group insurance coverage as provided in this act and under chapter 32A of the General Laws shall have said eligibility and coverage transferred to the jurisdiction of the group insurance commission and shall receive the full extent of benefits provided to existing state employees. Said persons shall cease to be eligible or insured by the authority. In addition to the foregoing, the group insurance

commission shall provide uninterrupted coverage for group life and accidental death and dismemberment insurance and group general or blanket insurance providing hospital, surgical, medical, dental, and other health insurance benefits to the extent authorized under the provisions of chapter 32A of the General Laws. All questions relating to group insurance rights, obligations, costs and payments shall be determined solely by the group insurance commission, and shall include the manner and method for the payment of all required premiums applicable to all such coverage.

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

(d) Any monies in the Massachusetts turnpike authority's claims trust fund are hereby transferred to the group insurance commission upon dissolution of said authority. The Massachusetts turnpike authority's treasurer shall provide the group insurance commission with an accounting of the claims trust fund which shall be for the one year period immediately preceding the effective date and shall include a calculation of the employee, retiree and surviving spouse contributions that are in excess of the claims costs and expenses of the plans for which the contributions were made. Said treasurer shall routinely forward to the group insurance commission any claims for health insurance claims made on behalf of the active employees and retirees of the authority.

SECTION 67. (a) Notwithstanding the provisions of any other general or special laws to the contrary, effective on the date of dissolution of the Massachusetts turnpike authority: (1) the Massachusetts turnpike authority employee's retirement system shall be abolished and transferred to the state employee

retirement system and shall be managed by the state board of retirement as provided in section 18 of chapter 10, which board shall have with respect thereto the general powers and duties set forth in subdivision 5 of section 20 of chapter 32; (2) the authority's employees who retired on or before the effective date of this act shall be members of the state retirement system, which shall pay the cost of benefits annually to such retired authority employees and their survivors; (3) the assets, liabilities, including all accrued pension and unfunded liabilities, and all data files, papers, records, and other materials of the authority's retirement system shall be transferred from said authority retirement system to the state retirement system, subject to paragraph (a) of subsection 8 of section 3 of chapter 32 of the General Laws, and such other applicable provisions of law; and (4) the retirement board provided for in paragraph (b) of subdivision 4½ of section 20 of chapter 32 shall be abolished; provided however, that the members and officers thereof shall continue to be authorized to do all such things and take all such action as may be necessary or desirable to be done or taken by them to effectuate the transfers to be made pursuant to this section.

(b) Effective upon the date of dissolution of the Massachusetts turnpike authority or a default in its obligations under chapter 32 of the General Laws, the payment of all annuities, pensions, retirement allowances and refunds of accumulated total deductions and of any other benefits granted under the provisions of sections 1 to 28, inclusive, of said chapter 32 are hereby made obligations of the Commonwealth in the case of any such payments from funds of the Massachusetts turnpike authority employee's retirement system.

SECTION 68. (a) Notwithstanding the provisions of section 35 of chapter 92 of the General Laws, or any other general or special law to the contrary, effective July 1, 2009, the care, custody, and control of all bridges carrying vehicular traffic that are owned by the Commonwealth and are, as of the date of this act, under the care and control of the department of conservation and recreation, all land beneath such

bridges and all appurtenant structures, works and systems, including necessary bridge approaches (collectively, appurtenances), and all books, records, documents, agreements, contracts, licenses, permits and other legal obligations associated with said bridges or necessary for the department of transportation to design, construct, reconstruct, repair, maintain, or improve said bridges, are hereby transferred to the department of transportation to be held under the control of the division of the division of highways for the same purposes. At such time, such bridges and appurtenances shall be considered to be a part of the state highway system, subject to and with the benefit of all rights and obligations related to such system, including, without limitation, the benefit of the so-called “footprint bridge exemption” set forth in section 61 of chapter 303 of the acts of 2008.

(b) Any alteration, reconstruction, redesign, maintenance, improvement or repair of the bridges and appurtenances transferred by this act shall be carried out according to standards to protect the scenic and historic integrity of the bridges and related infrastructure. Such standards shall be developed by the department of conservation and recreation and agreed to by the division not later than 120 days from the effective date of this act.

(c) Not later than one year from the effective date of this act, the department of transportation and department of conservation and recreation shall file with the division of capital asset management and maintenance and the secretary of administration and finance a report documenting the extent of the bridges, land, and appurtenances transferred to the department on account of this act and documenting the standards required by this section.

