

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 8

Special Session No. 1 of 2009-2010

INTRODUCED BY D. EVANS, SEPTEMBER 14, 2010

AS AMENDED, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, OCTOBER 6, 2010

AN ACT

1 Amending Titles 72 (Taxation and Fiscal Affairs), 74
2 (Transportation) and 75 (Vehicles) of the Pennsylvania
3 Consolidated Statutes, in taxation and fiscal affairs,
4 providing for an oil company gross profits tax; in
5 sustainable mobility options, further providing for fund, for
6 application and approval process and asset improvement
7 program; providing for imposition and allocation of
8 surcharges, for minimum qualifications for governing board
9 members, for best practices for transit-oriented development
10 and, for Legislative Budget and Finance Committee review
11 REVIEWS AND FOR REVIEW OF STATE HIGHWAY MAINTENANCE FORMULA;
12 in transportation, providing for public transit strike
13 notification; providing for public-private transportation
14 partnership; in vehicles, further providing for various
15 vehicle fees and for the imposition of the oil company
16 franchise tax for highway maintenance and construction;
17 providing for an annual adjustment to fees; and making a
18 related repeal.



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

21 Section 1. Title 72 of the Pennsylvania Consolidated
22 Statutes is amended by adding parts to read:

23 PART I

24 PRELIMINARY PROVISIONS

25 (Reserved)

26 PART II

1 TAXES

2 Chapter

3 22. Oil Company Gross Profits

4 CHAPTER 22

5 OIL COMPANY GROSS PROFITS

6 Sec.

7 2201. Definitions.

8 2202. Imposition of tax.

9 2203. Reports and payment of tax.

10 2204. Restricted revenue account.

11 2204.1. Appropriations.

12 2205. Procedure; enforcement; penalties.

13 2206. Cost of tax and penalties.

14 2207. Administration.

15 § 2201. Definitions.

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

19 "Account." The Oil Company Gross Profits Tax Account  
20 established in section 2204 (relating to restricted revenue  
21 account).

22 "Apportioned gross profits." The gross profits apportioned  
23 to Pennsylvania by the apportionment fraction set forth in  
24 section 2202(d) (relating to imposition of tax).

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

27 "Department." The Department of Revenue of the Commonwealth.

28 "Gross profits." If an oil company files an income tax  
29 return with the Federal Government, gross profits as set forth  
30 on such return. If an oil company does not file an income tax

1 return with the Federal Government, gross profits, as defined  
2 and calculated on the applicable Federal income tax return.  
3 Gross profits of an oil company are computed by combining the  
4 gross profits of all companies of a unitary business. All  
5 transactions among oil companies of a unitary business are  
6 eliminated in computing gross profits.

7 "Gross receipts." All gross receipts of a business entity.  
8 If an oil company files an income tax return with the Federal  
9 Government, its gross receipts as set forth on such return. If  
10 an oil company does not file an income tax return with the  
11 Federal Government, gross receipts, as defined and calculated on  
12 the applicable Federal income tax return.

13 "Oil company." An entity that engages in the exploration,  
14 drilling, importation, refining or wholesale distribution of  
15 petroleum products.

16 "Petroleum products." Any fractionated product of the  
17 industrial processing of crude oil manufactured or refined or  
18 used for the generation of power in an internal combustion  
19 engine to propel motor vehicles of any kind or character or for  
20 the generation of heat. Petroleum products include, but are not  
21 limited to, gasoline, diesel fuel, kerosene, propane and any  
22 other product of crude oil used for such purpose.

23 "Taxable year." The taxable year which an oil company, or  
24 any consolidated group with which an oil company participates in  
25 the filing of consolidated returns, actually uses in reporting  
26 taxable income to the Federal Government. The terms "annual  
27 year," "fiscal year," "annual or fiscal year," "tax year" and  
28 "tax period" shall be the same as the oil company's taxable year  
29 as defined in this definition.

30 "Unitary business." A single economic enterprise that is

1 made up either of separate parts of a single entity or of a  
2 commonly controlled group of entities that are sufficiently  
3 interdependent, integrated and interrelated through their  
4 activities so as to provide a synergy and mutual benefit that  
5 produces a sharing or exchange of value among them and a  
6 significant flow of value to the separate parts.

7 "Wholesale distribution." The making of one or more  
8 nonretail sales of petroleum products.

9 § 2202. Imposition of tax.

10 (a) Imposition.--An oil company shall pay an excise tax on  
11 its apportioned gross profits for exercising, whether in its own  
12 name or through any person, association, business trust,  
13 corporation, joint venture, limited liability company, limited  
14 partnership, partnership or other entity, any of the following  
15 privileges:

16 (1) Doing business within this Commonwealth.

17 (2) Carrying out activities within this Commonwealth.

18 (3) Having capital or property employed or used in this  
19 Commonwealth.

20 (4) Owning property in this Commonwealth.

21 (5) Engaging in or transacting any activity in this  
22 Commonwealth for the purpose of financial gain or profit.

23 (b) Rate.--The annual rate of tax on gross profits imposed  
24 by subsection (a) shall be 8% for calendar years or fiscal years  
25 beginning after December 31, 2010.

26 (c) Tax in lieu of corporate net income tax.--The tax  
27 imposed by this chapter shall be in lieu of the tax imposed by  
28 Article IV of the code.

29 (d) Apportionment fraction.--If at least one oil company of  
30 a unitary business that consists of oil companies transacts part

1 of its business outside Pennsylvania, the apportionment fraction  
2 of an oil company is its Pennsylvania gross receipts divided by  
3 total gross receipts of all oil companies of the unitary  
4 business. Gross receipts from the sale of tangible personal  
5 property are Pennsylvania gross receipts based on the sourcing  
6 rule set forth in section 401(3)2(a)(16) of the code. All other  
7 gross receipts are Pennsylvania gross receipts based on the  
8 sourcing rule set forth in section 401(3)2(a)(17) of the code.  
9 All transactions among oil companies of a unitary business are  
10 eliminated in computing the numerator and the denominator of the  
11 apportionment fraction of an oil company. If all oil companies  
12 of a unitary business that consist of oil companies transact all  
13 of their business within Pennsylvania, none of the oil companies  
14 are entitled to apportion their gross profits.

15 § 2203. Reports and payment of tax.

16 (a) Requirement.--Each oil company subject to tax under this  
17 chapter is required to file a report of gross profits taxable  
18 under this chapter and pay tax due as set forth in section 403  
19 of the code.

20 (b) Option.--

21 (1) All oil companies of a unitary business that are  
22 subject to tax under this chapter may elect to file a report  
23 and pay tax on an aggregate basis.

24 (2) The department shall prescribe a combined report for  
25 reporting and paying tax on an aggregate basis.

26 (3) The oil companies of a unitary business that are  
27 subject to tax under this chapter and that make this election  
28 shall designate an oil company of the unitary business that  
29 is taxable under this chapter to act as an agent for all oil  
30 companies of the unitary business. The agent shall file the

1 report permitted under this subsection under oath or  
2 affirmation and pay the total tax due under this chapter for  
3 all oil companies of a unitary business that are subject to  
4 tax under this chapter. Each oil company of a unitary  
5 business that is taxable under this chapter and makes the  
6 election permitted under this subsection remains liable for  
7 its tax due under this chapter.

8 § 2204. Restricted revenue account.

9 (a) Establishment of account.--There is established a  
10 restricted account in the General Fund to be known as the Oil  
11 Company Gross Profits Tax Account. Except as provided in  
12 subsection (c), money paid into the account shall be  
13 appropriated annually for transportation purposes.

14 (b) Deposit.--The tax collected pursuant to this chapter  
15 shall be deposited and paid into the account.

16 (c) Transfer.--

17 (1) On or about April 1, 2011:

18 (i) The sum of \$1,000,000, or as much thereof as may  
19 be necessary, is appropriated to the Office of Attorney  
20 General for the fiscal year July 1, 2010, to June 30,  
21 2011, from the account to carry out the provisions of  
22 section 2206(c) (relating to cost of tax and penalties).

23 (ii) A payment of \$17,500,000 shall be transferred  
24 from the account to the General Fund, 80% of the money  
25 remaining in the account shall be transferred to the  
26 Public Transportation Trust Fund established in 74  
27 Pa.C.S. § 1506 (relating to fund) and the remainder to  
28 the Motor License Fund.

29 (2) On the first business day of July 2011, October  
30 2011, January 2012 and each first business day of July,

1 October and January thereafter, 80% of the money in the  
2 account shall be transferred to the Public Transportation  
3 Trust Fund established in 74 Pa.C.S. § 1506 and the remainder  
4 to the Motor License Fund.

5 (3) On each first business day of April following the  
6 transfer in paragraph (1), \$35,000,000 shall be transferred  
7 from the account to the General Fund, 80% of the money  
8 remaining in the account shall be transferred to the Public  
9 Transportation Trust Fund established in 74 Pa.C.S. § 1506  
10 and the remainder to the Motor License Fund.

11 (d) Restriction on use of transferred funds.--Funds  
12 transferred to the Public Transportation Trust Fund established  
13 in 74 Pa.C.S. § 1506 shall not be subject to the limitations  
14 contained in 74 Pa.C.S. § 1507(c) (relating to application and  
15 approval process) but shall be used only for activities set  
16 forth under the financial waiver allowing the funds to be used  
17 for a different purpose. The regulations of the Department of  
18 Transportation shall describe circumstances under which it will  
19 consider waiver requests and shall set forth all information to  
20 be included in a waiver request. The waiver request shall  
21 include a plan of corrective action to demonstrate that the  
22 award recipient does not have an ongoing need to use financial  
23 assistance funds for activities other than those for which funds  
24 were originally awarded, and the duration of the waiver cannot  
25 exceed the duration of the plan of corrective action. The  
26 Department of Transportation shall monitor the implementation of  
27 the plan of corrective action. If the plan of corrective action  
28 is not implemented by the local transportation organization, as  
29 defined in 74 Pa.C.S. § 1503 (relating to definitions), the  
30 Department of Transportation shall rescind the waiver approval.

1 § 2204.1. Appropriations.

2 (a) Roads and bridges.--All money transferred to the Motor  
3 License Fund under section 2204 (relating to restricted revenue  
4 account) is appropriated to the Department of Transportation to  
5 be allocated as follows:

6 (1) Eighty-seven percent to be used for State roads and  
7 bridges.

8 (2) Eleven percent for municipal roads and bridges  
9 distributed to municipalities pursuant to the act of June 1,  
10 1956 (1955 P.L.1944, No.655), referred to as the Liquid Fuels  
11 Tax Municipal Allocation Law.

