

HOUSE No. 4409

The Commonwealth of Massachusetts



EXECUTIVE DEPARTMENT
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DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

November 29, 2007.

To the Honorable Senate and House of Representatives:

I am filing for your consideration a bill entitled "An Act Financing Improvements to the Commonwealth's Transportation System".

State capital investments are necessary to maintain and develop a high quality transportation system in Massachusetts. This bill authorizes the state to borrow \$2.9 billion for transportation infrastructure improvements to ensure greater mobility and enhanced economic development opportunities.

This state funding commitment leverages significant federal funding, resulting in a total investment of approximately \$4.8 billion in transportation system improvements across the Commonwealth. Specifically, this bill includes:

- \$1.3 billion for improvements to our highways and bridges, which will secure an additional \$1.8 billion of federal grants.
- \$500 million for Chapter 90 grants to cities and towns for road and bridge projects.
- \$700 million for certain mass transit improvements required as a part of the State Implementation Plan.
- \$75 million as a state match to federal funds for improvements to the Fitchburg Commuter rail transit line.

Although the transportation bond bill seeks funding that enables the Administration to increase state investments in transportation infrastructure, it is only a first step toward the level of investment needed to adequately address the needs of our transportation system. After decades of neglecting the needs of our transportation infrastructure, we must comprehensively reform the financing and management of our transportation

system to effectively coordinate the development and implementation of transportation policy.

The Administration intends to propose such comprehensive reform within the next few months. This transportation bond bill covers only the next three years in anticipation of such reform and eventual implementation of a new, more efficient and effective method of financing our transportation infrastructure needs.

Most importantly, the Commonwealth is able to afford this \$2.9 billion in investments to the Commonwealth's transportation system, based on the Administration's five-year capital investment plan and the related debt affordability analysis published last August. In light of the urgent need to provide improvements in the transportation infrastructure in the Commonwealth, I urge prompt action to enact this bill.

Respectfully submitted,



DEVAL L. PATRICK,
Governor.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT FINANCING IMPROVEMENTS TO THE COMMONWEALTH'S TRANSPORTATION SYSTEM.

Whereas, the deferred operation of this act would tend to defeat its purpose, which is to immediately provide for an accelerated transportation development and improvement program for the commonwealth, 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. To provide for a program of transportation development and improvements, the sums set forth in sections 2 to 2F, inclusive, for the several purposes and subject to the conditions specified in this act, are hereby made available, subject to the laws regulating the disbursement of public funds, which sums are in addition to amounts previously appropriated for these purposes.

SECTION 2.

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS

Department of Highways.

6033-0815 For federal aid projects on the interstate federal highway system; provided, that funds may be expended for the costs of these projects including, but not limited to, the nonparticipating portions of these projects and the costs of engineering and other services essential to these projects rendered by department of highways employees or by consultants; provided further, that amounts expended for department employees may include the salary and salary-related expenses of these employees to the extent that they work on or in support of these projects; provided further, that, notwithstanding any general or special law to the contrary, including any other provision of this act to the contrary, the department shall not enter into any obligations for projects which are eligible to receive federal funds under this act unless state matching funds exist which have been specifically authorized and are sufficient to fully fund the corresponding state portion of the federal commitment to fund this obligation; and provided further, that the department shall only enter into obligations for projects under this act based upon

a prior or anticipated future commitment of federal funds and the availability of corresponding state funding authorized and appropriated for this use by the general court for the class and category of project for which this obligation applies..... \$ 200,000,000

6033-0816 For federal aid projects on the non-interstate federal highway system; provided, that funds may be expended for the costs of these projects including, but not limited to, the nonparticipating portions of these projects and the costs of engineering and other services essential to these projects rendered by department of highways employees or by consultants; provided further, that amounts expended for department employees may include the salary and salary-related expenses of these employees to the extent that they work on or in support of these projects; provided further, that, notwithstanding any general or special law to the contrary, including any other provision of this act to the contrary, the department shall not enter into any obligations for projects which are eligible to receive federal funds under this act unless state matching funds exist which have been specifically authorized and are sufficient to fully fund the corresponding state portion of the federal commitment to fund this obligation; and provided further, that the department shall only enter into obligations for projects under this act based upon a prior or anticipated future commitment of federal funds and the availability of corresponding state funding authorized and appropriated for this use by the general court for the class and category of project for which this obligation applies \$2,200,000,000.

SECTION 2A.

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS
Department of Highways.

