

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2593 Session of
2008

INTRODUCED BY CAPPELLI AND D. EVANS, JUNE 5, 2008

REFERRED TO COMMITTEE ON TRANSPORTATION, JUNE 5, 2008

AN ACT

1 Amending Titles 74 (Transportation) and 75 (Vehicles) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 public-private transportation projects for the development,
4 operation and financing of all or part of the Pennsylvania
5 Turnpike; establishing commission powers and duties;
6 providing for additional electronic toll collection methods
7 and certain rights of a private entity; providing for
8 promulgation of regulations related to public-private
9 transportation projects; establishing a public-private
10 transportation fund for the deposit of funds from
11 Pennsylvania Turnpike facility projects; providing for the
12 governance of the commission and a limited exemption from
13 sovereign immunity; further providing for the exemption of
14 private entity parties from fees and certain rights of such
15 parties under regulation of traffic rules; repealing
16 provisions related to the governance of the commission, the
17 conversion of Interstate 80 to a toll road, the lease of
18 Interstate 80 and related payments; further providing for
19 limitation on issuance of bonds backed by Motor License Fund;
20 and making related repeals.

21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

23 Section 1. Section 1506(b)(1) and (e)(2)(i)(A.1), (B), (C)
24 and (D) and (ii) of Title 74 of the Pennsylvania Consolidated
25 Statutes are repealed:

26 § 1506. Fund.

1 * * *

2 [(b) Deposits to fund by department.--

3 (1) The following apply:

4 (i) Except as provided under subparagraph (ii), upon
5 receipt, the department shall deposit into the fund the
6 revenues received by the department under 75 Pa.C.S. Ch.
7 89 (relating to Pennsylvania Turnpike) and the lease
8 agreement executed between the department and the
9 Pennsylvania Turnpike Commission under 75 Pa.C.S. §
10 8915.3 (relating to lease of Interstate 80; related
11 agreements) as follows:

12 (A) For fiscal year 2007-2008, \$250,000,000.

13 (B) For fiscal year 2008-2009, \$250,000,000.

14 (C) For fiscal year 2009-2010, \$250,000,000.

15 (D) For fiscal year 2010-2011 and each fiscal
16 year thereafter, the amount calculated for the
17 previous fiscal year, increased by 2.5%.

18 (ii) The deposits made to the fund under this
19 subsection shall equal \$250,000,000 annually for each
20 fiscal year commencing after the expiration of the
21 conversion period if the conversion notice is not
22 received by the secretary prior to expiration of the
23 conversion period as set forth under 75 Pa.C.S. §
24 8915.3(3).]

25 * * *

26 (e) Program funding.--Subject to available funds, the
27 programs established under this chapter shall be funded annually
28 as follows:

29 * * *

30 (2) (i) Except as provided under subparagraph (ii), for

1 the program established under section 1514 (relating to
2 asset improvement program):

3 * * *

4 [(A.1) For fiscal year 2007-2008, \$50,000,000
5 from the revenues received by the department under 75
6 Pa.C.S. Ch. 89 and the lease agreement executed
7 between the department and the Pennsylvania Turnpike
8 Commission under 75 Pa.C.S. § 8915.3. The amount
9 received by the department under this section shall
10 be deposited into the fund prior to distribution and
11 shall be in addition to the amounts received under
12 subsection (b)(1).

13 (B) For fiscal year 2008-2009, \$100,000,000 from
14 the revenues received by the department under 75
15 Pa.C.S. Ch. 89 and the lease agreement executed
16 between the department and the Pennsylvania Turnpike
17 Commission under 75 Pa.C.S. § 8915.3. The amount
18 received by the department under this section shall
19 be deposited into the fund prior to distribution and
20 shall be in addition to the amounts received under
21 subsection (b)(1).

22 (C) For fiscal year 2009-2010, \$150,000,000 from
23 the revenues received by the department under 75
24 Pa.C.S. Ch. 89 and the lease agreement executed
25 between the department and the Pennsylvania Turnpike
26 Commission under 75 Pa.C.S. § 8915.3. The amount
27 received by the department under this section shall
28 be deposited into the fund prior to distribution and
29 shall be in addition to the amounts received under
30 subsection (b)(1).

1 (D) For fiscal year 2010-2011 and each fiscal
2 year thereafter, the amount calculated for the prior
3 fiscal year increased by 2.5% from the revenues
4 received by the department under 75 Pa.C.S. Ch. 89
5 and the lease agreement executed between the
6 department and the Pennsylvania Turnpike Commission
7 under 75 Pa.C.S. § 8915.3. The amount received by the
8 department under this section shall be deposited into
9 the fund prior to distribution and shall be in
10 addition to the amounts received under subsection
11 (b)(1).

12 (ii) If the conversion notice is not received by the
13 secretary prior to the end of the conversion period as
14 set forth in 75 Pa.C.S. § 8915.3(3), no additional
15 allocation shall be made under subparagraph (i).]

16 * * *

17 Section 2. The definition of "electronic toll collection" in
18 section 8102 of Title 74 is amended to read:

19 § 8102. Definitions.

20 The following words and phrases when used in this chapter
21 shall have the meanings given to them in this section unless the
22 context clearly indicates otherwise:

23 * * *

24 "Electronic toll collection." A system of collecting tolls
25 or charges that is capable of charging an account holder for the
26 prescribed toll by electronic transmission of information
27 [between a device on a vehicle and a device in a toll lane at a
28 toll collection facility.] including, without limitation, E-Z
29 Pass, open road tolling, video tolling or other similar
30 structural or technological enhancements pertaining to tolling.

1 * * *

2 Section 3. Sections 8105, 8107(b) and 8116 of Title 74 are
3 repealed:

4 [§ 8105. Commission.

5 (a) (Reserved).

6 (b) Vacancies and terms.--

7 (1) Notwithstanding any other law, any vacancy in the
8 membership of the commission shall be filled by appointment
9 of the Governor by and with the advice and consent of two-
10 thirds of the members elected to the Senate.

11 (2) The appointed member shall serve for a term of four
12 years. Upon the expiration of this term, the appointed member
13 may continue to hold office until his successor shall be duly
14 appointed and qualified.

15 (c) (Reserved).

16 (d) Secretary.--The provisions of subsection (a) shall not
17 apply to the appointment of the secretary, who shall continue to
18 be appointed and to serve as a member of the commission ex
19 officio in accordance with law.

20 (e) Chairman.--A majority of the members of the commission
21 shall elect a member of the commission to serve as chairman.
22 Upon the appointment and qualification of any new member to
23 serve on the commission, the office of chairman and the
24 positions of all other officers created by law shall be deemed
25 vacant, and a new chairman and other officers shall be elected
26 by a majority of the members of the commission.

27 (f) Actions by the commission.--Notwithstanding any other
28 law, court decision, precedent or practice to the contrary, any
29 and all actions by or on behalf of the commission shall be taken
30 solely upon the approval of a majority of the members to the

1 commission. The term "actions by or on behalf of the
2 commission," as used in this subsection, means any action
3 whatsoever of the commission, including, but not limited to, the
4 hiring, appointment, removal, transfer, promotion or demotion of
5 any officers and employees; the retention, use or remuneration
6 of any advisors, counsel, auditors, architects, engineers or
7 consultants; the initiation of any legal action; the making of
8 any contracts, leases, agreements, bonds, notes or covenants;
9 the approval of requisitions, purchase orders, investments and
10 reinvestments; and the adoption, amendment, revision or
11 rescission of any rules and regulations, orders or other
12 directives. The chairman, vice chairman or any other officer or
13 employee of the commission may take no action by or on behalf of
14 the commission except as expressly authorized by a majority of
15 the members of the commission.

16 (g) Compensation.--The annual salary of the Chairman of the
17 Pennsylvania Turnpike Commission shall be \$28,500, and the
18 annual salary of the remaining members of the Pennsylvania
19 Turnpike Commission shall be \$26,000. These salaries shall be
20 paid in equal installments every other week.]

21 § 8107. Commission powers and duties.

22 * * *

23 [(b) Maintenance to be paid out of tolls.--

24 (1) The turnpike extensions and improvements and toll-
25 free roads converted to toll roads when completed and open to
26 traffic shall be maintained and repaired by and under the
27 control of the commission.

28 (2) All charges and costs for the maintenance and
29 repairs actually expended by the commission shall be paid out
30 of tolls.

1 (3) The turnpike, the turnpike extensions and
2 improvements and the toll-free roads converted to toll roads
3 shall also be policed and operated by a force of police, toll
4 takers and other operating employees as the commission may in
5 its discretion employ.

6 § 8116. Collection and disposition of tolls and other revenue.

7 (a) Establishment and changes in toll amounts.--Subject to
8 the terms of any trust indenture entered into by the commission
9 or any resolution authorizing the issuance of any bonds, notes
10 or other obligations of the commission, the commission is
11 authorized to fix and to revise tolls for the use of the
12 Pennsylvania Turnpike System and the different parts or sections
13 of the system, including the turnpike, the turnpike extensions
14 and improvements and the toll road conversions authorized by
15 this chapter. The commission is further authorized to charge and
16 collect tolls; to contract with any person, partnership,
17 association or corporation desiring the use of any part thereof,
18 including the right-of-way adjoining the paved portion, for
19 placing thereon telephone, telegraph, electric light or power
20 lines, gas stations, garages, stores, hotels, restaurants and
21 advertising signs or for any other purpose, except for service
22 plazas in the right-of-way along Interstate 80 and for tracks
23 for railroad or railway use; and to fix the terms, conditions,
24 rents and rates of charges for use. Tolls shall be fixed and
25 adjusted as to provide funds at least sufficient with other
26 revenues of the Pennsylvania Turnpike System, if any, to pay all
27 of the following:

28 (1) The cost of the turnpikes. This paragraph includes
29 the cost of constructing, reconstructing, widening,
30 expanding, extending, maintaining, repairing and operating

1 the Pennsylvania Turnpike System and the different parts and
2 sections of the system.

3 (2) Any of the following:

4 (i) The commission's bonds, notes or other
5 obligations and the interest on them.

6 (ii) Sinking fund requirements of the commission.

7 (iii) Other requirements provided for by any
8 resolution authorizing the issuance of the bonds, notes
9 or other obligations by the commission, or by any trust
10 indenture to which the commission is a party, as they
11 become due.

12 (3) Amounts due to the department under 75 Pa.C.S. Ch.
13 89 (relating to Pennsylvania Turnpike) and pursuant to the
14 lease agreement under 75 Pa.C.S. § 8915.3 (relating to lease
15 of Interstate 80; related agreements).

16 (4) The cost of repayment to the Federal Government of
17 funds required to be repaid pursuant to Federal legislation
18 authorizing the conversion of toll-free roads to toll roads.

19 (5) Any other amounts payable to the Commonwealth or to
20 the department.

21 (b) Restrictions on toll revenue.--Tolls shall not be
22 subject to supervision or regulation by any other State
23 commission, board, bureau or agency. Subject to the terms of any
24 presently existing trust indenture entered into by the
25 commission and any presently existing resolution authorizing the
26 issuance of any bonds, notes or other obligations of the
27 commission, the tolls and all other revenue derived from the
28 Pennsylvania Turnpike System shall be set aside and pledged as
29 may be provided in any resolutions, trust indentures or any
30 other agreements that the commission may hereafter adopt or

1 hereafter enter into with respect to the issuance of bonds,
2 notes or other obligations of the commission.]

3 Section 4. Section 8117(a)(1), (b)(8) and (e) of Title 74
4 are amended to read:

5 § 8117. Electronic toll collection.

6 (a) Liability of owner.--

7 (1) If an operator of a vehicle fails to pay the
8 prescribed toll at any location where tolls are collected by
9 means of electronic toll collection, the owner of the vehicle
10 shall be liable to the commission or its authorized agent for
11 failure of the operator of the vehicle to comply with this
12 section if the violation is evidenced by information obtained
13 from a violation enforcement system.

14 * * *

15 (b) Imposition of liability.--Liability under this section
16 shall be imposed upon an owner for a violation of this section
17 or the regulations of the commission occurring within the
18 territorial limits of this Commonwealth. If a violation is
19 committed as evidenced by a violation enforcement system, the
20 following shall apply:

21 * * *

22 (8) An owner that admits, is found liable or fails to
23 respond to the notice of violation for a violation of this
24 section shall be civilly liable to the commission or its
25 authorized agent for all of the following:

26 (i) Either:

27 (A) the amount of the toll evaded or attempted
28 to be evaded if the amount can be determined; or

29 (B) the maximum toll from the farthest point of
30 entry on the Pennsylvania Turnpike to the actual

1 point of exit if the amount of the toll evaded or
2 attempted to be evaded cannot be determined.

3 (ii) [A reasonable administrative fee not to exceed
4 \$35 per notification.] Administrative costs in an amount
5 sufficient to cover the reasonable direct cost of
6 collecting the amount under subparagraph (i), but no
7 greater than an amount agreed to by the commission and
8 its authorized agent.

9 * * *

10 [(e) Definition.--As used in this section, the term "owner"
11 means any person, corporation, firm, partnership, agency,
12 association, organization or lessor that, at the time a vehicle
13 is operated in violation of this section or regulations of the
14 commission:

15 (1) is the beneficial or equitable owner of the vehicle;

16 (2) has title to the vehicle; or

17 (3) is the registrant or coregistrant of the vehicle
18 registered with the department or a comparable agency of
19 another jurisdiction or uses the vehicle in its vehicle
20 renting or leasing business. The term includes a person
21 entitled to the use and possession of a vehicle subject to a
22 security interest in another person.]

23 (e) Definitions.--As used in this section, the following
24 words and phrases shall have the meanings given to them in this
25 subsection unless the context clearly indicates otherwise:

26 "Authorized agent." The term includes any private entity
27 party to an agreement entered into with the Pennsylvania
28 Turnpike Commission concerning the Pennsylvania Turnpike under
29 section 9203 (relating to P3 agreement).

30 "Owner." Any person, corporation, firm, partnership, agency,

association, organization or lessor that, at the time a vehicle
is operated in violation of this section or regulations of the
Pennsylvania Turnpike Commission:

(1) is the beneficial or equitable owner of the vehicle;

(2) has title to the vehicle; or

(3) is the registrant or coregistrant of the vehicle
registered with the Department of Transportation or a
comparable agency of another jurisdiction or uses the vehicle
in its vehicle renting or leasing business. The term includes
a person entitled to the use and possession of a vehicle
subject to a security interest in another person.