12 (3) Two percent for county roads and bridges distributed  
13 to counties as follows:

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

15 (A) the square footage of deck area of a  
16 county's county-owned bridges; to

17 (B) the total square footage of deck area of  
18 county-owned bridges throughout this Commonwealth.

19 (ii) The amount of square footage under subparagraph  
20 (i) shall be that reported as part of the National Bridge  
21 Inspection Standards Program.

22 (b) Financial assistance.--All money transferred to the  
23 Public Transportation Trust Fund under section 2204 is  
24 appropriated to the Department of Transportation to be allocated  
25 as follows:

26 (1) Eighty-five and eight-tenths percent for financial  
27 assistance under 74 Pa.C.S. § 1514 (relating to asset  
28 improvement program).

29 (2) Fourteen and two-tenths percent for financial  
30 assistance under 74 Pa.C.S. § 1513 (relating to operating



1 program).

2 § 2205. Procedure; enforcement; penalties.

3 (a) Applicability of code.--Except as set forth in  
4 subsection (b), Parts III, IV, V, VI and VII of Article IV of  
5 the code shall apply to the tax imposed under this chapter.

6 (b) Inapplicability.--Section 404 of the code shall not  
7 apply to the tax imposed by this chapter.

8 (c) Underpayment.--In addition to any other penalty provided  
9 by law, if the amount of any estimated payment of tax due or  
10 payment of tax due is underpaid, a penalty shall be imposed in  
11 the amount of 5% of the underpayment per month for the period of  
12 the underpayment, up to a maximum of 25% of the underpayment.

13 (d) Failure to file.--In addition to any other penalty  
14 provided by law, if an oil company fails to file the report  
15 required by section 2203 (relating to reports and payment of  
16 tax) within 270 days of the original due date of the report, a  
17 penalty of \$500 shall be imposed on the business entity.

18 § 2206. Cost of tax and penalties.

19 (a) Cost.--The cost of the tax imposed in section 2202  
20 (relating to imposition of tax), or any portion of the tax,  
21 shall not be added to, separately stated with or included in the  
22 purchase price charged to a purchaser of petroleum products.

23 (b) Penalties.--An individual who willfully violates  
24 subsection (a) commits a misdemeanor of the third degree. In  
25 addition, the seller of the petroleum products shall be required  
26 to pay a penalty equal to the amount added to, separately stated  
27 with or included with the purchase price charged to the  
28 purchaser.

29 (c) Attorney General.--In addition to the authority  
30 conferred upon the Attorney General by the act of October 15,

1 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act,  
2 the Attorney General shall have the authority to investigate and  
3 to institute criminal proceedings for any violation of this  
4 section. No persons charged with a violation of this section by  
5 the Attorney General shall have standing to challenge the  
6 authority of the Attorney General to investigate or prosecute  
7 the case. If a challenge is made, the challenge shall be  
8 dismissed and no relief shall be made available in the courts of  
9 this Commonwealth to the person making the challenge.

10 § 2207. Administration.

11 (a) Separate nature.--Tax under this chapter shall be  
12 separately reported, determined and treated.

13 (b) Estimation.--A taxpayer under this chapter shall  
14 estimate the amount of the tax under section 2202 (relating to  
15 imposition of tax).

16 (c) Payment.--

17 (1) A taxpayer shall pay the estimated tax in a single  
18 installment by the 15th day of the third month of the taxable  
19 year.

20 (2) After payment under paragraph (1), the remaining  
21 portion of the tax due under this chapter shall be paid on  
22 the date the report under section 2203 (relating to reports  
23 and payment of tax) is required to be filed, without  
24 reference to an extension of time for filing.

25 SECTION 1.1. TITLE 74 IS AMENDED BY ADDING A SECTION TO

26 READ:

27 § 105. STATEMENT OF POLICY.

28 IN THE INTEREST OF PROTECTING EXISTING TRANSPORTATION  
29 INFRASTRUCTURE AND PRESERVING LAND AS A RESOURCE, THE DEPARTMENT  
30 OF TRANSPORTATION SHALL GIVE HIGHER CONSIDERATION TO



1 MAINTENANCE, REPAIR AND IMPROVEMENT TO EXISTING TRANSPORTATION  
2 INFRASTRUCTURE BEFORE CONSIDERATION OF CAPITAL PROJECTS THAT  
3 EXPAND THE SIZE AND SCOPE OF THE INFRASTRUCTURE.

4 Section ~~1.1~~ 1.2. Section 1506 of Title 74 is amended by ←  
5 adding a subsection to read:

6 § 1506. Fund.

7 \* \* \*

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

12 Section ~~1.2~~ 1.3. Section 1507(a) and 1514(e) of Title 74 are ←  
13 amended by adding paragraphs to read:

14 § 1507. Application and approval process.

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

19 \* \* \*

20 (6.1) A statement of policy outlining basic principles  
21 for adjustment in fare revenue growth to meet the rate of  
22 inflation.

23 \* \* \*

24 § 1514. Asset improvement program.

25 \* \* \*

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

1 \* \* \*

2 (4) Request for funds to support local transportation  
3 organizations merger and consolidation incentives. Capital  
4 projects that are needed to support local transportation  
5 organizations that have agreed to merge and consolidate  
6 operations and administration to achieve cost and service  
7 efficiencies. The efficiencies must be identified in a merger  
8 and consolidation plan, and must include the expected dollar  
9 savings that will result from the merger and consolidation.

10 Section ~~1.3~~ 1.4. Title 74 is amended by adding sections to  
11 read:

12 § 1521. Imposition and allocation of surcharges.

13 (a) Surcharge.--The following surcharges are hereby imposed,  
14 the proceeds of which shall be deposited in the Public  
15 Transportation Trust Fund established under section 1506  
16 (relating to fund) and are hereby appropriated for the program  
17 specified in section 1514 (relating to asset improvement  
18 program):

19 (1) In addition to the fee established by 75 Pa.C.S. §  
20 1951(c) (relating to driver's license and learner's permit),  
21 a surcharge of \$13 is imposed on all issuances of an  
22 identification card. In addition to the fee established by 75  
23 Pa.C.S. § 1951(d), a surcharge of \$2 is imposed on all  
24 issuances of a replacement identification card.

25 (2) In addition to the fee established by 75 Pa.C.S. §  
26 1952 (relating to certificate of title), a surcharge of \$8.50  
27 is imposed on all issuances of certificate of title.

28 (3) In addition to the fee established by 75 Pa.C.S. §  
29 1953 (relating to security interest), a surcharge of \$9.00 is  
30 imposed on all recordings or changes to the amount of a

1 security interest.

2 (4) In addition to the fee established by 75 Pa.C.S. §  
3 1955(a) (relating to information concerning drivers and  
4 vehicles), a surcharge of \$13 is imposed on copies of written  
5 or electronic information relating to driver, registration,  
6 title or security interest.

7 (5) In addition to the fee established by 75 Pa.C.S. §  
8 1956 (relating to certified copies of records), a surcharge  
9 of \$31 is imposed on all certified copies of records.

10 (6) In addition to the fee established by 75 Pa.C.S. §  
11 1958 (relating to certificate of inspection), a surcharge of  
12 \$3 is imposed on all annual certificates of inspection and \$2  
13 on semiannual certificates of inspection.

14 (b) Increase.--For calendar year 2012 and each calendar year  
15 thereafter, the department shall increase the surcharges under  
16 subsection (a) by the lesser of the following:

17 (1) The rate of inflation calculated using the Consumer  
18 Price Index for the most recent available data over a 12-  
19 month period.

20 (2) One and one-half percent.

21 (c) Publication.--The department shall publish notice of the  
22 surcharge under subsection (b) and of the new total cost at  
23 least 90 days prior to the beginning of each calendar year.

24 § 1522. Minimum qualifications for governing board members.

25 Minimum qualifications for governing board members for a  
26 local transportation organization may include the following:

27 (1) Being a reputable citizen of this Commonwealth, of  
28 mature judgment and broad experience.

29 (2) Having professional background expertise or  
30 substantial experience in one or more of the following areas:

1           (i) Transportation.

2           (ii) Finance.

3           (iii) Law.

4           (iv) Land use and public planning.

5           (v) Human services.

6           (3) Demonstrating an interest in public transportation  
7           through support of the organization's mission, values and  
8           vision.

9   § 1523. Best practices for transit oriented development.

10          The department shall develop a manual on the best practices  
11          for transit oriented development and make the manual available  
12          to local transportation organizations and local governments.

13   § 1524. Legislative Budget and Finance Committee review.

14          The Legislative Budget and Finance Committee shall do all of  
15          the following:

16           (1) Review the specific findings and recommendations of  
17           the Human Service Transportation Coordination Study of 2009.

18           (2) Evaluate potential strategies for a unified human  
19           services transportation program management that may include  
20           use of memorandums of understanding among agencies, joint  
21           program offices or other strategies that promote  
22           consolidation.

23           (3) Review the potential for consolidation, specifically  
24           considering matters relating to agency administration,  
25           personnel, customer service, unified human service  
26           transportation planning, cost implications and any other  
27           factors deemed significant.

28           (4) Determine whether department or agency consolidation  
29           is a feasible solution to improve the coordination of  
30           Commonwealth human services transportation management and

1 identify the specific legislative and policy actions, if  
2 necessary, required to implement such a plan.

3 (5) Report all findings, conclusions and recommendations  
4 to the Senate and the House of Representatives within one  
5 year of the effective date of this section.

6 § 1525. REVIEW OF EXISTING TRANSPORTATION ENTITIES.

7 THE FOLLOWING SHALL APPLY:

8 (1) THE LEGISLATIVE BUDGET AND FINANCE COMMITTEE SHALL  
9 UNDERTAKE A REVIEW OF THE EXISTING TRANSPORTATION ENTITIES IN  
10 THIS COMMONWEALTH WHICH SHALL INCLUDE CONSULTATION WITH  
11 REPRESENTATIVES FROM TRANSPORTATION ENTITIES IN THIS  
12 COMMONWEALTH.

13 (2) THE LEGISLATIVE BUDGET AND FINANCE COMMITTEE SHALL  
14 IDENTIFY STATES FOR COMPARISON WITH THIS COMMONWEALTH, WHICH  
15 MAY INCLUDE THE REGIONAL TRANSPORTATION AUTHORITIES IN THE  
16 STATES OF CALIFORNIA, COLORADO, FLORIDA, GEORGIA, OREGON AND  
17 TEXAS, FOR THE PURPOSE OF REVIEWING EXISTING PRACTICES AND  
18 FUNCTIONS AND THEIR APPLICABILITY TO PENNSYLVANIA.

