

GENERAL LOCAL GOVERNMENT CODE (53 PA.C.S.), TRANSPORTATION (74
PA.C.S.) AND VEHICLE CODE (75 PA.C.S.) - OMNIBUS AMENDMENTS
Act of Jul. 18, 2007, P.L. 169, No. 44 Cl. 53
Session of 2007
No. 2007-44

HB 1590

AN ACT

Amending Titles 53 (Municipalities Generally), 74 (Transportation) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, providing for minority and women-owned business participation; authorizing local taxation for public transportation assistance; repealing provisions relating to public transportation assistance; providing for transportation issues and for sustainable mobility options; consolidating the Turnpike Organization, Extension and Toll Road Conversion Act; providing for Turnpike Commission Standards of Conduct; in provisions on the Pennsylvania Turnpike, further providing for definitions, for authorizations and for conversion to toll roads and providing for conversion of Interstate 80, for application, for lease of Interstate 80, for payments, for other interstate highways, for fund distribution, for impact, for financial plan and for nonperformance; in taxes for highway maintenance and construction, providing for definitions; further providing for imposition and for allocation of proceeds; providing for special revenue bonds, for expenses, for application of proceeds of obligations, for trust indenture, for exemption, for pledged revenues, for special revenue refunding bonds, for remedies, for Motor License Fund proceeds, for construction and for funding; and making related repeals.

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

Section 1. Title 53 of the Pennsylvania Consolidated Statutes is amended by adding a chapter to read:

CHAPTER 86
TAXATION FOR PUBLIC TRANSPORTATION

Sec.

8601. Scope of chapter.

8602. Local financial support.

§ 8601. Scope of chapter.

This chapter relates to local funding for sustainable mobility options.

§ 8602. Local financial support.

(a) Imposition.--Notwithstanding any other provision of law, a county of the second class may obtain financial support for transit systems by imposing one or more of the taxes under subsection (b). Money obtained from the imposition shall be deposited into a restricted account of the county.

(b) Taxes.--

(1) A county of the second class may, by ordinance, impose any of the following taxes:

(i) A tax on the sale at retail of liquor and malt and brewed beverages within the county. The ordinance shall be modeled on the act of June 10, 1971 (P.L.153,

No.7), known as the First Class School District Liquor Sales Tax Act of 1971, and the rate of tax authorized under this subparagraph may not exceed the rate established under that act.

(ii) An excise tax on each renting of a rental vehicle in the county. The rate of tax authorized under this subparagraph may not exceed the rate established under section 2301(e) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971. As used in this subparagraph, the term "rental vehicle" has the meaning given to it in section 1601-A of the Tax Reform Code of 1971.

(2) (Reserved).

(c) Definition.--For purposes of this section, the term "county of the second class" shall not include a county of the second class A.

Section 1.1. Title 74 is amended by adding a section to read:

§ 303. Minority and women-owned business participation.

(a) General rule.--In administering the provisions of this title, the department and any local transportation organization shall:

(1) Be responsible for ensuring that all competitive contract opportunities issued by the department or local transportation organization seek to maximize participation by minority-owned and women-owned businesses and other disadvantaged businesses.

(2) Give consideration, when possible and cost effective, to contractors offering to utilize minority-owned and women-owned businesses and disadvantaged businesses in the selection and award of contracts.

(3) Ensure that the department's and local transportation organizations' commitment to the minority-owned and women-owned business program is clearly understood and appropriately implemented and enforced by all department and local transportation organization employees.

(4) Designate a responsible official to supervise the department and local transportation organization minority-owned and women-owned business program and ensure compliance within the department or local transportation organization.

(5) Furnish the Department of General Services, upon request, all requested information or assistance.

(6) Recommend sanctions to the Secretary of General Services, as may be appropriate, against businesses that fail to comply with the policies of the Commonwealth minority-owned and women-owned business program. This paragraph shall not apply to a local transportation organization.

(b) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Disadvantaged business." A business that is owned or controlled by a majority of persons, not limited to members of minority groups, who are subject to racial or ethnic prejudice or cultural bias.

"Local transportation organization." Any of the following:

(1) A political subdivision or a public transportation authority, port authority or redevelopment authority organized under the laws of this Commonwealth or pursuant

to an interstate compact or otherwise empowered to render, contract for the rendering of or assist in the rendering of transportation service in a limited area in this Commonwealth, even though it may also render or assist in rendering transportation service in adjacent states.

(2) A nonprofit association that directly or indirectly provides public transportation service.

(3) A nonprofit association of public transportation providers operating within this Commonwealth.

"Minority-owned business." A business owned and controlled by a majority of individuals who are African Americans, Hispanic Americans, Native Americans, Asian Americans, Alaskans or Pacific Islanders.

"Women-owned business." A business owned and controlled by a majority of individuals who are women.

Section 2. Subject to section 9 of this act, Chapter 13 of Title 74 is repealed:

[CHAPTER 13

PUBLIC TRANSPORTATION ASSISTANCE

§ 1301. Definitions.

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

"Asset maintenance costs." All vehicle maintenance expenses, nonvehicle maintenance expenses and materials and supplies used in the operation of local transportation organizations and transportation companies.

"Average fare." Total passenger revenue divided by the total number of fare-paying passengers. With regard to the calculation of average fare or base fare for the reimbursement of losses resulting from free service to senior citizens authorized by this part, the Department of Transportation shall not differentiate between bus services provided within an operating unit or division of any transit agency for any reason. Services funded under either the State urban or rural operating assistance programs will be considered separate operating units.

"Bus." A motor vehicle designed for carrying 15 or more passengers, exclusive of the driver, and used for the transportation of persons, and a motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

"Capital project." Any system of public passenger or public passenger and rail transportation, including, but not limited to, any railway, street railway, subway, elevated and monorail passenger or passenger and rail rolling stock, including self-propelled and gallery cars, locomotives, passenger buses and wires, poles and equipment for the electrification of any of the foregoing, rails, tracks, roadbeds, guideways, elevated structures, buildings, stations, terminals, docks, shelters, airports and parking areas for use in connection with public passenger or public passenger and rail transportation systems, interconnecting lines and tunnels to provide passenger or passenger and rail service connections between transportation systems, transportation routes, corridors, and rights-of-way for any thereof (but not for public highways), signal and communication systems necessary or desirable for the construction, operation or improvement of the public passenger or passenger and rail transportation system involved, or any improvement of or overhaul of any vehicle, equipment or furnishings for any of the foregoing or any part, or fractional and undivided co-ownership or leasehold interest in any one or

combination of any of the foregoing, that may be designated as a capital project by the secretary.

"Class 1 transit entity." A local transportation organization or transportation company operating 1,000 or more transit vehicles in the peak period.

"Class 2 transit entity." A local transportation organization or transportation company operating more than 300 but less than 1,000 transit vehicles in the peak period.

"Class 3 transit entity." A local transportation organization or transportation company operating 300 or less fixed-route transit vehicles in the peak period serving an urbanized area.

"Class 4 transit entity." Any local transportation organization or transportation company which serves a nonurbanized area and, during the 1990-1991 fiscal year, received or was approved to receive funding under the act of February 11, 1976 (P.L.14, No.10), known as the Pennsylvania Rural and Intercity Common Carrier Surface Transportation Assistance Act.

"Class 4 transit entity adjusted base grant." The State subsidy for operating expenses a Class 4 transit entity received during the 1990-1991 fiscal year, including any funds appropriated under the act of February 11, 1976 (P.L.14, No.10), known as the Pennsylvania Rural and Intercity Common Carrier Surface Transportation Assistance Act; adjusted for factors which, in the judgment of the department, caused significant increases or decreases in the amount of State subsidy to a Class 4 transit entity during the 1990-1991 fiscal year; and further adjusted, with respect to any Class 4 transit entity which received a State subsidy for less than the entire 1990-1991 fiscal year, to reflect the annual subsidy that Class 4 transit entity would have received during that fiscal year if it had received a State subsidy for that entire fiscal year.

"Community transportation programs." Programs eligible to be funded pursuant to section 1312 (relating to community transportation programs).

"Construction." The term includes acquisition as well as construction.

"Counties." The term includes any county.

"County transportation system." Buses, vans or other transit vehicles purchased, maintained and operated by any county and used to provide free or reduced rate transportation within the county to persons 65 years of age or older.

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

"Equipment" and "furnishings." Any equipment and furnishings whatsoever as may be deemed desirable and required for a capital project and approved by the Department of Transportation for the use and occupancy of that capital project. The terms include the installation of such equipment and furnishings.

"Federal agency." The United States of America, the President of the United States of America and any department of, or corporation, agency or instrumentality heretofore or hereafter created, designated or established by, the United States of America.

"Fixed-route public transportation services." Regularly scheduled transportation that is available to the general public and is provided according to published schedules along designated published routes with specified stopping points for the taking on and discharging of passengers, including public bus and commuter rail systems. The term does not include

exclusive ride taxi service, charter or sightseeing services, nonpublic transportation or school bus or limousine services.

"Fund." The Public Transportation Assistance Fund.

"Improvement." Any extension, enlargement, equipping, furnishing, as well as any improvement.

"Local transportation organization." Any political subdivision or any mass transportation, port, redevelopment or airport authority now or hereafter organized under the Laws of Pennsylvania or pursuant to an interstate compact or otherwise empowered to render, contract for the rendering or assist in the rendering of transportation service in a limited area in the Commonwealth of Pennsylvania, even though it may also render or assist in rendering transportation service in adjacent states, or any nonprofit association of public transportation providers within this Commonwealth.

"Materials and supplies." Those categories of expenses contained in object class code 504 as specified in the National Urban Mass Transportation Statistics, 1989 Section 15 Annual Report, Report No. UMTA-IT-06-0352-90-1.

"Municipality." Includes any city, borough, incorporated town or township.

"Nonurbanized area." Any area in this Commonwealth which does not fall within an area classified as "urbanized" by the United States Bureau of the Census of the United States Department of Commerce in the 1990 Census of Population or any area in this Commonwealth not classified as "urbanized" in any future decennial census of the United States.

"Nonvehicle maintenance expenses." The categories of costs associated with the inspection, maintenance and repair of assets other than vehicles, as specified in the National Urban Mass Transportation Statistics, 1989 Section 15 Annual Report, Report No. UMTA-IT-06-0352-90-1.

"Pennsylvania Mass Transit Statistical Report." The summary of selected financial and operating data concerning local transportation organizations and transportation companies for services in urbanized areas published annually by the Department of Transportation since the 1973-1974 fiscal year. The department shall publish the Pennsylvania Mass Transit Statistical Report on an annual basis, which report shall contain statistics with respect to the prior fiscal year, including those statistics needed for the department to make the calculations required pursuant to sections 1303 (relating to annual appropriation and computation of subsidy) and 1310 (relating to distribution of funding), and such other material as the department shall determine.

"Pennsylvania Rural and Small Urban Public Transportation Program Statistical Report." The summary of selected financial and operating data concerning rural and small urban local transportation organizations and transportation companies for services in nonurbanized areas published by the Department of Transportation. The department shall publish the Pennsylvania Rural and Small Urban Public Transportation Program Statistical Report on an annual basis, which report shall contain statistics with respect to the prior fiscal year, including those statistics needed for the department to make the calculations required pursuant to sections 1303 (relating to annual appropriation and computation of subsidy) and 1310 (relating to distribution of funding), and such other material as the department shall determine.

"Person." The term includes natural persons, firms, associations, corporations, business trusts, partnerships and public bodies, including local transportation organizations.

"Planning, development, research, rural expansion and department-initiated programs." Any program eligible to be funded pursuant to section 1313 (relating to additional programs).

"Project grant." The Commonwealth's share of the cost of carrying out the particular project, which cost may include costs incurred prior to the effective date of this part and which cost shall include an appropriate allowance for the administrative expenses involved in carrying out the project.

"Property." All property, real, personal or mixed, tangible or intangible, or any interest therein, including fractional and undivided co-ownership interests.

"Public highway." Every way or place, of whatever nature, open to the use of the public as a matter of right for purposes of vehicular travel. Solely for the purpose of administering this part, the term shall not be deemed to include a bridge located wholly within this Commonwealth which is open to the use of the public for the purpose of vehicular traffic but which on March 15, 1964, was owned and maintained by a mass transportation or port authority and which comprises a part of the transportation system of the mass transportation or port authority.

"Revenue hours." The total amount of time, calculated in hours, during which vehicles of a Class 4 transit entity are in service and available for public use as reported with respect to the most recent fiscal year in the most recently issued Pennsylvania Rural and Small Urban Public Transportation Statistical Report.

"Revenue miles." The total number of in-service miles traveled by vehicles of a Class 4 transit entity as reported with respect to the most recent fiscal year in the most recently issued Pennsylvania Rural and Small Urban Public Transportation Statistical Report.

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

"Shared-ride public transportation services." Demand-responsive transportation that is available to the general public, operates on a nonfixed route basis and charges a fare to all riders. For transportation to be included in this definition the first fare-paying passengers to enter the public transportation vehicle must not refuse to share the vehicle with other passengers during a given trip. Services excluded under this definition are: exclusive ride taxi service; charter and sightseeing services; nonpublic transportation; school bus or limousine services.

"Transit vehicle." A self-propelled or electrically propelled vehicle designed for carrying 15 or more passengers, exclusive of the driver, other than a taxicab, designed and used for the transportation of persons for compensation, including, but not limited to, subway cars, trolleys, trackless trolleys and railroad passenger cars.

"Transportation company." Any person, firm or corporation rendering public passenger or public passenger and rail transportation service, with or without the rendering of other service, in this Commonwealth pursuant to common carrier authorization from the Pennsylvania Public Utility Commission or the Interstate Commerce Commission.

"Urban common carrier mass transportation." Transportation within an area that includes a municipality or other built-up place which is appropriate, in the judgment of the Department of Transportation, for a common carrier transportation system to serve commuters or others in the locality, taking into

consideration the local patterns and trends of urban growth, by bus or rail or other conveyance, either publicly or privately owned, serving the general public. The term does not include school buses or charter or sightseeing service.

"Urban Mass Transportation Act of 1964." Public Law 88-365, 49 U.S.C. § 1601 et seq.

"Urbanized area." A portion of this Commonwealth classified as "urbanized" by the United States Bureau of the Census of the United States Department of Commerce in the 1990 Census of Population or any area in this Commonwealth classified as "urbanized" in any future decennial census of the United States.

"Vehicle hours." The total amount of time, calculated in hours, during which vehicles of a local transportation organization or transportation company are in service and available for public use, listed with respect to the most recent fiscal year reported in the most recently issued Pennsylvania Mass Transit Statistical Report.

"Vehicle maintenance expenses." The categories of costs associated with the inspection, maintenance and repair of vehicles as specified in the National Urban Mass Transportation Statistics, 1989 Section 15 Annual Report, Report No. UMTA-IT-06-0352-90-1.

"Vehicle miles." The total distance, calculated in miles, which is funded in whole or in part by this part, traveled by vehicles of a local transportation organization or transportation company listed with respect to the most recent fiscal year reported in the most recently issued Pennsylvania Mass Transit Statistical Report.

§ 1302. Program authorizations.

The department is hereby authorized, within the limitations hereinafter provided, and is required where the provisions of section 1303 (relating to annual appropriation and computation of subsidy) apply:

(1) To undertake and to provide financial support for research, by contract or otherwise, concerning urban common carrier mass transportation.

(2) To make grants to municipalities, counties, or their instrumentalities, and to agencies and instrumentalities of the Commonwealth to supplement Federal or local or Federal and local funds for use:

(i) For the purpose of studies, analysis, planning and development of programs for urban common carrier mass transportation service and facilities, and for the purpose of activities related to the planning, engineering and designing of specific projects which are a part of a comprehensive program, including, but not limited to, activities such as studies related to management, operations, capital requirements and economic feasibility, to the preparation of engineering and architectural surveys, plans and specifications and to other similar or related activities preliminary to and in preparation for the construction, acquisition or improved operation of urban common carrier mass transportation systems, facilities and equipment. State funding under this subparagraph shall not exceed five-sixths of the non-Federal share of the project costs.

(ii) To provide for research, development and demonstration projects in all phases of urban common carrier mass transportation, including the development, testing and demonstration of new facilities, equipment, techniques and methods, to assist in the solution of

urban transportation problems, in the improvement of mass transportation service and the contribution of such service toward meeting total urban transportation needs at minimum cost. State funding under this subparagraph shall not exceed five-sixths of the non-Federal share of the project costs.

(iii) To assist in providing grants to continue necessary service to the public, to permit needed improvements in service which are not self-supporting, to permit service which may be socially desirable but economically unjustified, and otherwise for any purpose in furtherance of urban common carrier mass transportation. The methodology for calculating the amount of the grant under this subparagraph shall be determined in accordance with section 1303. Each grant to a Class 1 transit entity, to a Class 2 transit entity or to a Class 3 transit entity made pursuant to this paragraph shall be matched by local or private funding in an amount not less than one-third of the total State grant made pursuant to section 1303(b). Any grants to Class 3 transit entities may, however, be matched by an amount not less than the amount of local or private funding which is specified in the State contract for the 1990-1991 fiscal year if the department shall have received a certification from such Class 3 transit entity that such lower level of local or private funding is adequate to prevent significant service reductions or passenger fare increases.

(3) To make grants to any transportation company or companies for use in providing necessary service to the public, to permit needed improvements in services which are not self-supporting, to permit services which may be socially desirable but economically unjustified, and otherwise for any purpose in furtherance of urban common carrier mass transportation. In view of the particular sensitivity of special instrumentalities and agencies of the Commonwealth created to serve or coordinate the local transportation needs of substantial metropolitan areas, no grant moneys may be used exclusively or principally in the local service area of any such agency or instrumentality in which a city or county of the first or second class has membership, except in accordance with a system of priorities agreed upon by the department and such agency or instrumentality. In the case of a grant where the moneys granted will be used for an activity to be conducted exclusively or principally within the local service areas of such agency or instrumentality, no grant moneys may be used except in accordance with agreements by the department and such agency or instrumentality with respect to such use. In the case of a grant not falling within the scope of the preceding sentence but where moneys granted will be used both within and without the local service area of such agency or instrumentality, the grant shall require that the routes, schedules and fares applicable only within such service areas shall be those mutually agreed upon by the department and such agency or instrumentality. No agreement referred to in this paragraph shall impair, suspend, reduce, enlarge or extend or affect in any manner the powers of the Pennsylvania Public Utility Commission or the Interstate Commerce Commission otherwise applicable by law. Each grant to a Class 1 transit entity, to a Class 2 transit entity or to a Class 3 transit entity made pursuant to this paragraph shall be matched by local

or private funding in an amount not less than one-third of the total State grant made pursuant to section 1303(b). Any grants to Class 3 transit entities may, however, be matched by an amount not less than the amount of local or private funding which is specified in the State contract for the 1990-1991 fiscal year if the department shall have received a certification from such Class 3 transit entity that such lower level of local or private funding is adequate to prevent significant service reductions and/or passenger fare increases.

(4) In connection with privately or locally assisted capital projects or capital projects financed with private or local and Federal funds, to make grants for approved capital projects to a local transportation organization or a transportation company, including the acquisition, construction, reconstruction and improvement of facilities and equipment, buses and other rolling stock, and other real or personal property, including land (but not public highways), needed for an efficient and coordinated mass transportation system for use, by operation, lease or otherwise, in urban common carrier mass transportation service and in coordinating such service with highway and other transportation. No capital project grant shall be made for the purpose of financing, directly or indirectly, the acquisition of any interest in, or the purchase of any facilities or other property of, a private urban common carrier mass transportation company. Each capital project shall be based on a program or plan approved by the department. No capital project grant shall exceed five-sixths of the non-Federal share, subject, however, to the following specific exceptions:

(i) If two or more capital projects are combined for financing purposes, the amount of department funds used for any one of such projects may exceed five-sixths of the non-Federal share, provided that the total amount of department funds provided for all the projects so combined does not exceed five-sixths of the total non-Federal share of all of the projects so combined.

(ii) If a capital project is eligible to receive Federal financial assistance under the Urban Mass Transportation Act of 1964 and if the project application for such Federal financial assistance has been rejected or delayed because of a lack of Federal funds or if the normal amount of Federal grant cannot be provided because of a lack of Federal funds and if the department has determined that the capital project is essential and should proceed without delay, department funds for such capital project may be increased temporarily to finance the entire net project cost, with the requirement that, upon the availability of additional Federal funds and the making to the capital project of a new or an additional Federal grant, the amount of department funds in excess of five-sixths of the non-Federal share be refunded to the department or be applied as the department may direct to help meet the department's share of the cost of another project in which the department is a participant.

(iii) If a project is ineligible to receive Federal financial assistance under the Urban Mass Transportation Act of 1964 and if the department has determined that the project is essential and should proceed without delay, the amount of department funds for such project

shall be limited to an amount not to exceed one-half of the net project cost.

(5) To make grants from the State Lottery Fund in accordance with Chapter 7 of the act of August 14, 1991 (P.L.342, No.36), known as the Lottery Fund Preservation Act.

(6) To participate in a pooled bus acquisition program with transportation companies or local transportation organizations and the Federal Government for the purpose of making buses available to transportation companies or local transportation organizations for use in urban common carrier mass transportation service, in accordance with the following procedures:

(i) The department may apply to the Urban Mass Transportation Administration of the United States Department of Transportation for the Federal share of any pooled-bus acquisition project.

(ii) The department may, with the assistance of the Department of General Services or a special group comprised of representatives of the transportation companies or local transportation organizations within the Commonwealth, write specifications for and order buses on behalf of any number of transportation companies or local transportation organizations desiring bus acquisition under this program.

(iii) Before any order for buses is placed by the department with a manufacturer, the department shall secure written assurance from the Federal Government of the availability of Federal financial assistance for such bus acquisitions. The department shall also secure written obligations by the transportation companies or local transportation organizations participating in such bus acquisitions that they will accept delivery of such buses at the appropriate time and will supply local funding in accordance with subparagraph (iv).

(iv) Funding for this program shall be: four-fifths Federal, one-sixth State and one-thirtieth from local sources; however, the local share of program costs may be advanced to the manufacturer by the Commonwealth at the time of purchase. Repayments to the Commonwealth of such advancements shall be considered as augmentations to the fund from which the funds were advanced. No part of the Federal share shall be advanced by the Commonwealth in anticipation of reimbursement.

(v) The Commonwealth may take title to and delivery of vehicles acquired pursuant to this program for eventual transfer to transportation companies or local transportation organizations.

(vi) All bus acquisitions under this program shall be made in accordance with a system of competitive bidding.

(vii) At its discretion, the department may organize and fund, with Commonwealth funds, postacquisition studies reasonably related to any pooled-bus acquisition made pursuant to this section, including, but not limited to, a vehicle inspection study at an appropriate interval or intervals following acquisition in order to monitor the condition of any vehicle purchased pursuant to this section.

§ 1303. Annual appropriation and computation of subsidy.

(a) General rule.--Beginning with the 1991-1992 fiscal year, the Commonwealth shall annually determine the level of

appropriation for public transportation assistance, using the standards contained in this section, to sufficiently fund and to make fully operative section 1302(2)(iii) and (3) (relating to program authorizations).

(b) Distribution as grants.--The General Assembly shall annually make an appropriation to the department for distribution as grants to local transportation organizations and transportation companies. The total amount of moneys appropriated shall be distributed by the department as grants to local transportation organizations and transportation companies in accordance with the provisions of this section.

(c) Distribution formula.--The department shall distribute the total amount appropriated under subsection (b) in the following manner:

(1) The department shall calculate the Class 4 transit entity share for the fiscal year.

(2) The department shall then calculate the amount of grant due to each Class 4 transit entity as follows:

(i) From the Class 4 transit entity share, each Class 4 transit entity shall first receive an amount equal to 100% of its Class 4 transit entity adjusted base grant.

(ii) With respect to any portion of the Class 4 transit entity share remaining after each Class 4 transit entity receives an amount equal to 100% of its Class 4 transit entity adjusted base grant:

(A) Fifty percent of such excess shall be distributed to Class 4 transit entities based upon the percentage of the total amount of all Class 4 transit entity adjusted base grants given to Class 4 transit entities which a particular Class 4 transit entity received.

(B) Twenty-five percent of such excess shall be distributed to Class 4 transit entities based upon each transit entity's Class 4 revenue mile percentage. The actual amount received by each Class 4 transit entity under this clause shall be determined by multiplying a particular Class 4 transit entity's Class 4 revenue mile percentage times 25% of such excess of the Class 4 transit entity share.