Section 5. Title 74 is amended by adding a part to read:

PART V

PENNSYLVANIA TURNPIKE PUBLIC-PRIVATE

TRANSPORTATION PROJECTS

Chapter

91. Preliminary Provisions

92. Public-private Transportation Projects

CHAPTER 91

PRELIMINARY PROVISIONS

Sec.

9101. Scope of part.

9102. Declaration of policy.

9103. Construction of part.

9104. Definitions.

§ 9101. Scope of part.

This part relates to the creation and operation of public-
private transportation arrangements for the development,
operation and financing of all or part of the Pennsylvania
Turnpike.

1 § 9102. Declaration of policy.

2 (a) Legislative findings.--The General Assembly finds and
3 declares as follows:

4 (1) There exists a public need for the timely
5 development and more efficient operation of transportation
6 facilities within this Commonwealth that address the local,
7 regional and State transportation needs of the Commonwealth,
8 including by improving safety, reducing congestion, abating
9 environmental pollution, advancing energy efficiency and
10 conservation, improving homeland security, increasing
11 capacity and enhancing economic efficiency, innovation and
12 revenues available for public transportation purposes.

13 (2) This public need cannot be effectively satisfied
14 solely through the use of currently existing methods of
15 financing by which transportation facilities are developed,
16 operated and financed in this Commonwealth.

17 (3) Authorizing financially sound private entities to
18 operate and finance all or part of the Pennsylvania Turnpike
19 can result in greater availability of transportation
20 facilities to the public in a timely, efficient and less
21 costly fashion, thereby serving the public safety and
22 welfare.

23 (b) Intent.--It is the intent of this part:

24 (1) to encourage financially sound private entities to
25 invest in this Commonwealth by participating in the
26 development, operation and financing of the Pennsylvania
27 Turnpike;

28 (2) in order to accomplish the goal under paragraph (1),
29 to provide the Pennsylvania Turnpike Commission, the
30 Department of Transportation and private entities with

flexibility in contracting with each other for and in
financing the provision of the public services which are the
subject of this title; and

(3) in order to accomplish the goal under paragraph (1),
to make clear that the Pennsylvania Turnpike Commission and
the Department of Transportation are authorized and empowered
to contract with private entities for and in financing the
public services which are the subject of this title.

§ 9103. Construction of part.

(a) Liberal construction.--This part shall be liberally
construed in conformity with and to accomplish the policies set
forth under section 9102 (relating to declaration of policy).
The powers conferred under this part are in addition and
supplemental to the powers conferred under any other law. If any
other law or rule is inconsistent with this part, this part
shall be controlling as to any P3 agreement.

(b) Specific authority.--This part provides public-private
transportation opportunities to private entities and shall be
construed as the specific statutory authority enabling the
Department of Transportation to solicit for and procure, and the
Pennsylvania Turnpike Commission and the Department of
Transportation to enter into, any contract, agreement,
instrument or document with a private entity with respect to the
development, operation and financing by the private entity of a
Pennsylvania Turnpike facility. Except as provided under this
part, no law, procedure, proceeding, publication, notice,
consent, approval, order or act by the Pennsylvania Turnpike
Commission or the Department of Transportation or any other
officer, department, agency or instrumentality of the
Commonwealth shall be required for the authority to enter into a

1 P3 agreement.

2 § 9104. Definitions.

3 Subject to additional definitions contained in subsequent
4 provisions of this part which apply to specific provisions of
5 this part, the following words and phrases when used in this
6 part shall have the meanings given to them in this section
7 unless the context clearly indicates otherwise:

8 "Affected jurisdiction." A county, city, borough,
9 incorporated town, township or local, regional or metropolitan
10 transportation organization in this Commonwealth in which all or
11 a portion of a proposed or existing Pennsylvania Turnpike
12 facility is located.

13 "Board." The P3 Investment Board established under section
14 9218(e) (relating to Public-Private Transportation Fund).

15 "Department." The Department of Transportation of the
16 Commonwealth.

17 "Develop." To plan, design, lease as lessor or lessee,
18 acquire interests in, install, construct, reconstruct, replace
19 or expand an existing or proposed Pennsylvania Turnpike
20 facility.

21 "Development." Planning, designing, leasing, acquiring
22 interests in, installing, constructing, reconstructing,
23 replacing or expanding an existing or proposed Pennsylvania
24 Turnpike facility.

25 "Emergency services." The term as defined under 35 Pa.C.S. §
26 7102 (relating to definitions).

27 "Finance." The term shall mean finance of any type,
28 including refinance.

29 "Fund." The Public-Private Transportation Fund established
30 under section 9218 (relating to Public-Private Transportation

1 Fund).

2 "Highway." The term as defined under 75 Pa.C.S. § 102
3 (relating to definitions), except that a highway comprising all
4 or part of a Pennsylvania Turnpike facility shall not be
5 required to be publicly maintained.

6 "Operate." To maintain, improve, equip, modify, expand,
7 enlarge, repair, manage, run or control.

8 "P3 agreement." The public-private transportation project
9 agreement or agreements approved by the Department of
10 Transportation and entered into between a private entity, the
11 Department of Transportation and the Pennsylvania Turnpike
12 Commission under section 9203 (relating to P3 agreement). The
13 term also includes a new or replacement agreement or agreements
14 that replace a P3 agreement that terminates prior to the
15 expiration of its term due to a default by the private entity
16 party thereto, where the replacement P3 agreement contains
17 covenants, agreements, terms, provisions and limitations similar
18 in all material respects to the P3 agreement it replaces.

19 "Pennsylvania Turnpike." The turnpikes, turnpike extensions
20 and turnpike improvements to be constructed, as described under
21 Chapter 81 (relating to turnpike). The phrase shall be deemed to
22 include not only the turnpikes and all connecting roads, storm
23 water management systems, tunnels and bridges connected
24 therewith, but also all property rights, easements and
25 franchises relating thereto and deemed necessary or convenient
26 for the construction or the operation thereof, which may also be
27 referred to as constituting a part of the Pennsylvania Turnpike.

28 "Pennsylvania Turnpike facility." All or any portion of the
29 Pennsylvania Turnpike for which a request for qualifications for
30 the development, operation or financing by a private entity has

1 been approved under section 9202 (relating to approval) and for
2 which a P3 agreement is in full force and effect.

3 "Private entity." An individual, corporation, consortium,
4 partnership, limited liability company, limited partnership,
5 joint venture, trust, business trust, nonprofit corporation or
6 other nongovernmental entity.

7 "Procurement Code." 62 Pa.C.S. Pt. I (relating to
8 Commonwealth Procurement Code).

9 "PSP Account." The restricted revenue account to be
10 established under section 9218(b)(3) (relating to Public-Private
11 Transportation Fund) within the Public-Private Transportation
12 Fund.

13 "Public entity." The Commonwealth, any department, board,
14 agency or commission of the Commonwealth and any authority or
15 instrumentality created by the Commonwealth, whether or not
16 under the jurisdiction of the Governor. The term does not
17 include any court or other agency of the unified judicial
18 system, the General Assembly or any commission, board, agency or
19 committee of the General Assembly.

20 "Right-to-Know Law." The act of June 21, 1957 (P.L.390,
21 No.212), known as the Right-to-Know Law.

22 "SAFETEA-LU." The Safe, Accountable, Flexible, Efficient
23 Transportation Equity Act; A Legacy for Users (Public Law 109-
24 59, 119 Stat. 1144).

25 "Secretary." The Secretary of Transportation of the
26 Commonwealth.

27 "SERS." The Pennsylvania State Employees Retirement System.

28 "Transportation facility." Any highway, bridge, tunnel,
29 overpass, ferry, mass transportation facility, vehicle parking
30 facility, service area, railroad, guideway, street, railway or

1 similar facility used for the transportation of persons or
2 goods, together with any buildings, structures, parking areas,
3 leases, easements, rights-of-way, licenses, appurtenance and
4 other interests in real and personal property needed to operate
5 the facility, including a multimodal transportation facility and
6 commercial or other uses, or other developments or enterprises
7 or activities incidental to and related to the transportation of
8 persons or goods.

9 "Turnpike Commission." The Pennsylvania Turnpike Commission
10 or a successor entity.

11 "User fees." Rates, tolls, fees or other charges for use of
12 all or a portion of a Pennsylvania Turnpike facility for
13 transportation of persons or goods, but shall not include or be
14 deemed to include other revenues received, including without
15 limitation revenues from sales at or leases of or other
16 agreements relating to portions of the Pennsylvania Turnpike
17 facility not directly used for transportation of persons or
18 goods.

19 "Vehicle." The term as defined under 75 Pa.C.S. § 102
20 (relating to definitions).

21 CHAPTER 92

22 PUBLIC-PRIVATE TRANSPORTATION PROJECTS

23 Sec.

24 9201. (Reserved).

25 9202. Approval.

26 9203. P3 agreement.

27 9204. Environmental and other authorizations

28 9205. Transfer and dedication of public property.

29 9206. Certain powers of Turnpike Commission and department.

30 9207. Additional property.

1 9208. Regulations.
2 9209. Inspection.
3 9210. Federal, Commonwealth, local and private assistance.
4 9211. Violation or breach by private entity and remedies.
5 9212. Exemption from certain taxes.
6 9213. Eminent domain.
7 9214. Public utility.
8 9215. Police powers and violations of law.
9 9216. Transfer and disposition of assets.
10 9217. Method of source selection and adverse interests.
11 9218. Public-Private Transportation Fund.
12 9219. Special provisions relating to Turnpike Commission.
13 9220. Delegation.
14 9221. Dispute resolution.
15 9222. Sovereign immunity.
16 9223. Limitations on assignment.
17 9224. Limitation of actions.
18 9225. Exclusive jurisdiction of Supreme Court.
19 § 9201. (Reserved).
20 § 9202. Approval.

21 (a) Authorization.--The department is authorized to select a
22 private entity or entities to be party to a P3 agreement for a
23 Pennsylvania Turnpike facility in accordance with the provisions
24 of this section. The Turnpike Commission and the department are
25 authorized to execute, deliver and perform their obligations
26 under a P3 agreement created in accordance with this chapter.

27 (b) Requests for qualifications.--The department shall issue
28 a request for qualifications in connection with the proposed
29 execution of any P3 agreement with a private entity for a
30 Pennsylvania Turnpike facility.

1 (c) Notice.--The department shall give adequate public
2 notice of any request for qualifications in a reasonable amount
3 of time prior to any deadline date for submission.

4 (d) No liability for costs.--The Turnpike Commission, the
5 department and their respective advisors are not responsible for
6 any costs or damages incurred by a private entity in connection
7 with any request for qualifications.

8 (e) Modification and termination rights.--The department may
9 modify a request for qualifications at any stage if it
10 determines the action to be in the best interest of the
11 Commonwealth. Any request for qualifications may be canceled and
12 any submissions and price offers made in response thereto may be
13 rejected at any time prior to the time a P3 agreement is
14 executed, in each case when the department, in its sole
15 discretion, determines that the action is in the best interest
16 of the Commonwealth. The reasons for the cancellation or
17 rejection shall be made part of the file. A decision to modify,
18 cancel or reject any request for qualifications shall be final
19 and unreviewable. The issuance of a request for qualifications
20 in no way shall obligate the Turnpike Commission or the
21 department to enter into a P3 agreement or any contract of any
22 kind with any party.

23 (f) Selection criteria and award.--The department may
24 conduct discussions with private entities to assure
25 understanding of and responsiveness to the requirements of a
26 request for qualifications, to determine qualifications of any
27 entity submitting a response to a request for qualifications and
28 proposing to submit a bid and to obtain bids for a P3 agreement.
29 The department shall conduct a competitive process to award a P3
30 agreement. The department shall select the responsible private

1 entity that submits the final binding bid that offers the
2 highest price to enter into the P3 agreement. The department may
3 require that any bid submitted to enter into a P3 agreement be
4 accompanied by security in the form of cash, letters of credit
5 or other financial security acceptable to the department.

6 (g) Use of intellectual property.--Unless otherwise agreed,
7 the department and the Turnpike Commission shall have the right
8 to use all or any portion of any response to a request for
9 qualifications, including the technologies, techniques, methods,
10 processes and information contained in the response, except to
11 the extent not transferable by law, notice of which
12 nontransferability shall have been given to the department in
13 the response to the request for qualifications.

14 (h) Commercial enterprises or activities.--Notwithstanding
15 section 3 of the act of May 29, 1945 (P.L.1108, No.402),
16 entitled "An act authorizing the establishment, construction and
17 maintenance of limited access highways and local service
18 highways; and providing for closing certain highways; providing
19 for the taking of private property and for the payment of
20 damages therefor; providing for sharing the costs involved and
21 for the control of traffic thereover; providing penalties, and
22 making an appropriation," commercial enterprises or activities
23 may operate in any Pennsylvania Turnpike facility as permitted
24 by a P3 agreement.

25 (i) Records of requests for qualifications.--The following
26 shall apply:

27 (1) Upon the selection of a private entity to be a party
28 to a P3 agreement, the identity of the private entity
29 selected, the contents of the response of the private entity
30 to the request for qualifications, the final bid submitted by

1 the private entity and the form of the P3 agreement shall be
2 made public. Prior to the selection of a private entity to be
3 a party to a P3 agreement, the identity of a private entity
4 submitting a response to a request for qualifications under
5 this section shall not be subject to public inspection unless
6 the request for qualifications is terminated. Any financial
7 information of a private entity that was requested in a
8 request for qualifications to demonstrate the economic
9 capability of a private entity to fully perform the
10 requirements of a P3 agreement and which is contained in a
11 response to the request for qualifications shall not be
12 subject to public inspection.

13 (2) The department may, in its discretion, make public
14 any information described under paragraph (1) that would not
15 otherwise be subject to public inspection.

16 (3) If the department or the Turnpike Commission
17 terminates a P3 agreement for default, rejects a private
18 entity or a person on the grounds that the private entity is
19 not responsible or suspends or debars a private entity or a
20 person, the private entity or person shall, upon written
21 request, be provided with a copy of the information contained
22 in the file of the private entity or person maintained by the
23 department, the Office of the Budget and the Department of
24 General Services under the contractor responsibility program.