19 (3) THE LEGISLATIVE BUDGET AND FINANCE COMMITTEE SHALL  
20 IDENTIFY STATES FOR COMPARISON WITH THIS COMMONWEALTH, WHICH  
21 MAY INCLUDE THE STATES OF ARKANSAS, CALIFORNIA, GEORGIA AND  
22 WASHINGTON, FOR THE PURPOSE OF REVIEWING REGIONAL  
23 TRANSPORTATION AUTHORITIES THAT HAVE ENABLED A TAXING  
24 AUTHORITY, OR PROPOSED TO DO SO, FOR THE PURPOSE OF  
25 GENERATING REVENUE FOR TRANSIT AND LOCAL TRANSPORTATION  
26 FUNDING.

27 (4) THE LEGISLATIVE BUDGET AND FINANCE COMMITTEE SHALL  
28 COMPLETE A STUDY AND COST ANALYSIS OF THE IMPLEMENTATION AND  
29 CONTINUED ADMINISTRATION OF REGIONAL MULTIMODAL  
30 TRANSPORTATION AUTHORITIES IN THIS COMMONWEALTH.

1           (5) THE LEGISLATIVE BUDGET AND FINANCE COMMITTEE SHALL  
2 IDENTIFY AND APPLY FOR GOVERNMENT GRANTS OR PRIVATE FUNDING,  
3 OR BOTH, FOR A STUDY GERMANE TO THIS ISSUE.

4           (6) THE LEGISLATIVE BUDGET AND FINANCE COMMITTEE SHALL  
5 DO ALL OF THE FOLLOWING:

6           (I) EVALUATE THE POWERS AND DUTIES OF EACH  
7 INDIVIDUAL AUTHORITY, INCLUDING LIMITATIONS OF THE  
8 INDIVIDUAL AUTHORITY TO PLAN, DESIGN, FINANCE, CONSTRUCT,  
9 OPERATE AND MAINTAIN EXISTING TRANSPORTATION FACILITIES  
10 AND TO PROVIDE A SAFE, ADEQUATE AND EFFICIENT SURFACE  
11 TRANSPORTATION NETWORK FOR THIS COMMONWEALTH;

12           (II) ADDRESS AGENCY REVENUE SOURCES, GOVERNANCE,  
13 COORDINATION OF WORK PLANS AND COORDINATION WITH LOCAL  
14 COMPREHENSIVE PLANS FOR ALL TRANSPORTATION FACILITIES AND  
15 INFRASTRUCTURE DEVELOPMENT WITHIN THIS COMMONWEALTH;

16           (III) RECOMMEND AN IMPLEMENTATION PLAN, WHICH MAY  
17 INCLUDE THE FORMATION OF ONE OR SEVERAL REGIONAL  
18 TRANSPORTATION NETWORKS, OR OTHER IMPLEMENTATION  
19 APPROACHES TO PROVIDE A COMPREHENSIVE MULTIMODAL REGIONAL  
20 TRANSPORTATION NETWORK; AND

21           (IV) RECOMMEND AND ITEMIZE ANY LEGISLATIVE ACTION,  
22 IF NECESSARY, TO IMPLEMENT SUCH REGIONAL MULTIMODAL  
23 TRANSPORTATION AUTHORITIES IN THIS COMMONWEALTH.

24           (7) THE LEGISLATIVE BUDGET AND FINANCE COMMITTEE SHALL  
25 REPORT ALL FINDINGS, CONCLUSIONS AND RECOMMENDATIONS TO THE  
26 HOUSE OF REPRESENTATIVES WITHIN ONE YEAR OF THE EFFECTIVE  
27 DATE OF THIS SECTION.

28 § 1526. REVIEW OF STATE HIGHWAY MAINTENANCE FORMULA.

29           THE LEGISLATIVE BUDGET AND FINANCE COMMITTEE SHALL REVIEW THE  
30 STATE HIGHWAY MAINTENANCE FORMULA SET FORTH IN 75 PA.C.S. CH. 91



1 (RELATING TO STATE HIGHWAY MAINTENANCE) AND EVALUATE HOW WELL,  
2 AND THE FAIRNESS BY WHICH, THE FORMULA ALLOCATES RESOURCES AMONG  
3 THE COUNTY OFFICES OF THE DEPARTMENT IN COMPARISON TO THE STATE  
4 HIGHWAY MAINTENANCE NEEDS OF THOSE COUNTIES. THE COMMITTEE SHALL  
5 REPORT ITS FINDINGS, CONCLUSIONS AND RECOMMENDATIONS TO THE  
6 SENATE AND THE HOUSE OF REPRESENTATIVES WITHIN ONE YEAR OF THE  
7 EFFECTIVE DATE OF THIS SECTION.

8 Section 1.4. Title 74 is amended by adding a chapter to  
9 read:



10 CHAPTER 19  
11 MANAGEMENT AND LABOR PROVISIONS  
12 Subchapter  
13 A. Public Transit Strike Notification  
14 SUBCHAPTER A  
15 PUBLIC TRANSIT STRIKE NOTIFICATION

16 Sec.  
17 1901. Scope of subchapter.  
18 1902. Legislative findings.  
19 1903. Definitions.  
20 1904. Strike notification requirements.  
21 § 1901. Scope of subchapter.

22 This subchapter relates to public transit strike  
23 notification.

24 § 1902. Legislative findings.

25 The General Assembly finds and declares as follows:

26 (1) Mass transit is a critical component of the  
27 transportation infrastructure throughout this Commonwealth.

28 (2) State and local taxpayers significantly subsidize  
29 the operation and capital costs of local transportation  
30 organizations.

1 ~~(3) Disruption of transit services not only~~  
2 ~~inconveniences riders but also has an adverse impact on~~  
3 ~~regional economies.~~

4 ~~(4) Past strikes called by bargaining unit leaders have~~  
5 ~~not given transit riders sufficient time to find alternative~~  
6 ~~means of transportation and have left passengers stranded~~  
7 ~~waiting for rides.~~

8 ~~(5) Transit riders, the public at large and local~~  
9 ~~governments deserve to have ample notice prior to a work~~  
10 ~~stoppage by transit workers.~~

11 ~~§ 1903. Definitions.~~

12 ~~The following words and phrases as used in this subchapter~~  
13 ~~shall have the meanings given to them in this section unless the~~  
14 ~~context clearly indicates otherwise:~~

15 ~~"Collective bargaining unit." A group of employees~~  
16 ~~represented by a labor union or other group engaged in~~  
17 ~~collective bargaining with a local transportation organization.~~

18 ~~"Local transportation organization." As defined in section~~  
19 ~~1503 (relating to definitions).~~

20 ~~"Notification to the general public." All of the following:~~

21 ~~(1) Holding a press conference which is attended by~~  
22 ~~representatives of the major newspapers, television stations~~  
23 ~~and news radio stations in the region served by the local~~  
24 ~~transportation organization employing the members of the~~  
25 ~~collective bargaining unit.~~

26 ~~(2) Unambiguously announcing a work stoppage.~~

27 ~~"Transit worker." An employee of a local transportation~~  
28 ~~organization.~~

29 ~~"Union leader." An officer of a labor union or collective~~  
30 ~~bargaining unit of a labor union.~~

1 ~~"Union member." A member of a labor union other than a union~~  
2 ~~leader.~~

3 ~~"Work stoppage." Ceasing or refusing to attend or perform~~  
4 ~~any work or to remain in any relation of employment.~~

5 ~~§ 1904. Strike notification requirements.~~

6 ~~(a) Union leaders. Notwithstanding any other provision of~~  
7 ~~law, a union leader of a collective bargaining unit representing~~  
8 ~~transit workers may not call for or order a work stoppage~~  
9 ~~disrupting the operations of a local transportation organization~~  
10 ~~unless:~~

11 ~~(1) notification is provided to the general public; and~~

12 ~~(2) the work stoppage begins or is called to begin no~~  
13 ~~sooner than 72 hours after compliance with paragraph (1).~~

14 ~~(b) Union members. A union member may not participate in a~~  
15 ~~work stoppage which has been called or ordered in violation of~~  
16 ~~any provision of subsection (a).~~

17 ~~(c) Penalties.~~

18 ~~(1) A violation of subsection (a) constitutes a summary~~  
19 ~~offense punishable by a fine, payable to the county, of \$500~~  
20 ~~for each hour during which a work stoppage occurs in~~  
21 ~~violation of this subchapter. Upon failure to timely pay the~~  
22 ~~fine, an offender shall be sentenced to undergo a term of~~  
23 ~~imprisonment of up to 120 days.~~

24 ~~(2) A violation of subsection (b) constitutes a summary~~  
25 ~~offense punishable by a fine, payable to the county, of \$50~~  
26 ~~for each hour of participation in a work stoppage called, or~~  
27 ~~occurring, in violation of this section. Upon failure to~~  
28 ~~timely pay the fine, an offender shall be sentenced to a term~~  
29 ~~of imprisonment of up to 12 days.~~

30 Section 1.5. Title 74 is amended by adding a part to read:



1 PART V

2 TRANSPORTATION INFRASTRUCTURE

3 CHAPTER ←

4 91. PUBLIC-PRIVATE TRANSPORTATION PARTNERSHIP

5 CHAPTER 91

6 PUBLIC-PRIVATE TRANSPORTATION PARTNERSHIP

7 Sec.

8 9101. Scope of chapter.

9 9102. Findings and declaration of policy.

10 9103. Definitions.

11 9104. Regulations.

12 9105. Project delivery methods.

13 9106. Approval.

14 9107. Public-private transportation partnership agreement.

15 9108. Police powers and violations of law.

16 9109. Environmental and other authorizations.

17 9110. Taxation of authorized development entity or entities.

18 9111. Power of eminent domain.

19 9112. Sovereign immunity.

20 9113. Amounts payable by proprietary public entities and  
21 specific performance.

22 9114. Design-build development and Separations Act.

23 9115. Additional procurement provisions.

24 9116. Adverse interest.

25 9117. Application of chapter.

26 9118. Federal, Commonwealth, local and private assistance.

27 9119. Public-Private Transportation Account.

28 9120. Public-Private Transportation Partnership Board.

29 9121. Duties and powers of board.

30 9122. Role of department in operation of board.



1 9123. PROHIBITION.

2 § 9101. Scope of chapter.

3 This chapter relates to public-private transportation  
4 partnerships.

5 § 9102. Findings and declaration of policy.