6033-0817 For the design, construction and repair of or improvements to nonfederally-aided roadway and bridge projects and for the nonparticipating portion of federally aided projects; provided , that expenditures from this item may include the costs of engineering and other services essential to such projects rendered by department employees or by consultants; and provided further, that amounts expended for department employees may include salary and salary-related expenses of these employees to the extent that they work on or in support of these projects\$800,000,000.

6033-0827 For the purchase and rehabilitation of heavy equipment and other maintenance equipment, including attachments and parts, for the department \$13,500,000.

6033-0837 For the purposes of remediating environmental contamination at facilities and on lands under the care, custody and control of the department, including the costs for auditing and assessing the existence and extent of environmental contamination..... \$4,200,000.

SECTION

2B.

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS

Department of Highways.

6033-0867 For the construction and reconstruction of town and county ways as described in paragraph (a) of clause (2) of section 34 of chapter 90 of the General Laws; provided that a city or town shall comply with the procedures established by the department of highways; provided further, that any city or town may appropriate for projects amounts not in excess of the amount provided to the city or town under this item, preliminary notice of which shall be provided by the department to the city or town not later than April 1 of each year; provided further, that the commonwealth shall reimburse a city or town under this item within 30 days after receipt by the department of a request for reimbursement from the city or town, which request shall include certification by the city or town that actual expenses have been incurred on projects eligible for reimbursement under this item, and that the work has been completed to the satisfaction of the city or town according to the specifications of the project and in compliance with applicable laws and procedures established by the department \$500,000,000.

6033-0877 For the design and construction of roads, roadways and other transportation related projects considered necessary for economic development by the secretary of transportation and public works upon the petition of the local executive government body, provided, that funds authorized in this item shall be expended in accordance with chapter 19 of the acts of 1983 and shall be in accordance with 701 CMR 5.00 to 5.10; provided further, that the secretary of transportation and public works shall notify cities and towns of the availability of funds through this program and shall inform municipalities of the application process before the expenditure of any funds from this item \$50,000,000.

6033-0887 For the purpose of implementing section 32 of chapter 637 of the acts of 1983, as amended by sections 28 and 29 of this act, which authorizes the commissioner of highways to establish a program to assist towns with populations of 7,000 or less undertaking projects to design, construct,

reconstruct, widen, resurface, rehabilitate and otherwise improve roads and bridges \$15,000,000.

SECTION 2C.

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS

Office of the Secretary

- 6001-0801 For the purposes of chapter 161B of the General Laws, including the purchase and rehabilitation of rolling stock, and implementation of networking and intelligent transportation systems to provide for interoperability communications, and the construction, reconstruction and rehabilitation of regional transit authority facilities and related appurtenances \$25,000,000.
- 6001-0802 For the purpose of implementing the mobility assistance program, under section 13 of chapter 637 of the acts of 1983; provided, that any grant funds awarded under this item shall be for not more than 80 per cent, except for regional transit authorities which can be reimbursed up to 100 per cent, of the total purchase cost of the vehicles or equipment purchased under the program; and provided further, that the secretary of transportation and public works may waive the foregoing limitation on a determination that a recipient is in critical financial need..... \$10,000,000
- 6001-0803 For the purpose of planning, engineering, design and construction of transportation infrastructure investments to be called regional intermodal transportation centers, strategically located to maximize passenger connections between road, air, water, rail and other transportation modes; provided, that in carrying out this item, the secretary of transportation and public works may set service standards to aid in identifying population hubs where intermodal centers would optimally affect passenger movement throughout the commonwealth..... \$9,000,000.
- 6001-0804 For the purpose of implementing rail improvements under chapter 161C of the General Laws; provided, that funds may be used for transportation planning, design, permitting and engineering for heavy rail, light rail and bus projects, which projects shall include the Urban Ring, Blue Line extension to Lynn and South Coast initiatives; provided further, that funds may be used for the acquisition of interests in land \$100,000,000.
- 6001-0805 For the purpose of improving and expanding marine transportation services, for the purpose of enhanced passenger water transportation capacity and intermodal access to the waterfront, or for other public transportation purposes including, but

not limited to, service feasibility studies, demonstration projects, the acquisition of boats for passenger marine transportation services, the planning, design, construction or acquisition of docking, dredging and other landside facilities such as parking or shelter facilities, improved landside access to such facilities, the purchase of other equipment in connection with said operations and the disposal of same when their use has been substantially diminished including all equipment or boats purchased for marine transportation service before the effective date of this act; provided further, that in carrying out this item, the secretary of transportation and public works may enter into contracts or agreements that are appropriate with other state and local public agencies, authorities, or political subdivisions of the commonwealth, including, but not limited to the Massachusetts Port Authority, the Massachusetts Bay Transportation Authority, the executive office of housing and economic development, executive office of energy and environment, or with other quasi-public agencies, which are hereby granted the power and authority to enter into contracts or agreements with said secretary; provided further, that these grants be subject to a 25 per cent match from eligible applicants \$15,000,000.