(C) Twenty-five percent of such excess shall be distributed to Class 4 transit entities based upon each transit entity's Class 4 revenue hour percentage. The actual amount received by each Class 4 transit entity under this clause shall be determined by multiplying a particular Class 4 transit entity's Class 4 revenue hour percentage times 25% of such excess of the Class 4 transit entity share.

(3) All Class 4 transit entities may utilize all of the funds received pursuant to this section for any purpose in furtherance of public transportation. Each grant made to a Class 4 transit entity pursuant to this section shall, however, be matched by local or private funding in an amount not less than one-third of the total State grant made pursuant to subsection (c). Additionally, any grants to Class 4 transit entities may be matched by an amount not less than the amount of local or private funding which is specified in the State contract for the 1990-1991 fiscal year if the department shall have received a certification from such Class 4 transit entity that such lower level of local or

private funding is adequate to prevent significant service reductions or passenger fare increases.

(4) The department shall calculate the Class 1 transit entity share, the Class 2 transit entity share and the Class 3 transit entity share for the fiscal year.

(5) The department shall then calculate the amount of grant due to each local transportation organization and transportation company as follows:

(i) Each Class 1 transit entity shall receive a prorata share of the Class 1 transit entity share. If there is only one Class 1 transit entity, it shall receive the entire Class 1 transit entity share.

(ii) Each Class 2 transit entity shall receive a prorata share of the Class 2 transit entity share. If there is only one Class 2 transit entity, it shall receive the entire Class 2 transit entity share.

(iii) Each Class 3 transit entity shall receive a portion of the Class 3 transit entity share calculated as follows:

(A) From the Class 3 transit entity share, each Class 3 transit entity shall first receive an amount equal to 100% of its Class 3 transit entity adjusted base grant.

(B) With respect to any portion of the Class 3 transit entity share remaining after each Class 3 transit entity receives an amount equal to 100% of its Class 3 transit entity adjusted base grant:

(I) Fifty percent of such excess shall be distributed to Class 3 transit entities based upon the percentage of all Class 3 transit entity adjusted base grants given to Class 3 transit entities which a particular Class 3 transit entity received.

(II) Twenty-five percent of such excess shall be distributed to Class 3 transit entities based upon each transit entity's Class 3 vehicle mile percentage. The actual amount received by each Class 3 transit entity under this subclause shall be determined by multiplying a particular Class 3 transit entity's Class 3 vehicle mile percentage times 25% of such excess of the Class 3 transit entity share.

(III) Twenty-five percent of such excess shall be distributed to Class 3 transit entities based upon each Class 3 transit entity's Class 3 operating revenue percentage. The actual amount received by each Class 3 transit entity under this subclause shall be determined by multiplying a particular Class 3 transit entity's Class 3 operating revenue percentage times 25% of such excess of the Class 3 transit entity share.

(6) On or about each July 1, October 1, January 1 and April 1 of each year commencing July 1, 1987, the department shall disburse 25% of the total annual amount due to each local transportation organization or transportation company calculated in accordance with this section.

(d) New organizations.--Should a new local transportation organization or transportation company be established and meet the criteria of a Class 1 transit entity, Class 2 transit entity, Class 3 transit entity or Class 4 transit entity as such criteria are set forth in section 1301 (relating to definitions), the department shall make an appropriate

determination as to the level of grant to which such local transportation organization or transportation company shall be entitled. This determination shall include, but shall not be limited to, a determination as to an appropriate adjusted base grant for that local transportation organization or transportation company and a determination of appropriate adjustments to class percentages or transit entity shares.

(e) Change to different entity class.--If, during any fiscal year, either the number of vehicles operated by a local transportation organization or transportation company or the area served by such a local transportation organization or transportation company changes so that the local transportation organization or transportation company meets the criteria for a different transit entity class, as such criteria are set forth in section 1301, on or before July 15 of the fiscal year which follows such a change and in each fiscal year thereafter, the department shall reflect any change in the transit entity class of such a local transportation organization or transportation company in its calculation of the transit entity shares for each transit entity class for that and subsequent fiscal years. In its calculation of the transit entity shares for each transit entity class required by this section, for the fiscal year following the change in a local transportation organization or transportation company's transit entity class and thereafter, the department shall include the amount of the transit entity share allocated to such a local transportation organization or transportation company for the fiscal year prior to the change in the transit entity class, in the transit entity share for the new transit entity class of such a local transportation organization or transportation company, and shall delete an equal amount from the transit entity share for the transit entity class for which such a local transportation organization or transportation company no longer meets the criteria in the new fiscal year or thereafter.

(f) Rates, fares and charges.--

(1) Each local transportation organization or transportation company receiving moneys pursuant to this section shall annually fix such rates, fares and charges in such manner that they shall be at all times sufficient in the aggregate, and in conjunction with any moneys received from Federal or other sources, and any other income available to such organization or company, to provide funds for the payment of all operating costs and expenses which shall be incurred by such organization or company.

(2) In order to be eligible for the moneys described in paragraph (1), each local transportation organization or transportation company shall adopt an annual operating budget for each fiscal year no later than the last day of the preceding fiscal year. A copy of this operating budget shall be submitted to the department within ten days after its approval, along with a certification by the local transportation organization or transportation company that adequate revenues (including subsidies) are provided to support operating costs and expenses.

(g) Standards and measures.--

(1) Within one year after the effective date of this part and every year thereafter, each local transportation organization or transportation company receiving moneys pursuant to this section shall adopt a series of service standards and performance evaluation measures. Such standards and measures shall be in addition to the performance audits required by section 1315 (relating to public transportation

grants management accountability) and shall consist of objectives and specific numeric performance levels to be achieved in meeting these standards and objectives. Those standards and measures adopted shall include the following, in addition to others deemed appropriate by the local transportation organization or transportation company:

(i) An automatic mechanism to review the utilization of routes.

(ii) Staffing ratios (ratio of administrative employees to operating employees; number of vehicles per mechanic).

(iii) Productivity measures (vehicle miles per employee; passenger and employee accidents per 100,000 vehicle miles; on-time performance; miles between road calls).

(iv) Fiscal indicators (operating cost per passenger; subsidy per passenger and operating ratio).

(iv.1) Reasonable minimum prequalification standards for prospective transit service subcontractors.

(v) Any other matter desired by the governing body of such local transportation organization or transportation company.

(2) The service standards and performance evaluation measures shall be established by formal action of the governing body of such local transportation organization or transportation company following an opportunity for comment by the public and the department. Upon submission, the department will review and may make recommendations to the local transportation organization or transportation company concerning the service standards and performance evaluation measures.

(3) In the discretion of such governing body, the service standards and performance evaluation measures may be systemwide or based on a sampling.

(4) The service standards and performance evaluation measures shall only constitute goals for such local transportation organization or transportation company in providing service in the year following their adoption. At the end of such year, fiscal or calendar, as the case may be, a report shall be transmitted to the department for its consideration indicating the projected performance levels and the performance levels actually achieved. Upon submission, the department will review the report and may make recommendations to such local transportation organization or transportation company concerning the performance levels actually achieved. Such report shall be released to the public at the time of issuance.

(5) The department may suspend the eligibility for future discretionary transit grant funds of any transit entity which fails to comply with the provisions of this section. The department shall restore the discretionary funding eligibility of a suspended transit entity at such time as the requirements of this section are met in an amended application received by the department.

(h) Reduction of certain grants.--With respect to grants to Class 1 transit entities and Class 2 transit entities in any fiscal year, the department shall reduce the grant amount due to such local transportation organization or transportation company by an amount equal to 1% of such grant moneys otherwise due to such local transportation organization or transportation company for each percentage point such local transportation organization's or transportation company's operating ratio is

less than 50% in the case of a Class 1 transit entity or less than 46% in the case of a Class 2 transit entity.

(i) Audits.--The department is authorized to perform independent financial audits of the financial statements of each local transportation organization or transportation company receiving moneys pursuant to this section. Such audits shall be conducted in accordance with generally accepted auditing standards. Any financial statements subject to such audit or reports resulting from such audit shall be prepared and presented in accordance with generally accepted accounting principles, consistently applied with previous statements rendered for or on behalf of such organization or company. The department may coordinate such audits in conjunction with audits undertaken by the Auditor General.

(j) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Class 1 percentage." Seventy percent.

"Class 2 percentage." Twenty-five and three-tenths percent.

"Class 3 percentage." Four and seven-tenths percent.

"Class 1 to 3 allocation." The total amount appropriated under subsection (b) less the Class 4 transit entity share.

"Class 1 transit entity share." The product of the Class 1 percentage times the Class 1 to 3 allocation in a particular fiscal year.

"Class 2 transit entity share." The product of the Class 2 percentage times the Class 1 to 3 allocation in a particular fiscal year.

"Class 3 transit entity adjusted base grant." The State subsidy which a Class 3 transit entity received during the 1990-1991 fiscal year, including Federal funds transferred from other local transportation organizations and transportation companies from the Federal fiscal year 1989-1990 pursuant to the Governor's apportionment allocation contained in the Urban Mass Transportation Act of 1964.

"Class 3 transit entity share." The product of the Class 3 percentage times the Class 1 to 3 allocation in a particular fiscal year.

"Class 3 vehicle mile percentage." The percentage determined by dividing the vehicle miles of a Class 3 transit entity with respect to the most recent fiscal year as reported in the most recently issued Pennsylvania Mass Transit Statistical Report by the total number of vehicle miles of all Class 3 transit entities with respect to the most recent fiscal year as reported in the most recently issued Pennsylvania Mass Transit Statistical Report.

"Class 4 revenue hour percentage." The percentage determined by dividing the revenue hours of a Class 4 transit entity as reported with respect to the most recent fiscal year in the most recently issued Pennsylvania Rural and Small Urban Public Transportation Statistical Report by the total number of revenue hours of all Class 4 transit entities as reported with respect to the most recent fiscal year reported in the most recently issued Pennsylvania Rural and Small Urban Public Transportation Statistical Report.

"Class 4 revenue mile percentage." The percentage determined by dividing the revenue miles of a Class 4 transit entity as reported with respect to the most recent fiscal year in the most recently issued Pennsylvania Rural and Small Urban Public Transportation Statistical Report by the total revenue miles of all Class 4 transit entities as reported with respect to the most recent fiscal year reported in the most recently issued

Pennsylvania Rural and Small Urban Public Transportation Statistical Report.

"Class 4 transit entity share." Two million three hundred thirty-five thousand dollars for the 1991-1992 fiscal year and, during the 1992-1993 fiscal year and each fiscal year thereafter, shall mean the Class 4 transit entity share for the prior fiscal year plus (or minus) the product of the Class 4 transit entity share for the prior fiscal year times the percentage increase or decrease in the total operating assistance made available to local transportation organizations and transportation companies for that fiscal year as compared with the most recently completed fiscal year.

"Operating ratio." The proportion of total operating revenue (which shall include all passenger, charter and advertising revenue, fare reimbursement received from the State Lottery Fund and all other receipts associated with the delivery of transit services, but shall exclude Federal grants provided to cover operating losses and State grants made pursuant to subsection (b)) divided by total operating expenses associated with day-to-day operation of the system (but excluding depreciation of capital assets).

"Operating revenue." The total revenue earned by a local transportation organization or transportation company through its transit operations, including, but not limited to, passenger revenue, senior citizen grant, charter revenue, school contract revenue, advertising and other revenue listed with respect to the most recent fiscal year reported in the most recently issued Pennsylvania Mass Transit Statistical Report.

"Operating revenue percentage." The percentage determined by dividing the operating revenues of a local transportation organization or transportation company as reported in the most recently issued Pennsylvania Mass Transit Statistical Report by the total operating revenue of all local transportation organizations or transportation companies as reported in the most recently issued Pennsylvania Mass Transit Statistical Report.

§ 1304. Grant proposals.

(a) General rule.--Grants may be made hereunder with reference to any appropriate project irrespective of when it was first commenced or considered and regardless of whether costs with respect thereto shall have been incurred prior to the time the grant is applied for or made.

(b) Applications.--The governing bodies of municipalities, counties or their instrumentalities, and agencies and instrumentalities of the Commonwealth may, by formal resolution, apply and transportation companies by application may apply to the department for State grant funds provided by this chapter. If the action is taken by a governing body, a certified copy of the resolution and, in the case of transportation companies, an application shall be forwarded to the department with a proposal of the governing body or company, which shall set forth the use to be made of State grant funds and the amount of funds required or, in the case of grants under section 1303 (relating to annual appropriation and computation of subsidy), which shall set forth a request that the grant provided for under section 1303 be made.

(c) Preference for coordinated systems.--The department shall give preference to any proposal which will assist in carrying out a plan, meeting criteria established by the department, for a unified or officially coordinated urban transportation system as a part of the comprehensively planned development of the urban area, which is necessary for the sound,

economic and desirable development of such area and which shall encourage to the maximum extent feasible the participation of private enterprise. This subsection shall not apply to grants made pursuant to section 1303.

(d) Use of grants.--The use of the State grant funds shall be for the purposes set forth in section 1302 (relating to program authorizations) and, without limiting the generality of the foregoing, may be used for local contributions required by the Urban Mass Transportation Act of 1964 or other Federal law concerning common carrier mass transportation.

(e) Grant agreement.--

(1) The department shall review the proposal and, if satisfied that the proposal is in accordance with the purposes of this chapter, shall enter into a grant agreement subject to the condition that the grant be used in accordance with the terms of the proposal. With respect to grants made pursuant to section 1303, the department shall make such grants subject to the condition that the grants be used for the purposes set forth in section 1302 and, where applicable, only after the certification required in section 1302(2)(iii) and (3) shall have been made.

(2) The time of payment of the grant and any conditions concerning such payment shall be set forth in the grant agreement.

§ 1305. Rules and regulations.

In order to effectuate and enforce the provisions of this chapter, the department is authorized to promulgate necessary rules and regulations and prescribe conditions and procedures in order to assure compliance in carrying out the purposes for which grants may be made hereunder.

§ 1306. Cooperation with other governments and private interests.

(a) General rule.--The department is directed to administer this program with such flexibility as to permit full cooperation between Federal, State and local governments, agencies and instrumentalities, as well as private interests, so as to result in as effective and economical a program as possible.

(b) Agreements.--The department is hereby authorized to enter into agreements providing for mutual cooperation between or among it and any Federal agency, local transportation organization or transportation company concerning any or all projects, including joint applications for Federal grants.

§ 1307. General authority of department.

It is the purpose and intent of this chapter to authorize the department to do any and all other things necessary or desirable to secure the financial aid or cooperation of any Federal agency in any of the department's projects and to do and perform all things which may be required by any statute of the United States of America or by the lawful requirements of any Federal agency authorized to administer any program of Federal aid to transportation. The department is expressly permitted to enter into protective agreements with labor to the extent required under 49 U.S.C. § 5333 (relating to labor standards) in order to obtain Federal grant moneys for transportation assistance. Such protective agreements shall be narrowly drawn and strictly construed to provide no more than the minimum protections required by the United States Department of Labor for such agreements.

§ 1308. Grants by counties or municipalities.

Any county or municipality in any metropolitan area which is a member of a local transportation organization is authorized to make annual grants from current revenues to local

transportation organizations to assist in defraying the costs of operations, maintenance and debt service of local transportation organization or of a particular mass transportation project of a local transportation organization and to enter into long-term agreements providing for the payment of the same. The obligation of a municipality or county under any such agreement shall not be considered to be a part of its indebtedness, nor shall such obligation be deemed to impair the status of any indebtedness of such municipality or county which would otherwise be considered as self-sustaining.

§ 1309. Limitation on decisions, findings and regulations of department.

All decisions, findings and regulations made by the department pursuant to this chapter shall be for the purposes of this chapter only and shall not constitute evidence before any regulatory body of this Commonwealth or any other jurisdiction.

§ 1310. Distribution of funding.

(a) General rule.--All moneys made available and required to be used for capital projects, asset maintenance and other programs specified in this section shall be distributed in accordance with the formula specified in this section and used strictly in accordance with section 1311 (relating to use of funds distributed).

(b) Distribution procedure.--During each fiscal year, capital project, asset maintenance and other program funds shall be distributed as follows:

(1) On or before the fifth day of each month, the Treasury Department shall certify to the department the total amount then available for distribution, and the department shall make distribution of payments required under this subsection on or before the 20th day of each month.

(2) Beginning in the 1991-1992 fiscal year, each month, the Treasury Department shall pay one-twelfth of the Department of Transportation project management oversight share for that fiscal year into the General Fund. The moneys so transferred are hereby appropriated to the Department of Transportation for use by that department for expenses related to project management and oversight of capital and asset maintenance projects funded pursuant to this section.

(3) Each month, the Treasury Department shall pay one-twelfth of the community transportation program section 1310 share for that fiscal year into the General Fund. The funds so transferred are hereby appropriated to the Department of Transportation to make grants to counties, pursuant to section 1312 (relating to community transportation programs), for the purpose of funding capital projects of community transportation programs.

(4) Each month, the Treasury Department shall pay the planning, development, research, rural expansion and department-initiated programs section 1310 share for that month into the General Fund. The funds so transferred are hereby appropriated to the Department of Transportation to incur costs directly or to make grants to local transportation organizations or transportation companies, or entities which seek to become local transportation organizations or transportation companies, pursuant to section 1312, for the purpose of funding planning, development, research, rural expansion and department-initiated programs.

(5) Each month, the department shall distribute one-twelfth of the Class 4 transit entity section 1310 share

to Class 4 transit entities in the manner provided in this paragraph. Each Class 4 transit entity shall receive a portion of each monthly distribution of the Class 4 transit entity section 1310 share as follows:

(i) Fifty percent of the monthly distribution of the Class 4 transit entity section 1310 share shall be distributed to Class 4 transit entities based upon each transit entity's Class 4 operating assistance grant section 1310 percentage. The actual amount received by each Class 4 transit entity under this subparagraph shall be determined by multiplying a particular Class 4 transit entity's Class 4 operating assistance grant section 1310 percentage times the total amount available for distribution under this subparagraph.

(ii) Twenty-five percent of the monthly distribution of the Class 4 transit entity section 1310 share shall be distributed to Class 4 transit entities based upon each transit entity's Class 4 revenue mile section 1310 percentage. The actual amount received by each Class 4 transit entity under this subparagraph shall be determined by multiplying a particular Class 4 transit entity's Class 4 revenue mile section 1310 percentage times the total amount available for distribution under this subparagraph.

(iii) Twenty-five percent of the monthly distribution of the Class 4 transit entity section 1310 share shall be distributed to Class 4 transit entities based upon each transit entity's Class 4 revenue hour section 1310 percentage. The actual amount received by each Class 4 transit entity under this subparagraph shall be determined by multiplying a particular Class 4 transit entity's Class 4 transit entity revenue hour section 1310 percentage times the total amount available for distribution under this subparagraph.

(6) Each month, after providing for payment of the portion of the Department of Transportation project management oversight share, the community transportation program section 1310 share, the planning, development, research, rural expansion and department-initiated programs section 1310 shares and the Class 4 transit entity section 1310 share to be distributed that month, the department shall distribute all remaining capital project, asset maintenance and other program funds as follows:

(i) Each Class 1 transit entity shall receive a prorata share of the Class 1 transit entity section 1310 share. If there is only one Class 1 transit entity, it shall receive the entire Class 1 transit entity section 1310 share.

(ii) Each Class 2 transit entity shall receive a prorata share of the Class 2 transit entity section 1310 share. If there is only one Class 2 transit entity, it shall receive the entire Class 2 transit entity section 1310 share.

(iii) Each Class 3 transit entity shall receive a portion of the Class 3 transit entity section 1310 share as follows:

(A) Sixteen and sixty-seven hundredths percent of the Class 3 transit entity section 1310 share shall be distributed to Class 3 transit entities based upon each transit entity's Class 3 vehicle mile section 1310 percentage. The actual amount received by each Class 3 transit entity under this

clause shall be determined by multiplying a particular Class 3 transit entity's Class 3 vehicle mile section 1310 percentage times the total amount available for distribution under this clause.

(B) Sixteen and sixty-seven hundredths percent of the Class 3 transit entity section 1310 share shall be distributed to Class 3 transit entities based upon each transit entity's Class 3 vehicle hour section 1310 percentage. The actual amount received by each Class 3 transit entity under this clause shall be determined by multiplying a particular Class 3 transit entity's Class 3 vehicle hour section 1310 percentage times the total amount available for distribution under this clause.

(C) Sixteen and sixty-six hundredths percent of the Class 3 transit entity section 1310 share shall be distributed to Class 3 transit entities based upon each transit entity's Class 3 total passenger section 1310 percentage. The actual amount received by each Class 3 transit entity under this clause shall be determined by multiplying a particular Class 3 transit entity's Class 3 total passenger section 1310 percentage times the total amount available for distribution under this clause.

(D) Twenty-five percent of the Class 3 transit entity section 1310 share shall be distributed to Class 3 transit entities based upon each transit entity's Class 3 Federal operating cap percentage. The actual amount received by each Class 3 transit entity under this clause shall be determined by multiplying a particular Class 3 transit entity's Class 3 Federal operating cap percentage times the total amount available for distribution under this clause.

(E) Twenty-five percent of the Class 3 transit entity section 1310 share shall be distributed to Class 3 transit entities based upon each transit entity's Class 3 State operating grant percentage. The actual amount received by each Class 3 transit entity under this clause shall be determined by multiplying a particular Class 3 transit entity's Class 3 State operating grant percentage times the total amount available for distribution under this clause.

(c) Change of classification.--If, during any fiscal year, either the number of vehicles operated by a local transportation organization or transportation company or the area served by such a local transportation organization or transportation company changes so that the local transportation organization or transportation company meets the criteria for a different transit entity class, as such criteria are set forth in section 1301 (relating to definitions), on or before July 15 of the fiscal year which follows such a change and in each fiscal year thereafter, the department shall reflect any change in the transit entity class of such a local transportation organization or transportation company in the Department of Transportation certification for that and subsequent fiscal years. In its calculation of the transit entity section 1310 shares for each transit entity class required by subsection (g)(1) and the transit entity section 1310.1 shares for each transit entity class required by subsection (g)(1) for the fiscal year following the change in a local transportation organization or

transportation company's transit entity class and thereafter, the department shall include the amount of the transit entity sections 1310 and 1310.1 shares allocated to such a local transportation organization or transportation company for the fiscal year prior to the change in the transit entity class, in the transit entity sections 1310 and 1310.1 shares for the new transit entity class of such a local transportation organization or transportation company, and shall delete an equal amount from the transit entity sections 1310 and 1310.1 shares for the transit entity class for which such a local transportation organization or transportation company no longer meets the criteria in the new fiscal year. No local transportation organization or transportation company which has changed from one transit entity class to another due to either an increase in the number of vehicles operated or the United States Census Bureau's declaring its service area an urbanized area shall receive less than the amount transferred on its account by the department pursuant to this section.

(d) Oversight.--The department shall initiate and maintain a program of review and oversight for any projects receiving funds distributed pursuant to this section and section 1310.1 (relating to supplemental public transportation assistance funding). The department is authorized to perform independent financial audits of the financial statements of each local transportation organization, transportation company or community transportation program receiving moneys pursuant to this section. These audits shall be conducted in accordance with generally accepted auditing standards. Any financial statements subject to the audit or reports resulting from the audit shall be prepared and presented in accordance with generally accepted accounting principles, consistently applied with previous statements rendered for or on behalf of such organization or company. The department may coordinate such audits in conjunction with audits undertaken by the Auditor General.

(e) Fiscal year and capital budget.--

(1) The governing body of each local transportation organization or transportation company shall establish a fiscal year for capital programs. No later than the last day of each fiscal year for capital programs, each local transportation organization or transportation company receiving moneys pursuant to this section shall adopt a capital budget and an asset maintenance spending plan for submission to the department.

(2) The capital budget shall include the following:

- (i) A description of any such project.
- (ii) The projected cost of any project to be undertaken, including supporting cash flow.
- (iii) The duration of any such project, including the projected starting date, completion date and projected useful life of the project.
- (iv) The proposed funding sources for any project.
- (v) A description of projects completed in the prior fiscal year and their impact on operations.
- (vi) A description of progress to date on projects initiated in the prior fiscal year but not yet completed.
- (vii) An explanation of any significant project delays.
- (viii) The use of funds under this section in the prior fiscal year, including projects for which they were used.

(ix) A multiyear plan for future use of funds received under this section for a period of not less than five years.