6 (a) Legislative findings and declarations.--The General  
7 Assembly finds, determines and declares as follows:

8 (1) There is urgent public need to reduce congestion,  
9 increase capacity, improve safety and enhance economic  
10 efficiency of transportation facilities throughout this  
11 Commonwealth.

12 (2) The Commonwealth has limited resources to fund the  
13 maintenance and expansion of its transportation facilities.

14 (3) To ensure the needs of the public are adequately  
15 addressed, alternative funding mechanisms and strategies must  
16 be developed to supplement existing public revenue sources.

17 (4) The imposition of user fees establishes an  
18 additional funding source for transportation infrastructure  
19 needs that spreads the costs across those who most benefit  
20 from the Commonwealth's system of roads, highways and  
21 bridges.

22 (5) The imposition of user fees and the development,  
23 operation, maintenance, construction and improvement of toll  
24 roads is a proprietary function which may be delegated to a  
25 private entity consistent with section 31 of Article 3 of the  
26 Constitution of Pennsylvania.

27 (6) Authorizing public entities to enter into  
28 transportation development agreements with private entities  
29 and other public entities for the development, operation and  
30 financing of transportation facilities can result in greater

1 availability of transportation facilities to the public in a  
2 timely, efficient and less costly fashion, thereby serving  
3 the public safety and welfare.

4 (7) Assuring that qualifying transportation projects are  
5 developed, operated and financed in a cost-effective manner  
6 is an important factor in promoting the health, safety and  
7 welfare of the citizens of this Commonwealth.

8 (b) Intent.--It is the intent of this chapter:

9 (1) To encourage private entities to invest in this  
10 Commonwealth by participating in the development, operation  
11 and/or financing of transportation facilities.

12 (2) To accomplish the goals under subsection (a) and  
13 paragraph (1), and to provide the policies set forth in this  
14 chapter to provide public entities and private entities with  
15 the flexibility in contracting with each other for and in  
16 providing of the public services that are the subject of this  
17 title.

18 (3) To accomplish the goals under subsection (a) and  
19 paragraph (1), and provide the policies set forth in this  
20 chapter to make clear that public entities are authorized and  
21 empowered to contract with private entities for and in  
22 providing the public services which are the subject of this  
23 title.

24 (4) To establish a board with the authority to authorize  
25 the charging of user fees consistent with the goals under  
26 subsection (a) and paragraph (1).

27 § 9103. Definitions.

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

1 "Account." The Public-Private Transportation Account.

2 "Board." The Public-Private Transportation Partnership  
3 Board.

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

6 "Development entity." Any of the following:

7 (1) A private entity.

8 (2) A public entity, other than the proprietary public  
9 entity.

10 (3) A partnership of entities proposing, bidding or  
11 responding to a solicitation by the department or a  
12 proprietary public entity.

13 "Electronic toll." A system of collecting tolls or charges  
14 that is capable of charging an account holder for the prescribed  
15 toll by electronic transmission of information, including E-Z  
16 Pass, open road tolling, video tolling or other similar  
17 structural or technological enhancements pertaining to tolling.

18 "Private entity." A person, entity or organization that is  
19 not the Federal Government, a state, a political subdivision of  
20 this Commonwealth or a unit of government.

21 "Proprietary public entity." A public entity that owns the  
22 eligible transportation facility that is subject to a public-  
23 private transportation partnership agreement.

24 "Public entity." The Commonwealth or any of its departments,  
25 commissions, authorities, agencies or a unit of government. The  
26 term includes the department and the Pennsylvania Turnpike  
27 Commission. The term does not include the General Assembly and  
28 its members, officers or agencies or any court or other office  
29 or agency of the Pennsylvania judicial system.

30 "Public-private transportation partnership agreement." A

1 binding agreement for a public-private transportation project  
2 transferring rights for the use or control, in whole or in part,  
3 of a transportation facility by the department or a proprietary  
4 public entity to a development entity for a definite term during  
5 which the development entity will provide transportation-related  
6 services in return for the right to receive all or a portion of  
7 the revenue of the transportation facility, or other payment,  
8 such as the following transportation-related services:

9 (1) Operations and maintenance.

10 (2) Revenue collection.

11 (3) User fee collection or enforcement.

12 (4) Design.

13 (5) Construction.

14 (6) Development and other activities with respect to  
15 existing or new transportation facilities that enhance  
16 traffic throughput, reduce congestion, improve safety or  
17 otherwise manage or improve a transportation facility.

18 "Public-private transportation project." A project for the  
19 safe transport of people or goods via one or more modes of  
20 transport.

21 "Right-to-Know Law." The act of February 14, 2008 (P.L.6,  
22 No.3), known as the Right-to-Know Law.

23 "Solicitation." The process by which the department or a  
24 proprietary public entity may elect to procure services under  
25 section 9106(b) (relating to approval).

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

28 "Transportation facility." A proposed or existing road,  
29 bridge, tunnel, overpass, ferry, busway, guideway, public  
30 transportation facility, vehicle parking facility, port



1 facility, multimodal transportation facility, airport, station,  
2 hub, terminal or similar facility used or to be used for the  
3 transportation of persons, animals or goods, together with any  
4 buildings, structures, parking areas, appurtenances and other  
5 property needed to operate the transportation facility. The term  
6 includes any improvements or substantial enhancements or  
7 modifications to an existing transportation facility.

8 "Unit of government." Any of the following:

9 (1) An agency, office or department of the Commonwealth.

10 (2) A city, county, district, commission, authority,  
11 entity, port or other public corporation organized and  
12 existing under statutory law, voter-approved charter or  
13 initiative.

14 (3) An intergovernmental entity.

15 § 9104. Regulations.

16 (a) Promulgation.--In order to facilitate the implementation  
17 of this chapter, the department may promulgate regulations or  
18 publish guidelines that include any of the following:

19 (1) The process for review of request for solicitations  
20 or responses to requests for solicitations issued by the  
21 department or a proprietary public entity.

22 (2) The process for receipt and review of and response  
23 to competing responses to requests for solicitations.

24 (3) The type and amount of information that is necessary  
25 for adequate review of and response to each state of review  
26 of a solicitation.

27 (4) The process for submission and review of requests to  
28 the department and the board by public entities for approval  
29 of a public-private transportation project under this  
30 chapter.

1           (5) Any other provisions which are required under this  
2 chapter or which the department determines are appropriate  
3 for implementation of this chapter.

4           (b) Temporary regulations.--Notwithstanding any other  
5 provision of law and in order to facilitate the prompt  
6 implementation of this chapter, any regulation promulgated by  
7 the department under this chapter during the two years following  
8 the effective date of this section shall be deemed temporary  
9 regulations which shall expire no later than three years  
10 following the effective date of this section or upon  
11 promulgation of final regulations. The temporary regulations  
12 shall not be subject to any of the following:

13           (1) Sections 201, 202, 203 and 204 of the act of July  
14 31, 1968 (P.L.769, No.240), referred to as the Commonwealth  
15 Documents Law.

16           (2) The act of June 25, 1982 (P.L.633, No.181), known as  
17 the Regulatory Review Act.  
18 § 9105. Project delivery methods.

19           The department shall provide for the development or operation  
20 of eligible facilities using a variety of project delivery  
21 methods and forms of agreement. The methods may include:

22           (1) Predevelopment agreements leading to other  
23 implementing agreements.

24           (2) A design-build agreement.

25           (3) A design-build-maintain agreement.

26           (4) A design-build-finance-operate agreement.

27           (5) A design-build-operate-maintain agreement.

28           (6) A design-build-finance-operate-maintain agreement.

29           (7) A concession providing for the private entity to  
30 design, build, operate, maintain, manage or lease an eligible

1 transportation facility.

2 (8) Any other project delivery method or agreement or  
3 combination of methods or agreements that the department  
4 determines will serve the public interest.

5 § 9106. Approval.

6 (a) Authorization.--The department or a proprietary public  
7 entity, upon approval by the board, is authorized to enter into  
8 an agreement with a development entity for the purpose of  
9 forming a public-private transportation partnership in  
10 accordance with this chapter.

11 (b) Solicitation.--The department or a proprietary public  
12 entity may procure services under this chapter using any or all  
13 of the following:

14 (1) Request for project proposals in which is described  
15 a class of transportation facilities or a geographic area in  
16 which development entities are invited to submit proposals to  
17 develop transportation facilities.

18 (2) Solicitations using requests for qualifications,  
19 short-listing of qualified proposers, requests for proposals,  
20 negotiations, best and final offers or other procurement  
21 procedures.

22 (3) Procurements seeking development and finance plans  
23 most suitable for the project.

24 (4) Best value selection procurements based on price,  
25 financial proposals, or both, or other factors determined to  
26 be relevant to a decision that is in the best interest of the  
27 Commonwealth or the proprietary public entity.

28 (5) Other procedures that the department determines may  
29 further the implementation of this chapter.

30 (6) Unsolicited proposals as recommended by the board if

1 the board, in consultation with the department, determines  
2 there is sufficient merit to pursue the proposal, a  
3 reasonable opportunity for other entities to submit competing  
4 proposals for consideration and a possible contract award.

5 (c) Notice.--The department or a proprietary public entity  
6 must give adequate public notice of any request for  
7 qualifications, request for proposal or other solicitation in a  
8 reasonable amount of time prior to any deadline date for  
9 submission. The solicitation shall generally set forth the  
10 factors that will be evaluated and the manner in which responses  
11 will be evaluated.

12 (d) Costs.--

13 (1) The department and a proprietary public entity and  
14 their respective advisers shall not be responsible for any  
15 costs or damages incurred by a private party in connection  
16 with any requests for qualifications, requests for proposals  
17 or other solicitations.

18 (2) The department or a proprietary public entity may,  
19 in their discretion, elect to pay a stipend to unsuccessful  
20 offerors who have submitted responsive proposals, bids and  
21 other materials in response to a request for proposals or  
22 other solicitation. Stipends may be made available solely to  
23 defray the costs of proposal or response preparation. The  
24 availability of a stipend and the conditions necessary to  
25 qualify for payment shall be included in the request for  
26 proposals or other solicitation.

27 (3) The department or a proprietary public entity may  
28 charge and retain an administrative fee for the evaluation of  
29 a public-private transportation partnership proposal as  
30 recommended by the board.

1 (e) Modification and termination rights.--

2 (1) The department or a proprietary public entity may  
3 modify a solicitation request if it determines the  
4 modification to be in the best interest of the Commonwealth  
5 or proprietary public entity.