6001-0806 For a program to provide financial assistance to promote transit-oriented development; provided, that the assistance may be in the form of grants or loans and may be used to design, construct, reconstruct or enhance parking facilities and related pedestrian and bicycle access serving mixed use developments adjacent to existing or planned transit stations, to build or rehabilitate housing, at least 25 per cent of which shall be affordable to households earning no more than 80 per cent of the area median income; provided, that all projects funded under this item shall be located within .25 miles of a commuter rail station, subway station, ferry terminal or bus station; provided further, that the executive office of transportation and public works may enter into agreements, request proposals and applications, and issue regulations and guidelines as necessary to carry out the purposes of this item; provided further, that the secretary of transportation and public works shall make reasonable efforts to coordinate with and utilize existing programs and resources including but not limited to, the executive office for administration and finance off-streets parking program, the Massachusetts Bay Transportation Authority Parking Enterprise Fund, Massachusetts Bay Transportation Authority station air rights development agreements, other Massachusetts Bay Transportation Authority investments in station

access or commuter parking enhancements, similar types of parking investments by any other regional transit authority, or existing programs of the department of housing and community development, the executive office of environment affairs, the Massachusetts housing finance agency or the Massachusetts development authority; provided further, that to be eligible to receive assistance under this item, a project shall also receive financial or technical assistance from 1 or more of the following: the department of housing and community development, the executive office of environmental affairs, the Massachusetts Bay Transportation Authority, the Massachusetts housing finance agency or the Massachusetts development authority; provided further, that annually, on or before December 31, the executive office of transportation and public works shall issue a written report to the clerks of the house of representatives and the senate, which shall include detailed descriptions of any agreements, loans or grants and a list indicating the allocation of all committed and expended funds under this item \$20,000,000.

SECTION 2D.

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS

Office of the Secretary

- 6001-0807 For the acquisition of information technology and related expenses including but not limited to identity document verification systems, Q-matic queuing system upgrade, automated testing equipment, document imaging systems, and laptop tablets for all agencies within the executive office of transportation and public works; provided, however, that any expenditures pursuant to this item shall be subject to the approval of the chief information officer of the commonwealth..... \$16,700,000.
- 6001-0808 For the reconstruction, rehabilitation and maintenance of facilities under the care and control of agencies within the executive office of transportation and public works, including but not limited to the costs associated with the installation, improvement and repair of electrical, heating, ventilation and air conditioning systems \$1,000,000.
- 6001-0809 For the purchase and rehabilitation of necessary durable equipment, and parts for this durable equipment, for all agencies within the executive office of transportation and public works \$ 1,500,000.
- 6001-0810 For the installation, maintenance and repair of security systems, design improvements and related equipment, including security cameras, for

all agencies within the executive office of transportation and public works \$ 1,220,000.

SECTION 2E.

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS

- 6001-0812 For the Fairmount Line project, the commuter transit facility parking project, the Red Line/Blue Line connector design project and the Green Line to Medford Hillside and Union Square spur project, all as further described in 310 CMR 7.36..... \$ 700,000,000.
6001-0813 For design and construction of the Massachusetts Bay Transportation Authority Fitchburg Line Speed Improvement project..... \$ 75,000,000.

SECTION 2F.

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS
Massachusetts Aeronautics Commission

- 6006-0801 For the implementation of the Airport Improvement Program under section 51L of chapter 90 of the General Laws \$ 40,000,000.

SECTION 3. To meet a portion of the expenditures necessary in carrying out section 2, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$508,000,000. All these bonds issued by the commonwealth shall be designated on their face, Transportation Improvement Loan Act of 2008, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution. All these bonds shall be payable not later than June 30, 2043. All interest and payments on account of principal on these obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer under this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section 20 of chapter 29 of the General Laws. In deciding whether to request the issuance of particular bonds as special obligations the governor shall take into account: (i) generally prevailing financial market conditions; (ii) the impact of each approach on the overall capital financing plans and needs of the commonwealth; (iii) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of chapter 29. All special obligation revenue bonds issued under this section shall be designated on their face, Special Obligation Revenue Transportation Improvement Loan Act of 2008 and shall be issued for a maximum term of

years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution. All these bonds shall be payable not later than June 30, 2043. All principal on these obligations shall be payable from the Infrastructure Fund established in said section 2O of said chapter 29. Special obligation bonds issued under this section shall be special obligations of the commonwealth payable solely in accordance with said section 2O of said chapter 29.