25 (4) Any record, material or data received, prepared,
26 used or retained by the department or the Turnpike Commission
27 or their employees, consultants or agents in connection with
28 the evaluation of requests for qualifications, to the extent
29 they otherwise would constitute a public record, shall not
30 constitute a public record subject to public inspection under

1 the Right-to-Know Law, if, in the reasonable judgment of the
2 department, the inspection would cause substantial
3 competitive harm to the person from whom the information was
4 received.

5 (j) Diversity.--The following shall apply:

6 (1) It is the intent and goal of the General Assembly
7 that the department and the Turnpike Commission promote and
8 ensure diversity in all aspects of development and operation
9 of any Pennsylvania Turnpike facility authorized under this
10 part. The department and the Turnpike Commission shall work
11 to enhance the representation of diverse groups in the
12 development and operation by private entities of any
13 Pennsylvania Turnpike facility through the participation of
14 business enterprises utilized by private entities in the
15 development and operation of any Pennsylvania Turnpike
16 facility under this part and through the provision of goods
17 and services utilized by private entities in the development
18 and operation of any Pennsylvania Turnpike facility under
19 this part.

20 (2) The department is authorized to investigate and
21 conduct periodic studies to ascertain whether effective and
22 meaningful action has been taken or will be taken to enhance
23 the representation of diverse groups in the development and
24 operation by private entities of any Pennsylvania Turnpike
25 facility in this Commonwealth through the participation of
26 business enterprises utilized by private entities in the
27 development and operation of any Pennsylvania Turnpike
28 facility under this part and through the provision of goods
29 and services utilized by private entities in the development
30 and operation of any Pennsylvania Turnpike facility and

1 through employment opportunities.

2 (k) Selection.--Not later than 15 days after entering into a
3 P3 agreement, the department shall publicly announce the
4 execution and delivery of the P3 agreement by forwarding a
5 notice of the P3 agreement to the Legislative Reference Bureau
6 for publication in the Pennsylvania Bulletin and by any other
7 means reasonably designed, in its judgment, to inform the public
8 of the execution and delivery.

9 (l) Approval.--The following shall apply:

10 (1) Except as provided under paragraph (2) and
11 notwithstanding any other law, neither the Turnpike
12 Commission nor the department shall, on or after the date
13 occurring one year following the effective date of this
14 section, enter into a P3 agreement with a private entity for
15 a Pennsylvania Turnpike facility unless legislation is
16 enacted to authorize the performance by the Turnpike
17 Commission and the department of their obligations under that
18 P3 agreement.

19 (2) Paragraph (1) shall not apply to amendments to and
20 replacements of a P3 agreement originally executed within one
21 year of the effective date of this section.

22 § 9203. P3 agreement.

23 (a) P3 agreement provisions.--Each P3 agreement shall
24 include all of the following:

25 (1) A provision stating that nothing in the P3 agreement
26 shall be deemed to constitute the Turnpike Commission or the
27 department as a partner, agent or co-venturer of the private
28 entity party thereto.

29 (2) A description of any planning, development, design,
30 leasing, acquisition of interests in, financing,

1 installation, construction, reconstruction, replacement,
2 expansion, operation, maintenance, improvement, equipping,
3 modification, expansion, enlargement, repair, management,
4 running, control and operation, as applicable, of the
5 Pennsylvania Turnpike facility.

6 (3) The term of the P3 agreement.

7 (4) The type of property interest, if any, or other
8 relationship the private entity will have in, or with respect
9 to, a Pennsylvania Turnpike facility, which may include a
10 lease of all of the Turnpike Commission's right, title and
11 interest in and to the Pennsylvania Turnpike facility, an
12 assignment of the Turnpike Commission's right, title and
13 interest in and to certain agreements related thereto and an
14 exclusive franchise and license to operate, manage, maintain,
15 rehabilitate, toll and expand the Pennsylvania Turnpike
16 facility.

17 (5) A provision authorizing the Turnpike Commission and
18 the department, or their authorized representatives, to
19 inspect all assets and properties of the Pennsylvania
20 Turnpike facility and all books and records of the private
21 entity relating to the Pennsylvania Turnpike facility and any
22 aspect thereof and to review the private entity's performance
23 under the P3 agreement, or any aspect thereof.

24 (6) Whether user fees will be collected for use of the
25 Pennsylvania Turnpike facility and the basis by which any
26 user fees shall be determined.

27 (7) Grounds for termination of the P3 agreement by the
28 private entity, the Turnpike Commission and the department or
29 any of them.

30 (8) Procedures for amendment of the P3 agreement.

1 (9) The rights and remedies available in the event of
2 breach, default or delay, including those rights and remedies
3 of the Turnpike Commission and the department under section
4 9211 (relating to violation or breach by private entity and
5 remedies).

6 (10) A provision for maintenance of insurance, bonds or
7 letters of credit by the private entity, providing coverages
8 and amounts acceptable to the department.

9 (11) A provision requiring delivery to the Turnpike
10 Commission and the department by the private entity, on a
11 periodic basis, of financial statements in a form acceptable
12 to the Turnpike Commission and the department and prepared in
13 accordance with generally accepted accounting principles
14 consistently applied in the United States which financial
15 statements shall be accompanied at least annually by an
16 opinion of an independent public accounting firm of national
17 stature engaged by the private entity.

18 (12) A provision requiring delivery to the Turnpike
19 Commission and the department by the private entity, on a
20 quarterly basis, of traffic characteristic reports, as well
21 as other traffic or traffic-related reports.

22 (13) Provisions setting forth the rights and duties of
23 the private entity and the Turnpike Commission and other
24 public entities and local government entities or affected
25 jurisdictions with respect to use of the Pennsylvania
26 Turnpike facility, including a provision that any police,
27 fire and emergency services and any other security or
28 emergency personnel, including the armed forces, and any
29 public entity with jurisdiction over a Pennsylvania Turnpike
30 facility shall have access to the Pennsylvania Turnpike

1 facility as necessary for the enforcement of police powers,
2 emergency management and homeland security purposes,
3 including the prevention of, practice drills for or response
4 to a public safety emergency, in each case within or outside
5 the limits of a Pennsylvania Turnpike facility, and a
6 provision that the private entity will cooperate with such
7 other public entities, local government entities and affected
8 jurisdictions.

9 (14) Subject to the limitations under section 9223
10 (relating to limitations on assignment), provisions governing
11 any assignment, subcontracting or other delegation of rights
12 and responsibilities of the private entity to third parties,
13 including other private entities or other public entities.

14 (15) Provisions regarding the use by the Turnpike
15 Commission and the department of their respective rights of
16 eminent domain relating to the Pennsylvania Turnpike
17 facility.

18 (16) A description of the sale, lease or other transfer
19 of any real property interests or transfer of other interests
20 or rights to the private entity related to the Pennsylvania
21 Turnpike facility, including any interest in any asset
22 relating to but not itself constituting transportation
23 facilities, if the request for qualifications provides for
24 the assets.

25 (17) A requirement that the private entity will keep the
26 Pennsylvania Turnpike facility open for use by the members of
27 the public in accordance with the P3 agreement.

28 (18) An obligation of the private entity to do all of
29 the following:

30 (i) Offer employment to all Turnpike Commission

1 employees employed at the Pennsylvania Turnpike facility
2 who are in good standing and employed in a collective
3 bargaining unit at the time the private entity assumes
4 responsibility for the operation of the Pennsylvania
5 Turnpike facility pursuant to a P3 agreement and, except
6 as provided under subparagraph (ii), to cause the offers
7 of employment to contain the salary and other terms and
8 conditions of employment, provided that at the expiration
9 of each applicable collective bargaining agreement, the
10 rights and obligations of the private entity with respect
11 to its employees set forth in this subparagraph shall be
12 governed by applicable law.

13 (ii) Provide retirement benefits to all former
14 Turnpike Commission employees who are hired by the
15 private entity that are substantially identical to the
16 benefits the employees were entitled to receive under
17 SERS in effect on the date the private entity assumes
18 responsibility for the operation of the Pennsylvania
19 Turnpike facility, provided that:

20 (A) the private entity shall recognize for the
21 employees all services recognized under SERS for
22 purposes of eligibility to participate, vesting,
23 retirement and benefit accrual; and

24 (B) the retirement benefit payable by the
25 private entity to any individual shall be offset by
26 the actuarial equivalent of any benefit payable to
27 the individual under SERS.

28 (iii) Provide active and postretirement health and
29 welfare benefits to all former Turnpike Commission
30 employees who are hired by the private entity that are at

1 least substantially identical to the active and
2 postretirement health and welfare benefits provided by
3 the Turnpike Commission immediately prior to the date
4 that the private entity assumes responsibility for the
5 operation of the Pennsylvania Turnpike facility. The
6 obligation described under this subparagraph shall
7 terminate at the expiration of the collective bargaining
8 agreement that is in effect on such date, and that has
9 the longest term, and thereafter the relationship between
10 the private entity and its employees shall be governed by
11 applicable law.

12 (19) Standards for maintenance and operation by the
13 private entity of the Pennsylvania Turnpike facility.

14 (20) Assurances that the private entity will cooperate
15 with the Turnpike Commission, operators of other
16 transportation facilities and the department in establishing
17 any interconnection between the Pennsylvania Turnpike
18 facility and other transportation facilities requested by the
19 Turnpike Commission or the department.

20 (21) Provisions permitting and limiting any commercial
21 use or other use or development or enterprises or activities
22 in any Pennsylvania Turnpike facility.

23 (22) Provisions for making capital improvements and
24 modifications to a Pennsylvania Turnpike facility.

25 (23) Provisions requiring the private entity to engage
26 solely in activities related to:

27 (i) owning an interest in a Pennsylvania Turnpike
28 facility;

29 (ii) using, possessing, leasing, operating, tolling
30 and collecting revenues with respect to, and otherwise

1 dealing with, a Pennsylvania Turnpike facility and
2 performing services in respect thereof; and

3 (iii) carrying out other activities permitted
4 pursuant to the corresponding P3 agreement and any
5 activities reasonably incidental thereto.

6 (24) Other terms and provisions as are required by the
7 provisions of this chapter.

8 (25) Other terms and conditions as may be agreed between
9 the private entity and the department.

10 (b) Service agreements.--The private entity, the department
11 and, with approval of the department, the Turnpike Commission,
12 may enter into one or more agreements to provide for all or any
13 portion of the operation, maintenance, development or financing
14 of a Pennsylvania Turnpike facility, including agreements for
15 maintenance or repair of a Pennsylvania Turnpike facility.

16 (c) Certain environmental costs.--The following shall apply:

17 (1) The Commonwealth or the Turnpike Commission may
18 agree to pay or reimburse, on terms that it deems
19 appropriate, a private entity in a P3 agreement or other
20 agreement for actual costs associated with necessary
21 remediation, including investigation activities, for existing
22 environmental contaminants, if any, on, under or emanating
23 from the real property associated with a Pennsylvania
24 Turnpike facility as of the date a private entity assumes
25 responsibility for the operation of that facility. If
26 payment or reimbursement is agreed to, the P3 agreement shall
27 require that the department and the Turnpike Commission be
28 given all of the following:

29 (i) Prompt notice of any claim pertaining to the
30 contaminants.

1 (ii) The right to elect to undertake the necessary
2 remediation.

3 (iii) The right to participate in the defense of or
4 response to the claim.

5 (iv) The right of prior approval before the private
6 entity may settle the claim.

7 (2) No payment by the Commonwealth or the Turnpike
8 Commission under this subsection may be for anything other
9 than, or extend beyond, actual losses, liabilities, damages,
10 penalties, charges, costs and expenses incurred by a private
11 entity to remediate the environmental contamination on, under
12 or emanating from the real property associated with the
13 Pennsylvania Turnpike facility as of the date the private
14 entity assumes responsibility for that Pennsylvania Turnpike
15 facility.

16 (d) User fees.--The following shall apply:

17 (1) The P3 agreement shall include one of the following:

18 (i) any user fees agreed to by the parties, a cap
19 upon increases to or amounts of such user fees, formulae
20 for establishing and limiting the size and frequency of
21 changes in user fees; or

22 (ii) a mechanism for establishing user fees from
23 time to time.

24 (2) In operating a Pennsylvania Turnpike facility, the
25 private entity may make classifications according to
26 reasonable categories for assessment of user fees.

27 (3) A schedule of the current user fees, if any, to be
28 imposed, shall be provided by the private entity to the
29 Turnpike Commission, the affected jurisdictions and the
30 department when user fees are initially imposed after

1 approval under section 9202 (relating to approval) and
2 whenever user fees are changed. A schedule of current user
3 fees as then in effect shall be made available by the private
4 entity to the public.

5 (e) Department as party to P3 agreement.--The department
6 may, in its discretion, become a party to a P3 agreement. If the
7 department elects not to become a party to a P3 agreement, the
8 P3 agreement shall provide that the department shall be an
9 express third party beneficiary of the P3 agreement with full
10 rights to enforce the terms thereof and that there may be no
11 amendments to the P3 agreement without the department's prior
12 consent. The Turnpike Commission may not amend a P3 agreement
13 without first obtaining the consent of the department and any
14 purported amendment to a P3 agreement made without the consent
15 of the department shall be void.

16 (f) Revenues.--The P3 agreement shall provide for the
17 amount, if any, to be paid to the Turnpike Commission from user
18 fees received by, and any other revenues received by, the
19 private entity and any other person having or claiming a right
20 to any interest in the Pennsylvania Turnpike facility under or
21 through the private entity.

22 (g) Amounts payable under P3 agreements.--The following
23 shall apply:

24 (1) The Turnpike Commission and the department are
25 authorized to make payments to a private entity pursuant to
26 and to the extent set forth in a P3 agreement under any of
27 the following:

28 (i) Upon a breach by the Turnpike Commission or the
29 department of its representations, covenants, warranties
30 or other obligations under the P3 agreement.

1 (ii) If the Commonwealth takes adverse actions
2 against the private entity in violation of the terms of
3 the P3 agreement.

4 (iii) Upon the occurrence of force majeure and other
5 events that have an adverse effect on the ability of the
6 private entity to perform its obligations under the P3
7 agreement or to obtain the benefits of the P3 agreement.