6 (2) A solicitation request may be canceled at any time  
7 prior to the time a public-private transportation partnership  
8 agreement is executed, if the department or the proprietary  
9 public entity determines, on a case-by-case basis, that the  
10 action is in the best interest of the Commonwealth or the  
11 proprietary public entity. The reasons for cancellation shall  
12 be made a part of the file.

13 (3) A submission and offer made in response to the  
14 solicitation request may be rejected at any time prior to the  
15 time a public-private transportation partnership agreement is  
16 executed, if the department or the proprietary public entity  
17 determines, on a case-by-case basis, that the action is in  
18 the best interest of the Commonwealth or the proprietary  
19 public entity. The reasons for rejection shall be made part  
20 of the file.

21 (4) A decision to modify, cancel or reject any request  
22 for solicitation shall be final and unreviewable.

23 (5) The issuance for a request for solicitation in no  
24 way shall obligate the department or a proprietary public  
25 entity to enter into a public-private transportation  
26 partnership agreement or a contract of any kind with a party.

27 (f) Selection criteria, evaluation and award by the  
28 department or a proprietary public entity.--

29 (1) In evaluating proposals, the department or a  
30 proprietary public entity shall obtain the best value for the

1 Commonwealth or the proprietary public entity and may accord  
2 relative weight to factors such as cost, financial  
3 commitment, innovative financing, technical, scientific,  
4 technological or socioeconomic merit, financial strength and  
5 viability and other factors as deemed appropriate.

6 (2) The department or a proprietary public entity may  
7 conduct discussions with development entities to assure  
8 understanding of and responsiveness to the requirements of a  
9 request for qualifications.

10 (3) The department or a proprietary public entity shall  
11 conduct a public and competitive process to award a public-  
12 private transportation partnership agreement.

13 (4) The department or a proprietary public entity shall  
14 accept for contract negotiation the responsive and  
15 responsible development entity whose proposal is determined  
16 in writing to be the most advantageous to the Commonwealth or  
17 the proprietary public entity, taking into consideration  
18 price and all evaluation factors.

19 (5) The department or a proprietary public entity may  
20 require that any bid or proposal submitted to enter into a  
21 public-private transportation partnership agreement be  
22 accompanied by security in the form of cash, letters of  
23 credit or other financial security acceptable to the  
24 department or the proprietary public entity.

25 (6) The department or a proprietary public entity may  
26 retain financial, technical, legal and other consultants and  
27 experts to assist in the evaluation, negotiation and  
28 development of eligible facilities under this chapter.

29 (g) Use of intellectual property.--Unless otherwise agreed  
30 and except to the extent not transferable by law, the department

1 or a proprietary public entity shall have the right to use all  
2 or a portion of a response to a solicitation, including the  
3 technologies, techniques, methods, processes and information  
4 contained in the response. Notice of nontransferability by law  
5 shall be given to the department in response to the request for  
6 qualifications.

7 (h) Records of solicitation requests.--Notwithstanding the  
8 Right-to-Know Law, the following shall apply:

9 (1) Upon the selection of a development entity to be a  
10 party to a public-private transportation partnership  
11 agreement, the identity of the development entity selected,  
12 the contents of the response of the development entity to the  
13 request for qualifications, the final bid or proposal  
14 submitted by the development entity and the form of the  
15 public-private transportation agreement shall be made public.  
16 Any financial information of a development entity that was  
17 requested in a request for qualifications or a solicitation  
18 to demonstrate the economic capability of a development  
19 entity to fully perform the requirements of the public-  
20 private transportation partnership agreement and which is  
21 contained in a response to a request for qualifications shall  
22 not be subject to public inspection.

23 (2) The department or a proprietary public entity may,  
24 in its discretion, make public any information described  
25 under paragraph (1) that would not otherwise be subject to  
26 public inspection.

27 (3) If the department or a proprietary public entity  
28 terminates a public-private transportation partnership  
29 agreement for default, rejects a development entity or a  
30 person on the grounds that the development entity is not

1 responsible or suspends or debars a development entity or a  
2 person, the development entity or person shall, upon written  
3 request, be provided with a copy of the information contained  
4 in the file of the development entity or person maintained by  
5 the department, the Office of the Budget and the Department  
6 of General Services or a proprietary public entity under a  
7 contractor responsibility program.

8 (4) A record, material or data received, prepared, used  
9 or retained by the department or a proprietary public entity  
10 or their employees, consultants or agents in connection with  
11 the evaluation of requests for qualifications shall not  
12 constitute a public record subject to public inspection under  
13 the Right-to-Know Law if, in the reasonable judgment of the  
14 department or the proprietary public entity, the inspection  
15 would cause substantial competitive harm to the entity or  
16 person from whom the information was received.

17 (i) Diversity.--

18 (1) It is the intent and goal of the General Assembly  
19 that the department and proprietary public entities promote  
20 and ensure diversity in all aspects of development and  
21 operation of a public-private transportation project  
22 authorized under this chapter. The department and proprietary  
23 public entities shall work to enhance the representation of  
24 diverse groups in the development and operation by private  
25 entities of any public-private transportation project through  
26 the participation of business enterprises utilized by  
27 development entities and through the provision of goods and  
28 services utilized by development entities in the development  
29 and operation of any public-private transportation project  
30 authorized under this chapter.



1           (2) The department is authorized to investigate and  
2 conduct periodic studies to ascertain whether effective and  
3 meaningful action has been taken or will be taken to enhance  
4 the representation of diverse groups in the development and  
5 operation by development entities of any public-private  
6 transportation project in this Commonwealth through the  
7 participation of business enterprises utilized by development  
8 entities in the development and operating of any public-  
9 private transportation project under this chapter and through  
10 the provision of goods and services utilized by development  
11 entities in the development and operation of any public-  
12 private transportation project and through employment  
13 opportunities.

14 § 9107. Public-private transportation partnership agreement.

15           (a) Agreement provisions.--A public-private transportation  
16 partnership agreement shall include the following provisions:

17           (1) A description of any planning, development, design,  
18 leasing, acquisition or interest in, financing, installation,  
19 construction, reconstruction, replacement, expansion,  
20 operation, maintenance, improvement, equipping, modification,  
21 expansion, enlargement, management, running, control and  
22 operation of the transportation facility.

23           (2) The term of the public-private transportation  
24 partnership agreement.

25           (3) The type of property interest or other relationship  
26 the development entity will have in or with respect to the  
27 project, including acquisition of rights-of-way and other  
28 property interests that may be required.

29           (4) Authorization for the department and the proprietary  
30 public entity, or their authorized representatives, to

1 inspect all assets and properties of the transportation  
2 facility and all books and records of the development entity  
3 relating to the eligible transportation facility to review  
4 the development entity's performance under the public-private  
5 transportation partnership agreement.

6 (5) Grounds for termination of the public-private  
7 transportation partnership agreement by the parties.

8 (6) Procedures for amendment of the public-private  
9 transportation partnership agreement.

10 (7) The rights and remedies available in the event of  
11 breach, default or delay.

12 (8) Requirements for a private development entity to  
13 provide performance and payment bonds, parent company  
14 guarantees, letters of credit or other acceptable forms of  
15 security in an amount acceptable to the proprietary public  
16 entity.

17 (9) A requirement that the transportation facility  
18 acquired or constructed is public property that is leased to  
19 the development entity and belongs to the proprietary public  
20 entity.

21 (10) Standards for construction, maintenance and  
22 operation of the transportation facility if the activities  
23 are to be performed by the development entity.

24 (11) Standards for capital improvement or modification  
25 of the transportation facility if they are to be made by the  
26 development entity.

27 (12) Standards relating to how payments, if any, are to  
28 be made by the proprietary public entity to the development  
29 entity, including availability payments, performance-based  
30 payment and payments of money and revenue-sharing with the

1 development entity.

2 (13) Standards relating to how the parties will allocate  
3 and share management of the risks of the project.

4 (14) Standards relating to how the parties will allocate  
5 costs of development of the project, including any cost  
6 overruns.

7 (15) Standards relating to damages to be assessed for  
8 nonperformance, specifying remedies available to the parties  
9 and dispute resolution procedures.

10 (16) Standards relating to performance criteria and  
11 incentives.

12 (17) A requirement that upon termination of the public-  
13 private transportation partnership agreement, the  
14 transportation facility must be in a state of proper  
15 maintenance and repair and shall be returned to the  
16 proprietary public entity in satisfactory condition at no  
17 further cost to the proprietary public entity.

18 (18) Provisions for law enforcement of the public  
19 transportation facility.

20 (19) An obligation of the private entity to offer  
21 employment to any employee of the department or proprietary  
22 public entity who would lose employment due to the execution  
23 of the public-private partnership agreement and who is in  
24 good standing at the time of execution of the partnership  
25 agreement, including salary, retirement, health and welfare, ←  
26 and benefits which are substantially identical to the  
27 benefits received by the employees immediately prior to  
28 execution of the partnership agreement. THE FOLLOWING: ←

29 (I) SALARY, RETIREMENT, HEALTH AND WELFARE AND  
30 BENEFITS WHICH ARE SUBSTANTIALLY IDENTICAL TO THE

1 BENEFITS RECEIVED BY THE EMPLOYEES IMMEDIATELY PRIOR TO  
2 THE EXECUTION OF THE PARTNERSHIP AGREEMENT.

3 (II) MEASURES TO PROTECT INDIVIDUAL EMPLOYEES TO THE  
4 GREATEST DEGREE POSSIBLE AGAINST A WORSENING OF THEIR  
5 POSITIONS RELATED TO EMPLOYMENT.

6 (III) ASSURANCES OF PRIORITY OF REEMPLOYMENT OF  
7 EMPLOYEES.

8 (IV) PAID TRAINING OR RETRAINING PROGRAMS.

9 (20) Other terms and provisions as required under this  
10 chapter.

11 (21) Other terms and conditions as may be agreed between  
12 the private entity and the department or the proprietary  
13 public entity.

14 (b) Term.--The department or a proprietary public entity may  
15 enter into a public-private transportation partnership agreement  
16 with any development entity that includes the provisions under  
17 subsection (a) for a term not to exceed 99 years.

18 (c) Public partner.--Nothing in this chapter shall prohibit  
19 the department from entering into a partnership agreement with  
20 another Commonwealth agency for purposes of forming a  
21 transportation partnership in accordance with this chapter.

22 (d) Propriety public entity.--Nothing in this chapter shall  
23 prohibit any propriety public entity from entering into a  
24 public-private transportation partnership agreement with one or  
25 more public entities for purposes of forming a transportation  
26 partnership in accordance with this chapter.