SECTION 4. To meet the expenditures necessary in carrying out section 2A the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$817,700,000. All these bonds issued by the commonwealth shall be designated on their face, Transportation Improvement Loan Act of 2008, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution. All these bonds shall be payable not later than June 30, 2043. All interest and payments on account of principal on these obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer under this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section 2O of chapter 29 of the General Laws. In deciding whether to request the issuance of particular bonds as special obligations the governor shall take into account: (i) generally prevailing financial market conditions; (ii) the impact of each approach on the overall capital financing plans and needs of the commonwealth; (iii) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of chapter 29. All special obligation revenue bonds issued under this section shall be designated on their face, Special Obligation Revenue Transportation Improvement Loan Act of 2008 and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution. All these bonds shall be payable not later than June 30, 2043. All principal on these obligations shall be payable from the Infrastructure Fund established in said section 2O of said chapter 29. Special obligation bonds issued under this section shall be special obligations of the commonwealth payable solely in accordance with said section 2O of said chapter 29.

SECTION 5. To meet the expenditures necessary in carrying out section 2B the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$565,000,000. All these bonds issued by the commonwealth shall be designated on their face, Transportation Improvement Loan Act of 2008, and shall be issued for a maximum term of years, not

exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution. All these bonds shall be payable not later than June 30, 2043. All interest and payments on account of principal on these obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer under this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section 2O of chapter 29 of the General Laws. In deciding whether to request the issuance of particular bonds as special obligations the governor shall take into account: (i) generally prevailing financial market conditions; (ii) the impact of each approach on the overall capital financing plans and needs of the commonwealth; (iii) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of chapter 29. All special obligation revenue bonds issued under this section shall be designated on their face, Special Obligation Revenue Transportation Improvement Loan Act of 2008 and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution. All these bonds shall be payable not later than June 30, 2043. All principal on these obligations shall be payable from the Infrastructure Fund established in said section 2O of said chapter 29. Special obligation bonds issued under this section shall be special obligations of the commonwealth payable solely in accordance with said section 2O of said chapter 29.

SECTION 6. To meet the expenditures necessary in carrying out section 2C the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$179,000,000. All these bonds issued by the commonwealth shall be designated on their face, Transportation Improvement Loan Act of 2008, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution. All these bonds shall be payable not later than June 30, 2043. All interest and payments on account of principal on these obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer under this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section 2O of chapter 29 of the General Laws. In deciding whether to request the issuance of particular bonds as special obligations the governor shall take into account: (i) generally prevailing financial market conditions; (ii) the impact of each approach on the overall capital financing plans and needs of the commonwealth; (iii) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to

be assigned by any nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of chapter 29. All special obligation revenue bonds issued under this section shall be designated on their face, Special Obligation Revenue Transportation Improvement Loan Act of 2008 and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution. All these bonds shall be payable not later than June 30, 2043. All principal on these obligations shall be payable from the Infrastructure Fund established in said section 20 of said chapter 29. Special obligation bonds issued under this section shall be special obligations of the commonwealth payable solely in accordance with said section 20 of said chapter 29.

SECTION 7. To meet the expenditures necessary in carrying out section 2D the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$20,420,000. All these bonds issued by the commonwealth shall be designated on their face, Transportation Improvement Loan Act of 2008, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution. All these bonds shall be payable not later than June 30, 2043. All interest and payments on account of principal on these obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer under this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section 20 of chapter 29 of the General Laws. In deciding whether to request the issuance of particular bonds as special obligations the governor shall take into account: (i) generally prevailing financial market conditions; (ii) the impact of each approach on the overall capital financing plans and needs of the commonwealth; (iii) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of chapter 29. All special obligation revenue bonds issued under this section shall be designated on their face, Special Obligation Revenue Transportation Improvement Loan Act of 2008 and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution. All these bonds shall be payable not later than June 30, 2043. All principal on these obligations shall be payable from the Infrastructure Fund established in said section 20 of said chapter 29. Special obligation bonds issued under this section shall be special obligations of the commonwealth payable solely in accordance with said section 20 of said chapter 29.