(d) All unexpended funds and authorizations, which have been appropriated, from time to time, for the engineering, design, permitting, construction, reconstruction, maintenance, and other services essential to the operation of the bridges transferred by this section but not yet expended, including, but not limited to, funds authorized by section 2A of chapter 233 of the acts of 2008, line item 2890-0800, shall be transferred from the department of conservation and recreation to the department of transportation as of the date of the transfer provided for in this section, and may thereafter be expended by said department.

(e) Department of conservation and recreation personnel deemed necessary by the department and the highway division for the design, construction, reconstruction, repair, maintenance, or improvement of bridges and appurtenances transferred under this act shall be transferred to the department of transportation, together with the funds associated with their salary and benefits, without impairment of civil service status, seniority, retirement or other rights of the employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such transfer, and without loss of accrued rights to holidays, sick leave, vacation and benefits, and without change in union representation or certified collective bargaining unit as certified by the state division of labor relations or in local union representation or affiliation. Any collective bargaining agreement in effect immediately before the transfer date shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred. The transfer shall not impair the civil service status of any such transferred employee who immediately before the effective date of this act either holds a permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30 of the General Laws.

(f) All duly existing contracts, leases and obligations of the department of conservation and recreation relating to the assets to be transferred pursuant to this section shall continue in effect but shall be assumed by the department of transportation. No existing right or remedy of any character shall be lost, impaired or affected by this act.

SECTION 69. (a) The department of transportation and the Massachusetts port authority shall, not later than 90 days after the effective date of this act, enter into an agreement for the transfer of the Tobin memorial bridge, the bridge formerly known as the Mystic river bridge, owned and operated by said port authority pursuant to chapter 465 of the acts of 1956, to the department of transportation to be under the control of the highways division. Ownership, possession, and control of the bridge, including, but not limited to, all equipment, books, maps, papers, plans, records and documents of whatever description

pertaining to the design, construction, use, operation, and general affairs of the bridge which are in the possession of the Massachusetts port authority or any division, unit, officer or employee thereof shall pass to and be vested in the department of transportation to be under the control of the highway division without consideration or further evidence of transfer and shall thereafter be in the ownership, possession and control of said department.

(b) Massachusetts port authority bridge personnel deemed necessary by the highway division for the operation, management, design, construction, reconstruction, repair, maintenance, or improvement of the Tobin memorial bridge, transferred under subsection (a) of this section, shall be transferred to the department. The terms and conditions of any collective bargaining agreement covering bridge personnel that is in effect upon the transfer of such personnel to the department shall remain in effect until the stated date of expiration of such agreement, at which point the agreement shall expire. Notwithstanding the provisions of any general or special law to the contrary, upon the effective date of this act, the authority shall not engage in negotiations for future collective bargaining agreements covering such employees.

The personnel administrator of the Commonwealth, in consultation with the Massachusetts department of transportation, shall complete a study of job titles in the former Massachusetts port authority. The personnel administrator shall determine the appropriate Commonwealth job titles for former employees of the authority transferred to the department. Following the stated date of expiration of any existing collective bargaining agreements, employees transferred to the department shall be placed in job titles as determined by the personnel administrator, and shall be paid wages and receive benefits consistent with the Commonwealth bargaining unit contract governing such job title(s).

Nothing in this section shall be construed to confer upon any employee any right not held immediately prior to the date of said transfer, or to prohibit any reduction of salary or grade, transfer, reassignment, suspension, discharge, layoff, or abolition of position not prohibited prior to such date. Notwithstanding the provisions of any general or special law to the contrary, port authority bridge personnel who are employed by the Massachusetts port authority on the effective date of this act and who become employees

of the department upon the execution of the transfer agreement provided in paragraph (a) of this section and who are eligible for group insurance coverage under insurance plans offered by the Massachusetts port authority or who are insured under such a plan, shall have this eligibility and coverage transferred to the jurisdiction of the group insurance commission effective upon transfer and shall cease to be eligible or insured under the plans previously offered by the Massachusetts port authority.