27 (e) Environmental costs.--

28 (1) The department or any other proprietary public  
29 entity may provide in a public-private transportation  
30 partnership agreement that it will pay or reimburse, on terms

1 that it deems appropriate, the development entity for actual  
2 costs associated with necessary remediation, including  
3 investigation activities, for existing environmental  
4 contaminants if any are on, under or emanating from the real  
5 property associated with a transportation facility as of the  
6 date the development entity assumes responsibility for the  
7 transportation facility. If provision is made under this  
8 paragraph, the public-private transportation partnership  
9 agreement shall require that the proprietary public entity be  
10 given:

11 (i) Prompt notice of any claim against the third  
12 party pertaining to the contaminants.

13 (ii) The right to elect to undertake the necessary  
14 remediation.

15 (iii) The right to participate in the defense of or  
16 response to any claim.

17 (iv) The right of prior approval before the  
18 development entity may settle any claim.

19 (2) No payment by the department or any other  
20 proprietary public entity under this section may be for  
21 anything other than, or extend beyond, actual losses,  
22 liabilities, damages, penalties, charges, costs and expenses  
23 incurred by a private entity to remediate the environmental  
24 contamination on, under or emanating from the real property  
25 associated with the transportation facility as of the date  
26 the development entity assumes responsibility for the  
27 transportation facility.

28 (f) User fees.--A provision establishing whether user fees  
29 will be collected for use of the transportation facility and the  
30 basis by which any user fees shall be determined in the public-

1 private transportation partnership agreement. If a user fee is  
2 proposed as part of the public-private transportation  
3 partnership project, the department or a proprietary public  
4 entity shall include provisions in the agreement that authorize  
5 the collection of user fees, tolls, fares or similar charges,  
6 including provisions that:

7 (1) Specify technology to be used in the transportation  
8 facility.

9 (2) Establish circumstances under which the department  
10 or the proprietary public entity may receive a share of  
11 revenues from the charges.

12 (3) Govern the enforcement of electronic tolls,  
13 including provisions for use of available technology.

14 (4) Establish payment collection standards, including  
15 provisions for enforcement of nonpayment and penalties.

16 (5) In the event an operator of a vehicle fails to pay  
17 the prescribed toll or user fee at any location on a  
18 transportation facility where tolls or user fees are  
19 collected by means of an electronic or other automated or  
20 remote form of collection, the collection provisions of  
21 section 8117 (relating to electronic toll collection) shall  
22 apply except that the private entity shall possess all of the  
23 rights, roles, limitations and responsibilities of the  
24 Pennsylvania Turnpike Commission.

25 (g) Amounts received under a public-private transportation  
26 partnership agreement.--The net proceeds received by the  
27 department or the proprietary public entity under a public-  
28 private transportation partnership agreement shall be available  
29 exclusively to provide funding for transportation needs in this  
30 Commonwealth. The use of the proceeds or other revenues from the

1 transportation facility shall comply with Federal or State law  
2 restricting or limiting the use of revenue from the  
3 transportation facility based on its public funding.

4 § 9108. Police powers and violations of law.

5 (a) Enforcement of traffic laws.--To the extent the public-  
6 private transportation facility is a highway, bridge, tunnel  
7 overpass or similar transportation facility for motor vehicles,  
8 the traffic and motor vehicle laws of this Commonwealth or, if  
9 applicable, any local jurisdiction shall be the same as those  
10 applying to conduct on similar transportation facilities in this  
11 Commonwealth or the local jurisdiction. Punishment for offenses  
12 shall be prescribed by law for conduct occurring on similar  
13 transportation facilities in this Commonwealth or the local  
14 jurisdiction.

15 (b) Arrest powers.--All officers authorized by law to make  
16 arrests for violations of law in this Commonwealth shall have  
17 the same powers, duties and jurisdiction within the limits of a  
18 public-private transportation project as they have in their  
19 respective areas of jurisdiction. The grant of authority under  
20 this section shall not extend to the private offices, buildings,  
21 garages and other improvements of a private entity to any  
22 greater degree than the police power extends to any other  
23 private offices, buildings, garages and other improvements.

24 § 9109. Environmental and other authorizations.

25 (a) No submission of plan under The Administrative Code of  
26 1929.--Notwithstanding any other provision of law, neither  
27 soliciting nor approving a request for qualification, nor  
28 executing a public-private transportation partnership agreement  
29 under this chapter shall constitute the submission of a  
30 preliminary plan or design to the department under section

1 2002(b) of the act of April 9, 1929 (P.L.177, No.175), known as  
2 The Administrative Code of 1929.

3 (b) Environmental authorizations.--A public-private  
4 transportation partnership agreement may require that prior to  
5 commencing any construction in connection with the development,  
6 operation or financing of any eligible transportation facility  
7 if the agreement requires environmental authorizations are  
8 obtained, the development entity shall do any of the following:

9 (1) Secure all necessary environmental permits and  
10 authorizations and, if specified under the act of May 19,  
11 1995 (P.L.4, No.2), known as the Land Recycling and  
12 Environmental Remediation Standards Act, obtain the approval  
13 of the Department of Environmental Protection.

14 (2) Complete environmental remediation of the site on  
15 which the eligible transportation facility is or is to be  
16 located, including acts required under any agreement entered  
17 into with the Department of Environmental Protection for  
18 remediation of the site under the Land Recycling and  
19 Environmental Remediation Standards Act.

20 § 9110. Taxation of authorized development entity or entities.

21 (a) General rule.--To the extent that revenues or user fees  
22 received by a development entity or entities pursuant to a  
23 public-private transportation partnership agreement are subject  
24 to a tax imposed by a political subdivision prior to the  
25 effective date of this section, the revenues or user fees shall  
26 continue to be subject to the tax and to future increases in the  
27 rate of the tax.

28 (b) New taxation barred.--After the effective date of this  
29 section, no new tax shall be imposed by a political subdivision  
30 or the Commonwealth on the revenues or user fees received by a



1 development entity or entities pursuant to a public-private  
2 transportation partnership agreement.

3 (c) Realty transfer tax.--No public-private transportation  
4 partnership agreement, lease, concession, franchise or other  
5 contract involving real property of a public-private  
6 transportation project shall be subject to a Commonwealth or  
7 local realty transfer tax imposed under the act of December 31,  
8 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act,  
9 the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform  
10 Code of 1971, or a successor statute.

11 (d) Property.--Property used in connection with a public-  
12 private transportation project shall be considered public  
13 property and shall be exempt from ad valorem property taxes and  
14 special assessments levied against property by the Commonwealth  
15 or any political subdivision.

16 § 9111. Power of eminent domain.

17 The exercise of the power of eminent domain by any condemnor  
18 to acquire property for transportation facility purposes under a  
19 public-private transportation partnership agreement shall be  
20 considered a taking for a public purpose and not for a private  
21 purpose or for private enterprise.

22 § 9112. Sovereign immunity.

23 (a) General rule.--The General Assembly, under section 11 of  
24 Article I of the Constitution of Pennsylvania, reaffirms  
25 sovereign immunity and, except as otherwise provided under  
26 subsection (b), no provision of this chapter shall constitute a  
27 waiver of sovereign immunity for the purpose of 1 Pa.C.S. § 2310  
28 (relating to sovereign immunity reaffirmed; specific waiver) or  
29 otherwise.

30 (b) Exemption.--The General Assembly, under section 11 of

1 Article I of the Constitution of Pennsylvania, waives sovereign  
2 immunity as a bar to claims against the department and any other  
3 department, commission, authority or agency of the Commonwealth  
4 or any authority or political subdivision brought in accordance  
5 with sections 9107(e) (relating to public-private transportation  
6 partnership agreement) and 9113 (relating to amounts payable by  
7 proprietary public entities and specific performance), but only  
8 to the extent set forth under this chapter.

9 § 9113. Amounts payable by proprietary public entities and  
10 specific performance.

11 (a) Authorization for payments.--The department or any other  
12 proprietary public entity is authorized to agree to make  
13 payments to a development entity pursuant to a public-private  
14 transportation partnership agreement under any of the following:

15 (1) Upon a breach by the proprietary public entity of  
16 its representations, covenants, warranties or other  
17 obligations under the public-private transportation  
18 partnership agreement.

19 (2) If the proprietary public entity takes adverse  
20 actions against the development entity in violation of the  
21 terms of the public-private transportation partnership  
22 agreement.

23 (3) Upon the occurrence of force majeure or other events  
24 that have a material adverse effect on the ability of the  
25 development entity to perform its obligations under the  
26 public-private transportation partnership agreement or to  
27 obtain the benefits of the public-private transportation  
28 partnership agreement.

29 (b) Reason for payments.--The payments made by a proprietary  
30 public entity pursuant to a public-private transportation

1 partnership agreement may be for:

2 (1) Losses, liabilities, damages, penalties, costs and  
3 expenses of the development entity.

4 (2) Amounts necessary to restore the development entity  
5 to the same after-tax economic position it would have been in  
6 had the event in question not occurred.

7 (3) Amounts necessary to pay the fair market value of  
8 the interest, benefits and rights of the development entity  
9 and the rights and obligations of the development entity  
10 created and made under the public-private transportation  
11 partnership agreement.

12 (c) Specific performance.--A proprietary public entity is  
13 authorized to agree that specific performance shall be available  
14 to a development entity as a remedy for a breach by the  
15 proprietary public entity of its representations, covenants,  
16 warranties or other obligations under the public-private  
17 transportation partnership agreement to the extent set forth in  
18 the public-private transportation partnership agreement.

19 § 9114. Design-build development and Separations Act.

20 Notwithstanding any other provision of law:

21 (1) Any public-private transportation partnership  
22 project undertaken under this chapter may provide design-  
23 build, design-build-operate, design-build-operate-maintain,  
24 and operate-maintain procurements and other innovative or  
25 nontraditional competitive procurement methods for  
26 transportation-related infrastructure development.

27 (2) A development entity or entities shall be subject to  
28 the requirements of the act of May 1, 1913 (P.L.155, No.104),  
29 referred to as the Separations Act, in connection with the  
30 development or operation of a public-private transportation

1 project authorized under this chapter.

2 § 9115. Additional procurement provisions.