SECTION 8. To meet the expenditures necessary in carrying out section 2E the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$775,000,000, provided that any federal grants received by the commonwealth or the Massachusetts Bay Transportation Authority for the Green Line to Medford Hillside and Union Square spur project shall be applied to reduce the state authorization by that amount . All these bonds issued by the commonwealth shall be designated on their face, Transportation Improvement Loan Act of 2008, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution. All these bonds shall be payable not later than June 30, 2043. All interest and payments on account of principal on these obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer under this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section 2O of chapter 29 of the General Laws. In deciding whether to request the issuance of particular bonds as special obligations the governor shall take into account: (i) generally prevailing financial market conditions; (ii) the impact of each approach on the overall capital financing plans and needs of the commonwealth; (iii) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of chapter 29. All special obligation revenue bonds issued under this section shall be designated on their face, Special Obligation Revenue Transportation Improvement Loan Act of 2008 and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution. All these bonds shall be payable not later than June 30, 2043. All principal on these obligations shall be payable from the Infrastructure Fund established in said section 2O of said chapter 29. Special obligation bonds issued under this section shall be special obligations of the commonwealth payable solely in accordance with said section 2O of said chapter 29.

SECTION 9. To meet the expenditures necessary in carrying out section 2F the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$ 40,000,000. All these bonds issued by the commonwealth shall be designated on their face, Transportation Improvement Loan Act of 2008, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution. All these bonds shall be payable not later than June 30, 2043. All interest and payments on account of principal on these obligations shall be payable from the Fund. Bonds and interest thereon issued under this section shall,

notwithstanding any other provisions of this act, be general obligations of the commonwealth.

SECTION 10. In carrying out sections 2 to 2F, inclusive, all agencies within the Executive Office of Transportation and Public Works may enter into such contracts or agreements as may be appropriate with other state, local or regional public agencies or authorities. The agreements may relate to such matters as the department shall determine including, without limitation, the design, layout, construction, reconstruction or management of construction of all or any portion of such projects. In relation to any such agreements between the department and other state agencies or authorities, the department may advance monies to the agencies or authorities, without prior expenditure by the agencies or authorities, and the agencies and authorities may accept monies necessary to carry out such agreements; provided, however, that the department shall certify to the comptroller the amounts so advanced; provided further, that such agreements shall contain provisions satisfactory to the department for the accounting of such monies as expended by the agency or authority; and, provided further, that all monies not expended under any such agreement shall be credited to the account of the department from which they were advanced.

SECTION 11. (a) The executive office of transportation and public works and the department of highways shall expend the sums authorized in sections 2 to 2F, inclusive, for the following purposes: projects for the laying out, construction, reconstruction, resurfacing, relocation or necessary or beneficial improvement of highways, bridges, bicycle paths or facilities, on and off-street bicycle projects, sidewalks, telecommunications, parking facilities, auto-restricted zones, scenic easements, grade crossing eliminations and alterations of other crossings, traffic safety devices on state highways and on roads constructed under section 34 of chapter 90 of the General Laws, highway or mass transportation studies, including, but not limited to, traffic, environmental or parking studies, the establishment of school zones in accordance with section 2 of chapter 85 of the General Laws, improvements on routes not designated as state highways without assumption of maintenance responsibilities and, notwithstanding any general or special law to the contrary, projects to alleviate contamination of public and private water supplies cause by the department's storage and use of snow removal chemicals which are necessary for the purposes of highway safety and for the relocation of persons or businesses or for the replacement of dwellings or structures including, but not limited to, providing last resort housing under federal law and such functional replacement of structures in public ownership as may be necessary for the foregoing purposes and for relocation benefits to the extent necessary to satisfy the requirements of the Uniform Relocation Assistance and Real Property Acquisition Act, 42 USC 4601 et seq., PL 90-6464, and to sell any structure the title to which has been acquired for highway purposes. When dwellings or other structures are removed, in furtherance of any of the foregoing projects, the excavations or cellar holes remaining shall be filled in and brought to grade within 1 month after such removal. In planning projects funded by sections 2 to 2E, inclusive,

consideration shall be made, to the extent feasible, to accommodate and incorporate provisions to facilitate the use of bicycles and walking as a means of transportation; provided, however, that nothing herein shall be construed to give rise to enforceable legal rights in any party or a cause of action or an enforceable entitlement as to the projects provided herein.

(b) Funds authorized in sections 2 to 2F, inclusive, shall, except as otherwise specifically provided in this act, shall be subject to the first paragraph of section 6 and sections 7 and 9 of chapter 718 of the acts of 1956, where applicable, and, notwithstanding any general or special law to the contrary, may be used for the purposes stated in this act in conjunction with funds of cities, towns and political subdivisions of the commonwealth.