(x) Any other matter desired by the governing body of such local transportation organization or transportation company.

(3) The asset maintenance spending plan shall include:

(i) The amount of moneys expended for asset maintenance costs.

(ii) The purposes for which such funds were expended.

(iii) Those asset maintenance costs which are projected to be funded during the subsequent twelve months by the local transportation organization or transportation company.

(iv) A multiyear plan for future use of funds received under this section for a period of not less than five years.

(4) The capital budget and the asset maintenance spending plan shall be established by formal action of the governing body of such local transportation organization or transportation company following an opportunity for comment by the public and the department. Upon submission, the department will review and may make recommendations to the local transportation organization or transportation company concerning the capital budget and asset maintenance spending plan.

(5) The capital budget and the asset maintenance spending plan may be amended by formal action of the governing body of such local transportation organization or transportation company from time to time. Any amendments to the capital budget and the asset maintenance spending plan shall be transmitted to the department for its review, and the department may make recommendations to the local transportation organization or transportation company concerning any amendments to the capital budget and the asset maintenance spending plan.

(f) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Capital project, asset maintenance and other program funds." Moneys made available to finance capital projects and asset maintenance costs of local transportation organizations, transportation companies or community transportation programs or to fund other programs specified in this section from:

(1) any fund of the Commonwealth where the legislation creating such fund references this part and states that some or all of the moneys in such fund are to be used to finance capital projects and asset maintenance costs of local transportation organizations, transportation companies or community transportation programs and to fund certain other programs; or

(2) any other source, where such moneys are made available specifically to finance capital projects and asset maintenance costs of local transportation organizations, transportation companies or community transportation programs in accordance with this section.

"Class 1 section 1310 percentage." Seventy and three-tenths percent.

"Class 2 section 1310 percentage." Twenty-five and four-tenths percent.

"Class 3 section 1310 percentage." Four and three-tenths percent.

"Class 1 to 3 section 1310 allocation." The total amount of capital project, asset maintenance and other program funds available for distribution by the Treasury Department during a particular month, less:

(1) the amount of the Department of Transportation project management oversight share to be paid each month under subsection (b)(2);

(2) the amount of the community transportation program section 1310 share to be paid each month under subsection (b)(3);

(3) the amount of the planning, development, research, rural expansion and department-initiated programs section 1310 share; and

(4) the amount of the Class 4 transit entity section 1310 share to be paid each month under subsection (b)(5).

"Class 1 transit entity section 1310 share." The product of the Class 1 section 1310 percentage times the Class 1 to 3 section 1310 allocation.

"Class 2 transit entity section 1310 share." The product of the Class 2 section 1310 percentage times the monthly Class 1 to 3 allocation.

"Class 3 transit entity section 1310 share." The product of the Class 3 section 1310 percentage times the monthly Class 1 to 3 allocation.

"Class 4 transit entity section 1310 share." Four million dollars during the 1991-1992 fiscal year and \$4,160,000 during the 1992-1993 fiscal year. During the 1993-1994 through 1996-1997 fiscal years, the term shall mean the Class 4 transit entity section 1310 share for the prior fiscal year plus (or minus) the product of the Class 4 transit entity section 1310 share for the prior fiscal year times the percentage increase or decrease in the total funds available for distribution pursuant to this section received by the Treasury Department in the most recently completed fiscal year as compared with the prior fiscal year. For the 1997-1998 fiscal year and each fiscal year thereafter, the term shall mean 2.8% of the total amount of capital project, asset maintenance and other program funds projected by the department to be available under this section for distribution during the subject fiscal year.

"Class 3 Federal operating cap percentage." The percentage determined by dividing the Federal operating ceiling for a Class 3 transit entity by the total Federal operating ceilings for all Class 3 transit entities.

"Class 3 State operating grant percentage." The percentage determined by dividing the State subsidy received pursuant to section 1303 (relating to annual appropriation and computation of subsidy) during fiscal year 1990-1991 by a Class 3 transit entity as stated in the latest Department of Transportation certification by the total State subsidies received pursuant to section 1303 during fiscal year 1990-1991 by all Class 3 transit entities as stated in the latest Department of Transportation certification. For purposes of calculating the amount received by a Class 3 transit entity pursuant to section 1303, any Federal funds transferred from other local transportation organizations and transportation companies from the Federal fiscal year 1990-1991 Governor's apportionment allocation, contained in the Urban Mass Transportation Act of 1964, shall be considered to be amounts received pursuant to section 1303.

"Class 3 total passenger section 1310 percentage." The percentage determined by dividing the total passengers transported by a Class 3 transit entity as stated in the latest Department of Transportation certification by the total number of passengers transported by all Class 3 transit entities as stated in the latest Department of Transportation certification.

"Class 3 vehicle hour section 1310 percentage." The percentage determined by dividing the vehicle hours of a Class 3 transit entity as stated in the latest Department of Transportation certification by the total number of vehicle hours of all Class 3 transit entities as stated in the latest Department of Transportation certification.

"Class 3 vehicle mile section 1310 percentage." The percentage determined by dividing the vehicle miles of a Class 3 transit entity as stated in the latest Department of Transportation certification by the total number of vehicle miles of all Class 3 transit entities as stated in the latest Department of Transportation certification.

"Class 4 operating assistance grant section 1310 percentage." The percentage determined by dividing the Class 4 transit entity adjusted base grant received by a Class 4 transit entity by the total Class 4 transit entity adjusted base grants received pursuant to such act by all Class 4 transit entities during fiscal year 1990-1991 as stated in the Department of Transportation certification.

"Class 4 revenue hour section 1310 percentage." The percentage determined by dividing the revenue hours of a Class 4 transit entity as stated in the latest Department of Transportation certification by the total number of revenue hours of all Class 4 transit entities as stated in the latest Department of Transportation certification.

"Class 4 revenue mile section 1310 percentage." The percentage determined by dividing the revenue miles of a Class 4 transit entity as stated in the latest Department of Transportation certification by the total number of revenue miles of all Class 4 transit entities as stated in the latest Department of Transportation certification.

"Community transportation program section 1310 share." One million seven hundred thousand dollars during the 1991-1992 fiscal year, \$1,768,000 during the 1992-1993 fiscal year and, during the 1993-1994 fiscal year and each fiscal year thereafter, shall mean the community transportation program section 1310 share for the prior fiscal year plus (or minus) the product of the community transportation program section 1310 share for the prior fiscal year times the percentage increase or decrease in the total funds available for distribution pursuant to this section received by the Treasury Department in the most recently completed fiscal year as compared with the prior fiscal year. However, in any fiscal year in which the total funds authorized to be expended from the State Lottery Fund for purposes enumerated in section 1312 (relating to community transportation programs) is less than \$600,000, the community transportation program section 1310 share shall be increased so that the sum of the community transportation program section 1310 share plus the total amount of such moneys paid from the State Lottery Fund for purposes enumerated in section 1312 shall equal \$2,300,000. The combined funding to any county for community transportation under sections 1310 and 1312 shall not exceed \$250,000 in any fiscal year.

"Department of Transportation project management oversight share." One million dollars during the 1991-1992 fiscal year and, during the 1992-1993 fiscal year and each fiscal year thereafter, shall mean \$1,000,000 or 0.25% of the total amount of capital project, asset maintenance and other program funds available for distribution pursuant to this section received by the Treasury Department during the prior fiscal year, whichever is greater.

"Department of Transportation certification." The certification by the Department of Transportation to the Treasury Department under subsection (g).

"Department-initiated programs." Mass transportation programs with a regional or Statewide application, including, without limitation, capital projects in support of intercity rail passenger service, capital projects in support of intercity bus service, transit safety initiatives, public-private transportation partnerships, ridersharing incentive programs, transportation management associations and other multimodal transportation management projects.

"Federal operating ceiling." The maximum amount of Federal funds permitted to be used by a Class 3 transit entity to subsidize transit operations, as published in the November 23, 1990, Federal Register (or, where there is more than one transit entity in a region, the maximum amount of Federal funds which such Class 3 transit entity could have utilized to subsidize transit operations pursuant to the subregional allocation as specified in the applicable transportation improvement program) for fiscal year 1990-1991.

"Planning, development, research, rural expansion and department-initiated programs section 1310 shares." The sum of \$83,333.33 plus 0.25% of the total capital project, asset maintenance and other program funds available for distribution by the Treasury Department during a particular month.

"Total passengers." The total of all revenue passengers plus transfer passengers on second and successive rides of a local transportation organization or transportation company, which are funded in whole or in part by this part, with respect to the most recent fiscal year reported in the most recently issued Pennsylvania Mass Transit Statistical Report.

"Treasury Department." The State Treasurer and the Treasury Department of the Commonwealth.

(g) Certification to Treasury Department.--On or before July 15 of each fiscal year, the Department of Transportation shall calculate and certify to the Treasury Department the following:

(1) The Department of Transportation project management oversight share, the community transportation program sections 1310 and 1310.1 shares, the Class 1 transit entity sections 1310 and 1310.1 shares, the Class 2 transit entity sections 1310 and 1310.1 shares, the Class 3 transit entity sections 1310 and 1310.1 shares and the Class 4 transit entity sections 1310 and 1310.1 shares and the planning, development, research, rural expansion and department-initiated programs sections 1310 and 1310.1 shares.

(2) The names and addresses of each Class 1 transit entity, Class 2 transit entity, Class 3 transit entity and Class 4 transit entity and whether such program or entity

is a Class 1 transit entity, Class 2 transit entity, Class 3 transit entity or Class 4 transit entity.

(3) The vehicle miles of each Class 3 transit entity, the total vehicle miles of all Class 3 transit entities, the Class 3 vehicle mile sections 1310 and 1310.1 percentages for each Class 3 transit entity, the vehicle hours of each Class 3 transit entity, total vehicle hours of all Class 3 transit entities, the Class 3 vehicle hour sections 1310 and 1310.1 percentages for each Class 3 transit entity, total passengers for each Class 3 transit entity, the total passengers for all Class 3 transit entities, the Class 3 total passenger sections 1310 and 1310.1 percentages for each Class 3 transit entity, the Federal operating ceiling for each Class 3 transit entity, the Federal operating ceiling for all Class 3 transit entities, the Federal operating cap percentage for each Class 3 transit entity, the State subsidy received pursuant to section 1303 (relating to annual appropriation and computation of subsidy) as described in the definition of "Class 3 State operating grant percentage" for each Class 3 transit entity, the State subsidy received pursuant to section 1303 as described in the definition of "Class 3 State operating grant percentage" for all Class 3 transit entities, and the Class 3 State grant percentage for each Class 3 transit entity.

(4) The operating assistance grant received by each Class 4 transit entity during fiscal year 1990-1991 pursuant to the act of February 11, 1976 (P.L.14, No.10), known as the Pennsylvania Rural and Intercity Common Carrier Surface Transportation Assistance Act, the operating assistance grant received by all Class 4 transit entities during fiscal year 1990-1991 pursuant to that act, the Class 4 operating assistance grant sections 1310 and 1310.1 percentages for each Class 4 transit entity, the revenue miles of each Class 4 transit entity, the revenue miles of all Class 4 transit entities, the Class 4 revenue mile sections 1310 and 1310.1 percentages of each Class 4 transit entity, the revenue hours for each Class 4 transit entity, the revenue hours for all Class 4 transit entities and the Class 4 revenue hour sections 1310 and 1310.1 percentages for each Class 4 transit entity.

§ 1310.1. Supplemental public transportation assistance funding.

(a) General rule.--Beginning July 1, 1997, 1.22% of the money collected from the tax imposed under Article II of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, up to a maximum of \$75,000,000, shall be deposited in the Supplemental Public Transportation Account, which is established in the State Treasury. Within 30 days of the close of a calendar month, 1.22% of the taxes received in the prior calendar month shall be transferred to the account. No funds in excess of \$75,000,000 may be transferred to the account in any one fiscal year. The money in the account shall be used by the department for supplemental public transportation assistance, to be distributed under this section. Transit entities may use supplemental assistance moneys for any of the purposes enumerated in section 1311 (relating to use of funds distributed). In addition to those enumerated purposes, Class 1, 2 and 3 transit entities also may use the base supplemental assistance share for general operations. Class 4 transit entities may use all supplemental assistance moneys for general operations.

(b) Distribution.--During each fiscal year, capital project, asset maintenance and other program funds designated as supplemental public transportation assistance funding to be distributed pursuant to this section shall be distributed as follows:

(1) On or before the fifth day of each month, the Treasury Department shall certify to the department the total amount of money then available for distribution, and the department shall disburse the money on or before the 20th day of each month.

(2) Each month the department shall distribute to each local transportation organization or transportation company 1/12 of the base supplemental assistance share of that local transportation organization or transportation company.

(3) Each month the Treasury Department shall pay 1/12 of the community transportation program section 1310.1 share for that fiscal year to the Department of Transportation to make grants to counties pursuant to section 1312 (relating to community transportation programs) for the purpose of funding capital projects of community transportation programs.

(4) Each month the department shall distribute 1/12 of the Class 4 transit entity section 1310.1 share to Class 4 transit entities according to the same formula as provided for distribution of funds under section 1310(b)(5) (relating to distribution of funding), using the Class 4 transit entity section 1310.1 share in place of the Class 4 transit entity section 1310 share.

(5) Each month, after providing for payment of the portion of the base supplemental assistance share, the community transportation program section 1310.1 share and the Class 4 transit entity section 1310.1 share to be distributed that month, the department shall distribute all remaining capital project, asset maintenance and other program funds required to be distributed pursuant to this section according to the same formula as provided for distribution of funds in section 1310(b)(6), using the transit entity's section 1310.1 share in place of the transit entity's section 1310 share.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection. Any term used in this section but not defined in this subsection shall have the meaning given in section 1310(f):

"Base supplemental assistance share." The P.L. 103-122 percentage for each local transportation organization or transportation company multiplied by \$54,616,000.

"Capital project, asset maintenance and other program funds." Moneys made available under this section to finance capital projects and asset maintenance costs of local transportation organizations, transportation companies or community transportation programs or to fund other programs specified in this section.

"Class 1 section 1310.1 percentage." 70.3%.

"Class 2 section 1310.1 percentage." 25.4%.

"Class 3 section 1310.1 percentage." 4.3%.

"Class 1 to 3 section 1310.1 allocation." The total amount of capital project, asset maintenance and other program funds available for distribution by the Treasury Department during a particular month less:

(1) the amount of the base supplemental assistance share to be paid each month under subsection (b)(2);

(2) the amount of the community transportation program section 1310.1 share to be paid each month under subsection (b) (3); and

(3) the amount of the Class 4 transit entity section 1310.1 share to be paid each month under subsection (b) (4).

"Class 1 transit entity section 1310.1 share." The product of the Class 1 section 1310.1 percentage times the Class 1 to 3 section 1310.1 allocation.

"Class 2 transit entity section 1310.1 share." The product of the Class 2 section 1310.1 percentage times the monthly Class 1 to 3 allocation.

"Class 3 transit entity section 1310.1 share." The product of the Class 3 section 1310.1 percentage times the monthly Class 1 to 3 allocation.

"Class 4 transit entity section 1310.1 share." For each fiscal year, the total amount projected by the department to be available for distribution in the fiscal year in accordance with this section, less \$54,616,000, times 2.8%.

"Class 3 Federal operating cap percentage." The percentage determined by dividing the Federal operating ceiling for a Class 3 transit entity by the total of all Federal operating ceilings for Class 3 transit entities.

"Class 3 total passenger section 1310.1 percentage." The percentage determined by dividing the total passengers transported by a Class 3 transit entity, as stated in the latest Department of Transportation certification, by the total number of passengers transported by all Class 3 transit entities, as stated in the latest Department of Transportation certification.

"Class 3 vehicle hour section 1310.1 percentage." The percentage determined by dividing the vehicle hours of a Class 3 transit entity, as stated in the latest Department of Transportation certification, by the total number of vehicle hours of all Class 3 transit entities, as stated in the latest Department of Transportation certification.

"Class 3 vehicle mile section 1310.1 percentage." The percentage determined by dividing the vehicle miles of a Class 3 transit entity, as stated in the latest Department of Transportation certification, by the total number of vehicle miles of all Class 3 transit entities, as stated in the latest Department of Transportation certification.

"Class 4 operating assistance grant section 1310.1 percentage." The percentage determined by dividing the Class 4 transit entity adjusted base grant received by a Class 4 transit entity, as stated in the latest Department of Transportation certification, by the total Class 4 transit entity adjusted base grants received by all Class 4 transit entities during fiscal year 1990-1991, as stated in the latest Department of Transportation certification.

"Class 4 revenue hour section 1310.1 percentage." The percentage determined by dividing the revenue hours of a Class 4 transit entity, as stated in the latest Department of Transportation certification, by the total number of revenue hours of all Class 4 transit entities, as stated in the latest Department of Transportation certification.

"Class 4 revenue mile section 1310.1 percentage." The percentage determined by dividing the revenue miles of a Class 4 transit entity, as stated in the latest Department of Transportation certification, by the total number of revenue miles of all Class 4 transit entities, as stated in the latest Department of Transportation certification.

"Community transportation program section 1310.1 share." The greater of:

- (1) \$1,200,000; or
- (2) the total amount projected by the Department of Transportation to be available for distribution in the subject fiscal year in accordance with this section, less \$54,616,000, times 2.5%.

"P.L. 103-122 percentage." The percentage determined by dividing the operating assistance grant or operating assistance limitation, whichever is greater, but not to exceed the total apportionment of funds made available to a particular local transportation organization or transportation company in this Commonwealth for each Class 1 transit entity, Class 2 transit entity and Class 3 transit entity and the base grants approved for each Class 4 transit entity pursuant to Public Law 103-122, 107 Stat. 1199, for the Federal fiscal year ending September 30, 1994, by the total of such amounts for all Commonwealth local transportation organizations and transportation companies pursuant to Public Law 103-122 for the fiscal year as determined by the Department of Transportation.

§ 1311. Use of funds distributed.

(a) Approval of department.--

(1) No money made available pursuant to section 1310 (relating to distribution of funding) shall be expended on any capital project by any local transportation organization or transportation company until after the local transportation organization or transportation company submits the project to the department for approval and the department approves the project. At the option of the local transportation organization or transportation company, capital projects may be submitted to the department on an annual basis at the time the local transportation organization or transportation company submits its capital budget to the department or at another time chosen by the local transportation organization or transportation company.

(2) The department shall establish criteria for approval of capital projects pursuant to this subsection, including, but not limited to, consideration of estimated useful life, demonstration of need and reasonableness of cost.

(3) Amendments to capital projects may be submitted at any time to the department for its review and approval in accordance with the procedures specified by the department.

(4) The department shall prescribe, under the authority of this chapter, reasonable procedures, including deadlines, for the department to review, comment and approve the capital project or projects submitted by a local transportation organization or transportation company.

(b) Funding purposes enumerated.--Moneys distributed pursuant to section 1310 shall be used by local transportation organizations and transportation companies for purposes of paying:

(1) all costs of capital projects, including, without limitation, the costs of acquisition, construction, installation, start-up costs of operations, improvement and all work and materials incident thereto, provided that funds expended for capital projects pursuant to section 1310 shall be matched by local or private funding in an amount equal to at least one-thirtieth of the project cost;

(2) debt service and the cost of issuance of bonds, notes and other evidences of indebtedness which a local

transportation organization or transportation company is permitted to issue under any law of this Commonwealth; and

(3) to the extent permitted by this section, asset maintenance costs. Community transportation programs shall use moneys distributed pursuant to this section only for purposes enumerated in section 1312 (relating to community transportation programs).

(c) Certain capital projects.--Notwithstanding any other provision of law, each local transportation organization or transportation company receiving moneys pursuant to section 1310 may use such moneys, in the discretion of such local transportation organization or transportation company, to fund all or a portion of capital projects listed in the program prepared pursuant to section 2002(a)(13) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(d) Management of funds.--

(1) Each local transportation organization or transportation company receiving moneys pursuant to sections 1310 and 1310.1 (relating to supplemental public transportation assistance funding) shall hold such moneys in an account separate from other funds of the local transportation organization or transportation company and shall invest such moneys until such funds are used in accordance with this section, with such funds being invested in accordance with the limits on investment of the local transportation organization or transportation company. Notwithstanding any other provisions of this chapter, any interest earned shall be used for capital projects and asset maintenance costs during any period as determined by the local transportation organization or transportation company.

(2) All moneys distributed pursuant to section 1310 and utilized for asset maintenance under subsection (e) shall be matched by local or private funding in an amount equal to at least 1/30 of the amount expended for such purposes, except that, in the case of Class 3 and 4 transit entities, no matching funds shall be required if the department shall have received from the local governmental funding source which would otherwise provide the matching funds a certification that compliance with the matching requirement would create an undue financial burden upon the local governmental funding source such that a curtailment of government services endangering public health and safety would ensue.

(3) All moneys distributed pursuant to section 1310.1 and utilized under this section shall be matched by local or private funding in an amount equal to at least 1/30 of the amount expended for such purposes, except that, in the case of Class 3 and 4 transit entities, no funds utilized for asset maintenance under subsection (e) shall require a local match if the department shall have received from the local governmental funding source which would otherwise provide the matching funds a certification that compliance with the matching requirement would create an undue financial burden upon the local governmental funding source such that a curtailment of government services endangering public health and safety would ensue.

(e) Asset maintenance.--

(1) Each local transportation organization or transportation company may expend moneys distributed pursuant to sections 1310 and 1310.1 shares to fund asset maintenance costs as provided in this subsection.

(2) Moneys distributed pursuant to sections 1310 and 1310.1 may only be used to fund asset maintenance costs incurred during the fiscal year in which such moneys are allocated. Thereafter, such funds may only be used to fund capital projects.

(3) On or before March 1 of each year, the department shall certify to each local transportation organization or transportation company the amount of capital project, asset maintenance, base supplemental assistance and other program funds which the department estimates each local transportation organization or transportation company will be entitled to receive during the ensuing fiscal year. Each local transportation organization or transportation company may expend moneys distributed pursuant to sections 1310 and 1310.1 shares to fund asset maintenance costs up to the following maximum percentages of the estimate from the department, including accrued interest, the amount received during the prior fiscal year or the amount actually received in the current fiscal year, whichever is greater:

(i) Class 1 transit entities may utilize for asset maintenance costs up to a maximum of 30% of the funds received pursuant to sections 1310 and 1310.1 shares.

(ii) Class 2 and 3 transit entities may utilize for asset maintenance costs up to a maximum of 50% of the funds received pursuant to sections 1310 and 1310.1.

(iii) (Deleted by amendment).

(iv) Class 4 transit entities may utilize for asset maintenance costs up to a maximum of 50% of the funds received pursuant to sections 1310 and 1310.1.

(f) Eligible projects.--Notwithstanding any other provision of this chapter, moneys provided under section 1310 to community transportation programs may be expended only in accordance with section 1312 and only to fund all or a portion of eligible projects of such entities as enumerated in section 1312.

(g) Matching funds.--The moneys provided to local transportation organizations, transportation companies or community transportation programs pursuant to section 1310 may be used as matching funds to obtain Federal aid for capital projects.

(h) Use by department.--Funds appropriated to the department pursuant to section 1310(b)(2) and (4) may be utilized by the department for the purposes provided in either of such paragraphs.

(i) Accounting.--Within 120 days after the end of each fiscal year for capital programs established by the local transportation organization or transportation company pursuant to section 1310(e), each local transportation organization and transportation company receiving moneys pursuant to sections 1310 and 1310.1 shares shall transmit to the department an accounting of all funds received pursuant to sections 1310 and 1310.1 shares in that fiscal year. The accounting shall be in a form prescribed by the department and shall include a listing of all expenditures on a project by project basis and the status of all unspent funds. The local transportation organization or transportation company shall grant access to the department or its duly authorized representatives to any and all records pertaining to funds received pursuant to sections 1310 and 1310.1 shares.