3 To the extent applicable to the proprietary public entity,  
4 the following provisions shall apply to a contract entered into  
5 between the department or a proprietary public entity and an  
6 authorized development entity related to the development,  
7 operation or financing of a public-private transportation  
8 project under this chapter:

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

11 (2) The act of July 23, 1968 (P.L.686, No.226),  
12 entitled, "An act equalizing trade practices in public works  
13 procurement; authorizing the purchase by the Commonwealth,  
14 its political subdivisions, and all public agencies, of  
15 aluminum and steel products produced in a foreign country,  
16 provided the foreign country does not prohibit or  
17 discriminate against the importation to, sale or use in the  
18 foreign country of supplies, material or equipment  
19 manufactured in this Commonwealth; establishing procedures  
20 for determining whether foreign countries discriminate  
21 against supplies, materials or equipment manufactured in this  
22 Commonwealth; and imposing penalties and providing for relief  
23 for violation of this act."

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

26 (4) 62 Pa.C.S. § 107 (relating to reciprocal  
27 limitations).

28 (5) 62 Pa.C.S. § 531 (relating to debarment or  
29 suspension).

30 (6) 62 Pa.C.S. § 541 (relating to approval of accounting

1 system).

2 (7) 62 Pa.C.S. § 551 (relating to right to inspect  
3 plant).

4 (8) 62 Pa.C.S. § 552 (relating to right to audit  
5 records).

6 (9) 62 Pa.C.S. § 563 (relating to retention of  
7 procurement records).

8 § 9116. Adverse interest.

9 (a) Private entity adverse interests.--The following shall  
10 apply:

11 (1) Except as provided under paragraph (2), a private  
12 entity which submits a response to a request for solicitation  
13 under section 9106(b) (relating to approval) or an  
14 unsolicited proposal and which is also a State adviser or a  
15 State consultant for the department or the Pennsylvania  
16 Turnpike Commission shall not be deemed to be in violation of  
17 the State Adverse Interest Act while engaging in any of the  
18 following activities:

19 (i) Preparing or submitting a response to a request  
20 for qualifications.

21 (ii) Participating in any activity with the  
22 department related to a request for solicitation.

23 (iii) Negotiating and entering into any contract  
24 lease or public-private transportation partnership  
25 agreement which results from a request for solicitation.

26 (iv) Engaging in any other action taken in  
27 furtherance of the purposes of this chapter.

28 (2) A private entity which submits a response to a  
29 request for solicitation or acts as a consultant or an  
30 adviser to a private entity which submits a response to a

1 request for solicitation to the department shall be  
2 prohibited from consulting or providing advice to the  
3 department on the review or approval of the response to the  
4 request for solicitations as submitted.

5 (3) A private entity which submits a response to a  
6 request for solicitation or acts as a consultant or an  
7 adviser to a private entity which submits a response to a  
8 request for solicitation to the board shall be prohibited  
9 from consulting or providing advice to the department on the  
10 review or approval of the response to the request for  
11 solicitations so submitted.

12 (b) (Reserved).

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

16 "State adviser." As the term "State advisor" is defined in  
17 the State Adverse Interest Act.

18 "State consultant." As defined in the State Adverse Interest  
19 Act.

20 § 9117. Application of chapter.

21 (a) Applicability.--This chapter shall apply to public-  
22 private transportation partnership agreements between  
23 proprietary public entities, other public entities and  
24 development parties for public-private transportation projects  
25 and shall satisfy any applicable procurement laws unless  
26 otherwise or to the extent provided for under this chapter.

27 (b) Nonapplicability.--This chapter shall not apply to  
28 agreements entered into exclusively under 62 Pa.C.S. Pt. I  
29 (relating to Commonwealth Procurement Code) or any other  
30 Commonwealth law relating to the expenditure or receipt of funds

1 by a public entity under contract for construction or services.

2 (c) Prohibition.--Nothing in this chapter shall prohibit a  
3 proprietary public entity from entering into a public-private  
4 transportation partnership agreement in the capacity of a  
5 proprietary public entity pursuant to powers granted exclusively  
6 under other Commonwealth statutes.

7 (d) Agreements.--If an agreement is entered into under this  
8 chapter, the public-private transportation partnership agreement  
9 shall be subject to the provisions of this chapter.

10 § 9118. Federal, Commonwealth, local and private assistance.

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

12 (1) The department or a proprietary public entity may  
13 accept from the United States, or any of its agencies, funds  
14 that are available to the Commonwealth for carrying out this  
15 chapter, whether the funds are made available by grant, loan,  
16 loan guarantee or otherwise.

17 (2) The department or a proprietary public entity is  
18 authorized to assent to any Federal requirements, conditions  
19 or terms of any Federal funding accepted by the department  
20 under this section.

21 (3) The department or a proprietary public entity may  
22 enter into agreements or other arrangements with the United  
23 States, or any of its agencies, as may be necessary for  
24 carrying out the purposes of this chapter.

25 (b) Acceptance of grants and donations.--The department or a  
26 proprietary public entity may accept from any source any grant,  
27 donation, gift or other form of conveyance of land, money or  
28 other real, personal or mixed property or other item of value  
29 for carrying out the purpose of this chapter.

30 (c) Contributions.--Subject to acceptance and agreement

1 between the private entity and the department or a proprietary  
2 public entity, any eligible transportation facility may be  
3 financed, in whole or in part, by contribution of any funds or  
4 property made by the department or a proprietary public entity,  
5 a private entity, a proprietary public entity or an affected  
6 jurisdiction.

7 (d) Combination of funds.--The department or proprietary  
8 public entity may combine Federal, State, local and private  
9 funds to finance an eligible transportation facility under this  
10 chapter.

11 § 9119. Public-Private Transportation Account.

12 (a) Establishment.--

13 (1) There is established within the Motor License Fund a  
14 separate account to be known as the Public-Private  
15 Transportation Account.

16 (2) Money in the account shall be used only for the  
17 purposes enumerated under subsection (c).

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

19 (1) The department shall deposit in the account the  
20 following:

21 (i) All money received pursuant to the terms of a  
22 public-private transportation partnership agreement.

23 (ii) Repayment of any loans from the account made  
24 under this chapter.

25 (iii) Subject to the provisions of any public-  
26 private transportation partnership agreement, monetary  
27 damages and other amounts for failure by a development  
28 entity to comply with the terms of the public-private  
29 transportation partnership agreement.

30 (iv) Subject to the provisions of any public private



1 transportation partnership agreement, payments made from  
2 any insurance proceeds or reserve funds or performance or  
3 payment bonds in connection with a transportation  
4 facility.

5 (v) Earnings from the investment of the money in the  
6 account.

7 (2) The Secretary of the Budget shall establish any  
8 restricted accounts within the account as the secretary deems  
9 necessary for the proper administration of the account.

10 (c) Appropriation.--The funds in the account are hereby  
11 continuously appropriated to the department for the following  
12 purposes:

13 (1) Paying the amounts as the department may be required  
14 to repay the Federal Highway Administration.

15 (2) Paying all amounts designated by the department as  
16 required for repayment or defeasance of outstanding bonds.

17 (3) Paying costs of maintenance, operating and financing  
18 of transportation facilities in this Commonwealth which are  
19 available for use by the public, including the costs of  
20 insurance or reserves against risks of contingencies.

21 (4) Paying expenses incurred under or in connection with  
22 any public-private transportation partnership agreement by  
23 the department, including professional fees and expenses.

24 (5) Paying the costs of the department relating to  
25 performing and administering duties under this chapter.

26 (6) Paying all expenses approved by the board for its  
27 costs incurred to perform its duties, including paying  
28 professional fees and expenses.

29 (7) Paying costs of any purpose authorized under this  
30 chapter.

1 (d) Amounts received under a public-private transportation  
2 partnership agreement.--The net proceeds received under a  
3 public-private transportation partnership agreement shall be  
4 available exclusively to provide funding for transportation  
5 needs in this Commonwealth. The use of the proceeds or other  
6 revenues from the transportation facility shall be in accord  
7 with Federal or State law restricting or limiting the use of  
8 revenue from the transportation facility based on its public  
9 funding.

10 § 9120. Public-Private Transportation Partnership Board.

11 (a) Establishment.--There is established a Public-Private  
12 Transportation Partnership Board.

13 (b) Composition.--The board shall be composed of the  
14 following members:

15 (1) The Secretary of Transportation, who shall be the  
16 chairperson of the board as an ex officio member.

17 (2) The Secretary of the Budget, or a designee as an ex  
18 officio member.

19 (3) The Deputy Secretary of Planning of the department,  
20 or a designee as an ex officio member.

21 (4) Four members appointed by the General Assembly under  
22 subsection (c).

23 (5) One member appointed by the Governor under  
24 subsection (d).

25 (c) Legislative appointments.--

26 (1) Appointments by members of the General Assembly  
27 shall be made as follows:

28 (i) One individual appointed by the President pro  
29 tempore of the Senate.

30 (ii) One individual appointed by the Minority Leader

1 of the Senate.

2 (iii) One individual appointed by the Speaker of the  
3 House of Representatives.

4 (iv) One individual appointed by the Minority Leader  
5 of the House of Representatives.

6 (2) Legislative appointees shall serve at the pleasure  
7 of the appointing authority.

8 (3) Legislative appointees shall:

9 (i) Be reputable citizens of this Commonwealth, of  
10 mature judgment and broad experience.

11 (ii) Not be a member of the General Assembly or  
12 staff of a member of the General Assembly.

13 (iii) Have professional background expertise or  
14 substantial experience in one or more of the following  
15 areas:

16 (A) Transportation.

17 (B) Finance.

18 (C) Law.

19 (D) Land use and public planning.

20 (E) LABOR REPRESENTATION.



21 (d) Gubernatorial appointment.--Appointments under  
22 subsection (b) (5) shall be made by the Governor. The member  
23 shall:

24 (1) Be a reputable citizen of this Commonwealth, of  
25 mature judgment and broad business experience.

26 (2) Not hold any other position as an employee of the  
27 Commonwealth.

28 (3) Have professional background expertise or  
29 substantial experience in one or more of the following areas:

30 (i) Transportation.

1           (ii) Finance.

2           (iii) Law.

3           (iv) Land use and public planning.

4           (V) LABOR REPRESENTATION.



5           (4) Serve at the pleasure of the Governor.

6           (e) Quorum.--Five members of the board shall constitute a  
7 quorum.

8           (f) Compensation.--The members of the board shall be  
9 entitled to no compensation for their services as members of the  
10 board but shall be entitled to reimbursement by the department  
11 for all necessary and reasonable expenses incurred in connection  
12 with the performance of their duties as members of the board.

13           (g) Initial appointment and vacancy.--Appointing authorities  
14 shall appoint initial board members within 30 days of the  
15 effective date of this section. Whenever a vacancy occurs on the  
16 board, the appointing authority shall appoint a successor member  
17 within 30 days of the vacancy.