(c) Notwithstanding sections 40A and 40B of chapter 7 of the General Laws, the department shall have jurisdiction over the selection of designers performing design services in connection with the ventilation of buildings, utility facilities and toll booths to be constructed as part of the central artery/tunnel project and shall construct, control, supervise or contract such structures; provided, however, that no such construction or contractual agreement for construction shall begin before the review and approval of the inspector general. The inspector general shall file with the house and senate committee on ways and means and the joint committee on transportation all notices of approval for projects undertaken pursuant to this paragraph.

(d) In addition to the foregoing, the department may: expend funds made available by this act to acquire from any person, land or rights in land by lease, purchase or eminent domain under chapter 79 of the General Laws, or otherwise, for parking facilities adjacent to any public way to be operated by the department or under contract with an individual; expend funds made available by this act for the acquisition of van-type vehicles used for multi-passenger, commuter-driven carpools and high occupancy vehicles including, but not limited to, water shuttles and water taxis; and in accordance with all applicable state and federal laws and regulations, exercise all powers and do all things necessary and convenient to carry out the purposes of this act.

(e) In carrying out this section, the department may enter into contracts or agreements with cities to mitigate the effects of projects undertaken pursuant to this act and to undertake additional transportation measures within the city and may enter into such contracts or agreements with other state, local or regional public agencies, authorities, nonprofit organizations or political subdivisions as may be necessary to implement such city agreements. Cities and other state, local or regional public agencies, authorities, nonprofit organizations or political subdivisions may enter into such contracts or agreements with the department. In relation to such agreements, the department may advance to such agencies, organizations or authorities, without prior expenditure by such agencies, organizations or authorities, monies necessary to carry out such agreements; provided however, that the department shall certify to the comptroller the amount so advanced; provided further, that all monies not expended under such agreement shall be credited to the account of the department from which they were advanced. The department shall report to the house and senate committees on ways and means on any transfers completed pursuant to this paragraph.

SECTION 12. Notwithstanding any general or special law to the contrary, the executive office of transportation and public works and the department of highways shall take all necessary actions to secure federal highway or mass transportation assistance which is or may become available to the department including, but not limited to, actions authorized under or in compliance with 23 U.S.C. and section 145 of the Surface Transportation and Uniform Relocation Assistance Act of 1982, PL 97-424, the Surface Transportation and Uniform Relocation Act of 1987, PL 100-17, the Intermodal Surface Transportation Efficiency Act of 1991, PL 102-240, Transportation Equity Act for the 21st Century, PL 105-178, and any successor acts or reauthorizations of those acts, and actions such as filing applications for federal assistance, supervising the expenditure of funds under federal grants or other assistance agreements and making any determinations and certifications necessary or appropriate to the foregoing. If any federal law, administrative regulation or practice requires any action relating to such federal assistance to be taken by a department, agency or other instrumentality of the commonwealth other than the department of highways, such other department, agency or instrumentality shall take such action. In furtherance of the foregoing purposes, the department of highways, as appropriate, shall apply for and may accept any federal funds available for projects authorized in section 2, and the federal funds when received shall be credited to the Federal Highway Construction Program Fund.

SECTION 13. The department of highways may expend funds made available through an interdepartmental services agreement with the department of conservation and recreation, for the maintenance, design, construction, reconstruction, or rehabilitation of roadways, boulevards, bridges and related appurtenances under the care, custody and control of the department of conservation and recreation, including but not limited to the costs of design, engineering, and other costs considered related and essential to the projects by the department of highways, and the salaries and salary-related expenses of employees of the department of highways to the extent that those employees work on or in support of these projects, subject to appropriation of funds to the department of conservation and recreation for these purposes. Nothing in this section shall authorize the transfer of any interest in and to the lands and property under the care, custody and control of the department of conservation and recreation, or otherwise contravene section 35 of chapter 92 of the General Laws.

SECTION 14. Section 58 of chapter 6 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 8, the word “four” and inserting in place thereof the following number:- 5.

SECTION 15. Section 1of chapter 16 of the General Laws, as so appearing, is hereby amended by striking out, in line 81, the word “chief” and inserting in place thereof the following word :- general.

SECTION 16. Said chapter 16 is hereby further amended by inserting after section 4B the following 2 sections:-

Section 5A. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:—

“Department”, the department of highways and all agencies and boards within the department of highways.

“Person”, 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.