(j) Limit on certain amounts expended.--Notwithstanding any law to the contrary and except as provided in subsection (a) for Class 4 transit entities, local transportation organizations and transportation companies are authorized to expend moneys

distributed pursuant to sections 1310 and 1310.1 shares for asset maintenance costs in an amount not to exceed the greater of:

(1) the maximum amount of asset maintenance expenditures which could have been approved by the department for expenditure by that local transportation organization or transportation company for the 1991-1992 fiscal year pursuant to section 17(a) of the act of August 5, 1991 (P.L.238, No.26), entitled "An act amending Titles 74 (Transportation) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, codifying provisions relating to public transportation; imposing certain fees and taxes; further providing for certain Pennsylvania Turnpike projects; defining 'farm equipment'; further providing for the responsibilities of vehicle transferees, for exemptions from registration and certificates of title and for the use of dealer plates, multipurpose dealer plates and farm equipment plates; further providing for funeral processions; further providing for a restricted receipts fund and for registration for snowmobiles and ATV's; establishing the Snowmobile Trail Advisory Committee; further providing for the highway maintenance and construction tax; and making repeals," based upon a projection of \$200,000,000 in total dedicated capital assistance funds plus estimated amounts of supplemental public transportation assistance funding available for distribution pursuant to section 1310.1 in that fiscal year, which estimate shall not be less than \$75,000,000 in any fiscal year; or

(2) the amount permitted to be expended for such purposes under subsection (e).

§ 1312. Community transportation programs.

(a) Grants from lottery fund.--All counties except counties of the first and second class shall be entitled to grants from the State Lottery Fund for the purpose of adding, replacing, upgrading and overhauling equipment and purchasing, constructing or renovating facilities to serve as office and maintenance sites for the provision of reduced fare demand-response service. Equipment that may be purchased shall include, but shall not be limited to, vehicles, vehicle rehabilitation, major drivetrain components, communication equipment, computer equipment and software and office equipment and furnishings. The amount entitled to all counties and to be granted by the department shall not exceed \$2,300,000. The department may require the counties to coordinate the acquisition of equipment through a Statewide purchase program should the department find such a program to be cost efficient.

(b) Procedure.--

(1) The department is hereby authorized to make grants to all counties, except those of the first and second class, or to entities designated by such counties to coordinate services under this section in such county, for the purpose of adding, replacing, upgrading and overhauling equipment for the provision of shared-ride transit services responsive to and accessible by the general public as well as the elderly and disabled. If sufficient funds remain after all department approvals for such equipment projects have been fully funded, the department is hereby authorized to make grants for the purchase, construction or renovation of facilities to serve as office and maintenance sites for the provision of shared-ride transit services responsive to and accessible by the general public as well as the elderly and disabled. Equipment that may be purchased shall include, but

shall not be limited to, vehicles, vehicle rehabilitation, major drivetrain components, communication equipment, computer equipment and software and office equipment and furnishings.

(2) Counties other than counties of the first and second class may obtain grants pursuant to this subsection by filing with the department an application in a form prescribed by it. The department shall require with such application a transportation plan plus such other information as the department may require.

(3) The applicant shall certify that all efforts possible have been made to coordinate local service for the elderly and disabled and the services to be offered with these capital assets do not duplicate existing fixed route services, as provided under the act of February 11, 1976 (P.L.14, No.10), known as the Pennsylvania Rural and Intercity Common Carrier Surface Transportation Assistance Act, and under other provisions of this part. The applicant shall solicit comments from the local public body fixed route provider and include any such comments as part of the application.

(4) All purchases pursuant to this subsection shall be made in accordance with bidding procedures established under the act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945, or the act of August 9, 1955 (P.L.323, No.130), known as The County Code, whichever is applicable.

(c) Availability of funds.--Funds not expended under this section in the fiscal year in which they were made available shall not lapse and shall be available for use pursuant to this section in the next succeeding fiscal years.

§ 1313. Additional programs.

(a) Projects and programs enumerated.--The department is hereby authorized to incur costs directly or to make grants, undertake and provide financial support:

(1) To new rural transportation systems for the purpose of funding capital, asset maintenance and operating costs of new rural transportation systems. New rural transportation systems may obtain grants under this section by filing for each fiscal year with the department an application in a form prescribed by it. The department shall require with the application a transportation plan plus such other information as the department may require to establish to the satisfaction of the department that the new rural transportation system is deserving of a grant under this section.

(2) For the purpose of funding studies, analysis, planning and development of programs for public transportation assistance, services and facilities.

(3) To incur costs directly or to make grants for department-initiated programs.

(4) To make grants to Class 4 transit entities for the significant expansion of services by such entities from funds remaining in the development, planning and rural expansion share after all grants have been made for the fiscal year pursuant to paragraphs (1) and (2). Grants from the development, planning and rural expansion share shall be used by the Class 4 transit entity for the construction, acquisition, capital projects, asset maintenance and operating costs of the expansion of such entity. Class 4 transit entities may obtain grants by filing for each fiscal year with the department an application in a form prescribed

by it. The department shall require with the application a transportation plan plus such other information as the department may require to establish to the satisfaction of the department that the Class 4 transit entity is deserving of a grant under this section.

(b) Availability of funds.--Funds not expended under this section in the fiscal year in which they were made available shall not lapse and shall be available for use pursuant to this section in the next succeeding fiscal years.

§ 1315. Public transportation grants management accountability.

(a) Performance audits.--All classes of transit entities shall complete periodic management performance audits which shall encompass all public transportation programs and services financed in whole or in part by grants provided by the department as follows:

(1) The department shall establish criteria to be included in a performance audit performed pursuant to this section. The criteria shall be published in the Pennsylvania Bulletin. Separate criteria may be established for each class of transit entity.

(2) Management performance audits shall be completed within ten months of their initiation and shall be performed as follows:

(i) Class 1 transit entities shall begin the initial management performance audit required pursuant to this section no later than July 1, 1999, or, with the written approval of the department, within five years of the completion of the most recent performance audit. Thereafter, Class 1 transit entities shall complete a management performance audit at least once every five years.

(ii) Class 2 transit entities shall begin the initial management performance audit required by this section no later than July 1, 2000, or, with the written approval of the department, within five years of the most recent performance audit. The department may extend the initiation date for a period of up to five years. Thereafter, Class 2 transit entities shall complete a management performance audit at least once every five years.

(iii) Class 3 transit entities in urbanized areas with a population of 200,000 or greater shall begin the initial management performance audit required by this section no later than July 1, 2001. Class 3 transit entities in urbanized areas with a population of less than 200,000 shall begin the first management performance audit required by this section no later than July 1, 2002. Thereafter, Class 3 transit entities shall perform a management performance audit at least once every seven years.

(iv) Class 4 transit entities shall begin the first initial management performance audit required by this section no later than July 1, 2002. Thereafter, Class 4 transit entities shall perform a management performance audit at least once every ten years. The department shall perform management performance audits for Class 4 entities through qualified independent contractors unless written notice is provided to the department by the Class 4 transit entity that the transit entity wishes to perform its own audit. The notice shall be provided no later than one year prior to the initiation date of the next scheduled audit.

(3) Class 1, 2 and 3 transit entities shall bear all costs of performing management performance audits pursuant to this section. The cost of such management performance audits for Class 4 transit entities shall be paid by the department from funds made available under section 1310(d) (relating to distribution of funding).

(4) For Class 1, 2 and 3 transit entities, the management performance audit shall be conducted by a qualified independent auditor selected by competitive procurement. Procurement documents shall specify the scope of the audit, comply with department criteria and be submitted to the department for written approval prior to procurement.

(b) Submission of audit report; transit entity response.--

(1) Upon receipt of a final audit report from the auditor or, in the case of Class 4 transit entities, from the department, each transit entity shall prepare an action plan addressing the findings and recommendations of the audit report. The action plan shall be completed and approved by the transit entity's governing body within two months of receipt of the final audit report. The transit entity shall implement its action plan in accordance with the time frames specified in the plan.

(2) Upon approval of the action plan by the entity's governing body, the transit entity shall submit the plan and the auditor's report to the department. Class 1 and 2 transit entities shall also submit their action plans to the Legislative Budget and Finance Committee, the chairman and minority chairman of the Transportation Committee of the Senate and the chairman and minority chairman of the Transportation Committee of the House of Representatives.

(c) Customer satisfaction surveys.--Customer satisfaction surveys shall be conducted as follows:

(1) All Class 1 and 2 entities shall conduct customer satisfaction surveys at least once every two years. Class 3 and 4 transit entities shall conduct customer satisfaction surveys at least once every three years. An initial customer satisfaction survey for each transit entity shall be completed and submitted to the department no later than December 31, 1998.

(2) The department shall provide guidelines regarding the scope of the surveys and suggested questions which may be included in the surveys.

(3) Upon completion of the survey, the transit entity shall submit a report to the department containing survey methodology, survey results, relevant trends in the level of customer satisfaction and actions taken or planned to improve customer satisfaction.

(d) Suspension of grant funds.--The department may suspend eligibility for grants under section 1303 (relating to annual appropriation and computation of subsidy) for any transit entity which fails to comply with any of the provisions of this section.

(e) Restoration or continuation of funding.--The department shall continue eligibility of a transit entity for grants under section 1303 if the entity has initiated its audit or survey in a timely manner and the delay in completion of the audit or survey is not the fault of the transit entity. The department shall restore eligibility of a suspended transit entity at such time as the audit or survey is completed in accordance with the requirements of this section.

(f) Cost reduction and productivity improvement.--As part of its annual application for funding under section 1303, Class 1, 2, 3 and 4 transit entities shall include a report outlining initiatives it has undertaken to reduce costs and improve productivity.]

Section 3. Title 74 is amended by adding chapters to read:

**CHAPTER 15
SUSTAINABLE MOBILITY OPTIONS**

Sec.

- 1501. Scope of chapter.
- 1502. (Reserved).
- 1503. Definitions.
- 1504. Department authorization.
- 1505. Regulations.
- 1506. Fund.
- 1507. Application and approval process.
- 1508. Federal funding.
- 1509. Limitation on decisions, findings and regulations of department.
- 1510. Program oversight and administration.
- 1511. Report to Governor and General Assembly.
- 1512. Coordination.
- 1513. Operating program.
- 1514. Asset improvement program.
- 1515. New initiatives program.
- 1516. Programs of Statewide significance.
- 1517. Capital improvements program.
- 1518. Program oversight and administration.
- 1519. Retroactive authority.
- 1520. Evaluation of private investment opportunities.

§ 1501. Scope of chapter.

This chapter relates to sustainable mobility options.

§ 1502. (Reserved).

§ 1503. Definitions.

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

"Access to jobs project." A project relating to the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment as defined under 49 U.S.C. § 5316 (relating to job access and reverse commute formula grants).

"Americans with Disabilities Act." The Americans with Disabilities Act of 1990 (Public Law 101-336, 104 Stat. 327).

"Asset maintenance costs." All vehicle maintenance expenses, nonvehicle maintenance and materials expenses and the cost of supplies used in the operation of local transportation organizations and transportation companies.

"Award recipient." A recipient of financial assistance under this chapter.

"Base operating allocation." The total amount of State operating assistance, reimbursement in lieu of fares for senior passengers and other assistance which was used for operating assistance as determined by the department in fiscal year 2005-2006.

"Capital expenditures." All costs of capital projects, including, but not limited to, the costs of acquisition, construction, installation, start-up of operations, improvements and all work and materials incident thereto.

"Capital project." A system or component of a system for the provision of public passenger transportation. The term includes vehicles; infrastructure power; passenger amenities; storage and maintenance buildings; parking facilities; the land on which any capital project is situated and the land needed to support it, whether owned in whole or in part; overhaul of vehicles; debt service; and the cost of issuance of bonds, notes and other evidences of indebtedness which a local transportation organization or transportation company is permitted to issue under any law of this Commonwealth.

"Commonwealth capital bonds." Evidence of debt incurred by the Commonwealth under the act of February 9, 1999 (P.L.1, No.1), known as the Capital Facilities Debt Enabling Act.

"Community transportation service" or "shared ride service." Door-to-door demand transportation that is available to the general public on a nonexclusive basis, operates on a nonfixed route basis and charges a fare to all riders. The term does not include exclusive ride taxi service, charter and sightseeing service, nonpublic transportation, school bus and limousine service.

"Community transportation system." A person that provides community transportation service and contracts with the Department of Transportation to receive revenue replacement funds.

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

"Financial assistance." Grants or other types of financial support provided by the Department of Transportation under this chapter.

"Fixed guideway system." A fixed-route public transportation service that uses and occupies a separate right-of-way or rail line for the exclusive use of public transportation and other high-occupancy vehicles or uses a fixed catenary system and a right-of-way usable by other forms of transportation. The term includes light rail, commuter rail, automated guideway transit, people movers, ferry boat service and fixed guideway facilities for buses such as bus rapid transit and high-occupancy vehicles.

"Fixed-route public transportation service." Regularly scheduled general public transportation that is provided according to published schedules along designated routes, with specified stopping points for the taking on and discharging of passengers, including public bus and commuter rail systems and other department-approved service. The term does not include exclusive ride taxi service, charter or sightseeing service, nonpublic transportation, school bus and limousine service.

"Fund." The Public Transportation Trust Fund established under section 1506 (relating to fund).

"Intercity bus service." Passenger bus service of 35 miles or more in length that is provided with an over-the-road bus and operated between two noncontiguous urbanized areas, between an urbanized area located in one county and rural communities located in another county, or between rural communities located in different counties and contains all of the following elements:

(1) Service that is operated for a fare on a regularly scheduled fixed-route basis.

(2) Service that is offered to and utilized by the general public without preconditions of advance reservation or membership in a particular organization.

"Intercity passenger rail service." Passenger railroad service that connects two or more urbanized areas and is determined by the Department of Transportation to qualify as intercity service rather than commuter rail service.

"Job access and reverse commute project." A project funded by the Federal Transit Administration under Federal law.

"Local transportation organization." Any of the following:

(1) A political subdivision or a public transportation authority, port authority or redevelopment authority, organized under the laws of this Commonwealth or pursuant to an interstate compact or otherwise empowered to render, contract for the rendering or assist in the rendering of transportation service in a limited area in this Commonwealth, even though it may also render or assist in rendering transportation service in adjacent states.

(2) A nonprofit association that directly or indirectly provides public transportation service.

(3) A nonprofit association of public transportation providers operating within this Commonwealth.

"Materials and supplies." Those categories of expenses as specified in Uniform System of Accounts expense object class 504, National Transit Database operating expenses form F 30, National Transit Database, Final Rule, Federal Transit Administration, dated January 15, 1993, or any successor.

"New fixed guideway system." A newly constructed fixed guideway system in a corridor or alignment where no such system previously existed.

"New Freedom Program." A public transportation program designed to provide funds to recipients for new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (Public Law 101-336, 104 Stat. 327) that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services administered under the provisions of 49 U.S.C. § 5317 (relating to New Freedom Program).

"New start." The term shall have the same meaning given it in 49 CFR § 611.5 (relating to definitions).

"Nonurbanized area." An area within this Commonwealth that does not fall within an area classified as "urbanized" by the United States Bureau of the Census of the United States Department of Commerce in the most recent Census of Population.

"Nonvehicle maintenance expenses." The categories of costs associated with the inspection, maintenance and repair of assets, other than vehicles, as specified in Uniform System of Accounts, expense function 042, National Transit Database operating expenses form F 30, National Transit Database, Final Rule, Federal Transit Administration, dated January 15, 1993, or any successor.

"Operating expenses." Total expenses required to continue service to the public and to permit needed improvements in service which are not self-supporting and otherwise for any purpose in furtherance of public passenger transportation, including all State asset maintenance costs. The term does not include expenditures for capital projects

unless specific approval is provided by the Department of Transportation.

"Operating revenue." The total revenue earned by a local transportation organization or a transportation company through its transit operations. The term includes all of the following:

- (1) Passenger fares.
- (2) Reimbursements provided in lieu of fares for senior passengers.
- (3) Charter, school bus and advertising revenue.
- (4) Other miscellaneous revenue such as public and private route guarantee funds.

"Paratransit service." Transit service operating on a nonfixed-route basis in order to provide complementary transportation service to persons who are functionally unable to use fixed-route public transportation service as required by the Americans with Disabilities Act of 1990 (Public Law 101-336, 104 Stat. 327).

"Passengers." The total of all originating passengers plus transfer passengers carried on fixed-route public transportation service and paratransit service with respect to the most recent fiscal year as reported in the most recent Public Passenger Transportation Performance Report.

"Public passenger transportation." Transportation within an area that includes a municipality or other built-up place that is appropriate in the judgment of the Department of Transportation to serve commuters or others in the locality, taking into consideration the local patterns and trends of growth by bus or rail or other conveyance, either publicly or privately owned, serving the general public. The term does not include school buses or charter or sightseeing services.

"Public Passenger Transportation Performance Report." An annual report completed by the Department of Transportation which shall include all of the following:

- (1) Each local transportation organization's passengers, revenue vehicle miles, revenue vehicle hours and senior passengers statistics for the most recently available fiscal year.

- (2) Any other statistical information that the Department of Transportation deems necessary.

"Revenue replacement funds." Payments made to local transportation organizations and transportation companies to offset or partially offset fares.

"Revenue vehicle hours." The total amount of time calculated in hours during which vehicles are in service and available for public use in fixed-route public transportation service or paratransit service with respect to the most recent fiscal year as reported in the most recent Public Passenger Transportation Performance Report. The term does not include deadhead hours.

"Revenue vehicle miles." The total amount of distance calculated in miles during which vehicles are in service and available for public use in fixed-route public transportation service or paratransit service with respect to the most recent fiscal year as reported in the most recent Public Passenger Transportation Performance Report. The term does not include deadhead miles.

"Reverse commute project." A public transportation project designed to transport residents of urbanized and

nonurbanized areas to suburban employment opportunities as defined under 49 U.S.C. § 5316 (relating to job access and reverse commute formula grants).

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

"Senior citizen." A person who is at least 65 years of age.

"Senior passenger." A senior citizen who rides on fixed-route service.

"Senior passengers." The number of senior passengers transported by a local transportation organization with respect to the most recent fiscal year as reported in the most recent Public Passenger Transportation Performance Report.

"Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

"Transportation company." A person that renders public passenger transportation service.

"Urbanized area." A portion of this Commonwealth classified as urbanized by the United States Bureau of the Census of the United States Department of Commerce in the most recent Census of Population.

"Vehicle maintenance expenses." The categories of costs associated with the inspection, maintenance and repair of vehicles as specified in Uniform System of Accounts, Expense Function 041, National Transit Database operating expenses form F 30, National Transit Database, Final Rule, Federal Transit Administration, dated January 15, 1993, or any successor.

"Welfare-to-work." Any Federal or State program designed to move individuals from dependency on public welfare programs to self-sufficiency through paid work.

§ 1504. Department authorization.

(a) General.--The department may, within the limitations provided in this chapter, incur costs directly and provide financial assistance for the purposes and activities enumerated in this chapter.

(b) Supplementation of Federal and local funds.--The authority conferred on the department by this chapter includes providing financial assistance for public passenger transportation purposes and supplementing Federal funding or local funding or both.

§ 1505. Regulations.

(a) General rule.--To effectuate and enforce the provisions of this chapter, the department shall promulgate necessary rules and regulations and prescribe conditions and procedures in order to assure compliance in carrying out the purposes for which financial assistance may be provided under this chapter.

(b) Temporary regulations.--

(1) Unless otherwise provided in this chapter, in order to facilitate the prompt implementation of this chapter, during the two-year period following the effective date of this section, the department shall promulgate temporary regulations which shall expire four years from the effective date of this section. The temporary regulations shall be exempt from the following:

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

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

(2) The authority of the department to promulgate temporary regulations under this subsection shall expire two years from the effective date of this section. Regulations adopted after the two-year period shall be promulgated as provided by statute.

§ 1506. Fund.

(a) Establishment.--A special fund is established within the State Treasury to be known as the Public Transportation Trust Fund. Money in the fund is hereby appropriated, upon approval of the Governor, to the department for the purposes set forth under this chapter.

(b) Deposits to fund by department.--

(1) The following apply:

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

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

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

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

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

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

(2) Upon receipt, the department shall deposit the amount made available to the department as an executive authorization and any appropriation for the 2007-2008 fiscal year and each fiscal year thereafter from the State Lottery Fund for fixed route transit and for the Free Transit Program for Senior Citizens established under the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law. The funds deposited under this paragraph shall only be used as permitted by the State Lottery Law, except that:

(i) funds may be used to pay estimated transit losses resulting from providing free service for senior passengers during the provider's regular hours of service; and

(ii) fares for senior citizens on commuter rail service shall be limited to \$1 per trip and shall be extended to all hours of commuter rail service.

(c) Other deposits.--The following shall be deposited into the fund annually:

(1) 4.4% of the amount collected under Article II of the Tax Reform Code. Revenues under this paragraph shall be deposited into the fund by the 20th day of each month for the preceding month. The amount deposited under this paragraph is estimated to be equivalent to the money available to the department from the following sources:

(i) The Supplemental Public Transportation Account established under former section 1310.1 (relating to supplemental public transportation assistance funding).

(ii) The amount appropriated annually by the Commonwealth from the General Fund for mass transit programs pursuant to a General Appropriations Act.

(2) An amount of proceeds of Commonwealth capital bonds as determined annually by the Secretary of the Budget.

(3) Revenue in the Public Transportation Assistance Fund established under Article XXIII of the Tax Reform Code not otherwise dedicated pursuant to law.

(4) Other appropriations, deposits or transfers to the fund.

(d) Use of revenues.--Money in the fund shall be used by the department as follows:

(1) to provide financial assistance through the programs established under this chapter;

(2) for costs incurred directly by the department in the administration of public passenger transportation programs, including under this chapter; and

(3) for all other purposes enumerated under this chapter.

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

(1) For the program established under section 1513 (relating to operating program), the following amounts shall be allocated from the fund:

(i) All revenues deposited in the fund under subsection (b)(1).

(ii) All revenues deposited in the fund under subsection (b)(2).

(iii) 69.99% of the revenues deposited in the fund under subsection (c)(1).

(iv) All revenues deposited into the fund under subsection (c)(3).

(2) (i) Except as provided under subparagraph (ii), for the program established under section 1514 (relating to asset improvement program):

(A) By the proceeds of Commonwealth capital bonds deposited into the fund under subsection (c)(2).

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

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

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

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

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

(3) For the program established under section 1516 (relating to programs of Statewide significance), 13.24% of the revenues deposited in the fund under subsection (c) (1) shall be allocated from the fund.

(4) For the program established under section 1517 (relating to capital improvements program), 16.77% of the revenues deposited in the fund under subsection (c) (1). Additional funds for this program may be provided from the funds allocated but not distributed based on the limitation set forth under section 1513(c) (3).

§ 1507. Application and approval process.

(a) Application.--An eligible applicant that wishes to receive financial assistance under this chapter shall submit a written application to the department on a form developed by the department, which shall include the following:

(1) The name and address of the applicant.

(2) The name and telephone number of a contact person for the applicant.

(3) The amount and type of financial assistance requested and the proposed use of the funds.

(4) A statement as to the particular need for the financial assistance.

(5) A certified copy of a current resolution authorizing submission of the application if the applicant is a governing body.

(6) Evidence satisfactory to the department of the commitment for matching funds required under this chapter sufficient to match the projected financial assistance payments at the same times that the financial assistance payments are to be provided.

(7) Any other information the department deems necessary or desirable.

(b) Approval and award.--Upon determining that an applicant has complied with this chapter, applicable rules and regulations and any other requirement with respect to the financial assistance requested, the department may award financial

assistance to the applicant. If the department awards financial assistance to the applicant, the department and the applicant shall enter into a financial assistance agreement setting forth the terms and conditions governing the use of the financial assistance and the timing of payment of the funds. The department shall develop guidelines for the application for and awarding of financial assistance under this chapter and shall forward them to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

(c) Restriction on use of funds.--Financial assistance under this chapter shall be used only for activities set forth under the financial assistance agreement unless the department grants the award recipient a waiver allowing the funds to be used for a different purpose. The department's regulations shall describe circumstances under which it will consider waiver requests and shall set forth all information to be included in a waiver request. The maximum duration of a waiver shall be one year, and a waiver request shall include a plan of corrective action to demonstrate that the award recipient does not have an ongoing need to use financial assistance funds for activities other than those for which funds were originally awarded.

§ 1508. Federal funding.

(a) General rule.--The department shall administer the programs established under this chapter in a manner that permits full cooperation between Federal, State and local governments, agencies and instrumentalities, local transportation organizations and private interests, so as to result in as effective and economical a program as possible.

(b) Agreements.--The department may enter into agreements for mutual cooperation between or among the department and a Federal agency, local transportation organization or transportation company concerning a project to be funded with financial assistance under this chapter, including joint applications for Federal grants.