The group insurance commission shall provide uninterrupted coverage for group life and accidental death and dismemberment insurance and group general or blanket insurance providing hospital, surgical, medical, dental and other health insurance benefits to the extent authorized under chapter 32A; provided, however, that a Tobin bridge employee who was covered by a collective bargaining agreement on the date of the transfer to the department shall continue to receive the group insurance benefits required by his or her respective collective bargaining agreement, managed by said authority's group insurance benefit plan administrator, until the expiration date of such agreement. Following expiration of such agreements, all questions relating to group insurance rights, obligations, costs and payments shall be determined by the group insurance commission and shall include the manner and method for the payment of all required premiums applicable to all such coverage. If the Massachusetts port authority has monies in an employees' group insurance trust fund related to the port authority employees transferred to the department, these funds shall be transferred to the group insurance commission trust fund established pursuant to section 9 of said chapter 32A. Nothing in this section shall be construed to affect the eligibility and coverage of retired port authority bridge personnel and the surviving spouses of active or retired port authority bridge personnel who are eligible for group insurance coverage under a plan offered by the Massachusetts port authority or who are insured under a plan offered by the Massachusetts port authority.

(c) All duly existing contracts, leases, and obligations of the Massachusetts port authority regarding the Tobin memorial Bridge shall continue in effect but shall be assumed by the department. In the case of collective bargaining agreements, any obligations assumed by the department 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.

(d) On and after the effective date of this act, the Massachusetts port authority shall not increase its net workforce of employees working primarily on the Tobin memorial Bridge.

(e) The department shall provide compensation to the Massachusetts port authority for said bridge transfer pursuant to any agreement entered into; provided, however, said authority shall commit seventy per cent of any funds received from said bridge transfer to the projects provided in section 70 of this act.

SECTION 70. Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts port authority shall undertake and complete the following projects which are consistent with the enabling act and trust agreement of said authority, and which shall constitute mobility mandates:

(i) provide additional funds for the operation and management of the silver line phase 2, operated by the Massachusetts bay transportation authority, in an amount equal to at least 35 per cent of such costs as certified by said authority; (ii) the ownership, design, construction, and maintenance of the Chelsea/East Boston haul road, so-called; and (iii) the design, construction, and maintenance of an underpass or tunnel under D Street in the South Boston section of the city of Boston to increase the efficiency of silver line service to Logan Airport. If the mobility mandate projects are not completed by the tenth anniversary of this act, then the Massachusetts port authority shall default on the amount of funds not then expended, and said funds shall be repaid to the Massachusetts Transportation Fund, with interest. The secretary and the Massachusetts port authority may enter into one or more agreements to implement, revise, or modify these mobility mandates in order to ensure compliance with applicable law and any port authority trust agreement and the timely and efficient expenditure of funds to advance the use of public transportation to and from the General Edward Lawrence Logan International Airport or any other facility owned or operated by the said authority.

SECTION 71. Notwithstanding the provisions of any general or special law to the contrary, all employees of the Massachusetts bay transportation authority and the Massachusetts turnpike authority who are hired on or after the effective date of this act shall be eligible for the full extent of benefits provided under the group insurance commission, provided that the employee meets the commission's eligibility requirements and shall receive their benefits solely through the commission. Benefits and coverage shall be determined exclusively by the commission and shall not be subject to collective bargaining. Contribution rates shall be the same as those set annually within the general appropriation act or otherwise established in general or special law for employees of the commonwealth. Employees of said authorities who are hired on or after the effective date of this act shall not be eligible for coverage and shall not receive benefits under any other plan offered by said authorities.

SECTION 72. Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts bay transportation authority is hereby directed to transfer all employees of the authority from their existing benefits programs to those provided under the group insurance commission; provided, however, that employees whose benefits are provided under the terms of an existing collective bargaining agreement shall not be transferred until the stated expiration date of that agreement; provided, further, that for non-union employees this transfer shall be effective on July 1, 2010. For the purposes of this section, the term "employees" shall mean current employees, retirees, surviving spouses and dependents of the Massachusetts bay transportation authority. Effective upon transfer: (i) all benefits of all employees shall be provided through the commission for all purposes; (ii) employees transferred to the commission's benefits coverage shall receive group insurance benefits determined exclusively by the commission and the coverage shall not be subject to collective bargaining.

To the extent authorized under chapter 32A, the commission shall provide group coverage of employee's health claims incurred after transfer to the commission. The claim experience of those employees shall be maintained by the commission in a single pool and combined with the claim experience of all covered state employees and retirees and their covered dependents.

The commission shall determine all matters relating to employee's group health insurance rights, responsibilities, costs and payments, including contribution ratios, and obligations, but not limited to, the manner and method of payment, schedule of benefits, eligibility requirements and choice of health insurance carriers and these matters shall be determined exclusively by the commission and shall not be subject to collective bargaining.