8 (2) The payments made pursuant to a P3 agreement may be
9 for losses, liabilities, damages, penalties, costs and
10 expenses of the private entity, as well as for amounts
11 necessary to restore the private entity to the same after-tax
12 economic position it would have been in had the event in
13 question not occurred and for amounts necessary to pay the
14 fair market value of the interest, benefits and rights of the
15 private entity and the rights and obligations of the private
16 entity created and made under the corresponding P3 agreement.

17 (h) Amounts received under P3 agreement.--The net proceeds
18 received under a P3 agreement by the Turnpike Commission shall
19 be available to provide funding for transportation needs in this
20 Commonwealth, unless the net proceeds are otherwise appropriated
21 to the department under section 9218(c) (relating to Public-
22 Private Transportation Fund).

23 § 9204. Environmental and other authorizations.

24 (a) No submission of plan under Administrative Code.--
25 Notwithstanding any other provision of law, neither soliciting
26 nor approving a request for qualifications, nor executing a P3
27 agreement under this part, shall constitute the submission of a
28 preliminary plan or design to the department under section
29 2002(b) of the act of April 9, 1929 (P.L.177, No.175), known as
30 The Administrative Code of 1929.

1 (b) Certain environmental authorizations.--A P3 agreement
2 may require that prior to commencing any construction in
3 connection with the development, operation or financing of any
4 Pennsylvania Turnpike facility, the private entity shall do any
5 of the following:

6 (1) Secure all necessary environmental permits and
7 authorizations, and if specified under the act of May 19,
8 1995 (P.L.4, No.2), known as the Land Recycling and
9 Environmental Remediation Standards Act, obtain the approval
10 of the Department of Environmental Protection.

11 (2) Complete environmental remediation of the site on
12 which a Pennsylvania Turnpike facility is or is to be
13 located, including acts required under any agreement entered
14 into with the Department of Environmental Protection for
15 remediation of the site under the Land Recycling and
16 Environmental Remediation Standards Act.

17 § 9205. Transfer and dedication of public property.

18 (a) Powers.--Except as otherwise provided under this section
19 and notwithstanding any other provision of law, the Turnpike
20 Commission may transfer a real, personal or mixed property
21 interest which is used, or will be potentially used, in a
22 Pennsylvania Turnpike facility to a private entity for the
23 consideration as the Turnpike Commission and the private entity
24 may agree. The transfer may be accomplished by the Turnpike
25 Commission's delivering, granting or entering into a deed,
26 lease, license, franchise agreement, easement agreement or any
27 other contract or an instrument transferring any other right or
28 interest in the Pennsylvania Turnpike facility as the Turnpike
29 Commission deems appropriate.

30 (b) Limitation.--The following shall apply:

1 (1) Notwithstanding any other provision of this part or
2 other law, the Turnpike Commission shall not agree to any
3 restrictive covenant or transfer any interest, whether in
4 fee, leasehold or otherwise, in real property, being used by
5 or proposed to be used by the public for transportation of
6 persons or goods that expires, terminates or contains a right
7 of reversion to the Turnpike Commission or to the
8 Commonwealth as of a date that is later than one of the
9 following dates, whichever occurs first:

10 (i) Seventy-five years after the date as of which
11 the related P3 agreement shall become effective. The 75-
12 year period may be extended if the term of the related P3
13 agreement is extended in accordance with the provisions
14 of the related P3 agreement.

15 (ii) The date the related P3 agreement terminates.

16 (2) Nothing in this section shall prohibit a P3
17 agreement from authorizing the Turnpike Commission to agree
18 to join in easements or rights of access of more than 75
19 years, as extended under paragraph (1)(i), or for an
20 unlimited term or that terminate, expire or revert after the
21 date the P3 agreement expires, that are granted by the
22 private entity if the Turnpike Commission believes that the
23 easements or rights of access will not materially adversely
24 affect the utility or value of the real property for the
25 purposes for which it is being used or for future
26 development. Any purported transfer made or restrictive
27 covenant agreed to in violation of this subsection shall be
28 null and void ab initio. Any lien, security interest,
29 easement, restrictive covenant or other encumbrance that was
30 granted without the Turnpike Commission's prior written

1 consent shall be extinguished upon the expiration,
2 termination or reversion.

3 (c) Related real property.--Notwithstanding any other
4 provision of this part or other law, if the Turnpike Commission
5 holds any real property or interest therein not required for use
6 of a Pennsylvania Turnpike facility, the Turnpike Commission
7 may, either pursuant to a process set forth in the P3 agreement,
8 or subsequently pursuant to appropriate public solicitation,
9 sever the real property or interests therein not required for
10 operation of the Pennsylvania Turnpike facility for
11 transportation of persons or goods from the remainder of the
12 property and convey the excess interests on the terms and
13 conditions as it may determine to be reasonable and appropriate.

14 (d) Recordation and legal description.--The legal
15 description of the real property comprising a Pennsylvania
16 Turnpike facility set forth under a P3 agreement constitutes a
17 sufficient legal description to convey a leasehold interest in
18 the Pennsylvania Turnpike facility and for all other purposes,
19 including a legal description in satisfaction of section 2 of
20 the act of June 2, 1959 (P.L.454, No.86), entitled "An act
21 permitting the recording of leases, subleases and agreements to
22 lease or sublease; permitting the recording of memoranda
23 thereof; prescribing the minimum contents of such memoranda;
24 prescribing the effect of recording such instruments, including
25 provisions thereof for the purchase of or refusal on the demised
26 premises; and specifying that the recording of such a memorandum
27 shall be a sufficient recording of the full lease, sublease, or
28 agreement in connection with the assignment or mortgaging of the
29 lessee's interest therein" and a legal description sufficient to
30 create a mortgageable leasehold interest and to permit a

1 foreclosure thereof or permit an execution of a valid judgment
2 against the owner of the leasehold interest in the Pennsylvania
3 Turnpike facility, so long as the description contains the name
4 of the county and the city, borough or township in which the
5 Pennsylvania Turnpike facility is located and a description of
6 the principal use of the Pennsylvania Turnpike facility as of
7 the date of the related P3 agreement. If the applicable
8 Pennsylvania Turnpike facility is used principally as a limited
9 access highway with appurtenant rest areas, a statement to that
10 effect is sufficient to satisfy the description requirement
11 under this subsection.

12 (e) Exemption from zoning regulations.--A Pennsylvania
13 Turnpike facility and any addition or accession to the facility
14 during the term of the related P3 agreement is and shall be
15 exempt from county, municipal, township or other district or
16 borough zoning and land use regulations and ordinances in
17 connection with the construction, expansion, conversion,
18 maintenance, improvement, use, occupancy and operation of the
19 facility.

20 § 9206. Certain powers of Turnpike Commission and department.

21 (a) General powers.--In confirmation of any enumerated
22 powers provided to the Turnpike Commission or the department
23 under any other provision of law and in addition to any
24 enumerated powers provided to the Turnpike Commission and the
25 department set forth under any other provision of law or
26 elsewhere in this part, the Turnpike Commission and the
27 department may do all or any of the following in connection with
28 a Pennsylvania Turnpike facility:

29 (1) Take all necessary acts to secure authority under
30 any applicable Federal program to issue or arrange for the

1 issuance of governmental bonds and private activity bonds or
2 to borrow or receive the proceeds of bonds issued by another
3 public entity, and to be eligible for funding, grants, loan
4 guarantees or loans under any such program, including Title
5 XI of SAFETEA-LU and the Transportation Infrastructure and
6 Innovation Act of 1998 (Public Law 105-178, 112 Stat. 241).

7 (2) Negotiate and execute instruments, including P3
8 agreements, financing agreements, leases, as lessor or
9 lessee, letter of credit agreements, liquidity agreements,
10 guarantees, sureties, mortgages, loans, standby loan
11 commitments and contracts of insurance, which are necessary
12 or appropriate for carrying on the business of the Turnpike
13 Commission and the department relating to existing or
14 proposed Pennsylvania Turnpike facilities. This paragraph
15 shall include the ability to negotiate and act pursuant to
16 appropriate default provisions and remedies and shall not be
17 construed as relieving or exempting the Turnpike Commission
18 and the department from any restrictions on their respective
19 ability to incur indebtedness.

20 (3) Resolve claims of default by the private entity or
21 the Turnpike Commission and the department relating to a
22 Pennsylvania Turnpike facility and, in connection therewith,
23 to negotiate and enter into settlement agreements, workout
24 agreements, consent decrees and similar instruments.

25 (4) Enter into agreements with private entities and
26 governmental entities which may provide, among other things,
27 for measures by which private entities and government
28 entities agree to coordinate development, operation and
29 maintenance of transportation facilities, on the terms and
30 conditions as are customary or as are deemed necessary and

1 appropriate by the Turnpike Commission and the department.

2 (5) Acquire by condemnation or otherwise any lands,
3 estates or interests deemed necessary or appropriate for the
4 acquisition, development, operation, construction,
5 improvement, alteration or maintenance of a Pennsylvania
6 Turnpike facility under a P3 agreement, including for
7 roadways, highways, bridges, transportation infrastructure of
8 all kinds, roadside rest stops, rest areas, service areas and
9 other related commercial facilities.

10 (6) Exercise any rights established in a P3 agreement,
11 including those set forth under section 9211 (relating to
12 violation or breach by private entity and remedies).

13 (b) Additional powers.--In addition to all other powers
14 under this part, the Turnpike Commission or the department, as
15 applicable, shall have the following additional powers:

16 (1) The Turnpike Commission and the department may do
17 any other appropriate act necessary or convenient to carry
18 out and effectuate the purposes of this part and to exercise
19 the powers set forth in this part, including any act
20 reasonably implied from those powers.

21 (2) In connection with the selection of a winning bidder
22 for a Pennsylvania Turnpike facility, the Turnpike Commission
23 may enter into agreements with private entities on such terms
24 as the Turnpike Commission determines are reasonable to
25 mitigate potential decreases in the price determined under a
26 final binding bid for the facility arising from changes in
27 interest rates. In order to secure amounts due under such
28 agreements, the Turnpike Commission and the winning bidder
29 may enter into agreements pursuant to which a bank shall
30 receive and apply or set-off amounts due to the Turnpike

1 Commission, the winning bidder and the private entities.

2 (c) Coordination regarding transportation facilities.--The
3 Turnpike Commission and the department may enter into agreements
4 with one another and with public entities or private entities
5 that have entered into P3 agreements for a Pennsylvania Turnpike
6 facility to coordinate development and operation of
7 transportation facilities.

8 § 9207. Additional property.

9 Subject to the other provisions of this part and other
10 applicable law, a P3 agreement may provide that the private
11 entity may acquire by purchase, lease or otherwise additional
12 real, personal and mixed property, construct improvements on any
13 additional real property and incorporate any additional property
14 into a Pennsylvania Turnpike facility. The property shall,
15 without the necessity for any further action, become the
16 property of the Turnpike Commission under section 9216(a)
17 (relating to transfer and disposition of assets), free and clear
18 of any lease, lien, security interest, easement or other
19 encumbrance other than encumbrances that do not significantly
20 interfere with the enjoyment of the property, no later than the
21 date of termination of the P3 agreement or on the earlier date
22 as set forth in the P3 agreement.

23 § 9208. Regulations.

24 (a) General rule.--In order to facilitate the implementation
25 of this part, the department may promulgate regulations or
26 publish guidelines that include any or all of the following:

27 (1) The process for the review of requests for
28 qualifications or responses to requests for qualifications
29 issued by the department.

30 (2) The process for receipt and review of and response

1 to competing responses to requests for qualifications.

2 (3) The type and amount of information that is necessary
3 for adequate review of and response to requests for
4 qualifications in each stage of review.

5 (4) Any other provisions which are required under this
6 part or which the department determines are appropriate for
7 implementation of this part.

8 (b) Temporary regulations.--Notwithstanding any other
9 provision of law and in order to facilitate the prompt
10 implementation of this part, any regulations promulgated by the
11 department under this part during the two years following the
12 effective date of this section shall be deemed temporary
13 regulations which shall expire no later than three years
14 following the effective date of this section or upon
15 promulgation of regulations as generally provided by law. The
16 temporary regulations shall not be subject to any of the
17 following:

18 (1) Sections 201, 202, 203 and 204 of the act of July
19 31, 1968 (P.L.769, No.240), referred to as the Commonwealth
20 Documents Law.

21 (2) The act of June 25, 1982 (P.L.633, No.181), known as
22 the Regulatory Review Act.

23 § 9209. Inspection.

24 The Turnpike Commission, the department and their authorized
25 representatives are authorized to inspect all assets and
26 properties of any Pennsylvania Turnpike facility and all books
27 and records of the private entity party to a P3 agreement for
28 the related Pennsylvania Turnpike facility and any aspect
29 thereof, and to review the private entity's performance under
30 the P3 agreement, its plans for the Pennsylvania Turnpike

1 facility and any aspect thereof and its execution of the plans.

2 § 9210. Federal, Commonwealth, local and private assistance.

3 (a) Federal assistance.--The following shall apply:

4 (1) The Turnpike Commission or the department may accept
5 from the United States, or any of its agencies, funds that
6 are available to the Commonwealth for carrying out this part,
7 whether the funds are made available by grant, loan, loan
8 guarantee or otherwise.

9 (2) The department and the Turnpike Commission are
10 authorized to assent to any Federal requirements, conditions
11 or terms of any Federal funding accepted by the department or
12 the Turnpike Commission under this section.

13 (3) The Turnpike Commission or the department may enter
14 into agreements or other arrangements with the United States,
15 or any of its agencies, as may be necessary for carrying out
16 the purposes of this part.

17 (b) Acceptance of grants and donations.--The department and
18 the Turnpike Commission may accept from any source any grant,
19 donation, gift or other form of conveyance of land, money, other
20 real, personal or mixed property or other item of value for
21 carrying out the purpose of this part.

22 (c) Contributions.--Subject to acceptance and agreement by
23 the private entity and the Turnpike Commission, any Pennsylvania
24 Turnpike facility may be financed in whole or in part by
25 contribution of any funds or property made by the department,
26 the Turnpike Commission, any private entity, any public entity
27 or any affected jurisdiction.

28 (d) Combination of funds.--The department and the Turnpike
29 Commission may combine Federal, State, local and private funds
30 to finance a Pennsylvania Turnpike facility under this part.

1 § 9211. Violation or breach by private entity and remedies.