(b) The department may assess a civil administrative penalty on a person who fails to comply with any regulation, order, license or approval issued or adopted by the department, or any law which the department has the authority or responsibility to enforce, if the noncompliance occurred after the department had given the person written notice of the noncompliance, and if, reasonable time, as determined by the department and stated in the notice, has elapsed for coming into compliance. The department may assess this penalty without providing written notice if the failure to comply: (1) was part of a pattern of noncompliance and not an isolated instance, or (2) was willful and not the result of error, or (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 department. 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 department shall consider, but not be limited to, whether the department had previously notified the person of a noncompliance on 2 occasions during the previous 4-year period or of any noncompliance with the same 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 department upon the person from the date of receipt of the notice.

(c) Whenever the department seeks to assess a civil administrative penalty on any person, the department shall cause to be served upon that 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 the 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 the alleged act or omission, the amount which the department 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 of the penalty if the 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.

(d) Whenever the department seeks to assess a civil administrative penalty on any person, that person shall have the right to an adjudicatory hearing under chapter 30A, which shall apply except when it is inconsistent with this section.

(e) 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 the date of the department's notice that it seeks to assess a civil administrative penalty, the person files with the department a written statement denying the occurrence of any of the acts or omissions alleged by the department 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 department shall be required to prove by a preponderance of the evidence the occurrence of each act or omission alleged by the department.

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

(g) 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.

(h) 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 this requirement, the court affirms, in whole or in part, the assessment of a civil administrative penalty, the department shall be paid the amount of the penalty, 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 department shall be paid the amount of the penalty, 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 set aside, together with the accumulated interest on it.

(i) Each person who fails to pay a civil administrative penalty on time, and each person who issues a bond under this section and who fails to pay to the commonwealth on time the amount required under this section, 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 any general or special law to the contrary, including the limitations and considerations set forth in this section, the department may require that the amount of a civil administrative penalty imposed under this section exceed the economic benefit realized by a person for noncompliance.

(j) In determining the amount of each civil administrative penalty, the department 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 department, or any law which the department 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.

(k) No civil administrative penalty assessed under this section shall be less than \$100. For each of the following failures to comply, the civil administrative penalty shall not exceed \$25,000: (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 department.

Section 5B. (a) There shall be within the department a real estate appraisal review board consisting of not less than 3 or more than 5 members, to be appointed by the governor. At least 2 members shall be state certified general real estate appraisers licensed by the board of real estate appraisers established under section 92 of chapter 13. All vacancies in the real estate appraisal review board shall be filled by the governor in the same manner. The department shall determine the compensation of the members of the real estate appraisal review board.

(b) No payment in excess of \$300,000 for purchase or eminent domain acquisition of real estate or any interest in real estate by the department shall be made without the written approval of the real estate appraisal review board.

SECTION 17. Section 20A of chapter 29 of the General Laws is hereby repealed.

SECTION 18. Section 29F of said chapter 29 of the General Laws, as so appearing, is hereby amended by inserting after the word “division”, in line 8, the following words:- in regard to all public contracts awarded under sections 38A½ to 38O of chapter 7, section 11C of chapter 25A, or sections 44A to 44H of chapter 149, or the commissioner of highways or his designee within the department in regard to all public contracts awarded under section 39M of chapter 30.

SECTION 19. Section 39O of chapter 30 of the General Laws, as so appearing, is hereby amended by inserting after the word “any”, in line 20, the following words:- overhead or.

SECTION 20. Said chapter 30 is hereby further amended by inserting after section 39S the following section:-

Section 39T. The commissioner of highways may suspend or debar contractors in accordance with section 29F of chapter 29.

SECTION 21. Section 21 of chapter 81 of the General Laws, as so appearing, is hereby amended by inserting after the word “purpose”, in line 2, the following words:- nor access granted thereto for any purpose.

SECTION 22. Said section 21 of said chapter 81, as so appearing, is hereby further amended by striking out the fourth sentence in the first paragraph and inserting in place thereof the following sentence:- The amount of the bond shall be determined by the department to be the cost of the project estimate for work within the limits of the state highway layout at the time of permit approval by the department, but shall be not less than \$300,000.

SECTION 23. Chapter 85 of the General Laws, is hereby amended by adding the following section:-

Section 37. Notwithstanding any general or special law to the contrary, section 61 and sections 62A to 62H of chapter 30, chapter 91 and section 40 of chapter 131 shall not apply to bridge projects of the department of highways for the repair, reconstruction, replacement or demolition of existing state highway bridges and other bridges, including the immediate roadway approaches necessary to connect the bridges to the existing adjacent highway system, in which the design is substantially the functional equivalent of, and in similar alignment to, the structure to be reconstructed or replaced, but section 61 and sections 62A to 62H of chapter 30, chapter 91 and section 40 of chapter 131 shall apply to any portions of the bridge and roadway approaches to the crossing of the Charles river for the Central Artery/Tunnel Project. In the case of any state highway or other bridge crossing over a railroad right-of-way or railroad tracks, the department shall seek the opinion of a railroad company, railway company or its assigns operating on the track of a necessary clearance between

the track and the state highway bridge, but the department, its agents or contractors may enter upon any right-of-way, land or premises of a railroad company or railway company or its assigns for purposes that the department may consider necessary or convenient to carry out this section. If a flagman is needed to carry out this section, the railroad company, railway company or its assigns shall provide the flagman. For the purposes of this section, the word "bridge" shall include any structure spanning and providing passage over water, railroad right-of-way, public or private way, other vehicular facility, or other area.