The commission shall negotiate and purchase benefits for employee's transferred under this section and shall promulgate regulations, policies and procedures for coverage of the transferred employees. The schedule of benefits available to transferred employees shall be determined by the commission pursuant to chapter 32A. The commission shall offer those employees the same choice as to health insurance carriers and benefits as those provided to state employees and retirees. The authority's contribution to the cost of health insurance coverage for transferred employees shall be subject to the provisions on contributions in said chapter 32A.

The authority shall be solely responsible for providing insurance coverage to its employees to whom it has an obligation to provide coverage until the effective transfer date, including but not limited to incurred but not reported claims, so called, and costs prior to transfer to the group insurance commission.

SECTION 73. Notwithstanding the provisions of any general or special law to the contrary, employees of the Massachusetts bay transportation authority and the Massachusetts turnpike authority who are hired by either authority after the effective date of this act shall become members of the state retirement system, and notwithstanding the provisions of any general or special law to the contrary including, but not limited to, paragraph (c) of subdivision 8 of section 3 of chapter 32, said system shall be responsible for all

liability attributable to the service of such employees. The liabilities attributable to the service of such employees shall be recoverable by the Commonwealth pursuant to the terms of section 8. Employees hired by said authorities after the effective date of this act shall not be members of either authority's retirement system.

SECTION 74. Notwithstanding the provisions of any general or special law to the contrary, for all employees of the Massachusetts bay transportation authority with less than ten years of creditable service with said authority, as of the stated expiration date of the current collective bargaining agreement, the authority shall be prohibited from entering into a collective bargaining agreement that requires less service time or age at time of retirement or differs from the schedule and benefits for all state employees in the state employees retirement system, as provided in chapter 32 of the General Laws.

Nothing in this section shall be construed to alter the rights of the authority or the employees to collectively bargain retirement benefits for employees with 10 years or more of creditable service with said authority as of the effective date of this act.

SECTION 75. (a) Notwithstanding the provisions of any general or special law to the contrary, this section shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property, and legal obligations of the following functions of state government from the transferor agency to the transferee agency, defined as follows:

(1) the functions of the department of highways, as the transferor agency, to the Massachusetts department of transportation, highway division, as the transferee agency;

(2) the functions of the registry of motor vehicles, as the transferor agency, to the Massachusetts department of transportation, motor vehicles division, as the transferee agency;

(3) the functions of the aeronautics commission, as the transferor agency, to the Massachusetts department of transportation, aviation and port division, as the transferee agency; and

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

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

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

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

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

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

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

SECTION 76. The secretary of the department of transportation, in consultation with the secretary of the executive office of labor and workforce development and director of workforce development shall institute a workforce retraining initiative to mitigate potential impacts to employees displaced by the organizational efficiencies and agency restructuring directed by this act. The secretary of transportation and the secretary of labor and workforce development, or their designees, shall establish a committee to

coordinate the workforce retraining initiative and adopt policies that identify and categorize displaced employees, while advancing workforce development opportunities for said employees whose lack of skills may prevent or limit their successful employment. Said committee shall include representatives from labor unions likely to be affected by this act, representatives from the business industry, and representatives from the human resources division of the executive office for administration and finance. The procedures shall outline and recommend various retraining programs available to employees identified as being displaced by this act, establish eligibility criteria and base skills requirements for the administration of these programs, promote program accountability and job placement through the division of career services and one stop career centers, identify available professional development and technical assistance needs and resources, and encourage economic diversification and industry growth through technology-focused training.

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

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

This section shall expire eighteen months after the effective date of this act.

SECTION 77. The human resources division, in consultation with the department of transportation, shall develop and implement a revised salary structure for positions within the Commonwealth requiring licensure as a professional engineer. Said salary structure shall be competitive with salaries earned in the private industry for similar employment requiring licensure as a professional engineer and shall be collectively bargained once implemented.

SECTION 78. Motor vehicle registration and license fees established under section 33 of chapter 90 of the General Laws before section 30 of this act takes effect, shall continue in force until new fees have been adopted under said section 33 of chapter 90, as amended by section 30.

SECTION 79. The Massachusetts port authority is hereby directed to increase parking fees at parking facilities owned and operated by said authority by a sum of not less than two dollars per vehicle. Said fee shall be collected by said authority as a “carbon impact” fee and shall be committed to the Massachusetts port authority to fund such mobility mandates consistent with said authority’s enabling act and trust agreement, subject to the agreement between the department of transportation and said authority executed in accordance with sections 69 and 70 of this act.