2 (a) Violation or breach.--The following shall apply:

3 (1) A P3 agreement may provide that, in the event of any
4 failure of a private entity to perform its duties or fulfill
5 its obligations under a P3 agreement, or should a default or
6 event of default by the private entity in its obligations
7 under a P3 agreement otherwise occur which remains unremedied
8 after required notice, if any, to the private entity has been
9 provided by the Turnpike Commission or the department and the
10 specified period of time, if any, for cure has expired, or
11 which creates a material danger to the safety of the
12 operations of the related Pennsylvania Turnpike facility or a
13 material impairment to the facility or to the continuing use
14 thereof for transportation purposes, the Turnpike Commission
15 and the department, subject to any cure periods in the
16 related P3 agreement, may do any of the following:

17 (i) Elect to terminate the P3 agreement and take
18 over the Pennsylvania Turnpike facility subject to the P3
19 agreement, including the applicable succession to all
20 right, title and interest in the Pennsylvania Turnpike
21 facility as an exercise of the powers of the Turnpike
22 Commission and the department to provide for safe,
23 efficient transportation in order to protect the health,
24 safety and welfare of the citizens of this Commonwealth
25 or otherwise.

26 (ii) Agree to accept the Pennsylvania Turnpike
27 facility subject to any liens previously granted by the
28 private entity to entities providing financing to the
29 private entity for the Pennsylvania Turnpike facility or
30 to purchase the debt of the private entity held by

1 entities providing financing to the private entity for
2 the Pennsylvania Turnpike facility.

3 (iii) Seek specific performance, injunction or other
4 equitable remedies.

5 (iv) Exercise any additional rights and remedies
6 allowed by law or in equity or provided in the P3
7 agreement, including the ejection of the private entity
8 from the Pennsylvania Turnpike facility, the assessment
9 of liquidated damages or other amounts or the liquidating
10 of any bond, security or reserve accounts established
11 thereunder.

12 (2) Notwithstanding paragraph (1), the General Assembly
13 specifically finds that the commencement of a reorganization
14 or liquidation proceeding under 11 United States Code
15 (relating to bankruptcy) or under any comparable state or
16 local law by any private entity that is a party to a P3
17 agreement would constitute an immediate threat to the public
18 health, safety and welfare of the citizens of this
19 Commonwealth.

20 (b) Exercise of remedies.--If the Turnpike Commission or the
21 department takes over a Pennsylvania Turnpike facility under
22 subsection (a), the Turnpike Commission or the department may do
23 any of the following:

24 (1) Collect any revenues to satisfy any obligation of
25 the private entity, the Turnpike Commission or the
26 department.

27 (2) Develop, operate and finance the Pennsylvania
28 Turnpike facility, including the imposition of user fees and
29 compliance with any service agreements in connection with the
30 use of the Pennsylvania Turnpike facility as set forth under

1 section 9203 (relating to P3 agreement).

2 (3) Solicit requests for qualifications for the
3 maintenance and operation of the Pennsylvania Turnpike
4 facility.

5 (4) Exercise any other remedies set forth in a P3
6 agreement.

7 § 9212. Exemption from certain taxes.

8 (a) Exemption.--A Pennsylvania Turnpike facility is used for
9 an essential government function and public purpose and shall be
10 exempt and continue to be immune from local ad valorem real
11 estate tax, and any direct or indirect transfer or lease of a
12 Pennsylvania Turnpike facility pursuant to or permitted by a P3
13 agreement, any recording of any memoranda of lease pursuant to
14 or permitted by a P3 agreement, and any transfer of any
15 ownership interest in any private entity party to a P3 agreement
16 shall be exempt from any realty transfer tax imposed by the
17 Commonwealth or any political subdivision. Neither the
18 Commonwealth nor any political subdivision shall impose any of
19 the following:

20 (1) Tax on business privilege or activities or gross
21 receipts of a private entity party to a P3 agreement.

22 (2) Capital stock or franchise tax under Article VI of
23 the act of March 4, 1971 (P.L.6, No.2), known as the Tax
24 Reform Code of 1971, in respect of a private entity party to
25 a P3 agreement.

26 (3) Sales and use tax on any of the following:

27 (i) The rent for or revenues from a Pennsylvania
28 Turnpike facility.

29 (ii) The sale, purchase or use by any person,
30 including a contractor or subcontractor, of tangible

1 personal property or services constituting or
2 incorporated into a Pennsylvania Turnpike facility.

3 (iii) The sale, purchase or use of any motor vehicle
4 that is or will be used principally in connection with a
5 Pennsylvania Turnpike facility.

6 (b) Deposit.--The department shall cause a portion of the
7 initial payment made under a P3 agreement to be deposited in the
8 General Fund as representing a prepayment of sales and use tax
9 that otherwise would be imposed on any sale or purchase at
10 retail by the private entity that would be subject to the sales
11 and use tax imposed under Article II of the Tax Reform Code of
12 1971 if the exemption from sales and use tax under subsection
13 (a) were not in effect. The department's determination of the
14 amount to be deposited in the General Fund under this subsection
15 shall be final.

16 § 9213. Eminent domain.

17 The Turnpike Commission or the department may exercise the
18 right of eminent domain for the purpose of acquiring any lands
19 or estates or interests therein required or necessary for the
20 Turnpike Commission and the department to perform their
21 obligations under any P3 agreement, to the extent permitted by
22 laws governing eminent domain and to the extent that the
23 Turnpike Commission and the department find that the action
24 serves the public purpose of this part. Any amount to be paid in
25 the eminent domain proceeding, and all costs incurred in
26 connection therewith, shall be paid by the private entity,
27 unless otherwise agreed to by the Turnpike Commission and the
28 department or provided for in the corresponding P3 agreement.

29 § 9214. Public utility.

30 A private entity developing or operating a Pennsylvania

Turnpike facility shall not be considered a public utility by virtue of the activity under Title 66 (relating to public utilities) or otherwise. The Pennsylvania Public Utility Commission shall have no jurisdiction or authority over tolls, rates or other user fees in connection with any Pennsylvania Turnpike facility. No tolls, rates or other user fees imposed by the private entity in connection with its operation of a Pennsylvania Turnpike facility shall be subject to approval except as provided in the P3 agreement.

§ 9215. Police powers and violations of law.

(a) Powers and jurisdiction.--All officers authorized by law to make arrests for violations of law in this Commonwealth and each affected jurisdiction shall have the same powers, duties and jurisdiction within the limits of a Pennsylvania Turnpike facility as they have in their respective areas of jurisdiction, and law enforcement officers shall have access to a Pennsylvania Turnpike facility at any time for the purpose of exercising their law enforcement powers and jurisdiction. The grant of authority under this subsection shall not extend to the private offices, buildings, garages and other improvements of a private entity to any greater degree than the police power extends to any other private offices, buildings, garages and other improvements.

(b) Enforcement of traffic laws.--To the extent a Pennsylvania Turnpike facility is a highway, bridge, tunnel, overpass or similar transportation facility for motor vehicles, the traffic and motor vehicle laws of this Commonwealth or, if applicable, any local jurisdiction shall be the same as those applying to conduct on similar transportation facilities in this Commonwealth or the local jurisdiction. Punishment for offenses

1 shall be as prescribed by law for conduct occurring on similar
2 transportation facilities in this Commonwealth or the local
3 jurisdiction.

4 (c) Payment of costs for emergency services.--The private
5 entity may enter into agreements with providers of emergency
6 services for the payment to the providers of emergency services
7 for the reasonable cost of the emergency services. The form and
8 amount of emergency services shall be as agreed between the
9 private entity and the providers of the services in the several
10 areas of this Commonwealth from time to time but, at a minimum,
11 shall be adequate as determined by the department and the
12 Pennsylvania Emergency Management Agency for protection of the
13 public and compliance with all applicable requirements or the
14 higher standards as may be established in a P3 agreement.

15 (d) Imposition, collection and disposition of fines.--The
16 Commonwealth's share of fines imposed for violations occurring
17 within the limits of a Pennsylvania Turnpike facility shall
18 first be applied to defray the cost of police services for which
19 the Pennsylvania Turnpike facility is liable. Any excess of the
20 Commonwealth's share of the fines over the costs of providing
21 the services shall be distributed and governed as otherwise
22 provided under applicable law.

23 § 9216. Transfer and disposition of assets.

24 (a) Termination of P3 agreement.--The following shall apply:

25 (1) The rights and obligations of a private entity under
26 this part and under a P3 agreement shall terminate on the
27 termination date set forth in a P3 agreement or as otherwise
28 provided for under a P3 agreement, except that all of the
29 following shall apply:

30 (i) The requirement to make any payments required to

1 be made by a private entity that have accrued but not yet
2 been paid shall survive the termination.

3 (ii) Any rights and obligations that extend beyond
4 termination as provided for in a P3 agreement shall not
5 terminate.

6 (2) Any property, real, personal and mixed, constituting
7 a Pennsylvania Turnpike facility shall, without the necessity
8 of any further action, become the property of the Turnpike
9 Commission free and clear of any lease, lien, security
10 interest, easement or other encumbrance, other than
11 encumbrances that do not significantly interfere with the
12 enjoyment of the property, no later than the scheduled
13 termination date of the related P3 agreement or on the
14 earlier date as set forth in the related P3 agreement.

15 (b) User fees.--If a Pennsylvania Turnpike facility reverts
16 to the Turnpike Commission under subsection (a), the Turnpike
17 Commission may continue to charge user fees for the use of the
18 facility.

19 § 9217. Method of source selection and adverse interests.

20 (a) General rule.--The Procurement Code shall not apply to
21 the development, operation or financing of a Pennsylvania
22 Turnpike facility by a private entity. Except as specifically
23 provided under section 9218(e)(3) (relating to Public-Private
24 Transportation Fund), the Procurement Code shall not apply to
25 this part, except for all of the following provisions:

26 (1) 62 Pa.C.S. § 531 (relating to debarment or
27 suspension).

28 (2) 62 Pa.C.S. § 541 (relating to approval of accounting
29 system).

30 (3) 62 Pa.C.S. § 551 (relating to right to inspect

1 plant).

2 (4) 62 Pa.C.S. § 552 (relating to right to audit
3 records).

4 (5) 62 Pa.C.S. § 563 (relating to retention of
5 procurement records).

6 (b) Exemption.--Notwithstanding any other provision of law,
7 the provisions of the act of May 1, 1913 (P.L.155, No.104),
8 referred to as the Separations Act, shall not be applicable to
9 any contract entered into by a private entity party to a P3
10 agreement related to the development, operation or financing of
11 a Pennsylvania Turnpike facility.

12 (c) Private entity adverse interests.--The following shall
13 apply:

14 (1) Except as provided under paragraph (2), a private
15 entity which submits a response to a request for
16 qualifications under section 9202 (relating to approval) and
17 which is also a State advisor or a State consultant as each
18 term is defined in the act of July 19, 1957 (P.L.1017,
19 No.451), known as the State Adverse Interest Act, for the
20 department or the Turnpike Commission, shall not be deemed to
21 be in violation of the State Adverse Interest Act while
22 engaging in any of the following activities:

23 (i) Preparing or submitting a response to a request
24 for qualifications.

25 (ii) Participating in any activities with the
26 department or the Turnpike Commission related to a
27 request for qualifications.

28 (iii) Negotiating and entering into any contract,
29 lease or P3 agreement with the department or the Turnpike
30 Commission which results from a request for

1 qualifications.

2 (iv) Engaging in other actions taken in furtherance
3 of the purposes of this part.

4 (2) A private entity which submits a response to a
5 request for qualifications or acts as a consultant or an
6 advisor to a private entity which submits a response to a
7 request for qualifications to the department shall be
8 prohibited from consulting or providing advice to the
9 department on the review or approval of the response to the
10 request for qualifications so submitted.

11 (d) Additional procurement provisions.--The following
12 provisions shall apply to any contract entered into by a private
13 entity party to a P3 agreement related to the development,
14 operation or financing of the Pennsylvania Turnpike facility
15 subject to the P3 agreement:

16 (1) The act of August 15, 1961 (P.L.987, No.442), known
17 as the Pennsylvania Prevailing Wage Act.

18 (2) 62 Pa.C.S. § 107 (relating to reciprocal
19 limitations).

20 (3) The act of March 3, 1978 (P.L.6, No.3), known as the
21 Steel Products Procurement Act.

22 (4) The act of July 23, 1968 (P.L.686, No.226), entitled
23 "An act equalizing trade practices in public works
24 procurement; authorizing the purchase by the Commonwealth,
25 its political subdivisions, and all public agencies, of
26 aluminum and steel products produced in a foreign country,
27 provided the foreign country does not prohibit or
28 discriminate against the importation to, sale or use in the
29 foreign country of supplies, material or equipment
30 manufactured in this Commonwealth; establishing procedures

for determining whether foreign countries discriminate against supplies, materials or equipment manufactured in this Commonwealth; and imposing penalties and providing for relief for violation of this act."

§ 9218. Public-Private Transportation Fund.

(a) Establishment of fund.--There is established within the State Treasury a separate fund known as the Public-Private Transportation Fund for the deposit of all money specified under subsection (b) received by the department, the Turnpike Commission or any other agency or instrumentality of the Commonwealth pursuant to or in connection with a P3 agreement for a Pennsylvania Turnpike facility, whose funds are required by other applicable law to be held by the State Treasurer. The State Treasurer shall be the custodian of the fund. Money in the fund shall be used only for the purposes enumerated under subsection (c).

(b) Deposits to fund.--The following shall apply:

(1) The State Treasurer shall deposit in the fund all money received from the following sources by the department or the Turnpike Commission or any other agency or instrumentality of the Commonwealth whose funds are required to be held by the State Treasurer by other applicable law:

(i) All money received pursuant to the terms of a P3 agreement by the department or the Turnpike Commission or any other agency or instrumentality of the Commonwealth, except for a deposit into the General Fund made pursuant to section 9212 (relating to exemption from certain taxes).

(ii) Repayment of any loans made under this part.

(iii) Subject to the provisions of any P3 agreement,

1 monetary damages and other amounts for failure by a
2 private entity to comply with the terms of a P3
3 agreement, which damages and other amounts are received
4 by the department, the Turnpike Commission or any other
5 agency or instrumentality of the Commonwealth whose funds
6 are required to be held by the State Treasurer by other
7 applicable law.