(c) General authority of department.--The department may do anything necessary or desirable to secure financial aid or cooperation of a Federal agency for a project funded with financial assistance under this chapter and to comply with a Federal statute or lawful requirement of a Federal agency authorized to administer a program of Federal aid to transportation. The department may enter into a protective agreement with organized labor to the extent required under 49 U.S.C. § 5333 (relating to labor standards) in order to obtain Federal grant money for transportation assistance. Protective agreements shall be narrowly drawn and strictly construed to provide no more than the minimum protections required by the United States Department of Labor for the agreements.

(d) Direct recipients.--Local transportation organizations that are direct recipients of Federal funding shall be under no obligation to enter into contracts with the department for expenditure of those funds, except that the department may require a contract for expenditure of the State portion of the project assisted by those Federal funds.

§ 1509. Limitation on decisions, findings and regulations of department.

All decisions, findings and regulations made by the department pursuant to this chapter shall be for the purposes of this chapter only and shall not constitute evidence before a regulatory body of this Commonwealth or any other jurisdiction.

§ 1510. Program oversight and administration.

(a) Review and oversight.--The department shall initiate and maintain a program of financial and performance review and oversight for all programs receiving financial assistance under this chapter. The department may perform independent financial audits of each award recipient to ensure compliance by award recipients with this chapter, department regulations and policies and financial assistance agreements. Audits shall be conducted in accordance with generally accepted auditing standards.

(b) State Rail Transit Safety Inspection Program.--The department may conduct a State Rail Transit Safety Inspection Program, as may be defined from time to time by the Federal Transit Administration, to meet oversight requirements of the Federal Transit Administration. The public transportation modes covered shall include heavy rail, light rail, trackless trolley bus and inclined plane services and related facilities.

§ 1511. Report to Governor and General Assembly.

The following shall apply:

(1) Except as provided in paragraph (2), the department shall submit a public passenger transportation performance report to the Governor and the General Assembly by April 30 of each year, covering the prior fiscal year.

(2) The report covering the 2005-2006 fiscal year shall be submitted by July 31, 2007.

§ 1512. Coordination.

Coordination is required in regions where two or more award recipients have services or activities for which financial assistance is being provided under this chapter to assure that the services or activities are provided efficiently and effectively.

§ 1513. Operating program.

(a) Eligible applicants.--The following may apply for financial assistance for operating expenses under this section:

(1) The governing body of a municipality or an instrumentality of a municipality.

(2) A Commonwealth agency or instrumentality.

(3) A local transportation organization.

(b) Applications.--In addition to information required under section 1507 (relating to application and approval process), an application for financial assistance under this section shall include the applicant's reasonable estimates of operating revenue and government subsidies sufficient to cover all projected operating expenses.

(c) Distribution formula.--

(1) No later than 15 business days after the effective date of this section, the department shall forward to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin the base operating allocation for each local transportation organization.

(1.1) For purposes of determining the amount of assistance available for distribution under this subsection, in addition to the amounts allocated under section 1506(e)(1) (relating to fund), an amount equal to the revenue in the Public Transportation Assistance Fund dedicated pursuant to law shall be included.

(2) For fiscal year 2007-2008 and each fiscal year thereafter, each qualifying local transportation organization shall receive financial assistance which shall consist of the following:

(i) Its base operating allocation multiplied by 1.0506.

(ii) An additional amount which shall be allocated based on the following distribution formula:

(A) Twenty-five percent of the award amount shall be based on the number of passengers. The actual amount received by each local transportation organization under this clause shall be calculated as follows:

(I) Multiply the total amount of funding available for distribution under this paragraph by 0.25.

(II) Multiply the product under subclause (I) by the local transportation organization's number of passengers.

(III) Divide the product under subclause (II) by the total number of passengers for all local transportation organizations.

(B) Ten percent of the award amount shall be based on the number of senior passengers to offset free fares for senior passengers. The actual amount received by each local transportation organization under this clause shall be calculated as follows:

(I) Multiply the total amount of funding available for distribution under this paragraph by 0.10.

(II) Multiply the product under subclause (I) by the local transportation organization's number of senior passengers.

(III) Divide the product under subclause (II) by the total number of senior passengers for all local transportation organizations.

(C) Thirty-five percent of the award amount shall be based on the number of revenue vehicle hours. The actual amount received by each local transportation organization under this clause shall be calculated as follows:

(I) Multiply the total amount of funding available for distribution under this paragraph by 0.35.

(II) Multiply the product under subclause (I) by the local transportation organization's number of revenue vehicle hours.

(III) Divide the product under subclause (II) by the total of the revenue vehicle hours for all local transportation organizations.

(D) Thirty percent of the award amount shall be based on the number of revenue vehicle miles. The actual amount received by each local transportation organization under this clause shall be calculated as follows:

(I) Multiply the total amount of funding available for distribution under this paragraph by 0.30.

(II) Multiply the product under subclause (I) by the local transportation organization's number of revenue vehicle miles.

(III) Divide the product under subclause (II) by the total number of revenue vehicle miles for all local transportation organizations.

(3) For the 2007-2008 fiscal year, no local transportation organization shall receive total financial assistance under this subsection that would be more than 50% higher than the amount it receives under paragraph (2)(i). For each subsequent fiscal year, the increase in the total financial assistance provided to each local transportation organization shall not exceed 20% of the prior year allocation.

(c.1) Minimum.--No local transportation organization shall receive financial assistance under this section in an amount less than the amount received in the previous fiscal year.

(d) Local match requirements.--

(1) For fiscal year 2007-2008 and each fiscal year thereafter, except as provided under paragraph (2), financial assistance provided under this section shall be matched by local or private cash funding in an amount not less than the greater of:

(i) 15% of the amount of the financial assistance being provided; or

(ii) the amount required under former section 1311(d) (relating to use of funds distributed) for fiscal year 2006-2007.

(2) Beginning in fiscal year 2007-2008 and each fiscal year thereafter, if the local matching funds provided are less than 15% of the amount of financial assistance received, the local transportation organization's required local matching funds shall increase annually in order to meet the 15% requirement set forth under paragraph (1)(i). The local matching funds shall be increased annually by a minimum of 5% above the amount of local matching funds provided in the previous fiscal year unless a lesser amount is necessary to meet the 15% requirement set forth under paragraph (1)(i).

(3) Eligible local matching funds shall consist only of cash contributions provided by one or more municipalities or counties. The amount of the match and the time period during which the match must continue to be available shall be specified in the financial assistance agreement. Funding provided by local and private entities, including advertising or naming rights, may qualify as local matching funds to the extent they provide for the cost of transit service that is open to the public. The following shall not be considered local matching funds:

(i) Any form of transit operating revenue or other forms of transit income provided by the local transportation organization.

(ii) Funds used to replace fares.

(4) A municipality in a metropolitan area which is a member of a local transportation organization is authorized to provide annual financial assistance from current revenues to the local transportation organization of which it is a member or enter into a long-term agreement for payment of money to assist in defraying the costs of operation, maintenance and debt service of the local transportation organization or of a particular public transportation project of a local transportation organization. The obligation of a municipality under an agreement pursuant to this paragraph shall not be considered to be a part of the indebtedness of the municipality, nor shall the obligation be deemed to impair the status of any indebtedness of the municipality which would otherwise be considered self-sustaining.

(e) Performance reviews.--

(1) The department may conduct performance reviews of an award recipient under this section to determine the effectiveness of the financial assistance. Reviews shall be conducted at regular intervals as established by the department in consultation with the management of the award recipient. After completion of a review, the department shall issue a report that:

- (i) highlights exceptional performance and identifies any problems that need to be resolved;
- (ii) assesses performance, efficiency and effectiveness of the use of the financial assistance;
- (iii) makes recommendations on follow-up actions required to remedy any problem identified; and
- (iv) provides an action plan documenting who should perform the recommended actions and a time frame within which they should be performed.

(2) The department shall deliver the report to the Governor, to the chairman and minority chairman of the Transportation Committee of the Senate and to the chairman and minority chairman of the Transportation Committee of the House of Representatives. The department's regulations shall contain a description of the impact on both the amount of, and future eligibility for, financial assistance under this chapter based upon the degree to which the local transportation organization complies with the recommendations in the report. The department shall develop a list of best practices revealed by the reports issued under this subsection and shall post them on the department's Internet website.

(f) Performance criteria.--Criteria used for the reviews conducted under subsection (e) shall consist of passengers per revenue vehicle hour, operating costs per revenue vehicle hour, operating revenue per revenue vehicle hour, operating costs per passenger and other items as the department may establish. The department's regulations shall set forth the minimum system performance criteria based upon comparison of the award recipient to its past performance and to its peers that an award recipient must satisfy.

(g) Failure to satisfy minimum performance criteria.--

(1) If a performance review conducted under subsection (e) reveals that the performance of an award recipient's transportation system has decreased compared to performance determined through a prior review, the department may, upon the written request of an award recipient, waive any requirement for a reduction in the amount of financial assistance to be awarded under this section for a reasonable time period to allow the award recipient to bring the system back to the required performance level. The award recipient shall provide written justification for providing a time period longer than two years. In order to obtain the waiver for the period requested, the award recipient must do all of the following:

- (i) Develop an action plan to improve system performance that contains key measurable milestones. The action plan must be acceptable to the department and must be approved by the department in writing.
- (ii) Submit quarterly progress reports on the action plan to the department.

(2) The department shall review and evaluate the award recipient's progress to determine if the system has improved. If the system has improved, the award recipient will remain eligible for full formula funding as determined under subsection (c). If the system has not improved by the end of the waiver period, the waiver will be withdrawn. Expenses incurred by the award recipient as a result of the failure of the award recipient's system to meet the minimum performance criteria shall be borne by the award recipient.

(h) Adjustments to minimum performance criteria.--Upon written request of an award recipient, the department may adjust the minimum performance criteria described in subsection (g) in a given year if the performance of the award recipient's system is adversely affected by circumstances which are beyond the award recipient's control. Examples are labor strikes, infrastructure failures and natural disasters. The request must include the award recipient's reasons for seeking the adjustment.

§ 1514. Asset improvement program.

(a) Eligible applicants.--

(1) The following may apply for financial assistance for improvement, replacement or expansion of capital projects under this section:

(i) A local transportation organization.

(ii) An agency or instrumentality of the Commonwealth.

(iii) A person responsible for coordinating community transportation program services.

(iv) Any other person the department deems to be eligible.

(2) The department shall develop and maintain four-year and 12-year plans that summarize the capital projects and financial assistance commitments for each applicant. The department may enter into multiyear agreements to provide financial assistance for capital projects based upon cash flow and revenue projections for the fund. Each capital project shall be based on the plan developed by the department.

(b) Applications.--In addition to information required under section 1507 (relating to application and approval process), an application for financial assistance under this section shall include the following:

(1) Evidence satisfactory to the department that the proposed capital project is included in the first year of the applicant's four-year capital plan and its federally approved transportation improvement program.

(2) If an applicant is requesting financial assistance for replacement of a capital project, evidence satisfactory to the department that the capital project to be replaced has exceeded the useful life criteria as defined by the department. At its discretion, the department may approve funding to replace a capital project that does not exceed the useful life criteria if the applicant provides documentation acceptable to the department to justify the early replacement of the capital project.

(3) If the applicant is requesting financial assistance for expansion of a capital project, evidence satisfactory to the department that the applicant will have sufficient future annual operating funds to support the proposed expansion.

(4) Any other information required by the department, including a return on investment analysis or a life cycle cost analysis, or both.

(c) Local match requirements.--Financial assistance under this section shall be matched by local or private cash funding in an amount not less than 3.33% of the amount of the financial assistance being provided. The source of funds for the local match shall be subject to the requirements of section 1513(d) (3) (relating to operating program).

(d) Conditions for receipt of bond funding.--Financial assistance that is funded by proceeds of Commonwealth capital bonds may be provided to an applicant if all of the following conditions are met:

(1) The applicant's capital project has been authorized by a capital budget project itemization act.

(2) The applicant's capital project was included in the department's approved annual release request approving the use of the funds for the proposed capital project in the fiscal year in which the funds are expected to be expended.

(3) The department has approved the underlying application for the capital project.

(e) Priorities.--The award of financial assistance under this section shall be subject to the following set of priorities in descending order of significance unless a compelling return on investment analysis for a project in a lower category is provided to and approved by the department:

(1) Requests for funds required to support existing local bond issues currently supported with State revenue sources, such as debt service and asset leases. The Commonwealth pledges to and agrees with any person, firm or corporation holding any bonds previously issued by, or any other debt incurred by, a local transportation organization and secured in whole or part by a pledge of the funds provided to the local transportation organization from the fund that the Commonwealth will not limit or alter rights vested in a local transportation organization in any manner inconsistent with obligations of the local transportation organization to the obligees of the local transportation organization until all bonds previously issued or other debt incurred, together with the interest thereon, is fully paid or provided for.

(2) Requests for funds required to match federally approved capital projects funded under 49 U.S.C. §§ 5307 (relating to urbanized area formula grants) and 5309 (relating to capital investment grants and loans) and other federally approved capital projects.

(3) Other non-Federal capital projects as determined by the department, which shall be further subject to the following set of priorities in descending order of significance:

(i) Essential emergency asset improvement projects.

(ii) Standard replacement of existing assets that have exceeded their useful life.

(iii) Asset improvement projects to extend the useful life of the affected assets.

(iv) Acquisition of new assets and other acceptable purposes, other than projects to be funded under the new initiatives program described in section 1515 (relating to new initiatives program), as determined by the department.

(f) Bonding by award recipients.--With the approval of the department, an award recipient that is permitted by law to issue bonds may do so for the purpose of financing a multiyear capital project. The department shall enter into an agreement with the award recipient providing that payments of the awarded funds sufficient to satisfy requirements of the bonds issued be made directly to the trustee of the bondholders until such time as the bonds are retired.

§ 1515. New initiatives program.

(a) Eligible applicants.--Persons eligible to apply for financial assistance under section 1514 (relating to asset improvement program) shall also be eligible to apply for financial assistance for new or expansions of fixed guideway systems under this section.

(b) Applications.--In addition to the information required under section 1507 (relating to application and approval process), an application for financial assistance under this section shall include all of the information required in an application for financial assistance under section 1514. If the application is for a proposed expansion of a capital project, the application shall also include evidence satisfactory to the department that the applicant will have sufficient future annual operating funds to support the proposed expansion.

(c) Source of funds and priorities.--

(1) Sums allocated for the asset improvement program under section 1506(e) (2) (relating to fund), up to a maximum of \$50,000,000 annually, may be used by the department to provide financial assistance under this section.

(2) In awarding financial assistance under this section, the department shall give priority to applicants that intend to use the funds to satisfy the local matching portion of federally approved New Starts projects funded pursuant to 49 U.S.C. § 5309 (relating to capital investment grants and loans). The department may fund projects that do not receive funding from the Federal New Starts Program if the applicant can provide sufficient evidence that the project can meet all of the following requirements:

(i) Investments in existing service areas have been optimized.

(ii) An analysis reveals a reasonable return on investment.

(iii) The public benefit of the project has been identified.

(iv) There exists a local dedicated funding commitment to pay any required local match for the project and ongoing operating costs.

(v) There exists local technical ability and capacity to manage, construct and operate the project.

(vi) The project is supported by the adoption of an integrated land use plan by local municipalities.

(d) Local match requirement.--Financial assistance under this section shall be matched by local or private cash funding in an amount not less than 3.33% of the amount of the financial assistance being provided. The source of funds for this local match shall be subject to the requirements of section 1513(d) (3) (relating to operating program).

§ 1516. Programs of Statewide significance.

(a) General rule.--Money in the fund allocated for programs of Statewide significance shall be used by the department to support public transportation programs, activities and services

not otherwise fully funded through the operating program, capital program or asset improvement program. In addition to any requirements contained in this section, applications must comply with section 1507 (relating to application and approval process). Programs of Statewide significance shall include:

- (1) The Persons with Disabilities Program.
- (2) Intercity passenger rail and bus services.
- (3) Community transportation capital and service stabilization.
- (4) The Welfare-to-Work Program and matching funds for Federal programs with similar intent.
- (5) Demonstration and research projects.
- (6) Technical assistance.
- (7) Other programs as determined by the department.
- (8) The department's costs under sections 1510(b) (relating to program oversight and administration) and 1518 (relating to program oversight and administration).

(b) Persons with disabilities.--The department shall establish and administer a program providing reduced fares to persons with disabilities on community transportation services and to provide financial assistance for start-up, administrative and capital expenses related to reduced fares for persons with disabilities. All of the following shall apply:

(1) A community transportation system operating in the Commonwealth other than in counties of the first and second class may apply for financial assistance under this subsection.

(2) The department may award financial assistance under this subsection for program start-up and for continuing capital expenses to offset administrative and capital expenses. For community transportation trips made by eligible persons with disabilities, financial assistance may be awarded to an eligible community transportation system to reimburse the system for up to 85% of the fare established for the general public for each trip which is outside of fixed-route and paratransit service areas and not eligible for funding from any other program or funding source. The person making the trip or an approved third-party sponsor shall contribute the greater of 15% of the fare established for the general public or the Americans with Disabilities Act complementary paratransit fare.

(c) Intercity transportation.--The department is authorized to provide financial assistance for an efficient and coordinated intercity common carrier surface transportation program, consisting of both intercity passenger rail service and intercity bus service transportation, with the intent of sustaining strong intercity connections. All of the following shall apply:

(1) An intercity passenger rail service provider, a local transportation organization, an agency or instrumentality of the Commonwealth or a transportation company that provides intercity public transportation service may apply for financial assistance under this subsection. The department is authorized to enter into joint service agreements with a railroad company, any other agency or instrumentality of the Commonwealth, a Federal agency or an agency or instrumentality of any other jurisdiction relating to property, buildings, structures, facilities, services, rates, fares, classifications, dividends, allowances or charges, including charges between intercity rail passenger

service facilities, or rules or regulations pertaining thereto, for or in connection with or incidental to transportation in whole or in part upon intercity rail passenger service facilities.

(2) Operating assistance and capital assistance may be provided for intercity bus service and intercity passenger rail service as determined by the department.

(3) For financial assistance to a transportation company, eligible matching funds shall consist only of cash income generated by the transportation company from its activities, other than the provision of subsidized public passenger transportation service and contributed by the transportation company in the amount and for the time period specified in the financial assistance agreement.

(4) Local match requirements are as follows:

(i) For intercity bus service operating and capital assistance, financial assistance shall require a local match by local or private cash funding in an amount equal to at least 100% of the amount of the financial assistance being provided.

(ii) For intercity passenger rail service operating and capital assistance, financial assistance shall require a local match on a case-by-case basis, taking into account the best interests of the Commonwealth.

(5) For purposes of this subsection, "local match" is defined as local revenue obtained from other nonsubsidized services such as charter, school bus or profits realized from other intercity bus services. Local match shall not include any funds received from Federal or State sources.

(d) Community transportation.--

(1) The department is authorized to provide financial assistance under this section for all of the following:

(i) Capital expenditures for the provision of community transportation service; and

(ii) service stabilization, including:

(A) Stabilizing current service and fares.

(B) Providing advice or technical assistance to analyze and enhance community transportation system resources and services.

(C) Maximizing available funding including Federal dollars.

(D) Ensuring equitable cost sharing.

(2) Subject to the limitations of this subsection, the following may apply for financial assistance under this subsection:

(i) The governing body of a county, other than a county of the first or second class.

(ii) A transportation company designated by the governing body of the county as the coordinator of community transportation service.

(iii) An agency or instrumentality of the Commonwealth.

(2.1) Each eligible applicant shall be subject to all of the following requirements:

(i) An applicant for financial assistance for capital expenditures for the provision of public community transportation service shall certify to the department that it has taken all reasonable steps to coordinate local service for the elderly and persons with disabilities and that the services to be offered

with the capital assets do not duplicate existing fixed-route services.

(ii) The governing body of a county or the coordinator described under this paragraph shall not be eligible for financial assistance for service stabilization if any of the following apply:

(A) The coordinator receives financial assistance under the operating program established under this chapter.

(B) The coordinator is a private for-profit provider.

(3) Financial assistance for service stabilization may only be provided for the following purposes:

(i) Short-term, long-term and strategic planning.

(ii) Technology investment.

(iii) Training programs designed to enhance transportation management and staff expertise.

(iv) Offsetting operating expenses that cannot be covered by fare revenue due to emergencies.

(v) Marketing activities.

(vi) Other stabilization purposes approved by the department.

(4) The department shall give high priority to providing financial assistance under this subsection as match for Federal funding to support capital projects for community transportation systems.

(5) The department shall conduct a study to evaluate the effectiveness and efficiency of community transportation service delivery as it relates to human service programs. The Department of Public Welfare, the Office of the Budget and the Department of Aging and other appropriate Commonwealth agencies identified by the department shall participate in the study. Within two years following the effective date of this section, these agencies shall make recommendations to the Governor and the Majority and Minority chairpersons of the Transportation Committee of the Senate and the Majority and Minority chairpersons of the Transportation Committee of the House of Representatives for improving coordination and efficiency of human services and community transportation.

(d.1) Welfare-to-work and Federal programs match.--The department is authorized to provide financial assistance under this section to design and implement projects and services and to reimburse award recipients for the expenses associated with the projects and services that identify and address public passenger transportation and related barriers preventing individuals eligible for participation in the Federal welfare-to-work program from securing and maintaining employment and from accessing community services and facilities. All of the following shall apply:

(1) A local transportation organization, a transportation company designated by a county as the coordinator of community transportation services or any other person approved by the department may apply to the department for financial assistance under this subsection.

(2) Financial assistance awarded under this subsection shall be used for any of the following purposes:

(i) Fixed-route service subsidy.

(ii) Contracted transportation services.

(iii) Fixed-route fare discounts.

- (iv) Community transportation fare discounts.
- (v) Taxi fare discounts.
- (vi) Mileage reimbursement.
- (vii) Vehicle purchase, insurance, maintenance and repair.
- (viii) Driver education classes.
- (ix) Administrative expenses.
- (x) Case management expenses.
- (xi) Any other activities consistent with the transportation related elements of the welfare-to-work program.

(3) The department shall give high priority to providing financial assistance under this subsection as match for Federal funding to support projects with similar purposes and eligible uses, including the Federal Job Access Reverse Commute and New Freedoms programs.

(e) Technical assistance and demonstration.--The department is authorized to provide financial assistance under this section for technical assistance, research and short-term demonstration projects. All of the following shall apply:

(1) A local transportation organization or an agency or instrumentality of the Commonwealth may apply to the department for financial assistance under this subsection.

(2) Financial assistance provided under this subsection may be used for reimbursement for any approved operating or capital costs related to technical assistance and demonstration program projects. Financial assistance for short-term demonstration projects may be provided at the department's discretion on an annual basis based on the level of financial commitment provided by the award recipient to provide ongoing future funding for the project as soon as the project meets the criteria established by the department and the award recipient. Financial assistance for this purpose shall not be provided for more than three fiscal years. Financial assistance may be provided to meet any short-term emergency need that requires immediate attention and cannot be funded through other sources.

(3) Financial assistance under this subsection provided to a local transportation organization shall be matched by local or private cash funding in an amount not less than 3.33% of the amount of the financial assistance being provided. The sources of funds for the local match shall be subject to the requirements of section 1513(d)(3) (relating to operating program).

§ 1517. Capital improvements program.

(a) Eligibility.--A local transportation organization may apply for financial assistance under this section.

(b) Applications.--The department shall establish the contents of the application for the program established under this section. The information shall be in addition to information required under section 1507 (relating to application and approval process).

(c) Distribution formula.--The department shall award financial assistance under this section based on the number of passengers. The actual amount awarded to a local transportation organization under this subsection shall be calculated as follows:

(1) Multiply the local transportation organization's passengers by the total amount of funding available under this section.

(2) Divide the product under paragraph (1) by the sum of the passengers for all qualifying local transportation organizations.

(d) Payments.--Financial assistance under this section shall be paid to local transportation organizations at least quarterly.

(e) Reduction in financial assistance.--Financial assistance provided to a local transportation organization under this section shall be reduced by any financial assistance received previously under this section which has not been spent or committed in a contract within three years of its receipt.

§ 1518. Program oversight and administration.

The department is authorized to use available money in the fund to cover the costs incurred by the department in administering all of its public passenger transportation funding programs, including those established under this chapter, and incurred in the carrying out of its responsibilities with respect to the programs.

§ 1519. Retroactive authority.

(a) Date of project.--Financial assistance may be awarded under this chapter by the department with reference to an appropriate project irrespective of when it was first commenced or considered and regardless of whether costs with respect to the project were incurred prior to the time the financial assistance is applied for or provided.