SECTION 24. Section 73 of chapter 152 of the General Laws, as so appearing, is hereby amended by inserting after the first sentence, the following 2 sentences:- Notwithstanding any general or special law to the contrary, any current or former Massachusetts Bay Transportation Authority employee or retiree entitled to compensation under section 31, 34, 34A, 35, 35A or 36 who is also entitled to a pension by reason of the same injury shall elect whether he will receive this compensation or the pension, and shall not receive both, except in the manner and to the extent provided by section 14 of chapter 32. The requirement to make this 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 who are also receiving or entitled to a pension by reason of the same injury.

SECTION 25. Chapter 161A of the General Laws is hereby amended by adding the following section:-

Section 49. Notwithstanding any general or special law to the contrary, section 61 and sections 62A to 62H of chapter 30, chapter 91 and section 40 of chapter 131 shall not apply to bridge projects of the Massachusetts Bay Transportation Authority for the repair, reconstruction, replacement or demolition of existing and other bridges under the jurisdiction of the authority, including the immediate roadway approaches necessary to connect the bridges to the existing adjacent highway system, in which the design is substantially the functional equivalent of, and in similar alignment to, the structure to be reconstructed or replaced, but in the case of any bridge crossing over a railroad right-of-way or railroad tracks, the authority shall seek the opinion of a railroad company, railway company or its assigns operating on the track of a necessary clearance between the track and the bridge. The authority, its agents or contractors may enter upon any right-of-way, land or premises of a railroad company or railway company or its assigns for purposes that the authority may consider necessary or convenient to carry out this section. If a flagman is needed to carry out this section, the railroad company, railway company or its assigns shall provide the flagman. For the purposes of this section, the word "bridge" shall include any structure spanning and providing passage over water, railroad right-of-way, public or private way, other vehicular facility, or other area.

SECTION 26. The first paragraph of section 32 of chapter 637 of the acts of 1983, as inserted by section 31 of chapter 205 of the acts of 1996, is hereby

amended by striking out the words “three thousand five hundred”, and inserting in place thereof the following number:- 7000.

SECTION 27. The second paragraph of section 32 of chapter 637 of the acts of 1983, as amended by section 32 of chapter 205 of the acts of 1996, is hereby further amended by striking out the words “Such rules and regulations shall contain a requirement that any town receiving a grant shall repay a portion of that grant to the commonwealth. The required repayment amount shall not be less than thirty per cent of the amount of any such grant and the time period allowed for such repayment shall not exceed ten years. To facilitate repayment of any grant amount the commissioner may require the town to authorize said commissioner or the commissioner of revenue to deduct the town’s repayment from any distribution of gasoline tax monies or any other local aid distribution or grant made to the town. Any amounts so deducted shall be paid into the Highway Fund.”

SECTION 28. The third paragraph of section 32 of chapter 637 of the acts of 1983, as amended by section 33 of chapter 205 of the acts of 1996, is hereby further amended by striking out the words “three thousand five hundred” and inserting in place thereof the following number:- 7000.

SECTION 29. The second paragraph of section 1 of chapter 367 of the acts of 1992 is hereby amended by striking out, in lines 6 to 7, the words "five hundred seventy-four and eighty-six one hundredths feet (574.86)" and inserting in place thereof the following words: - five hundred eight-five and eleven one hundredths feet (585.11').

SECTION 30. The second paragraph of said section 1 of said chapter 367 is hereby further amended by striking out, in lines 9 to 10, the words "two thousand four hundred and ninety feet (2490)" and inserting in place thereof the following words: - two thousand four hundred and seventy-nine feet (2,479').

SECTION 31. The harbor lines corrected by sections 27 and 28 shall be shown on a plan to be titled, "The Establishment of New Harbor Lines at Fort Point Channel" and shall bear the effective date of this act. This plan shall be prepared by the department of highways and shall be filed in the office of the department of environmental protection and made available for public inspection.