8 (iv) Subject to the provisions of any P3 agreement,
9 payments made from any insurance proceeds or reserve
10 funds or performance or payment bonds in connection with
11 a Pennsylvania Turnpike facility to the department, the
12 Turnpike Commission or any other agency or
13 instrumentality of the Commonwealth whose funds are
14 required to be held by the State Treasurer by other
15 applicable law.

16 (v) Earnings from the investment of the money in the
17 fund.

18 (vi) All other money authorized to be received under
19 this part.

20 (2) The Secretary of the Budget shall establish a
21 separate restricted revenue account within the fund each time
22 that a P3 agreement in connection with a Pennsylvania
23 Turnpike facility is executed by the Turnpike Commission or
24 the department, or both. Except as provided under paragraph
25 (3), the State Treasurer shall deposit the money received
26 under paragraph (1) pursuant to a particular P3 agreement or
27 in connection with a particular Pennsylvania Turnpike
28 facility into the related restricted revenue account
29 established by the Secretary of the Budget in connection with
30 the P3 agreement.

1 (3) The Secretary of the Budget shall establish a
2 restricted revenue account within the fund at the time a P3
3 agreement in connection with a Pennsylvania Turnpike facility
4 is executed by the Turnpike Commission or the department, or
5 both, to be designated the PSP Account. Money in the PSP
6 Account shall be used for the exclusive purpose of paying the
7 Pennsylvania State Police, its successors or any other public
8 law enforcement service provider permitted to assume the
9 responsibilities of the Pennsylvania State Police for the
10 provision of traffic patrol and traffic law enforcement
11 services on a Pennsylvania Turnpike facility. The State
12 Treasurer shall deposit into the PSP Account \$350,000,000 of
13 the money received under paragraph (1)(i) pursuant to the
14 first P3 agreement executed in connection with a Pennsylvania
15 Turnpike facility.

16 (4) If any bonds, notes or other obligations of the
17 Turnpike Commission secured by oil company franchise tax or
18 other Motor License Fund money are paid, or provision for
19 payment is made in accordance with the agreements under which
20 the bonds, notes or other obligations were issued, the amount
21 of oil company franchise tax receipts or other Motor License
22 Fund allocations for highway maintenance and construction
23 allocated for the toll roads included in a Pennsylvania
24 Turnpike facility shall be appropriated from the Motor
25 License Fund to the fund and shall be deposited in a separate
26 restricted revenue account established by the Secretary of
27 the Budget for the money. The oil company franchise tax
28 receipts and the Motor License Fund allocations shall be
29 disbursed from the fund only for the purposes as are
30 permitted by law.

1 (5) The Secretary of the Budget shall establish any
2 other restricted accounts within the fund as the secretary
3 deems necessary for the proper administration of the fund.

4 (c) Appropriation.--To the extent permitted by law, the net
5 proceeds received under a P3 agreement by the department, the
6 Turnpike Commission, or any other agency or instrumentality of
7 the Commonwealth whose funds are required to be held by the
8 State Treasurer by other applicable law, shall be appropriated
9 to the department to provide funding for transportation needs in
10 this Commonwealth. Money in the fund, and in restricted accounts
11 within the fund, is appropriated to the department for any of
12 the following purposes:

13 (1) Paying any amounts required to be paid to discharge
14 the department's pledge for the benefit of the Turnpike
15 Commission of the allocation to the Pennsylvania Turnpike of
16 amounts paid from the oil company franchise tax pursuant to
17 75 Pa.C.S. § 9511 (relating to allocation of proceeds) and
18 Motor License Fund allocations under section 20 of the act of
19 April 17, 1997 (P.L.6, No.3), entitled "An act Amending
20 Titles 74 (Transportation) and 75 (Vehicles) of the
21 Pennsylvania Consolidated Statutes, further providing for
22 annual appropriation and computation of subsidy and for
23 distribution of funding; providing for distribution of
24 supplemental funding; further providing for use of funds
25 distributed; providing for public transportation grants
26 management accountability, for competitive procurement and
27 for the Public Transportation Assistance Fund; further
28 providing for period of registration, for duties of agents,
29 for registration and other fees, for requirements for
30 periodic inspection of vehicles, for limits on number of

1 towed vehicles, for operation of certain combinations on
2 interstate and other highways and for width and length of
3 vehicles; providing for liquid fuels and fuels permits and
4 bond or deposit of securities, for imposition of liquid fuels
5 and fuels tax, for taxpayer, for distributor's report and
6 payment of tax, for determination of tax, penalties and
7 interest, for examination of records and equipment, for
8 retention of records by distributors and dealers, for
9 disposition and use of tax, for discontinuance or transfer of
10 business, for suspension or revocation of permits, for lien
11 of taxes, penalties and interest, for collection of unpaid
12 taxes, for reports from common carriers, for violations and
13 reward for detection of violations, for refunds, for diesel
14 fuel importers and transporters, for prohibiting use of dyed
15 diesel fuel, for disposition of fees, fines and forfeitures,
16 for certified copies of records and for uncollectible checks;
17 further providing for distribution of State highway
18 maintenance funds and for standards and methodology for data
19 collection; providing for dirt and gravel road maintenance;
20 further providing for imposition of tax and additional tax;
21 providing for tax on alternative fuels; further providing for
22 disposition of tax revenue; making an appropriation; and
23 making repeals."

24 (2) Paying the amounts, if any, as the department may be
25 required to repay the Federal Highway Administration as a
26 result of the establishment of a Pennsylvania Turnpike
27 facility pursuant to this part.

28 (3) Paying all amounts designated by the department as
29 required to repay or defease outstanding bonds of the
30 Turnpike Commission or any other agency or instrumentality of

1 the Commonwealth or required to pay amounts designated by the
2 department as owing under derivative transactions entered
3 into by the Turnpike Commission or any other agency or
4 instrumentality of the Commonwealth.

5 (4) Making pledges of funds or other payments determined
6 by the department to be necessary or desirable and
7 appropriate to advantageously address any liability under any
8 derivative transaction of the Turnpike Commission.

9 (5) Paying costs of maintenance, operation and financing
10 of transportation facilities in this Commonwealth which are
11 available for use by the public, including the costs of
12 insurance or reserves against risks or contingencies.

13 (6) Making lease, lease-purchase or purchase payments to
14 a private entity to pay for the public use of, or to gain the
15 public ownership of, a Pennsylvania Turnpike facility
16 developed, operated or financed by the private entity.

17 (7) Paying from the PSP Account established under
18 subsection (b)(3), amounts payable to the Pennsylvania State
19 Police, its successors or any other public law enforcement
20 service provider permitted to assume the responsibilities of
21 the Pennsylvania State Police for the provision of traffic
22 patrol and traffic law enforcement services on a Pennsylvania
23 Turnpike facility developed, operated or financed by a
24 private entity.

25 (8) Paying all expenses incurred under or in connection
26 with any P3 agreement by the department, the Turnpike
27 Commission or any other agency or instrumentality of the
28 Commonwealth whose funds are required to be held by the State
29 Treasurer by other applicable law, including professional
30 fees and expenses.

1 (9) Paying the costs of the department and the Turnpike
2 Commission relating to performing and administering duties
3 under this part.

4 (10) Making disbursement of any loans under this part.

5 (11) Paying damages or other amounts payable by the
6 Turnpike Commission or the department pursuant to a P3
7 agreement.

8 (12) Paying all expenses approved by the board for its
9 costs incurred to perform its duties, including paying the
10 salaries of its executive director and administrative staff,
11 and its expenses for professional investment advisors and
12 professional fund managers.

13 (13) Paying costs of any other purposes authorized under
14 this part.

15 (d) Expenditures from the fund.--The department shall submit
16 to the Governor for approval detailed estimates of the amounts
17 to be expended for each purpose set forth under subsection (c).
18 Upon the approval of the Governor, the State Treasurer shall
19 disburse money from the fund, or from restricted revenue
20 accounts within the fund, or both, only for the purposes and
21 only in the amounts approved by the Governor. The State
22 Treasurer shall not disburse any money from the fund, or from
23 restricted revenue accounts within the fund, or both, in excess
24 of the amounts approved by the Governor or for any purpose not
25 approved by the Governor.

26 (e) Establishment of board and investment of fund.--

27 (1) The P3 Investment Board is established. The board
28 shall consist of the Governor or a designee, the Secretary of
29 the Budget or a designee and the secretary or a designee. The
30 Secretary of the Budget shall serve as chairperson of the

1 board, and the executive director of the board shall serve as
2 secretary of the board. All actions of the board shall be by
3 majority vote. The board shall meet not less than one time
4 each calendar quarter. Members of the board shall serve
5 without compensation, but shall be reimbursed for actual and
6 reasonable expenses incurred in the performance of their
7 official duties.

8 (2) Notwithstanding any other provision of law, the
9 board shall have exclusive control and authority to manage,
10 invest and reinvest money in the fund, subject, however, to
11 the exercise of that degree of judgment, skill and care under
12 the circumstances then prevailing that persons of prudence,
13 discretion and intelligence, who are familiar with investment
14 matters, exercise in the management of their own affairs, not
15 in regard to speculation, but in regard to permanent
16 disposition of the funds, considering the probable income to
17 be derived from the investments and the probable safety of
18 their capital. The board may hold, purchase, sell, lend,
19 assign, transfer or dispose of any securities and
20 investments, including equity securities, in which money in
21 the fund or the accounts has been invested and of the
22 proceeds of the investments, including any directed
23 commissions that have accrued to the benefit of the fund or
24 the accounts as a consequence of the investments, and of
25 money belonging to the fund or the accounts subject to the
26 standard of prudence in this section. The members of the
27 board, the executive director, administrative staff and
28 professional investment advisors and fund managers shall
29 stand in a fiduciary relationship to the Commonwealth and its
30 citizens regarding the investments of the money of the fund

1 and the accounts and shall not profit, either directly or
2 indirectly, with respect thereto. The board shall consult
3 with SERS from time to time as to the board's investments.

4 (3) The board shall employ an executive director who
5 shall act as the chief administrative officer of the board.
6 The board may employ other administrative staff, professional
7 investment advisors and professional fund managers as the
8 board deems advisable. The board shall be subject to the
9 provisions of the act of April 29, 1929 (P.L.177, No.175),
10 known as The Administrative Code of 1929, and to the
11 classification and compensation practices and procedures of
12 Commonwealth agencies. The compensation of the executive
13 director and administrative staff shall be determined by the
14 Executive Board of the Commonwealth. For the purposes of the
15 act of October 15, 1980 (P.L.950, No.164), known as the
16 Commonwealth Attorneys Act, the board shall be considered an
17 executive agency. Notwithstanding any other provision of this
18 part, the Procurement Code shall apply to the board and the
19 board shall be considered an executive agency under the
20 Procurement Code. The Governor shall appoint a comptroller to
21 the board in accordance with The Administrative Code of 1929.

22 (4) All draws from the fund or the accounts shall be
23 made by the State Treasurer in accordance with requisitions
24 signed by the secretary of the board and ratified by
25 resolution of the board.

26 (5) The board shall keep a record of its proceedings,
27 which shall be open to inspection by the public. Meetings of
28 the board shall be conducted under 65 Pa.C.S. Ch. 7 (relating
29 to open meetings).

30 (6) The board shall submit through the Governor to the

1 General Assembly annually, at the same time the Governor
2 submits a balanced operating budget to the General Assembly
3 for the ensuing fiscal year, a report for the 12-month period
4 ended on December 31 of the year immediately preceding the
5 submission of the report. The report shall fully detail the
6 operations of the board, identify the nature and amount of
7 all of the investments made by the board and set out all of
8 the expenses of the board, including the amounts paid to
9 professional investment advisors and fund managers.

10 (7) The General Assembly finds and declares that
11 authorized investments of the fund or the accounts made by or
12 on behalf of the board under this section whereby the board
13 becomes a joint owner, limited partner or stockholder in a
14 company, corporation, limited partnership, association or
15 other lawful business organization are outside the scope of
16 the original intent of and do not violate the prohibition set
17 forth under section 8 of Article VIII of the Constitution of
18 Pennsylvania.

19 § 9219. Special provisions relating to Turnpike Commission.

20 (a) Turnpike commissioners.--Notwithstanding any other
21 provision of law and at any time after the effective date of
22 this section, the secretary may exercise the power at his
23 discretion, at any time, and from time to time, as he may
24 determine:

25 (1) by a notice in writing addressed to each of the
26 other members of the Turnpike Commission by certified mail,
27 notifying each of them that their term of office has expired
28 as of the date of issuance of the notice, assume the duties
29 of chairman of the Turnpike Commission by virtue of his
30 holding the office of secretary, and thereafter, as the

1 chairman, take any and all action and perform any other acts
2 and deeds as could be performed by a majority of or, if
3 applicable, all of the members of the Turnpike Commission, at
4 a duly called meeting of the members of the Turnpike
5 Commission at which a quorum was present throughout; or

6 (2) by a notice in writing addressed to other members of
7 the Turnpike Commission by certified mail, notify any or all
8 of the other members of the Turnpike Commission that their
9 respective terms of office have expired, upon issuance of
10 which notice the offices and any authority thereof of the
11 other members of the Turnpike Commission shall automatically
12 terminate, and appoint members of the Turnpike Commission in
13 the place and stead of those members whose terms of office
14 shall have terminated, who shall serve at his pleasure and at
15 an annual salary, not to exceed \$26,000 paid in equal
16 installments every other week, to be established by the
17 secretary.

18 (b) Assumption of control.--Notwithstanding the provisions
19 of subsection (a), and either as an alternative to actions taken
20 under subsection (a) or in addition thereto, at any time after
21 the effective date of this section, the department and its
22 authorized agents and employees may, at the time as the
23 department shall determine and from time to time, exercise
24 complete authority and dominion over all assets, operations,
25 agreements, instruments and documents of, belonging to, or
26 controlled by the Turnpike Commission, as fully and to the same
27 extent as if exercised by duly authorized action of the Turnpike
28 Commission itself, in place of and to the exclusion of the
29 members of the Turnpike Commission, the exercise of authority
30 and dominion to include to the execution and delivery on behalf

1 of the Turnpike Commission of any P3 agreement with any private
2 entity relating to the assets, operations, agreements,
3 instruments and documents of the Turnpike Commission or any part
4 thereof, or causing the Pennsylvania Turnpike or any part
5 thereof previously owned or operated by the Turnpike Commission
6 to become a Pennsylvania Turnpike facility pursuant to this
7 part, the exercise to be conclusively evidenced by the execution
8 and delivery of a P3 agreement or other documents or instruments
9 by the authorized agents or employees of the department on
10 behalf of the department purporting to exercise the authority
11 and dominion.