(b) Capital projects.--

(1) For capital projects, the applicant must obtain written approval from the department prior to incurring any expenses for which the applicant may later seek reimbursement.

(2) Notwithstanding paragraph (1), approval by the department shall not constitute an approval of the applicant's underlying request for financial assistance.

(3) By providing preapproval under this subsection, the department may recognize any local funds already expended as satisfying the local match requirement if and when the applicant's application is approved.

§ 1520. Evaluation of private investment opportunities.

(a) Study.--A local transportation organization receiving funding in an amount greater than \$5,000,000 annually under this chapter shall undertake a study to evaluate the feasibility of utilizing partnerships with private service providers and financial partners as a method to operate and finance new or existing services. Within one year following the effective date of this section, each local transportation organization required to evaluate private participation under this section shall submit a report to the secretary and the majority chairperson and minority chairperson of the Transportation Committee of the Senate and the majority chairperson and minority chairperson of the Transportation Committee of the House of Representatives.

(b) Report.--The report shall, at a minimum, include the results of the evaluation, a determination of the viability of greater private partnering and any recommendations about how to achieve greater participation from the private sector.

(c) Preclusion.--Nothing in this section shall preclude a local transportation organization receiving less than \$5,000,000 annually under this chapter from making an evaluation of greater private involvement in their operations.

Sec.

- 8101. Scope of chapter.
- 8102. Definitions.
- 8103. (Reserved).
- 8104. Status of turnpike revenue bonds, notes or other obligations.
- 8105. Commission.
- 8106. Exercise of commission powers.
- 8107. Commission powers and duties.
- 8108. Expenses and bonding of commission members.
- 8109. Acquisition of property rights by commission.
- 8110. Procedural requirements of acquisition.
- 8111. Entry and possession of property condemned.
- 8112. Issuance of turnpike revenue bonds or other obligations.
- 8113. Obligation proceeds restricted and lien created.
- 8114. Trust indenture authorized.
- 8115. Commission and obligations tax exempt.
- 8116. Collection and disposition of tolls and other revenue.
- 8117. Electronic toll collection.
- 8118. Refunding bonds.
- 8119. Rights of obligation holders and trustees.
- 8120. Authority granted to secretary.
- 8121. (Reserved).
- 8122. (Reserved).
- 8123. Construction of chapter.

§ 8101. Scope of chapter.

This chapter relates to turnpike organization, extension and toll road conversion.

§ 8102. Definitions.

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

"Commission." The Pennsylvania Turnpike Commission.

"Cost of the department." The term includes the costs of all of the following:

(1) Constructing, reconstructing, widening, expanding or extending the State highway and rural State highway system and connecting roads, tunnels and bridges.

(2) Systems of public passenger transportation or portions of the systems, the placing of the systems in operation and the condemnation of property necessary for construction and operation of the systems.

(3) Lands, property rights, rights-of-way, easements and franchises acquired, which are deemed necessary or convenient for the construction, reconstruction, widening, expanding or extending under paragraph (1) or (2).

(4) Machinery and equipment, financing charges, interest prior to and during construction and for one year after completion of construction.

(5) Any of the following:

(i) Traffic estimates, engineering and legal expenses, plans, specifications, surveys, estimates of cost and of revenues.

(ii) Other expenses necessary or incident to determining the feasibility or practicability of the enterprise. This subparagraph includes administrative and legal expenses.

(iii) Other expenses as may be necessary or incident to the financing authorized under this chapter, the

construction, reconstruction, widening, expanding or extending of the State highway and the rural State highway system and connecting roads, tunnels and bridges.

(6) Any obligation or expense contracted for by the department or with the United States or an agency of the United States, for traffic surveys, preparation of plans and specifications, supervision of construction and other engineering, administrative and legal services and expenses in connection with the construction, reconstruction, widening, expanding or extending of the State highway and rural State highway system or any of the connecting roads, tunnels and bridges or the costs of the systems of public passenger transportation or portions of the systems.

(7) Payment of any notes or other obligations if the notes or other obligations were issued for the payment of a cost of the department.

"Cost of the turnpikes." The term includes the cost of:

(1) Constructing, reconstructing, widening, expanding or extending turnpikes, connecting roads, storm water management systems, buildings, interchanges, slip ramps, tunnels and bridges.

(2) Lands, property rights, rights-of-way, easements and franchises acquired by purchase or other means deemed necessary or convenient for construction.

(3) Machinery and equipment, financing charges and interest.

(4) Traffic estimates, engineering and legal expenses, plans, specifications, surveys, cost and revenue estimates, other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative and legal expense and other expenses as may be necessary or incident to the financing authorized in this chapter.

(5) Condemnation or other means of acquisition of property necessary for the construction and operation of the turnpikes.

(6) An obligation or expense contracted for by the commission with the department or with the United States or a Federal agency for any of the following:

(i) Traffic surveys, preparation of plans and specifications, supervision of construction and other engineering and administrative and legal services and expenses in connection with the construction, reconstruction, widening, expansion or extension of the turnpike or any of the connecting roads, storm water management systems, interchanges, slip ramps, tunnels and bridges.

(ii) Costs of reimbursing the Federal Government pursuant to the mandates of the Federal law for Federal funds expended for interstate or other highways which are to be made part of the turnpike system pursuant to this chapter.

(7) Any portion of the scheduled annual commission contribution required to be paid by the commission under 75 Pa.C.S. Ch. 89 (relating to Pennsylvania Turnpike).

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

"Electronic toll collection." A system of collecting tolls or charges that is capable of charging an account holder for the prescribed toll by electronic transmission

of information between a device on a vehicle and a device in a toll lane at a toll collection facility.

"Lessee." A person, corporation, firm, partnership, agency, association or organization that rents, leases or contracts for the use of a vehicle and has exclusive use of the vehicle for any period of time.

"Lessor." A person, corporation, firm, partnership, agency, association or organization engaged in the business of renting or leasing vehicles to any lessee under a rental agreement, lease or other agreement under which the lessee has the exclusive use of the vehicle for any period of time.

"Operator." An individual that uses or operates a vehicle with or without permission of the owner.

"Owner." Except as provided under section 8117(e) (relating to electronic toll collection), an individual, copartnership, association or corporation having title or interest in a property right, easement or franchise authorized to be acquired under this chapter.

"Public passenger transportation." Transportation within an area that includes a municipality or other built-up place that is appropriate in the judgment of the Department of Transportation to serve commuters or others in the locality taking into consideration the local patterns and trends of growth by bus or rail or other conveyance, either publicly or privately owned, serving the general public. The term does not include school buses, charter or sightseeing services.

"Rural State highway system." All roads and highways taken over by the Commonwealth as State highways under the provisions of the act of June 22, 1931 (P.L.594, No.203), referred to as the Township State Highway Law, and all other roads and highways specifically designated by the Secretary of the Commonwealth as rural State highways.

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

"State highway." All roads and highways taken over by the Commonwealth as State highways under the provisions of any statute other than the act of June 22, 1931 (P.L.594, No.203), referred to as the Township State Highway Law. Unless clearly intended, the term shall not include any street in any city, borough or incorporated town, even though the street may have been taken over as a State highway.

"System of public passenger transportation." A system of public passenger transportation, including rail transportation facilities used for public passenger transportation, which may include any of the following:

- (1) Railway, street railway, subway, elevated and monorail passenger or passenger and rail rolling stock, including self-propelled and gallery cars, locomotives, passenger buses and wires, poles and equipment for the electrification of any of the rails, tracks and roadbeds, guideways, elevated structures, buildings, stations, terminals, docks, shelters and parking areas for use in connection with the rail transportation systems, interconnecting lines and tunnels to provide passenger or passenger and rail service connections between transportation systems, transportation routes, corridors and rights-of-way therefor, but not for public highways.

(2) Signal and communication systems necessary or desirable for the construction, operation or improvement of a public passenger transportation system.

(3) Any improvement or overhaul of any vehicle equipment or furnishings of any of the items specified under paragraphs (1) and (2) or any part or fractional and undivided co-ownership or leasehold interest in any one or combination of any of the items specified under paragraphs (1) and (2) that may be designated as a system of public passenger transportation by the Secretary of Transportation.

"Toll road conversion." The inclusion within the turnpike system and the imposition of tolls on the system of a highway that is presently toll free.

"Turnpikes." Any of the following:

(1) The turnpike, turnpike extensions and turnpike improvements.

(2) Toll-free roads converted or to be converted to toll roads under this chapter.

(3) Related storm water management systems, interchanges, slip ramps, tunnels and bridges, property rights, easements and franchises deemed necessary or convenient for the construction, reconstruction, widening, expansion, extension or the operation of the turnpike, turnpike extension, turnpike improvement and toll-free roads.

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

"Violation enforcement system." A vehicle sensor, placed in a location to work in conjunction with a toll collection facility, which automatically produces a videotape or photograph, microphotograph or other recorded image of the rear portion of each vehicle at the time the vehicle is used or operated in violation of the toll collection regulations. The term includes any other technology which identifies a vehicle by photographic, electronic or other method.

§ 8103. (Reserved).

§ 8104. Status of turnpike revenue bonds, notes or other obligations.

(a) General rule.--The turnpike revenue bonds, notes or other obligations issued under the provisions of this chapter shall not be deemed to be a debt of the Commonwealth or a pledge of the faith and credit of the Commonwealth, but bonds, notes or other obligations shall be payable solely from the revenues of the commission, including tolls, or from funds as may be available to the commission for that purpose.

(b) Statement required.--All bonds, notes or other obligations shall contain a statement on their face that the Commonwealth is not obligated to pay the same or the interest thereon except from revenues of the commission, including tolls, or from funds as may be available to the commission for that purpose and that the faith and credit of the Commonwealth is not pledged to the payment of the principal or interest of the bonds, notes or other obligations.

(c) Pledge of Commonwealth prohibited.--The issuance of turnpike revenue bonds, notes or other obligations under the provisions of this chapter shall not directly or indirectly or contingently obligate the Commonwealth to levy or to pledge any form of taxation or to make any appropriation for their payment.

§ 8105. Commission.

(a) (Reserved).

(b) Vacancies and terms.--

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

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

(c) (Reserved).

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

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

(f) Actions by the commission.--Notwithstanding any other law, court decision, precedent or practice to the contrary, any and all actions by or on behalf of the commission shall be taken solely upon the approval of a majority of the members to the commission. The term "actions by or on behalf of the commission," as used in this subsection, means any action whatsoever of the commission, including, but not limited to, the hiring, appointment, removal, transfer, promotion or demotion of any officers and employees; the retention, use or remuneration of any advisors, counsel, auditors, architects, engineers or consultants; the initiation of any legal action; the making of any contracts, leases, agreements, bonds, notes or covenants; the approval of requisitions, purchase orders, investments and reinvestments; and the adoption, amendment, revision or rescission of any rules and regulations, orders or other directives. The chairman, vice chairman or any other officer or employee of the commission may take no action by or on behalf of the commission except as expressly authorized by a majority of the members of the commission.

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

§ 8106. Exercise of commission powers.

The exercise by the commission of the powers conferred by this chapter in the construction, operation and maintenance of the turnpikes and in effecting toll road conversions shall be deemed and held to be an essential governmental function of the Commonwealth.

§ 8107. Commission powers and duties.

(a) Powers and duties of commission.--The commission may:

(1) Maintain a principal office at a place designated by the commission.

(2) Contract and be contracted with in its own name.

(3) Sue and be sued in its own name, plead and be impleaded. Any civil action against the commission shall be brought only in the courts in which actions may be brought against the Commonwealth.

(4) Have an official seal.

(5) Make necessary rules and regulations for its own governance and in control of traffic.

(6) Acquire, hold, accept, own, use, hire, lease, exchange, operate and dispose of personal property, real property and interests in real property and make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter and employ engineering, traffic, architectural and construction experts and inspectors, attorneys and other employees as may, in its judgment, be necessary and fix their compensation.

(7) Provide grade separations at its own expense with respect to all public roads, State highways and interstate highways intersected by the turnpikes and to change and adjust the lines and grades thereof so as to accommodate the same to the design for grade separation.

(i) The damages incurred in changing and adjusting the lines and grades of public roads, State highways and interstate highways shall be ascertained and paid by the commission in accordance with 26 Pa.C.S. (relating to eminent domain).

(ii) If the commission shall find it necessary to provide a grade separation or change the site of any portion of any interstate highway, State highway or public road, or vacate the same, the commission shall cause it to be reconstructed and restored at the commission's expense on the most favorable location and in as satisfactory a manner as the original road or vacate it as the case may be.

(iii) The method of acquiring the right-of-way and determining damages incurred in changing the location of or vacating the road, State highway or interstate highway shall be ascertained and paid for in accordance with 26 Pa.C.S.

(8) Petition the court of common pleas of the county in which any public road or part thereof is located and affected by the location of the turnpikes for the vacation, relocation or supply of the same or any part thereof with the same force and effect as is now given by existing laws to the inhabitants of any township or the county, and the proceedings upon petition, whether for the appointment of viewers or otherwise, shall be the same as provided by existing law for similar proceedings upon the petitions.

(9) Negotiate and enter into interest rate swaps and other interest rate hedges to assist the commission in managing interest cost and rate risk in connection with its debt.

(10) Provide for costs of the department.

(11) Have all of the powers and perform all the duties prescribed by the act of May 21, 1937 (P.L.774, No.211), referred to as the Pennsylvania Turnpike Commission Act.

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

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

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

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

§ 8108. Expenses and bonding of commission members.

(a) Payment of expenses.--All compensation, salaries and expenses incurred in carrying out the provisions of this chapter shall be paid solely from funds provided under the authority of this chapter, and no liability or obligation shall be incurred under this chapter beyond the extent to which money shall have been provided under the authority of this chapter.

(b) No additional bond required.--The issuance of any turnpike revenue bonds, notes or other obligations under the provisions of this chapter shall not cause any member of the commission to be required to execute a bond that a member of the commission is not otherwise required to execute.

§ 8109. Acquisition of property rights by commission.

(a) Condemnation.--The commission may condemn, pursuant to 26 Pa.C.S. (relating to eminent domain), any lands, interests in lands, property rights, rights-of-way, franchises, easements and other property deemed necessary or convenient for the construction and efficient operation of the turnpikes and the toll road conversions or necessary in the restoration or relocation of public or private property damaged or destroyed.

(b) Purchase.--

(1) The commission may acquire by purchase, whenever it shall deem the purchase expedient, or otherwise accept if dedicated to it, any lands, interests in lands, property rights, rights-of-way, franchises, easements and other property deemed necessary or convenient for the construction and efficient operation of the turnpikes and toll road conversions or necessary in the restoration of public or private property damaged or destroyed, whether the property has been previously condemned or otherwise, upon terms and at a price as may be considered by the commission to be reasonable and can be agreed upon between the commission and the owner thereof and to take title thereto in the name of the commission.

(2) The net proceeds of the purchase price payable to a municipality or the department for any real property or interest therein obtained by the commission pursuant to this chapter, less the cost of retiring any bonded indebtedness on the property or interest, shall be used exclusively, in the case of a municipality, for road-related and bridge-related expenses and, in the case of the department, for highway and bridge construction, reconstruction and maintenance in the same engineering and maintenance district in which the property is located.

§ 8110. Procedural requirements of acquisition.

(a) Title.--Title to any property condemned by the commission shall be taken in the name of the commission.

(b) Entry.--

(1) In addition to any others powers set forth in this chapter, the commission and its authorized agents and employees may enter upon any lands, waters and premises in this Commonwealth for the purpose of making surveys, soundings, drillings and examinations, as it may deem necessary or convenient for the purpose of this chapter.

(2) The entry shall not be deemed a trespass, nor shall an entry for the purposes be deemed an entry under any condemnation proceedings which may be then pending.

(3) The commission shall make reimbursement for any actual damages resulting to the lands, waters and premises as a result of the activities.

(c) Restoration of property.--Any public or private property damaged or destroyed in carrying out the powers granted by this chapter shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made for the property out of funds provided under the authority of this chapter.

(d) Powers of public bodies.--Notwithstanding any other provision of law to the contrary, a political subdivision or a public agency or commission of the Commonwealth may lease, lend, dedicate, grant, convey or otherwise transfer to the commission, upon its request, upon terms and conditions as the proper authorities of the political subdivision or public agency or commission of the Commonwealth deems reasonable and fair and without the necessity for any advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the commission, including public roads and other real property already devoted to public use.

§ 8111. Entry and possession of property condemned.

Whenever the commission has condemned any lands, rights, rights-of-way, easements and franchises, or interests therein, as provided in this chapter, the commission may proceed to obtain possession in the manner provided by 26 Pa.C.S. (relating to eminent domain).

§ 8112. Issuance of turnpike revenue bonds or other obligations.

(a) Authorization.--

(1) A bond must be authorized by resolution of the commission. The resolution may specify all of the following:

(i) Series.

(ii) Date of maturity not exceeding 40 years from date of issue.

(iii) Interest.

(iv) Denomination.

(v) Form, either coupon or fully registered without coupons.

(vi) Registration, exchangeability and interchangeability privileges.

(vii) Medium of payment and place of payment.

(viii) Terms of redemption not exceeding 105% of the principal amount of the bond.

(ix) Priorities in the revenues or receipts of the commission.

(2) A bond must be signed by or shall bear the facsimile signature of such officers as the commission determines. A bond may be issued and delivered notwithstanding that one or more of the signing officers or the treasurer has ceased to be an officer when the bond is actually delivered. A bond must be authenticated by an authenticating agent, a fiscal agent or a trustee, if required by the authorizing resolution.

(3) A bond may be sold at public or private sale for a price determined by the commission.

(4) Pending the preparation of a definitive bond, interim receipts or temporary bonds without coupons may be issued to the purchaser and may contain terms and conditions as the commission determines.

(b) Provisions.--A resolution authorizing a bond may contain provisions which shall be part of the contract with the bondholder as to the following:

(1) Pledging the full faith and credit of the commission, but not of the Commonwealth or any political subdivision for the bond or restricting the obligation of the commission to all or any of the revenue of the commission from all or any projects or properties.

(2) The payment of the costs of the department, the costs of the turnpikes and the toll road conversions, including the reconstruction of the converted roads as provided for in this chapter and the repayment to the Federal Treasury of any funds so required to be repaid pursuant to any special legislation passed by the Congress of the United States authorizing the conversion of toll-free roads to toll roads, the financing for insurance reserves and the duties of the commission with reference to these matters.

(3) Terms and provisions of the bond.

(4) Limitations on the purposes to which the proceeds of the bond or other financing may be applied.

(5) Rate of tolls and other charges for use of the facilities of or for the services rendered by the commission.

(6) The setting aside, regulation and disposition of reserves and sinking funds.

(7) Limitations on the issuance of additional bonds.

(8) Terms and provisions of any deed of trust or indenture securing the bond or under which any deed of trust or indenture may be issued.

(9) Other additional agreements with the holder of the bond.

(c) Deeds of trust.--The commission may enter into any deed of trust, indenture or other agreement with any bank or trust company or other person in the United States having power to enter into such an arrangement, including any Federal agency, as security for a bond and may assign and pledge all or any of the revenues or receipts of the commission under such deed, indenture or agreement. The deed of trust, indenture or other agreement may contain provisions as may be customary in such instruments or as the commission may authorize, including provisions as to the following:

(1) For the payment of the costs of the department, the costs of the turnpikes and the toll road conversions, including the reconstruction of the converted roads as provided for in this chapter and the repayment to the Federal Treasury of any funds so required to be repaid pursuant to any special legislation passed by the Congress of the United States authorizing the conversion of toll-free roads to toll roads, financing for insurance reserves and the duties of the commission with reference to these matters.

(2) Application of funds and the safeguarding of funds on hand or on deposit.

(3) Rights and remedies of trustees and bondholders, including restrictions upon the individual right of action of a bondholder.

(4) Terms and provisions of the bond or the resolution authorizing the issuance of the bond.

(d) Negotiability.--A bond shall have all the qualities of negotiable instruments under 13 Pa.C.S. Div. 3 (relating to negotiable instruments).

§ 8113. Obligation proceeds restricted and lien created.

All money received from any bonds, notes or other obligations issued under this chapter shall be applied solely to the payment of the costs of the department, the costs of the turnpikes, the turnpike extensions and improvements and the toll road conversions, including the reconstruction of the converted roads as provided for in this chapter and the repayment to the Federal Treasury of any funds so required to be repaid pursuant to any special legislation passed by the Congress of the United States authorizing the conversion of toll-free roads to toll roads or to the appurtenant fund. There is created and granted a lien upon the money, until so applied, in favor of holders of the bonds, notes or other obligations or the trustee provided for in this chapter in respect of the bonds, notes or other obligations.

§ 8114. Trust indenture authorized.

(a) Security for bonds.--In the discretion of the commission, the bonds, notes or other obligations may be secured by a trust indenture by and between the commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company, within this Commonwealth. The trust indenture may pledge or assign tolls and revenue to be received but shall not convey or mortgage the Pennsylvania Turnpike System, including the turnpikes and toll road conversions provided for by this chapter.

(b) Rights of bondholders.--Either the resolution providing for the issuance of the bonds, notes or other obligations or the trust indenture may contain provisions for protecting and enforcing the rights and remedies of the bondholders or holders of notes or other obligations as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the commission in relation to the acquisition of properties and the construction, maintenance, operation and repair and insurance of the turnpikes and the custody, safeguarding and application of all money. It shall be lawful for any bank or trust company incorporated under the laws of this Commonwealth to act as a depository of the proceeds of bonds, notes or other obligations or revenues and to furnish the indemnity bonds or to pledge the securities as may be required by the commission. The trust indenture may set forth the rights and remedies of the bondholders or holders of notes or other obligations and of the trustee and may restrict the individual right of action of bondholders or holders of notes or other obligations as is customary in trust indentures securing bonds, debentures of corporations, notes or other obligations. In addition to the foregoing, the trust indenture may contain other provisions as the commission may deem reasonable and proper for the security of bondholders or holders of notes or other obligations. All expenses incurred in carrying out the trust indenture may be treated as part of the cost of maintenance, operation and repair of the turnpikes and toll road conversions provided for by this chapter.

§ 8115. Commission and obligations tax exempt.

The accomplishment by the commission of the authorized purposes stated in this chapter being for the benefit of the people of this Commonwealth and for the improvement of their commerce and prosperity, in which accomplishment the commission

will be performing essential governmental functions, the commission shall not be required to pay any taxes or assessments on any property acquired or used by it for the purposes provided in this chapter, and the bonds, notes or other obligations issued by the commission, their transfer and the income therefrom, including any profits made on the sale thereof, shall at all times be free from taxation within this Commonwealth.

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

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

(1) The cost of the turnpikes. This paragraph includes the cost of constructing, reconstructing, widening, expanding, extending, maintaining, repairing and operating the Pennsylvania Turnpike System and the different parts and sections of the system.

(2) Any of the following:

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

(ii) Sinking fund requirements of the commission.

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

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

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

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

(b) Restrictions on toll revenue.--Tolls shall not be subject to supervision or regulation by any other State commission, board, bureau or agency. Subject to the terms of any presently existing trust indenture entered into by the commission and any presently existing resolution authorizing the issuance of any bonds, notes or other obligations of the commission, the tolls and all other revenue derived from the Pennsylvania Turnpike System shall be set aside and pledged as

may be provided in any resolutions, trust indentures or any other agreements that the commission may hereafter adopt or hereafter enter into with respect to the issuance of bonds, notes or other obligations of the commission.

§ 8117. Electronic toll collection.

(a) Liability of owner.--

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

(2) If a violation of this section is committed, the registration plate number of the vehicle as recorded by a violation enforcement system shall establish an inference that the owner of the vehicle was then operating the vehicle. The inference shall be overcome if the owner does all of the following:

(i) Testifies that the owner was not operating the vehicle at the time of the violation.

(ii) Submits to an examination as to who at the time was operating the vehicle.

(iii) Reveals the name and residence address, if known, of the operator of the vehicle.

(3) If an action or proceeding is commenced in a county other than that of the residence of the owner, a verified written statement setting forth the facts prescribed under paragraph (2)(i), (ii) and (iii) shall suffice to overcome the inference.

(4) If the inference is overcome, the operator of the vehicle may be held liable under this section for failure to pay the prescribed toll in the same manner as if the operator were the owner of the vehicle.

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

(1) The commission or an authorized agent or employee must prepare and mail a notice of violation as follows:

(i) The notice of violation must be sent by first class mail to each person alleged to be liable as an owner for a violation of this section.