SECTION 80. (a) Notwithstanding the provisions of chapter 30B of the General Laws or any other general or special law to the contrary, the City of Worcester is hereby authorized to transfer to the Massachusetts port authority the Worcester regional airport, owned by the city and operated by the authority, within one year of the effective date of this act, subject to the following terms and conditions:

(i) said regional airport shall be transferred to the authority for fair compensation which may be paid in installments and which shall be reduced by the actual amount of any expenditures, subsidies, and operational costs assumed or provided to date to or for the Worcester regional airport by said authority, in

addition to any other federal and state funding and grant assistance, and (ii) the right, title, and interest of said city in said airport shall be conveyed within one year of the effective date of this act. In the event the parties cannot agree to the amount of fair compensation within 6 months of the effective date of this act, the secretary and the director of the aviation and port division shall establish such compensation in consultation with the executive director of the port authority and the city manager of the city of Worcester; provided, however, that the terms and conditions of any such transfer, and the amount of any such compensation to be paid, shall be subject to the prior approval of the board of the authority.

(b) Upon the transfer of the airport by the city to the authority pursuant to this section, the authority shall be responsible for the ownership, operation, and maintenance of the airport and, except as otherwise agreed to by the parties, the city shall cease to be responsible for such ownership, operation, and maintenance. All warranties and all contract and indemnification rights and obligations arising out of the design, construction, operation, and maintenance of the airport shall remain in full force and effect following such transfer. The provisions of this section shall not limit or in any way impair the rights, remedies or defenses of the city or the authority in or to any such action.

SECTION 81. Notwithstanding the provisions of sections 9, 9A, and 10 of chapter 161B of the General Laws, or any other general or special law to the contrary, all regional transit authorities established in said chapter 161B shall move to a forward funded budgeting system. The secretary of the executive office for administration and finance is hereby directed to develop a plan and timetable for accomplishing this conversion to forward funding and to seek the necessary appropriations to implement the plan. The secretary is further authorized to promulgate rules and regulations to effectuate the purposes of this section.

SECTION 82. Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts bay transportation authority, the Massachusetts port authority, and the Massachusetts turnpike authority, for so long as it shall exist, are hereby prohibited, upon the effective date of this act, from entering into any new or amended employment agreements, which fix the compensation and conditions of employment or otherwise bind said authorities to designated contract periods.

SECTION 83. Notwithstanding the provisions of any general or special law to the contrary, the highway division of the department of transportation is hereby authorized and directed to enter into an agreement with the Massachusetts bay transportation authority to assume all bridge inspection responsibilities for any bridges owned and operated by said authority over the roads of the Commonwealth.

SECTION 84. 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 85. (a) The name of the Massachusetts Aeronautics Commission is hereby changed to the Massachusetts aviation and port division. In addition to the foregoing, wherever, in any general or special law existing prior to the effective date of this act, there are used the following words or phrases, such

words and phrases shall, unless the context otherwise requires, have the following meanings ascribed to them as of the effective date of this act; (1) 'Massachusetts Aeronautics Commission', 'aeronautics commission' or 'commission', intending to mean the Massachusetts Aeronautics Commission, shall mean the 'aviation and port division' created by this act; (2) 'Director of the aeronautics commission', 'aeronautics director' or 'director', intending to mean the state director of the aeronautics commission, shall mean the 'director of the aviation and port division' created by section 7 of this act.

(b) The name of the department of highways is hereby changed to the highway division. In addition to the foregoing, wherever, in any general or special law existing prior to the effective date of this act, there are used the following words or phrases, such words and phrases shall, unless the context otherwise requires, have the following meanings ascribed to them as of the effective date of this act; (1) 'Massachusetts department of highways', 'highway department' or 'department', intending to mean the Massachusetts department of highways, shall mean the 'highway division' created by this act; (2) 'Commissioner of the highway department', 'highway commissioner' or 'commissioner', intending to mean the commissioner of the department of highways, shall mean the 'director of the highway division' created by section 7 of this act.

SECTION 86. The provisions of this act shall not be deemed in derogation of any powers conferred upon the department and its constituent divisions and authorities by existing laws; provided, however, that insofar as the provisions of this act are inconsistent with the provisions of any general or special law, administrative order or regulation, the provisions of this act shall be controlling.

SECTION 87. The provisions of this act are severable, and if any provision hereof shall be held invalid in any circumstances, such invalidity shall not affect any other provisions or circumstances. This act shall

be construed in all respects so as to meet any constitutional requirements. In carrying out the purposes and provisions of this act, all steps shall be taken which are necessary to meet constitutional requirements.