12 (c) No merger of department and Turnpike Commission.--
13 Notwithstanding any other provision of law and notwithstanding
14 the department's execution and delivery on behalf of the
15 Turnpike Commission of any agreement, instrument or document or
16 the assumption of control of the Turnpike Commission by the
17 secretary as chairman of the Turnpike Commission, the department
18 shall not be deemed to have merged with the Turnpike Commission
19 or otherwise assumed the liabilities and obligations of the
20 Turnpike Commission except to the extent expressly provided in
21 the agreement, instrument or document.

22 (d) No change of legal rights, duties or obligations.-
23 Notwithstanding any other provision of law, no action taken by
24 the department under this section shall change the Turnpike
25 Commission's legal rights, duties or obligations, except as
26 specifically provided under this part. No law from which the
27 Turnpike Commission is currently exempt shall apply solely by
28 virtue of the department's exercise of its rights under this
29 section, nor shall any law which applies prior to any transfer
30 of control hereunder be deemed to have ceased application.

1 § 9220. Delegation.

2 The department may, but is not required to, delegate one or
3 more of the actions to be performed by the department in this
4 part to the Turnpike Commission or other person excluding a
5 private entity instead of by the department. In the event of the
6 delegation, the delegatee shall, to the extent of and as
7 permitted by the delegation, have all authority of the secretary
8 under this part, and all references in this part regarding
9 action by the department shall be deemed to refer to the
10 Turnpike Commission or other person to which the authority is
11 delegated.

12 § 9221. Dispute resolution.

13 (a) Contract controversies.--The following shall apply:

14 (1) A private entity may file notice of a claim with the
15 secretary in writing for claims or controversies expressly
16 arising from a P3 agreement entered into by the Turnpike
17 Commission or the department.

18 (2) A notice of claim shall be filed with the secretary
19 within six months after the date on which the private entity
20 became aware of facts giving rise to the claim. If a private
21 entity fails to file a claim or files an untimely claim, the
22 private entity is deemed to have waived its right to assert a
23 claim in any forum. Untimely filed claims shall be
24 disregarded by the department.

25 (3) If the Turnpike Commission or the department and the
26 private entity to a P3 agreement are unable to resolve a
27 claim thereunder through mediation procedures, then the
28 Turnpike Commission or the department or the private entity
29 may file an original action to resolve the claim or dispute
30 with the Commonwealth Court pursuant to 42 Pa.C.S. §

1 761(a)(4) (relating to original jurisdiction).

2 (4) The Commonwealth Court shall promptly decide the
3 controversy and, if appropriate, make an award of a sum it
4 determines the claimant is entitled to receive.

5 (5) The Turnpike Commission or the department and the
6 private entity may alter their respective rights and duties
7 under this subsection by agreement and may enter into
8 appropriate alternative dispute resolution methods, including
9 mediation and arbitration, as the department may deem in the
10 best interests of the Commonwealth.

11 (6) The provisions of 2 Pa.C.S. (relating to
12 administrative law and procedure) shall not apply to this
13 section.

14 (b) Budget request.--If an award is issued under this
15 section against the Turnpike Commission or the department and if
16 appeals of the decision issuing the award have been exhausted or
17 if the time for an appeal of the decision has expired, the P3
18 agreement may include an undertaking by the Turnpike Commission
19 or the department to submit to the Governor and the General
20 Assembly a written statement of the obligations of the Turnpike
21 Commission or the department pursuant to the award falling due
22 within the succeeding 12-month period and of the manner in which
23 the Turnpike Commission or the department anticipates providing
24 for the obligations by way of payment, extension, renewal or
25 otherwise and an estimate of the amount of funds, if any,
26 expected to be necessary to pay the award. The Governor shall
27 cause the amount of money set forth in a written statement
28 submitted to him under this section to be placed in the budget
29 of the Commonwealth for the next succeeding fiscal year so that
30 the General Assembly shall be enabled to provide appropriations

1 sufficient to pay the award.

2 (c) Application.--This section shall only apply to contract
3 controversies between the Turnpike Commission, the department
4 and a private entity arising under a P3 agreement. It shall not
5 apply to contracts between a private entity and any other
6 person.

7 § 9222. Sovereign immunity.

8 (a) General rule.--The General Assembly under section 11 of
9 Article I of the Constitution of Pennsylvania reaffirms
10 sovereign immunity and, except as otherwise provided under this
11 part, no provision of this part shall constitute a waiver of
12 sovereign immunity for the purpose of 1 Pa.C.S. § 2310 (relating
13 to sovereign immunity reaffirmed; specific waiver) or otherwise.

14 (b) Exemption.--The General Assembly, under section 11 of
15 Article I of the Constitution of Pennsylvania, waives sovereign
16 immunity as a bar to claims against the Turnpike Commission, the
17 department or any other Commonwealth agencies brought in
18 accordance with sections 9203(c) and (g) (relating to P3
19 agreement) and 9221 (relating to dispute resolution), but only
20 to the extent set forth under this part.

21 § 9223. Limitations on assignment.

22 No P3 agreement with respect to a Pennsylvania Turnpike
23 facility entered into under this part shall permit a private
24 entity to assign its rights or responsibilities thereunder
25 without the express written consent of the department and the
26 Turnpike Commission, except for an assignment given as provided
27 in a P3 agreement for purposes of providing collateral security
28 to a lender or similar entity providing financing for the
29 related Pennsylvania Turnpike facility or in connection with the
30 exercise of remedies by a lender or similar entity providing

1 financing to a private entity for the related Pennsylvania
2 Turnpike facility upon a default by the private entity. The P3
3 agreement may set forth the considerations to be taken into
4 account by the department and the Turnpike Commission in
5 connection with their consent to the assignment and any
6 purported assignment made without the consent is void. Without
7 their express written consent given in accordance with a P3
8 agreement, the Turnpike Commission and the department shall not
9 be required to accept performance from or render performance to
10 any private entity under the P3 agreement other than the private
11 entity that is the original party thereto. The foregoing
12 limitation on the ability of a private entity to assign its
13 rights and responsibilities under a P3 agreement shall not be
14 deemed to prohibit or limit the private entity from changing its
15 organizational form or status.

16 § 9224. Limitation of actions.

17 Pursuant to 42 Pa.C.S. § 5501(a) (relating to scope of
18 chapter), any action to contest the validity of a P3 agreement
19 may not be brought after the thirtieth day following the
20 publication in the Pennsylvania Bulletin, under section 9202(k)
21 (relating to approval), of the public announcement of the
22 execution and delivery of the P3 agreement.

23 § 9225. Exclusive jurisdiction of Supreme Court.

24 Except for matters subject to section 9221 (relating to
25 dispute resolution), the Pennsylvania Supreme Court shall have
26 exclusive jurisdiction to hear any challenge to the
27 solicitation, award, execution and delivery of a P3 agreement or
28 to render a declaratory judgment concerning the validity of a P3
29 agreement entered into under this chapter. The Supreme Court is
30 authorized to take any action as it deems appropriate,

1 consistent with the Supreme Court retaining jurisdiction over
2 such a matter, to find facts or to expedite a final judgment in
3 connection with such a challenge or request for declaratory
4 relief. Notwithstanding the provisions of 2 Pa.C.S. Ch. 7
5 Subch. A (relating to judicial review of Commonwealth agency
6 action) and 42 Pa.C.S. § 763 (relating to direct appeals from
7 government agencies), the Supreme Court shall affirm all final
8 orders, determinations or decisions involving the selection of a
9 private entity to be party to a P3 agreement unless it finds
10 that the department or the Turnpike Commission committed an
11 error of law or that the order, determination or decision of the
12 department or the Turnpike Commission was arbitrary or there was
13 a capricious disregard of the evidence.

14 Section 6. Section 1901 of Title 75 is amended by adding a
15 subsection to read:

16 § 1901. Exemption of persons, entities and vehicles from fees.

17 * * *

18 (c.1) Information concerning drivers and vehicles.--No fee
19 shall be charged to a private entity party to a P3 agreement for
20 a Pennsylvania Turnpike facility under 74 Pa.C.S. Ch. 92
21 (relating to public-private transportation projects) for a copy
22 of written or electronic information relating to registration,
23 title or security interest requested under section 1955(a)
24 (relating to information concerning drivers and vehicles).

25 * * *

26 Section 7. Section 6110 of Title 75 is amended to read:

27 § 6110. Regulation of traffic on Pennsylvania Turnpike.

28 (a) General rule.--The provisions of this [title] section
29 apply upon any turnpike or highway under the supervision and
30 control of the Pennsylvania Turnpike Commission [unless

1 specifically modified by rules and regulations promulgated by
2 the commission which shall become effective only upon
3 publication in accordance with law.] and any highway in respect
4 of which the Pennsylvania Turnpike Commission has entered into
5 an agreement with a private entity under 74 Pa.C.S. § 9203
6 (relating to P3 agreement). The department, or the Pennsylvania
7 Turnpike Commission with the department's written approval, may
8 promulgate rules and regulations implementing this section. A
9 copy of the rules and regulations, so long as they are
10 effective, shall be posted at all entrances to the turnpike or
11 highway for the inspection of persons using the turnpike or
12 highway. This section does not authorize the establishment of a
13 maximum speed limit greater than 55 miles per hour, except that
14 a 65-miles-per-hour maximum speed limit for all vehicles may be
15 established where the commission has posted a 65-miles-per-hour
16 speed limit.

17 (a.1) Posting.--No maximum speed limit established under
18 subsection (a)(1) or (2) shall be effective unless posted on
19 fixed or variable official [traffic-control] traffic-controlled
20 devices erected after each interchange on the portion of highway
21 on which the speed limit is in effect and wherever else the
22 commission shall determine.

23 (b) Penalties.--

24 (1) Except as otherwise provided in this subsection, any
25 person violating any of the rules and regulations of the
26 Pennsylvania Turnpike Commission for which no penalty has
27 otherwise been provided by statute commits a summary offense
28 and shall, upon conviction, be sentenced to pay a fine of
29 \$25.

30 (2) Any person violating any of the rules and

1 regulations of the commission prohibiting fare evasion or
2 attempted fare evasion commits a summary offense and shall,
3 upon conviction, be sentenced to pay a fine according to the
4 classification by the commission of the vehicle driven by
5 that person at the time of violation as follows:

6 (i) Class 1 through 2: \$100.

7 (ii) Class 3 through 6: \$500.

8 (iii) Class 7 and higher: \$1,000.

9 (2.1) The amount of the fines under paragraphs (1) and
10 (2) shall increase each January 1 over the then existing
11 amount of the fine by the lesser of 2.5% or the percentage
12 increase in the Consumer Price Index for July of the
13 preceding year over the Consumer Price Index for July of the
14 year prior to the preceding year. The Pennsylvania Turnpike
15 Commission shall transmit a notice of the resulting increase
16 in the fine to the Legislative Reference Bureau for
17 publication in the Pennsylvania Bulletin not later than
18 January 1 of each year.

19 (3) In addition to the fines imposed under this
20 subsection, restitution shall be made to the commission or
21 its authorized agent in an amount equal to the full fare, for
22 the appropriate vehicle class, from the farthest point of
23 entry on the turnpike to the actual point of exit.

24 (c) Definitions.--As used in this section, the following
25 words and phrases shall have the meanings given to them in this
26 subsection unless the context clearly indicates otherwise:

27 "Authorized agent." Any private entity party to an agreement
28 entered into with the Pennsylvania Turnpike Commission
29 concerning a Pennsylvania Turnpike facility under 74 Pa.C.S. §
30 9203 (relating to P3 agreement).

1 "Consumer Price Index." The Consumer Price Index for Urban
2 Wage Earners and Clerical Workers (CPI-W) for the Northeast
3 Region, as published by the Bureau of Labor Statistics of the
4 United States Department of Labor.

5 Section 8. Sections 8915.1, 8915.2, 8915.3, 8915.4, 8915.5,
6 8915.6, 8915.7, 8917 and 8918 of Title 75 are repealed:

7 [§ 8915.1. Conversion of Interstate 80.

8 In order to facilitate vehicular traffic across this
9 Commonwealth, the commission is authorized and empowered to do
10 all of the following:

11 (1) Convert Interstate 80 to a toll road and maintain
12 and operate it as a toll road.

13 (2) Construct, reconstruct, widen, expand, extend,
14 maintain and operate Interstate 80 from a point at or near
15 the Ohio border to a point at or near the New Jersey border,
16 together with connecting roads, interchanges, slip ramps,
17 tunnels and bridges.

18 (3) Issue turnpike revenue bonds, notes or other
19 obligations, payable solely from revenues of the commission,
20 including tolls, or from funds as may be available to the
21 commission for that purpose, to pay the cost of constructing,
22 reconstructing, widening, expanding or extending Interstate
23 80 or any other costs of Interstate 80 and the Pennsylvania
24 Turnpike.

25 (4) Provide quarterly reports and periodic updates
26 regarding significant developments with respect to the
27 conversion of Interstate 80 to the chairman and minority
28 chairman of the Transportation Committee of the Senate and
29 the chairman and minority chairman of the Transportation
30 Committee of the House of Representatives. These reports

1 shall include, at a minimum, the status of outstanding
2 discussions with the United States Department of
3 Transportation regarding Interstate 80, the location and
4 construction of tolling-related equipment for Interstate 80,
5 planned capital improvements for Interstate 80 and other
6 information important to implementation of this section.

7 § 8915.2. Application to United States Department of
8 Transportation.

9 (a) Application.--The commission, in consultation with the
10 department and at its own expense, is authorized to prepare and
11 submit an application to the United States Department of
12 Transportation for the conversion of Interstate 80 to a toll
13 road. The secretary shall ensure that all information required
14 for the application is made available to the commission as soon
15 as practicable after the effective date of this section.

16 (b) Open system.--A toll system shall consist of what is
17 commonly referred to as an open system with no more than ten
18 toll collection points.

19 (c) Other agreements.--The commission and the department may
20 enter into any other agreements as may be necessary to
21 effectuate the execution of the application filed under this
22 section.