(ii) The notice must be mailed at the address shown on the vehicle registration or at the address of the operator, as applicable. Notice must be mailed no later than 60 days after:

(A) the alleged conduct; or

(B) the date the inference is overcome under subsection (a)(2).

(iii) Personal service is not required.

(iv) The notice must contain all of the following:

(A) Information advising the person charged of the manner and time in which the liability alleged in the notice may be contested.

(B) A warning advising the person charged that failure to contest in the manner and time provided

shall be deemed an admission of liability and that a default judgment may be entered on the notice.

(1.1) A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the mailing of notice.

(2) If an owner of a vehicle or an owner that is a lessor of a vehicle receives a notice of violation under this section for any time period during which the vehicle was reported to a police department as having been stolen, it shall be a defense to the allegation of liability that the vehicle had been reported to the police as having been stolen prior to the time the violation occurred and that the vehicle had not been recovered by the time of the violation. For purposes of asserting the defense under this paragraph, it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent by first class mail to the commission within 30 days after receiving the original notice of violation. Failure to send the information within the time limit under this paragraph shall render the owner or lessor liable for the penalty prescribed by this section.

(3) An owner that is a lessor of a vehicle as to which a notice of violation was issued under paragraph (1) shall not be liable for a violation if the owner sends to the commission a copy of the rental, lease or other contract document covering the vehicle on the date of the violation, with the name and address of the lessee clearly legible to the commission, within 30 days after receiving the original notice of violation. Failure to send the information within the time limit under this paragraph shall render the lessor liable for the penalty prescribed by this section. If the lessor complies with the provisions of this section, the lessee of the vehicle on the date of the violation shall be deemed to be the owner of the vehicle for purposes of this section and shall be subject to liability for the penalty under this section.

(4) A certified report or a facsimile report of an authorized agent or employee of the commission reporting a violation of this section or regulations of the commission based upon the recorded information obtained from a violation enforcement system shall be prima facie evidence of the facts contained in the report and shall be admissible as an official record kept in the ordinary course of business in any proceeding charging a violation of this section or the toll collection regulations of the commission.

(5) Notwithstanding any other provision of law, videotapes, photographs, microphotographs, other recorded images, written records, reports or facsimiles prepared pursuant to this section shall be for the exclusive use of the commission, its authorized agents, its employees and law enforcement officials for the purpose of discharging duties under this section and the regulations of the commission. The information shall not be deemed a public record under the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law. The information shall not be discoverable by court order or otherwise; nor shall it be offered in evidence in any action or proceeding which is not directly related to a violation of this section, the regulations of the commission or indemnification for liability imposed pursuant to this section. The restrictions set forth in this paragraph:

(i) shall not be deemed to preclude a court of competent jurisdiction from issuing an order directing that the information be provided to law enforcement officials if the information is reasonably described and is requested solely in connection with a criminal law enforcement action;

(ii) shall not be deemed to preclude the exchange of the information between any entities with jurisdiction over or which operate an electronic toll collection system in this Commonwealth or any other jurisdiction; and

(iii) shall not be deemed to prohibit the use of information exclusively for the purpose of billing electronic toll collection account holders, deducting toll charges from the account of an account holder, enforcing toll collection laws and related regulations or enforcing the provisions of an account holder agreement.

(6) An imposition of liability under this section must be based upon a preponderance of evidence.

(7) An imposition of liability pursuant to this section shall not be deemed a conviction of an owner and shall not be made part of the motor vehicle operating record of the person upon whom the liability is imposed, nor shall it be considered in the provision of motor vehicle insurance coverage.

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

(i) Either:

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

(B) the maximum toll from the farthest point of entry on the Pennsylvania Turnpike to the actual point of exit if the amount of the toll evaded or attempted to be evaded cannot be determined.

(ii) A reasonable administrative fee not to exceed \$35 per notification.

(9) Nothing in this section shall be construed to limit the liability of the operator of a vehicle for a violation of this section or of the regulations of the commission.

(c) Placement of electronic toll collection device.--An electronic toll collection device which is affixed to the front windshield of a vehicle in accordance with the regulations of the commission shall not be deemed to constitute a violation of 75 Pa.C.S. § 4524 (relating to windshield obstructions and wipers).

(d) Privacy of electronic toll collection account holder information.--

(1) Except as set forth under paragraph (2), notwithstanding any other provision of law, all of the following apply to information kept by the commission, its authorized agents or its employees which is related to the account of an electronic toll collection system account holder:

(i) The information shall be for the exclusive use of the commission, its authorized agents, its employees and law enforcement officials for the purpose of discharging their duties pursuant to this section and

the regulations of the commission. This subparagraph includes names, addresses, account numbers, account balances, personal financial information, vehicle movement records and other information compiled from transactions with the account holders.

(ii) The information shall not be deemed a public record under the Right-to-Know Law, nor shall it be discoverable by court order or otherwise or be offered in evidence in any action or proceeding which is not directly related to the discharge of duties under this section, the regulations of the commission or a violation of an account holder agreement.

(2) Paragraph (1) shall not be deemed to do any of the following:

(i) Preclude a court of competent jurisdiction from issuing an order directing that the information be provided to law enforcement officials if the information is reasonably described and is requested solely in connection with a criminal law enforcement action.

(ii) Preclude the exchange of the information between any entities with jurisdiction over or which operate an electronic toll collection system in this Commonwealth or any other jurisdiction.

(iii) Prohibit the use of the information exclusively for the purpose of billing electronic toll collection account holders, deducting toll charges from the account of an account holder, enforcing toll collection laws and related regulations or enforcing the provisions of an account holder agreement.

(e) Definition.--As used in this section, the term "owner" means 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 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 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.

§ 8118. Refunding bonds.

The commission is authorized to provide, by resolution, for the issuance of turnpike revenue refunding bonds for the purpose of refunding issued and outstanding turnpike revenue bonds, notes or other obligations. Applicable provisions of this chapter govern all of the following:

(1) Issuance of the turnpike revenue refunding bonds.

(2) Maturities and other details of the refunding bonds.

(3) Rights of the holders of the bonds.

(4) Duties of the Commonwealth and of the commission in respect to the bonds.

§ 8119. Rights of obligation holders and trustees.

(a) Scope.--This section applies to all of the following:

(1) A holder of:

(i) a bond, note or other obligation issued under this chapter; or

(ii) a coupon attached to the bond, note or other obligation.

(2) The trustee under an applicable trust indenture.

(b) Enforcement.--Subject to subsection (c), a person referred to in subsection (a) may, by an action at law or in equity, do all of the following:

(1) Protect and enforce rights granted under this chapter or under the resolution or trust indenture.

(2) Enforce and compel performance of all duties required by this chapter or by the resolution or trust indenture to be performed by the commission or an officer of the commission. This paragraph includes fixing, charging and collecting of tolls for the use of the turnpikes.

(c) Restriction.--Rights under this chapter may be restricted by resolution passed before the issuance of the bond, note or other obligation or by the trust indenture.

§ 8120. Authority granted to secretary.

(a) Agreement with Federal Government.--

(1) The secretary is authorized to enter into an agreement with the United States Department of Transportation, the Federal Highway Administration and any other Federal agency to obtain Federal funds for projects for resurfacing, restoring and rehabilitating toll roads in this Commonwealth. The commission is authorized to use Federal funds which may be available for toll roads only upon approval of the secretary and only under the authority granted under this section.

(2) (Reserved).

(b) Approval by department.--A copy of each contract and agreement relating to the construction of the turnpikes and connecting tunnels, bridges, slip interchanges and slip ramps shall be provided to the department for review and comment prior to execution of this contract or agreement.

§ 8121. (Reserved).

§ 8122. (Reserved).

§ 8123. Construction of chapter.

This chapter shall be regarded as supplemental and additional to powers conferred by other statutes and shall not be regarded as in derogation of any powers now existing and shall be liberally construed to effect its purposes.

CHAPTER 82

TURNPIKE COMMISSION STANDARDS OF CONDUCT

Sec.

8201. Scope of chapter.

8202. Definitions.

8203. Qualifications, restrictions and duties of commission members and employees.

8204. Code of conduct.

8205. Applicability of other statutes.

§ 8201. Scope of chapter.

This chapter shall apply to the Pennsylvania Turnpike Commission formed or maintained under authority of the act of May 21, 1937 (P.L.774, No.211), referred to as the Pennsylvania Turnpike Commission Act, and the former act of September 30, 1985 (P.L.240, No.61), known as the Turnpike Organization, Extension and Toll Road Conversion Act, or any successor entity.

§ 8202. Definitions.

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

"Business." Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint

stock company, receivership, trust or any legal entity organized for profit.

"Commission." The Pennsylvania Turnpike Commission.

"Executive-level employee." The Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Chief Counsel or any other senior management employee with discretionary powers which may affect the outcome of a Pennsylvania Turnpike Commission action or decision or who functions in press or public relations, legislative liaison or development of executive policy.

"Facility." Rest areas, service plazas, restaurants, fueling stations, traffic advisory systems, call boxes or other services provided by the commission to persons using toll roads or highways operated by the commission.

"Immediate family." A spouse, parent, brother, sister or child.

"Member." A commissioner appointed to the Pennsylvania Turnpike Commission, including the Secretary of Transportation, and any successor entity thereto.

"Ownership interest." Owning or holding, or being deemed to hold, debt or equity securities or other ownership interest or profit interest.

"Party officer." A member of a national committee of a political party; a chairman, vice chairman, secretary, treasurer or counsel of a State committee or member of the executive committee of a State committee of a political party; or a county chairman, vice chairman, counsel, secretary or treasurer of a county committee or a city chairman, vice chairman, counsel, secretary or treasurer of a city committee of a political party.

"Pennsylvania Turnpike Commission." An entity formed or maintained under authority of the act of May 21, 1937 (P.L.774, No.211), referred to as the Pennsylvania Turnpike Commission Act, and the act of September 30, 1985 (P.L.240, No.61), known as the Turnpike Organization, Extension and Toll Road Conversion Act, or any successor entity.

"Public official." Any official elected to a Federal, State or county office.

§ 8203. Qualifications, restrictions and duties of commission members and employees.

(a) General rule.--The following qualifications and restrictions shall apply to members and executive-level employees:

(1) A member shall be at least 25 years of age and shall have been a resident of this Commonwealth for a period of at least one year immediately preceding appointment. Each member shall continue to remain a resident of this Commonwealth during the term of membership on the commission.

(2) Except for the Secretary of Transportation, no member or executive-level employee shall be a public official or party officer in this Commonwealth.

(3) (i) No member or executive-level employee shall be paid or receive any fee or other compensation other than salary and expenses provided by law for any activity directly pertaining to the duties of the commission.

(ii) Nothing in this chapter shall be construed to prohibit a member or executive-level employee from engaging in any employment or vocation that is not incompatible with service as a member or executive-level employee.

(4) (i) At the time of appointment and annually thereafter, each member shall disclose the existence of all ownership interests in any facility or business with

which the commission has contracted for roadway construction or maintenance or services of any kind.

(ii) The disclosure statement shall be filed with the chief executive officer of the commission and shall be open to inspection by the public at the office of the commission during normal business hours of the commission during the tenure of the member.

(b) Fiduciary relationship.--Each member and executive-level employee shall serve as a fiduciary of the commission.
§ 8204. Code of conduct.

(a) Contents.--The commission shall adopt a comprehensive code of conduct within 90 days of the effective date of this section. The code of conduct shall supplement all other requirements under this chapter and shall provide guidelines applicable to members and executive-level employees and the immediate families of the members and executive-level employees to enable them to avoid any perceived or actual conflict of interest and to promote public confidence in the integrity and impartiality of the commission. At a minimum, the code of conduct adopted under this section shall provide that:

(1) No member or executive-level employee may accept any discount, gift, gratuity, compensation, travel, lodging or other thing of value, in excess of the limits under 65 Pa.C.S. § 1105(b)(6) and (7) (relating to statement of financial interests) directly or indirectly, from any facility or business with which the commission has a contractual relationship.

(2) Members and executive-level employees shall refrain from any financial or business dealing which would affect the member's objectivity, impartiality or independence of judgment.

(3) (i) No member or executive-level employee may use the promise of business with the commission to solicit funds for any charitable, educational, religious, health, fraternal, civic or other nonprofit entity.

(ii) A member or executive-level employee may serve as an officer, employee or member of the governing body of a nonprofit entity and may attend, make personal contributions to and plan or preside over the entity's fundraising events.

(iii) A member or executive-level employee may permit his name to appear on the letterhead used for fundraising events if the letterhead contains only the member's name and position with the nonprofit entity.

(4) No member or executive-level employee nor the immediate family of such person shall participate in any deliberations or vote of the commission in which that person may have a direct or indirect pecuniary interest.

(5) (i) A member shall abstain from any vote or decision which authorizes a contract in which the member has any pecuniary interest. The member shall disclose the interest in a public meeting prior to the vote or decision.

(ii) Failure to comply with this paragraph shall make the contract null and void.

(6) No former member or executive-level employee may receive any pecuniary benefit from a contract between the commission and the employer of the former member or executive-level employee for a period of one year from the termination of employment or service with the commission. No former member or executive-level employee may solicit any

contracts with the commission for a period of one year from the termination of employment or service with the commission.

(7) A member of the commission who has been convicted during his term in any domestic or foreign jurisdiction of a felony shall, upon conviction, be automatically removed from the commission and shall be ineligible to become a commission member in the future.

(8) No member may solicit, request, suggest or recommend the employment, by either the commission or a contractor with the commission, of any individual related within the first degree of consanguinity to the member as set forth in 23 Pa.C.S. § 1304(e) (relating to restrictions on issuance of license) or the spouse of the individual.

(b) Audit.--

(1) At least once every four years, the Department of the Auditor General shall review the performance, procedures, operating budget, capital budget and debt of the commission and shall audit the accounts of the commission.

(2) The Auditor General shall be entitled to go beyond mere financial statements and shall be entitled to examine original source documents at such time as is believed necessary or may otherwise examine original documents on a random basis designed to ensure the integrity of the audit.

(3) The provisions of section 706(d) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, shall apply to any audit conducted under this subsection.

§ 8205. Applicability of other statutes.

(a) General rule.--Notwithstanding any other provision of law, the following acts shall apply to the commission under this chapter:

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

(2) The act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act.

(3) The provisions of 65 Pa.C.S. Chs. 7 (relating to open meetings) and 11 (relating to ethics standards and financial disclosure).

(b) Status of commission.--The commission shall be considered an "agency" for the purposes of the following:

(1) The act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.

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

Section 4. Section 8901 of Title 75 is amended to read:
§ 8901. Definitions.

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

"Annual additional payments." As follows:

(1) **During the conversion period and after the conversion date, an amount equal to the scheduled annual commission contribution, minus the sum of:**

(i) \$200,000,000 paid as annual base payments;

(ii) any Interstate 80 savings for that fiscal year.

(2) **If the conversion period has expired and a conversion notice has not been received by the secretary, in each subsequent fiscal year until the end of the term of the lease agreement, the annual additional payments shall be \$250,000,000.**

"Annual base payments." An amount equal to the sum of the following:

(1) Annual debt service on outstanding bonds issued under section 9511.2 (relating to special revenue bonds) payable as required pursuant to the bonds.

(2) Two hundred million dollars payable annually in four equal installments each due the last business day of each July, October, January and April.

"Annual surplus payments." An amount equal to the general reserve fund surplus payable for each fiscal year until the end of the term of the lease agreement.

"Auditor General's certificate." The certificate issued by the Auditor General within 180 days after the end of each fiscal year of the Pennsylvania Turnpike Commission certifying all of the following:

(1) The amount of the general reserve fund surplus for the fiscal year.

(2) After review of the commission's current ten-year capital plan, that the transfer of the general reserve fund surplus under section 8915.3 (relating to lease of Interstate 80; related agreements) shall not impair the ability of the commission to meet its obligations under the lease agreement or the commission's ten-year capital plan.

"Commission." The Pennsylvania Turnpike Commission.

"Conversion date." The date set forth in the conversion notice when the Pennsylvania Turnpike Commission intends to exercise its option to convert Interstate 80 to a toll road.

"Conversion notice." Written notice to the Secretary of Transportation from the Pennsylvania Turnpike Commission providing notice of its intent to exercise its options to convert Interstate 80 under section 8915.3(3) (relating to lease of Interstate 80; related agreements).

"Conversion period." A period of three years:

(1) which begins on the date of execution of the lease agreement; and

(2) during which the Pennsylvania Turnpike Commission may give the Department of Transportation conversion notice or notice that the commission has exercised its option to extend the conversion period pursuant to section 8915.3(2) (relating to lease of Interstate 80; related agreements).

"Fiscal year." The fiscal year of the Commonwealth.

"General reserve fund surplus." The amount which:

(1) is certified by the Auditor General in the Auditor General's certificate as existing in the Pennsylvania Turnpike Commission's general reserve fund on the last day of the fiscal year of the commission; and

(2) is not required to be retained in the general reserve fund pursuant to any financial documents, financial covenants, insurance policies, liquidity policies or agreements in effect at the commission.

"Interstate 80 savings." An amount equal to the following:

(1) Prior to the conversion date, the amount shall be zero.

(2) In the first fiscal year, including the conversion date, the amount shall be a pro rata share of \$116,985,856 calculated using the number of calendar days in the year after the conversion date divided by 365 days.

(3) In the fiscal year succeeding the year, including the conversion date, the amount shall be \$121,665,290.

(4) In subsequent fiscal years, the amount shall be the amount calculated for the previous year increased by 4%.

"Lease agreement." A lease agreement between the Department of Transportation and the Pennsylvania Turnpike Commission which shall include provisions setting forth the terms of the conversion of Interstate 80 to a toll road.

"Scheduled annual commission contribution." The following amounts:

(1) \$750,000,000 in fiscal year 2007-2008.

(2) \$850,000,000 in fiscal year 2008-2009.

(3) \$900,000,000 in fiscal year 2009-2010.

(4) For fiscal year 2010-2011 and each fiscal year thereafter, the amount shall be the amount calculated for the previous year increased by 2.5%, except that the amount shall be equal to the annual base payments plus \$250,000,000 if the conversion notice is not received by the secretary prior to the expiration of the conversion period.

Section 5. Section 8911 introductory paragraph of Title 75 is amended and the section is amended by adding a paragraph to read:

§ 8911. Improvement and extension authorizations.

In order to facilitate vehicular traffic within and across this Commonwealth, the commission is hereby authorized and empowered to construct, operate and maintain turnpike extensions and turnpike improvements at such specific locations and according to such schedule as shall be deemed feasible and approved by the commission, together with connecting roads, storm water management systems, **interchanges, slip ramps,** tunnels and bridges, subject to the waiver of the Federal toll prohibition provisions where applicable, as follows:

* * *

(10) Other slip ramps and interchanges as the commission may determine.

Section 6. Section 8915 introductory paragraph of Title 75 is amended to read:

§ 8915. Conversion to toll roads.

In order to facilitate vehicular traffic within and across this Commonwealth, and [after] **to facilitate the** completion of the turnpike extensions and improvements authorized in section 8911 (relating to improvement and extension authorizations), and subject to prior legislative approval by the General Assembly and the United States Congress, the commission is hereby authorized and empowered to convert to toll roads such portions of Pennsylvania's interstate highway system as may [be required in order to] facilitate the completion of the turnpike extensions and improvements authorized in sections 8912 (relating to subsequent extension authorizations), 8913 (relating to additional subsequent extension authorizations) and 8914 (relating to further subsequent authorizations) and to operate and maintain such converted interstates as toll roads upon the approval by the Congress of the United States of America and the General Assembly of this Commonwealth of legislation expressly permitting the conversion of such interstates to toll roads. Such conversions shall take place at a time and manner set forth in the plan for the conversion prepared by the **commission with the cooperation of the** department. The provisions authorizing the commission to construct, operate and maintain the turnpike routes in sections 8911, 8912 and 8913 shall be subject to:

* * *

Section 7. Title 75 is amended by adding sections to read:

§ 8915.1. Conversion of Interstate 80.

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

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

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

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

(4) Provide quarterly reports and periodic updates regarding significant developments with respect to the conversion of Interstate 80 to the chairman and minority chairman of the Transportation Committee of the Senate and the chairman and minority chairman of the Transportation Committee of the House of Representatives. These reports shall include, at a minimum, the status of outstanding discussions with the United States Department of Transportation regarding Interstate 80, the location and construction of tolling-related equipment for Interstate 80, planned capital improvements for Interstate 80 and other information important to implementation of this section.

§ 8915.2. Application to United States Department of Transportation.

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

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

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

§ 8915.3. Lease of Interstate 80; related agreements.

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

(1) A provision that the term of the lease agreement shall be 50 years, unless extended upon mutual agreement of the parties to the lease agreement and upon approval of the General Assembly.

(2) A provision establishing the conversion period and authorizing extension of the conversion period at the sole option of the commission for three one-year extension periods

after consultation with the secretary. The commission shall notify the secretary of its intent to extend the conversion period not less than 90 days before the scheduled expiration of the conversion period. During the conversion period, all legal, financial and operational responsibility for Interstate 80 shall remain with the department. All operations and programmed rehabilitation shall be maintained at levels no less favorable than those set forth in the department's 12-year plan at the time of the execution of the lease, with modifications as are approved in writing by the chairman of the commission.

(3) A provision permitting the commission to exercise its option to convert Interstate 80 to a toll road prior to the expiration of the conversion period by providing the conversion notice to the secretary. Beginning on the conversion date, all legal, financial and operational responsibility for Interstate 80, as well as all toll revenues subsequently collected with respect to its use, shall automatically transfer to the commission. The secretary, within five business days after receiving the conversion notice, shall forward notice of the conversion date to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin. Any revenues collected prior to the conversion date shall be retained by the department. The commission may contract with the department for any portion of the maintenance of Interstate 80 at cost levels agreed to by the department and the commission.

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

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

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

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

§ 8915.4. Initial payment.

(a) Commission payment required.--Within 20 days after the effective date of this section, the commission shall pay to the department an amount equal to \$62,500,000, which shall be deposited into the Public Transportation Trust Fund. The amount paid shall represent 25% of the amount the department is required to deposit into the Public Transportation Trust Fund under 74 Pa.C.S. § 1506(b)(1)(i)(A) (relating to fund) and is payable by the commission under the lease agreement.

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

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

§ 8915.5. Other interstate highways.

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

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

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

§ 8915.6. Deposit and distribution of funds.

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

(1) For fiscal year 2007-2008, \$450,000,000.

(2) For fiscal year 2008-2009, \$500,000,000.

(3) For fiscal year 2009-2010, \$500,000,000.

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

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

(1) Annually, 15% of the amount deposited in any fiscal year under subsection (a) shall be distributed at the discretion of the secretary.

(2) Annually, \$5,000,000 of the amount deposited in any fiscal year under subsection (a) shall be distributed to counties.

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

(A) the square footage of deck area of a county's county-owned bridges; to

(B) the total square footage of deck area of county-owned bridges throughout this Commonwealth.

(ii) The amount of square footage under subparagraph (i) shall be that reported as part of the National Bridge Inspection Standards Program.

(3) Annually, \$30,000,000 of the amount deposited in any fiscal year under subsection (a) shall be distributed to municipalities pursuant to the act of June 1, 1956 (1955 P.L.1944, No.655), referred to as the Liquid Fuels Tax Municipal Allocation Law.

(4) Any funds deposited under subsection (a) but not distributed under paragraphs (1), (2) and (3) shall be distributed in accordance with needs-based formulas that are developed and subject to periodic revision based on consultation and collaboration among metropolitan planning organizations, rural planning organizations and the department.

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

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

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

§ 8915.7. Impact on associated highways and local roads.

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

§ 8917. Financial plan.

(a) Submission.--

(1) No later than June 1 of each year, the commission shall prepare and provide to the Secretary of the Budget a financial plan for the ensuing fiscal year of the commission 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 course of business or prevent the commission from complying with any covenants made to current bondholders, debt holders or creditors.

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

§ 8918. Failure to perform.

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

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

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

(b) Unanimous vote required.--

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

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

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

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

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

§ 9501. Definitions.