23 § 8915.3. Lease of Interstate 80; related agreements.

24 The department and the commission shall enter into a lease
25 agreement relating to Interstate 80 prior to October 15, 2007.
26 The lease agreement shall include provisions setting forth the
27 terms and conditions of the conversion of Interstate 80 to a
28 toll road. The lease agreement and any related agreement, at a
29 minimum, shall include the following:

30 (1) A provision that the term of the lease agreement

1 shall be 50 years, unless extended upon mutual agreement of
2 the parties to the lease agreement and upon approval of the
3 General Assembly.

4 (2) A provision establishing the conversion period and
5 authorizing extension of the conversion period at the sole
6 option of the commission for three one-year extension periods
7 after consultation with the secretary. The commission shall
8 notify the secretary of its intent to extend the conversion
9 period not less than 90 days before the scheduled expiration
10 of the conversion period. During the conversion period, all
11 legal, financial and operational responsibility for
12 Interstate 80 shall remain with the department. All
13 operations and programmed rehabilitation shall be maintained
14 at levels no less favorable than those set forth in the
15 department's 12-year plan at the time of the execution of the
16 lease, with modifications as are approved in writing by the
17 chairman of the commission.

18 (3) A provision permitting the commission to exercise
19 its option to convert Interstate 80 to a toll road prior to
20 the expiration of the conversion period by providing the
21 conversion notice to the secretary. Beginning on the
22 conversion date, all legal, financial and operational
23 responsibility for Interstate 80, as well as all toll
24 revenues subsequently collected with respect to its use,
25 shall automatically transfer to the commission. The
26 secretary, within five business days after receiving the
27 conversion notice, shall forward notice of the conversion
28 date to the Legislative Reference Bureau for publication in
29 the Pennsylvania Bulletin. Any revenues collected prior to
30 the conversion date shall be retained by the department. The

1 commission may contract with the department for any portion
2 of the maintenance of Interstate 80 at cost levels agreed to
3 by the department and the commission.

4 (4) A provision requiring the commission to pay annual
5 base payments to the department during the term of the lease
6 agreement.

7 (5) A provision requiring the commission to pay annual
8 additional payments to the department. The annual additional
9 payments shall be payable in four equal installments on the
10 last business day of each July, October, January and April of
11 each year during the term of the lease agreement.

12 (6) A provision requiring the commission to pay,
13 commencing in the fiscal year including the conversion date,
14 annual surplus payments to the department. The annual surplus
15 payments shall be payable by the commission within 30 days of
16 receipt by the commission of the Auditor General's
17 certificate.

18 (7) A provision stating that the obligation of the
19 commission to pay the annual base payments, the annual
20 additional payments and annual surplus payments shall be a
21 subordinate obligation of the commission payable from amounts
22 in the general reserve fund of the commission only as
23 permitted by any financing documents, financial covenants,
24 liquidity policies or agreements in effect at the commission.

25 § 8915.4. Initial payment.

26 (a) Commission payment required.--Within 20 days after the
27 effective date of this section, the commission shall pay to the
28 department an amount equal to \$62,500,000, which shall be
29 deposited into the Public Transportation Trust Fund. The amount
30 paid shall represent 25% of the amount the department is

1 required to deposit into the Public Transportation Trust Fund
2 under 74 Pa.C.S. § 1506(b)(1)(i)(A) (relating to fund) and is
3 payable by the commission under the lease agreement.

4 (b) Use of payment.--The department shall allocate the funds
5 received under subsection (a) pursuant to 74 Pa.C.S. Ch. 15
6 (relating to sustainable mobility options).

7 (c) Credits.--The payment made by the commission under this
8 section shall be credited against the total amount payable by
9 the commission under the lease agreement for the 2007-2008
10 fiscal year.

11 § 8915.5. Other interstate highways.

12 In order to facilitate vehicular traffic across this
13 Commonwealth and pursuant to the authority granted under this
14 chapter, the commission is hereby authorized and empowered to:

15 (1) at its own expense and in consultation with the
16 department, prepare a consulting civil engineer report and
17 financial analysis with respect to the feasibility of
18 converting any interstate highway or interstate highway
19 segment to a toll road or adding to said interstates
20 additional capacity projects financed by tolls; and

21 (2) at its own expense and in consultation with the
22 department and with approval of the General Assembly, prepare
23 and submit an application to the United States Department of
24 Transportation for the conversion of any interstate or
25 interstate segment determined to be eligible for conversion
26 to a toll road under any applicable Federal program.

27 § 8915.6. Deposit and distribution of funds.

28 (a) Deposits.--Upon receipt by the department, the following
29 amounts from the scheduled annual commission contribution shall
30 be deposited in the Motor License Fund:

- 1 (1) For fiscal year 2007-2008, \$450,000,000.
- 2 (2) For fiscal year 2008-2009, \$500,000,000.
- 3 (3) For fiscal year 2009-2010, \$500,000,000.
- 4 (4) For fiscal year 2010-2011 and each fiscal year
- 5 thereafter, the amount calculated for the previous year
- 6 increased by 2.5%.

7 (b) Distribution.--The following shall apply:

8 (1) Annually, 15% of the amount deposited in any fiscal

9 year under subsection (a) shall be distributed at the

10 discretion of the secretary.

11 (2) Annually, \$5,000,000 of the amount deposited in any

12 fiscal year under subsection (a) shall be distributed to

13 counties.

14 (i) The distribution shall be in the ratio of:

15 (A) the square footage of deck area of a

16 county's county-owned bridges; to

17 (B) the total square footage of deck area of

18 county-owned bridges throughout this Commonwealth.

19 (ii) The amount of square footage under subparagraph

20 (i) shall be that reported as part of the National Bridge

21 Inspection Standards Program.

22 (3) Annually, \$30,000,000 of the amount deposited in any

23 fiscal year under subsection (a) shall be distributed to

24 municipalities pursuant to the act of June 1, 1956 (1955

25 P.L.1944, No.655), referred to as the Liquid Fuels Tax

26 Municipal Allocation Law.

27 (4) Any funds deposited under subsection (a) but not

28 distributed under paragraphs (1), (2) and (3) shall be

29 distributed in accordance with needs-based formulas that are

30 developed and subject to periodic revision based on

1 consultation and collaboration among metropolitan planning
2 organizations, rural planning organizations and the
3 department.

4 (c) Definitions.--The following words and phrases when used
5 in this section shall have the meanings given to them in this
6 subsection unless the context clearly indicates otherwise:

7 "Metropolitan planning organization." The policy board of an
8 organization created and designated to carry out the
9 metropolitan transportation planning process.

10 "Rural planning organization." The organization of counties
11 with populations of less than 50,000 created and designated as
12 local development districts and which carry out the rural
13 transportation planning process.

14 § 8915.7. Impact on associated highways and local roads.

15 Prior to the conversion date and within one year following
16 the conversion date, the commission, in collaboration with the
17 department, shall conduct traffic studies to determine the
18 average daily traffic on associated roads and highways. The
19 purpose of these studies will be to quantify any diversion of
20 traffic from Interstate 80 to other roadways as a result of the
21 conversion. This section shall not require duplication of
22 traffic studies undertaken by the commission as a part of the
23 conversion process or undertaken by the department as a normal
24 course of the department's operations.

25 § 8917. Financial plan.

26 (a) Submission.--

27 (1) No later than June 1 of each year, the commission
28 shall prepare and provide to the Secretary of the Budget a
29 financial plan for the ensuing fiscal year of the commission
30 that describes the commission's proposed:

- (i) operating and capital expenditures;
- (ii) borrowings;
- (iii) liquidity and other financial management covenants and policies;
- (iv) estimated toll rates; and
- (v) all other revenues and expenditures.

(2) The financial plan shall demonstrate that the operation of the commission in accordance with the plan can reasonably be anticipated to result in the commission having unencumbered funds during the ensuing and future fiscal years of the commission sufficient to make the payments due to the department under this chapter and the lease agreement for the ensuing and future fiscal years after all other obligations of the commission have been met. Financial plans prepared after June 1, 2008, shall also describe any deviations that occurred from the financial plan for the prior fiscal year of the commission and the reasons for the deviations.

(b) Receipt.--If the Secretary of the Budget receives the financial plan by the date required under subsection (a), the commission shall be authorized to conduct its operations in accordance with the plan. The financial plan may not be amended by the commission unless the commission notifies the secretary in writing of the amendment.

(c) Cooperation.--The commission shall provide to the Secretary of the Budget all information requested in connection with review of a financial plan, including materials used to prepare the plan. The information shall be provided as soon as practicable after the request.

(d) Effect of provisions.--Nothing in this section shall be deemed to prevent the commission from conducting its normal

1 course of business or prevent the commission from complying with
2 any covenants made to current bondholders, debt holders or
3 creditors.

4 (e) Lease agreement.--The provisions of this section and
5 section 8918 (relating to failure to perform) shall be included
6 in the lease agreement.

7 § 8918. Failure to perform.

8 (a) Notice.--The Secretary of the Budget shall send written
9 notice to the commission and to the Governor of the failure of
10 the commission to do any of the following:

11 (1) Make a payment to the department under this chapter
12 or the lease agreement.

13 (2) Deliver a financial plan to the Secretary of the
14 Budget within the time prescribed under section 8917
15 (relating to financial plan).

16 (b) Unanimous vote required.--

17 (1) Except as provided under paragraph (1.1), upon the
18 receipt by the commission of the notice under subsection (a)
19 and notwithstanding any other provision of law, action of the
20 commission taken by vote of the commissioners shall require a
21 unanimous vote of all commissioners. Violation of this
22 paragraph shall render the action invalid.

23 (1.1) A unanimous vote shall not be required if it would
24 prevent the commission from complying with any covenants made
25 to current bondholders, debt holders or creditors.

26 (2) The requirement of paragraph (1) shall continue
27 until:

28 (i) the required payments have been made to the
29 department or the required financial plan has been
30 delivered; and

(ii) the Secretary of the Budget has notified the
commission and the Governor of that fact.]

Section 9. Title 75 is amended by adding a section to read:

§ 9511.14. Limitation on issuance of bonds.

After June 29, 2008, the commission shall not issue any
special revenue bond, note or other obligation under this
chapter unless the department causes a notice to be published in
the Pennsylvania Bulletin stating that negotiations with the
private entity selected as the winning bidder for a Pennsylvania
Turnpike facility have been terminated after the award of the P3
agreement but prior to the execution of the agreement or that
the initial P3 agreement for a Pennsylvania Turnpike facility
has been terminated prior to the lease and demise of the
Pennsylvania Turnpike facility to a private entity under the P3
agreement.

Section 10. The following shall apply:

(1) The Department of Transportation and the
Pennsylvania Turnpike Commission are authorized and directed
to terminate the lease agreement relating to Interstate 80
within 30 days of the date on which the notice is published
under section 11(1) of this act.

(2) During the period beginning on the effective date of
this section and ending on the date on which the notice is
published under section 11(2) of this act, the commission
shall not be required to make any annual base payments,
annual additional payments or annual surplus payments to the
department.

(3) Any annual base payments, annual additional payments
or surplus payments made by the commission to the department
under the lease agreement relating to Interstate 80 prior to

1 the effective date of this section shall be retained by the
2 department and applied as provided under former 75 Pa.C.S. §
3 8915.6.

4 (4) Actions taken with respect to the issuance of a
5 request for qualifications and the selection by the
6 department of a private entity to be party to a P3 agreement
7 for a Pennsylvania Turnpike facility made prior to the
8 effective date of this section that would have been valid
9 under 74 Pa.C.S. Ch. 92 are ratified and validated.

10 Section 11. The following shall apply:

11 (1) The Secretary of Transportation shall transmit
12 notice of the demise and lease of a Pennsylvania Turnpike
13 facility to a private entity under a P3 agreement entered
14 into under 74 Pa.C.S. Ch. 92 to the Legislative Reference
15 Bureau for publication in the Pennsylvania Bulletin.

16 (2) The Secretary of Transportation shall transmit
17 notice of the termination of negotiations with the private
18 entity selected as the winning bidder for a Pennsylvania
19 Turnpike facility prior to the execution of a P3 agreement or
20 the termination of a P3 agreement for a Pennsylvania Turnpike
21 facility entered into under 74 Pa.C.S. Ch. 92 after the award
22 of the agreement but prior to the lease and demise of the
23 facility to a private entity, to the Legislative Reference
24 Bureau for publication in the Pennsylvania Bulletin.

25 Section 12. Repeals are as follows:

26 (1) The General Assembly declares that the repeal under
27 paragraph (2) is necessary to effectuate the addition of 74
28 Pa.C.S. Pt. V.

29 (2) Section 15 of the act of May 21, 1937 (P.L.774,
30 No.211), entitled "An act to facilitate vehicular traffic

1 between the eastern and western sections of the Commonwealth
2 by providing for the construction, operation and maintenance
3 of a turnpike from a point at or near Middlesex in Cumberland
4 County to a point at or near Irwin in Westmoreland County;
5 providing for the creation of the Pennsylvania Turnpike
6 Commission, and conferring powers and imposing duties on said
7 commission; authorizing the issuance of turnpike revenue
8 bonds of the Commonwealth, payable solely from tolls, to pay
9 the cost of such turnpike; providing that no debt of the
10 Commonwealth shall be incurred in the exercise of any of the
11 powers granted by this act; providing for the collection of
12 tolls for the payment of such bonds and for the cost of
13 maintenance, operation and repair of the turnpike; making
14 such bonds exempt from taxation; constituting such bonds
15 legal investments in certain instances; prescribing
16 conditions upon which such turnpike shall become free;
17 providing for condemnation; granting certain powers and
18 authority to municipal subdivisions and agencies of the
19 Commonwealth to cooperate with the commission; and
20 authorizing the issuance of turnpike revenue refunding
21 bonds," is repealed.

22 (3) The provisions of 74 Pa.C.S. Ch. 81 are repealed to
23 the extent they are inconsistent with the provisions of 74
24 Pa.C.S. § 9219.

25 (4) All act and parts of acts are repealed to the extent
26 they are inconsistent with the provisions of this act.

27 Section 13. This act shall take effect as follows:

28 (1) Sections 1, 3 and 8 of this act shall take effect
29 upon publication of the notice under section 11(1) of this
30 act.

1 (2) The remainder of this act shall take effect
2 immediately.