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

"Act 3." The act of April 17, 1997 (P.L.6, No.3), entitled, "An act amending Titles 74 (Transportation) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for annual appropriation and computation of subsidy and for distribution of funding; providing for distribution of supplemental funding; further providing for use of funds distributed; providing for public transportation grants management accountability, for competitive procurement and for the Public Transportation Assistance Fund; further providing for period of registration, for duties of agents, for registration and other fees, for requirements for periodic inspection of vehicles, for limits on number of towed vehicles, for operation of certain combinations on interstate and other highways and for width and length of vehicles; providing for liquid fuels and fuels permits and bond or deposit of securities, for imposition of liquid fuels and fuels tax, for taxpayer, for distributor's report and payment of tax, for determination of tax, penalties and interest, for examination of records and equipment, for retention of records by distributors and dealers, for disposition and use of tax, for discontinuance or transfer of business, for suspension or revocation of permits, for lien of taxes, penalties and interest, for collection of unpaid taxes, for reports from common carriers, for violations and reward for detection of violations, for refunds, for diesel fuel importers and transporters, for prohibiting use of dyed diesel fuel, for disposition of fees, fines and forfeitures, for certified copies

of records and for uncollectible checks; further providing for distribution of State highway maintenance funds and for standards and methodology for data collection; providing for dirt and gravel road maintenance; further providing for imposition of tax and additional tax; providing for tax on alternative fuels; further providing for disposition of tax revenue; making an appropriation; and making repeals."

"Annual debt service payments." The annual debt service payments on the bonds issued under section 9511.2 (relating to special revenue bonds) and payable by the commission to the department as part of annual base payments as defined under section 8901 (relating to definitions).

"Bond-related expenses." The term shall include all of the following:

(1) Printing, publication or advertising expenses with respect to the sale and issuance of bonds.

(2) Fees, expenses and costs of registrars.

(3) Fees, expenses and costs of attorneys, accountants, feasibility consultants, computer programmers or other experts employed to aid in the sale and issuance of the bonds.

(4) Other costs, fees and expenses incurred or reasonably related to the issuance and sale of the bonds including the funding of a debt service reserve fund.

"Bond-related obligation." An agreement or contractual relationship between the Pennsylvania Turnpike Commission and:

(1) a bank, trust company, insurance company, surety bonding company, pension fund or other financial institution providing increased credit on or security for the bonds or liquidity for secondary market transactions; or

(2) the counter party to a swap agreement.

"Commission." The Pennsylvania Turnpike Commission or any successor organization.

"Cost of the department." The term includes the costs of all of the following:

(1) Constructing, reconstructing, widening, expanding or extending the State highway and rural State highway system and connecting roads, tunnels and bridges.

(2) Systems of public passenger transportation or portions of the systems, the placing of the systems in operation and the condemnation of property necessary for construction and operation of the systems.

(3) Lands, property rights, rights-of-way, easements and franchises acquired, which are deemed necessary or convenient for the construction, reconstruction, widening, expanding or extending under paragraph (1) or (2).

(4) Machinery and equipment, financing charges, interest prior to and during construction and for one year after completion of construction.

(5) Any of the following:

(i) Traffic estimates, engineering and legal expenses, plans, specifications, surveys and estimates of cost and of revenues.

(ii) Other expenses necessary or incident to determining the feasibility or practicability of the enterprise. This subparagraph includes administrative and legal expenses.

(iii) Other expenses as may be necessary or incident to the financing authorized under this chapter, the

construction, reconstruction, widening, expanding or extending of the State highway and the rural State highway system and connecting roads, tunnels and bridges.

(6) Any obligation or expense contracted for by the department, or with the United States or an agency of the United States, for traffic surveys, preparation of plans and specifications, supervision of construction and other engineering, administrative and legal services and expenses in connection with the construction, reconstruction, widening, expanding or extending of the State highway and rural State highway system or any of the connecting roads, tunnels and bridges or the costs of the systems of public passenger transportation or portions of the systems.

(7) Payment of any notes or other obligations if the notes or other obligations were issued for the payment of a cost of the department.

"Design-build arrangement." A procurement or project delivery arrangement whereby a single entity, which may be a single contractor or a consortium comprised of multiple contractors, engineers and other subconsultants, is responsible for both the design and construction of a transportation project with a guaranteed completion date and guaranteed maximum price.

"Pledged revenues." Annual debt service payments and revenues described in section 9511.11(b)(2) (relating to pledged revenues).

"Regularly scheduled debt service." The scheduled payments due for principal and interest on bonds, without regard to any acceleration of the due date of such principal or interest by reason of mandatory or optional redemption or acceleration resulting from default or otherwise, other than an advancement of payment resulting from a mandatory sinking fund payment.

"Rural State highway system." All roads and highways taken over by the Commonwealth as State highways under the provisions of the act of June 22, 1931 (P.L.594, No.203), referred to as the Township State Highway Law, and all other roads and highways specifically designated by the Secretary of Transportation as Rural State Highways.

"State highway." All roads and highways taken over by the Commonwealth as State highways under the provisions of any statute other than the act of June 22, 1931 (P.L.594, No.203), referred to as the Township State Highway Law. Unless clearly intended, the term shall not include any street in any city, borough or incorporated town, even though the same may have been taken over as a State highway.

§ 9511.2. Special revenue bonds.

(a) Payment source.--A special revenue bond, note or other obligation issued under this chapter:

(1) shall not be deemed to be a debt or liability of the Commonwealth;

(2) shall not create or constitute any indebtedness, liability or obligation of the Commonwealth; and

(3) shall be payable solely from pledged revenues.

(b) Statement.--A special revenue bond, note or other obligation issued under this chapter must contain a statement on its face that:

(1) the Commonwealth is not obligated to pay the bond, note or obligation or the interest on it except from pledged revenues; and

(2) neither the faith and credit, nor the taxing power of the Commonwealth is pledged to the payment of the principal or interest of the bond, note or obligation.

(c) Taxation.--The issuance of a special revenue bond, note or other obligation under this chapter shall not directly, indirectly or contingently obligate the Commonwealth to levy a tax or to make an appropriation for payment.

§ 9511.3. Expenses.

(a) Reimbursement.--The commission shall be reimbursed from bond proceeds for the necessary and documented reasonable expenses incurred in the performance of the duties performed under the provisions of this chapter.

(b) Source.--All expenses incurred in carrying out the provisions of this chapter shall be paid solely from funds provided under the authority of this chapter, and sufficient funds shall be provided under the authority of this chapter to meet any liability or obligation incurred in carrying out the provisions of this chapter.

§ 9511.4. Special revenue bonds and preliminary or interim financing.

(a) Authorization.--The commission is authorized to provide, by resolution, for the issuance of special revenue bonds of the commission up to an aggregate principal amount not exceeding \$5,000,000,000, exclusive of original issue discount, for the purpose of paying the cost of the department and bond-related expenses. The resolution must recite an estimate of the cost of the department. No more than \$600,000,000 in aggregate principal amount of special revenue bonds, exclusive of original issue discount, may be issued in any calendar year. No bond may be issued and outstanding under this section unless the lease agreement authorized under section 8915.3 (relating to lease of Interstate 80; related agreements) is in effect as of the date of issuance. No bond may be outstanding beyond the term of the lease. Special revenue refunding bonds as set forth in section 9511.9 (relating to special revenue refunding bonds) shall not be deemed to count against the total or annual maximum issuance volume. The principal and interest of the bond shall be payable solely from pledged revenues.

(b) Form.--

(1) A bond may be issued in registered form.

(2) A bond:

(i) must be dated;

(ii) must bear interest at a rate not exceeding the rate permitted under applicable law;

(iii) must be payable semiannually or at other times as set forth in the resolution of the commission authorizing the issuance of the bonds;

(iv) must mature, as determined by the commission, no later than 40 years from the date of the bond; and

(v) may be made redeemable before maturity, at the option of the commission, at a price and under terms and conditions fixed by the commission prior to the issuance of the bonds.

(c) Issuance.--

(1) The commission may sell bonds at public or private sale and for a price it determines to be in the best interest of the Commonwealth.

(2) Bonds may be issued in series with varying provisions as to all of the following:

(i) Rates of interest, which may be fixed or variable.

(ii) Other provisions not inconsistent with this chapter.

(d) (Reserved).

(e) Payment.--

(1) The principal and interest of the bonds may be made payable in any lawful medium.

(2) The commission shall:

(i) determine the form of bonds; and

(ii) fix:

(A) the denomination of the bond; and

(B) the place of payment of principal and interest of the bond, which may be at any bank or trust company within or without this Commonwealth.

(f) Signature.--The bond must bear the manual or facsimile signature of the Governor and of the chairman of the commission. The official seal of the commission or a facsimile of the official seal shall be affixed to or printed on the bond and attested by the secretary and treasurer of the commission. If an officer whose signature or facsimile of a signature appears on a bond ceases to be an officer before the delivery of the bond, the signature or facsimile shall nevertheless be valid and sufficient for all purposes as if the officer remained in office until delivery.

(g) Negotiability.--A special revenue bond issued under this chapter shall have all the qualities and incidents of a negotiable instrument under 13 Pa.C.S. Div. 3 (relating to negotiable instruments).

(h) Proceeds.--The proceeds of a bond shall be used solely for the following:

(1) Payment of the cost of the department.

(2) Bond-related expenses.

(i) Temporary bonds.--Prior to the preparation of definitive bonds, the commission may, under similar provisions as those applicable to the definitive bonds, issue temporary bonds, exchangeable for definitive bonds upon the issuance of definitive bonds.

(j) (Reserved).

(k) Status as securities.--

(1) A bond is made a security in which any of the following may properly and legally invest funds, including capital, belonging to them or within their control:

(i) Commonwealth and municipal officers.

(ii) Commonwealth agencies.

(iii) Banks, bankers, savings banks, trust companies, saving and loan associations, investment companies and other persons carrying on a banking business.

(iv) Insurance companies, insurance associations and other persons carrying on an insurance business.

(v) Fiduciaries.

(vi) Other persons that are authorized to invest in bonds or other obligations of the Commonwealth.

(2) A bond is made a security which may properly and legally be deposited with and received by a Commonwealth or municipal officer or a Commonwealth agency for any purpose for which the deposit of bonds or other obligations of the Commonwealth is authorized by law.

(l) Borrowing.--The following shall apply:

(1) The commission is authorized to do all of the following:

(i) Borrow money at an interest rate not exceeding the rate permitted by law.

(ii) Provide for preliminary or interim financing up to, but not exceeding, the estimated total cost of the department and bond-related expenses and to evidence the borrowing by the issuance of special revenue notes and, in its discretion, to pledge as collateral for the note or other obligation a special revenue bond issued under the provisions of this chapter. The commission may renew the note or obligation, and the payment or retirement of the note or obligation shall be considered to be payment of the cost of the project.

(2) A note or obligation issued under this subsection must contain a statement on its face that:

(i) the Commonwealth is not obligated to pay the note or obligation or interest on it, except from pledged revenues; and

(ii) neither the faith and credit nor the taxing power of the Commonwealth is pledged to the payment of its principal or interest.

§ 9511.5. Application of proceeds of obligations, lien of holders of obligations, design-build requirement and projects approved by General Assembly.

(a) Application.--The following shall apply:

(1) All proceeds received from any bonds, notes or other obligations issued under this chapter shall be applied solely to the payment of:

(i) the cost of the department; and

(ii) bond-related expenses.

(2) The commission may provide by resolution that until proceeds received from any bonds, notes or other obligations issued under this chapter is applied under paragraph (1), a lien shall exist upon the proceeds in favor of holders of the bonds, notes or other obligations or a trustee provided for in respect to the bonds, notes or other obligations.

(b) Design-build arrangements.--

(1) To facilitate the timely completion of projects to be financed by the department with bond proceeds, the department may utilize design-build arrangements for each project to be financed with bond proceeds if the project value is estimated by the department to exceed \$100,000,000.

(2) Notwithstanding the provisions of any other law, the department may utilize design-build arrangements for the following:

(i) projects to be financed by the department with bond proceeds for projects estimated by the department to have a value of \$100,000,000 or less; and

(ii) all other construction projects of the department not included under subparagraph (i) or paragraph (1).

(3) The selection of the party for a design-build arrangement under this subsection must be conducted in a manner consistent with the procurement and public bidding laws applicable to the department.

(c) Capital projects.--All projects financed by the department with bond proceeds shall be included in any submission the department is already required to make to the

General Assembly with respect to the expenditure of funds for highway projects.

(d) Investment.--Pending the application of proceeds to cost of the department and bond-related expenses, the commission may invest the funds in permitted investments as defined under any trust indenture.

§ 9511.6. Trust indenture, protection of holders of obligations and depositories.

(a) Indenture.--In the discretion of the commission, a bond, note or other obligation may be secured by a trust indenture by and between the commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company, within or without this Commonwealth.

(b) Pledge or assignment.--A trust indenture under subsection (a) may pledge or assign the pledged revenues but shall not convey or mortgage the turnpike or any part of the turnpike.

(c) Rights and remedies.--The resolution providing for the issuance of the bond, note or other obligation of the trust indenture may contain provisions for protecting and enforcing the rights and remedies of the bondholders or holders of notes or other obligations as may be reasonable and proper and not in violation of law.

(d) Depository.--It shall be lawful for any bank or trust company incorporated under the laws of this Commonwealth to act as depository of the proceeds of the bond, note or other obligation or revenue, to furnish indemnity bonds or to pledge securities as may be required by the commission.

(e) Indenture.--The trust indenture may set forth the rights and remedies of the bondholders or holders of notes or other obligations and of the trustee and may restrict the individual right of action of bondholders or holders of notes or other obligations as is customary in trust indentures securing bonds, debentures of corporations, notes or other obligations. The trust indenture may contain other provisions as the commission may deem reasonable and proper for the security of bondholders or holders of notes or other obligations.

§ 9511.7. Exemption from Commonwealth taxation.

The effectuation of the purposes of this chapter is for the benefit of the citizens of this Commonwealth and for the improvement of their commerce and prosperity. Since the commission will be performing essential government functions in effectuating these purposes, the commission shall not be required to pay any tax or assessment on any property acquired or used by it for the purposes provided under this chapter. A bond, note or other obligation issued by the commission, its transfer and the income from its issuance and transfer, including any profits made on the sale of the bond, note or other obligation, shall be free from taxation within the Commonwealth.

§ 9511.8. Costs related to Federal income tax matters.

Tax matter costs incurred by the commission in connection with any proceeding of or filing with the Internal Revenue Service concerning the use of proceeds of bonds issued under this chapter shall be paid or reimbursed from available funds in the motor license fund. Tax matter costs shall include all of the following:

(1) Fees of tax counsel or arbitrage rebate calculation providers.

(2) Arbitrage rebate payments to the extent not properly payable from funds held under the bond indenture.

(3) Settlement payments to the Internal Revenue Service, either in relation to an examination initiated by the Internal Revenue Service or a closing agreement requested by the commission.

(4) Payments to bondholders as a result of claims based on pending, threatened or actual assessments of tax, interest or penalties by the Internal Revenue Service.

(5) Any other cost reasonably related to a proceeding by or filing with the Internal Revenue Service concerning the use of proceeds of the bonds.

§ 9511.9. Special revenue refunding bonds.

The commission is authorized to provide, by resolution, for the issuance of special revenue refunding bonds of the commission for the purpose of refunding any special revenue bonds, notes or other obligations issued under the provisions of this chapter and then outstanding. The issuance of the special revenue refunding bonds, the maturities and other details of the bonds, the rights of the holders of the bonds and the duties of the department and of the commission with respect to the bonds shall be governed by the provisions of this chapter.

§ 9511.10. Remedies of trustees and of holders of obligations.

(a) Grant of rights.--A holder of a bond, note or other obligation issued under this chapter and the trustee under the trust indenture may, either at law or in equity, by suit, action, mandamus or other proceeding, do all of the following:

(1) Protect and enforce any right granted under this chapter or under the resolution or trust indenture.

(2) Enforce and compel performance of all duties required under this chapter or by resolution or trust indenture to be performed by the commission or any of its officers, including the collection of the pledged revenues.

(b) Exception.--Rights given under this chapter may be restricted by resolution passed before the issuance of the bonds, notes or other obligations or by the trust indenture.

§ 9511.11. Pledged revenues.

(a) Annual debt service payments.--Upon receipt by the department of the annual debt service payments, the department shall pay them to the trustee for the holders of the bonds issued under section 9511.2 (relating to special revenue bonds).

(b) Payment default.--

(1) The department shall notify the State Treasurer if the department receives a notice from the trustee which:

(i) indicates that a default in the payment by the commission on its regularly scheduled deposits with respect to debt service on the bonds has occurred; and

(ii) indicates the amount required to remedy the default.

(2) Upon notice under paragraph (1), the State Treasurer shall do all of the following:

(i) Notwithstanding section 9010 (relating to disposition and use of tax), transfer to the trustee from funds in the Motor License Fund as a result of the imposition of the tax under section 9004(a) (relating to imposition of tax, exemptions and deductions) the amount necessary to remedy the default under paragraph (1)(ii).

(ii) If funds in the Motor License Fund as a result of the imposition of the tax under section 9004(a) are not sufficient to remedy the default under paragraph (1)(ii) and notwithstanding section 9511 (relating to allocation of proceeds), transfer to the trustee from funds in the Motor License Fund as a result of the imposition of the tax under section 9502(a)(1), (2)(i), (ii), (iii) and (iv) and (3)(ii) (relating to imposition of tax), an amount necessary, when combined with any funds transferred under subparagraph (i), to remedy the default.

(iii) If funds in the Motor License Fund as a result of the imposition of the tax under sections 9004(a) and 9502(a)(1), (2)(i), (ii), (iii) and (iv) and (3)(ii) are not sufficient to remedy the default under paragraph (1)(ii) and notwithstanding the provisions of section 20 of Act 3, transfer to the trustee from funds in the Motor License Fund as a result of the imposition of fees specified under sections 1912 (relating to passenger cars), 1913 (relating to motor homes), 1914 (relating to motorcycles), 1915 (relating to motor-driven cycles), 1916 (relating to trucks and truck tractors), 1917 (relating to motor buses and limousines), 1921 (relating to special mobile equipment), 1922 (relating to implements of husbandry), 1923 (relating to antique, classic and collectible vehicles), 1924 (relating to farm vehicles), 1925 (relating to ambulances, taxis and hearses), 1926 (relating to dealers and miscellaneous motor vehicle business), 1926.1 (relating to farm equipment vehicle dealers), 1927 (relating to transfer of registration), 1929 (relating to replacement registration plates), 1932 (relating to duplicate registration cards), 1933 (relating to commercial implements of husbandry) and 1952 (relating to certificate of title), net of amounts appropriated to the commission under section 20 of Act 3, an amount necessary, when combined with funds transferred under subparagraphs (i) and (ii), to remedy the default.

(c) Commonwealth pledge.--This subsection shall operate as a pledge by the Commonwealth to an individual or entity that acquires a bond issued by the commission under section 9511.2:

(1) to secure the portion of the money described under this section and distributed under this section; and

(2) to not limit or alter the rights vested in the commission or the trustee for the bonds to the appropriation and distribution of money set forth under this section.

§ 9511.12. (Reserved).

§ 9511.13. Supplement to other laws and liberal construction.

This chapter shall be regarded as supplemental and additional to powers conferred by other statutes and shall not be regarded as in derogation of any powers existing on the effective date of this section. The provisions of this chapter, being necessary for the welfare of the Commonwealth and its citizens, shall be liberally construed to effect the purposes of this chapter.

Section 8. (a) Financial assistance made by the Department of Transportation under 74 Pa.C.S. Ch. 13 prior to the effective date of this section may continue to be used by recipients for operating or capital expenses upon the same terms and conditions as are contained in the notice of grant award or grant agreement

executed in connection with the award, if the funds are expended within five years following the effective date of this section.

(b) The Department of Transportation may continue to use all funds appropriated or otherwise made available to it for public transportation purposes prior to the effective date of this section in accordance with the laws under which the funds were made available.

Section 9. The repeal of 74 Pa.C.S. Ch. 13 is subject to the following:

(1) Notwithstanding the repeal:

(i) The fund shall continue to receive revenue the fund was entitled to receive on June 30, 2007.

(ii) Transit entities that have outstanding obligations shall continue to receive money from the fund calculated and paid in the same manner as was provided on June 30, 2007.

(iii) Transit entities that do not have outstanding obligations shall not be entitled to receive additional money from the fund after June 30, 2007.

(iv) No transit entity shall be entitled to pledge the money from the fund to secure additional obligations issued after June 30, 2007.

(v) Money remaining in the fund after payments under subparagraph (ii) shall be transferred monthly to the Public Transportation Trust Fund established under 74 Pa.C.S. § 1506.

(vi) Payments to transit entities under 74 Pa.C.S. Ch. 15 shall be reduced by amounts received by the transit entity from the fund under subparagraph (ii).

(2) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

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

"Fund." The Public Transportation Assistance Fund.

"Obligations." Any bonds, notes, bond anticipation notes, refunding notes and bonds, interim certificates, debentures and other evidences of indebtedness or obligations of a transit entity with respect to which revenues from the fund have been pledged prior to June 30, 2007.

"Transit entity." Any class of transit entity, as defined in former section 1301 of Title 74.

(3) The Commonwealth pledges to and agrees with any person, firm or corporation holding any bonds previously issued by, or any other debt incurred by, a local transportation organization and secured in whole or part by a pledge of the funds provided to the local transportation organization from the Public Transportation Assistance Fund that the Commonwealth will not limit or alter rights vested in a local transportation organization in any manner inconsistent with obligations of the local transportation organization to the obligees of the local transportation organization until all bonds previously issued or other debt incurred, together with the interest on the bonds or debt, is fully paid or provided for.

Section 10. The following shall apply:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the addition of 74 Pa.C.S. Ch. 81.

(2) The act of September 30, 1985 (P.L.240, No.61), known as the Turnpike Organization, Extension and Toll Road Conversion Act, is repealed.

(3.1) In order to effectuate the funding aspects of this act, the following State appropriations in section 222 of the act of July 17, 2007 (P.L.499, No.8A), known as the General Appropriation Act of 2007, are repealed:

(i) The sum of \$800,000 of the appropriation for general government operations of the Department of Transportation.

(ii) The entire appropriation for the Rail Safety Inspection Program.

(iii) The entire appropriation for mass transportation assistance for grants to local transportation organizations.

(iv) The entire appropriation for supplemental grants to Class 3 and Class 4 transit entities and to support access to jobs transportation demonstration activities.

(v) The entire appropriation to augment State Lottery funds for payments to transportation providers for fixed-route transportation services and related improvements and for other transportation activities.

(vi) The entire appropriation for shared-ride transit for persons with disabilities.

(vii) The entire appropriation for intercity transportation for intercity bus, rail passenger and other operating subsidies and related improvements.

(4) All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 11. The addition of 74 Pa.C.S. Ch. 81 is a continuation of the act of September 30, 1985 (P.L.240, No.61), known as the Turnpike Organization, Extension and Toll Road Conversion Act. The following shall apply:

(1) Except as otherwise provided under 74 Pa.C.S. Ch. 81, all activities initiated under the Turnpike Organization, Extension and Toll Road Conversion Act shall continue and remain in full force and effect and may be completed under 74 Pa.C.S. Ch. 81. Orders, regulations, rules and decisions which were made under the Turnpike Organization, Extension and Toll Road Conversion Act and which are in effect on the effective date of section 10(2) of this act shall remain in full force and effect until revoked, vacated or modified under 74 Pa.C.S. Ch. 81. Contracts, obligations and collective bargaining agreements entered into under the Turnpike Organization, Extension and Toll Road Conversion Act are not affected nor impaired by the repeal of the Turnpike Organization, Extension and Toll Road Conversion Act.

(2) Except as set forth in paragraph (3), any difference in language between 74 Pa.C.S. Ch. 81 and the Turnpike Organization, Extension and Toll Road Conversion Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the Turnpike Organization, Extension and Toll Road Conversion Act.

(3) Paragraph (2) shall not apply to any of the following:

(i) In section 8102:

(A) Paragraphs (1), (6) and (7) of the definition of "cost of the turnpikes."

(B) Paragraph (2) of the definition of "turnpikes."

(C) The definitions of "auditor general's certificate," "cost of the department," "general reserve fund surplus," "public passenger transportation," "rural State highway system," "secretary," "State highway," and "system of public passenger transportation."

(ii) Section 8105(b)(2).

(iii) Section 8107(a)(9) and (10).

(iv) Section 8112(a)(1)(iii), (2) and (4), (b)(2)

and (c)(1).

(v) Section 8113.

(vi) Section 8114(c) and (d).

(vii) Section 8116.

Section 11.1. This act shall apply retroactively to July 1, 2007.

Section 12. This act shall take effect immediately.

APPROVED--The 18th day of July, A. D. 2007.

EDWARD G. RENDELL