18           (h) Financial interests.--No member of the board, during his  
19 term of office shall directly or indirectly own, have any  
20 significant financial interest in, be associated with or receive  
21 any fee, commission, compensation or anything of value from any  
22 public entity or private entity seeking to engage in a  
23 transportation development agreement.

24           (i) Applicability.--The following acts shall apply to the  
25 board:

26           (1) The Right-to-Know Law.

27           (2) The State Adverse Interest Act.

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

1 § 9121. Duties and powers of board.

2 (a) Duties.--The board shall do all of the following:

3 (1) Meet as often as necessary but at least annually.

4 (2) Adopt guidelines establishing the procedure by which  
5 a public entity or private entity may submit a request for  
6 evaluation of a solicited or unsolicited proposal to the  
7 board, including guidelines necessary for initial project  
8 approval and final project approval.

9 (3) Consult with persons affected by proposed public-  
10 private transportation partnership projects.

11 (4) Evaluate and approve or deny requests by the  
12 department and proprietary public entities to undertake  
13 transportation partnership projects and make recommendations  
14 to the department and proprietary public entities in the form  
15 of a resolution.

16 (5) Take all action by resolution. The affirmative vote  
17 of the majority of the members shall be necessary for the  
18 adoption of a resolution.

19 (6) Submit an annual report to the General Assembly  
20 detailing all transportation partnership projects evaluated  
21 and resolutions adopted.

22 (b) Powers.--The board may do all of the following:

23 (1) In evaluating proposals, accord relative weight to  
24 factors such as cost, financial commitment, innovative  
25 financing, technical, scientific, technological or  
26 socioeconomic merit and other factors as the board deems  
27 appropriate to obtain the best value for the Commonwealth.

28 (2) Conduct discussions with private entities to assure  
29 understanding of and responsiveness to a request for  
30 evaluation.

1           (3) Seek technical assistance necessary to assist the  
2           board in carrying out its duties and powers, at the expense  
3           of the department.

4           (c) Actions.--Actions by the board are a determination of  
5           public policy and public interest and shall not be considered  
6           adjudications under 2 Pa.C.S. Chs. 5 Subch. A (relating to  
7           practice and procedure of Commonwealth agencies) and 7 Subch. A  
8           (relating to judicial review of Commonwealth agency action) and  
9           shall not be appealable to the department or a court of law.

10          § 9122. Role of department in operation of board.

11          (a) Technical assistance.--The department shall supply all  
12          necessary assistance to assist the board in carrying out its  
13          duties and responsibilities, including retention of legal,  
14          financial and technical consultants to assist with this role.

15          (b) Analysis.--Upon initial board approval of a public-  
16          private transportation project, the department shall develop a  
17          detailed analysis of the proposal prior to the final approval by  
18          the board.

19          (c) Oversight.--Upon final approval by the board of a  
20          transportation partnership project, the department shall retain  
21          oversight and monitor the project, including periodic reports to  
22          the board, as necessary.

23          § 9123. PROHIBITION.

24          (A) GENERAL RULE.--EXCEPT AS PROVIDED UNDER SUBSECTION (B),  
25          THE PENNSYLVANIA TURNPIKE COMMISSION MAY NOT ENTER INTO A  
26          PUBLIC-PRIVATE TRANSPORTATION PARTNERSHIP AGREEMENT IN THE  
27          CAPACITY OF A PROPRIETARY PUBLIC ENTITY WITH RESPECT TO GRANTING  
28          SUBSTANTIAL OVERSIGHT AND CONTROL OVER THE TURNPIKE MAINLINE TO  
29          ANOTHER ENTITY UNLESS SPECIFIC AUTHORITY IS GRANTED BY STATUTE.

30          (B) EXCEPTION.--SUBSECTION (A) SHALL NOT RESTRICT THE



1 PENNSYLVANIA TURNPIKE COMMISSION FROM ENTERING INTO A PUBLIC-  
2 PRIVATE TRANSPORTATION PARTNERSHIP AGREEMENT UNDER THIS CHAPTER  
3 OR ANOTHER STATUTE WHICH DOES NOT INVOLVE GRANTING SUBSTANTIAL  
4 OVERSIGHT AND CONTROL OVER THE TURNPIKE MAINLINE TO ANOTHER  
5 ENTITY.

6 Section 2. Sections 1553(c), 1617(1), (2) and (4) of Title  
7 75 are amended to read:

8 § 1553. Occupational limited license.

9 \* \* \*

10 (c) Fee.--The fee for applying for an occupational limited  
11 license shall be [~~\$50~~] \$60. This fee shall be nonrefundable and  
12 no other fee shall be required.

13 \* \* \*

14 § 1617. Fees.

15 Fees relating to commercial drivers' licenses to be collected  
16 by the department under this chapter shall be in addition to any  
17 other fees imposed under the provisions of this title and are as  
18 follows:

19 (1) The annual fee for a commercial driver's license  
20 designation shall be [~~\$10~~] \$17.

21 (2) In addition to any other restoration fee required by  
22 this title, an additional restoration fee of [~~\$50~~] \$84 shall  
23 be assessed and collected before reinstating a commercial  
24 driver's operating privilege following a suspension or  
25 revocation under this title or disqualification under this  
26 chapter.

27 \* \* \*

28 (4) An additional fee of [~~\$10~~] \$17 shall be imposed for  
29 the initial issuance or renewal of a commercial driver's  
30 license with an "H" or "X" endorsement, in addition to the

1 cost of a criminal history background check as required by  
2 the USA Patriot Act of 2001 (Public Law 107-56, 115 Stat.  
3 272).

4 Section 2.1. Title 75 is amended by adding a section to  
5 read:

6 § 1906. Annual adjustment to fees.

7 (a) Increase.--For calendar year 2012 and each calendar year  
8 thereafter, the department shall increase the fees under the  
9 following provisions by the rate of inflation calculated using  
10 the Consumer Price Index for the most recent available data over  
11 a 12-month period or 1.5%, whichever is the lesser, multiplied  
12 by the difference between the fee amount on October 1 of the  
13 previous calendar year and October 1, 2010:

14 Section 1553(c) (relating to occupational limited  
15 license).

16 Section 1617(1), (2) and (4) (relating to fees).

17 Section 1912 (relating to passenger cars).

18 Section 1913 (relating to motor homes).

19 Section 1914 (relating to motorcycles).

20 Section 1915 (relating to motor-driven cycles).

21 Section 1916(a)(1) (relating to trucks and truck  
22 tractors).

23 Section 1917 (relating to motor buses and limousines).

24 Section 1918 (relating to school buses and school  
25 vehicles).

26 Section 1920(a) and (c) (relating to trailers).

27 Section 1921 (relating to special mobile equipment).

28 Section 1922 (relating to implements of husbandry).

29 Section 1923 (relating to antique, classic and  
30 collectible vehicles).



1           Section 1924 (relating to farm vehicles).

2           Section 1925 (relating to ambulances, taxis and hearses).

3           Section 1926(a), (b) and (c) (relating to dealers and  
4 miscellaneous motor vehicle business).

5           Section 1926.1 (relating to farm equipment vehicle  
6 dealers).

7           Section 1927 (relating to transfer of registration).

8           Section 1928 (relating to temporary and electronically  
9 issued registration plates).

10          Section 1929 (relating to replacement registration  
11 plates).

12          Section 1930 (relating to legislative registration  
13 plates).

14          Section 1931 (relating to personal registration plates).

15          Section 1931.1 (relating to street rod registration  
16 plates).

17          Section 1932 (relating to duplicate registration cards).

18          Section 1933 (relating to commercial implements of  
19 husbandry).

20          Section 1951(a), (b) and (d) (relating to driver's  
21 license and learner's permit) insofar as subsection (d)  
22 relates to replacement for a driver's license.

23          Section 1957 (relating to uncollectible checks).

24          Section 1959 (relating to messenger service).

25          Section 1960 (relating to reinstatement of operating  
26 privilege or vehicle registration).

27          (b) Publication.--The department shall publish notice of the  
28 new fee under subsection (a) at least 90 days prior to the  
29 beginning of each calendar year.

30          Section 2.2. Sections 1912, 1913, 1914, 1915, 1916(a)(1),

1 1917, 1918, 1920(a) and (c), 1921, 1922, 1923, 1924, 1925,  
2 1926(a), (b) and (c), 1926.1, 1927, 1928, 1929, 1930, 1931,  
3 1931.1, 1932, 1933, 1951, 1957, 1959 and 1960 of Title 75 are  
4 amended to read:

5 § 1912. Passenger cars.

6 The annual fee for registration of a passenger car shall be  
7 [\$36] \$49.

8 § 1913. Motor homes.

9 The annual fee for registration of a motor home shall be  
10 determined by its registered gross weight in pounds according to  
11 the following table:

12	Registered Gross		
13	Class	Weight in Pounds	Fee
14	1	8,000 or less	[\$45] <u>\$ 61</u>
15	2	8,001 - 11,000	[63] <u>86</u>
16	3	11,001 or more	[81] <u>110</u>

17 § 1914. Motorcycles.

18 The annual fee for registration of a motorcycle other than a  
19 motor-driven cycle shall be [\$18] \$25.

20 § 1915. Motor-driven cycles.

21 The annual fee for registration of a motor-driven cycle shall  
22 be [\$9] \$13.

23 § 1916. Trucks and truck tractors.

24 (a) General rule.--

25 (1) The annual fee for registration of a truck or truck  
26 tractor shall be determined by its registered gross weight or  
27 combination weight in pounds according to the following  
28 table:

29	Registered
30	Gross or Combination

1	Class	Weight in Pounds	Fee
2	1	5,000 or less	[\$ 58.50] <u>\$ 80.00</u>
3	2	5,001 - 7,000	[81.00] <u>110.00</u>
4	3	7,001 - 9,000	[153.00] <u>208.00</u>
5	4A	9,001 - 10,000	[198.00] <u>269.00</u>
6	4B	10,001 - 11,000	[198.00] <u>269.00</u>
7	5	11,001 - 14,000	[243.00] <u>330.00</u>
8	6	14,001 - 17,000	[288.00] <u>390.00</u>
9	7	17,001 - 21,000	[355.50] <u>482.00</u>
10	8	21,001 - 26,000	[405.00] <u>549.00</u>
11	9	26,001 - 30,000	[472.50] <u>640.00</u>
12	10	30,001 - 33,000	[567.00] <u>768.00</u>
13	11	33,001 - 36,000	[621.00] <u>841.00</u>
14	12	36,001 - 40,000	[657.00] <u>890.00</u>
15	13	40,001 - 44,000	[697.50] <u>945.00</u>
16	14	44,001 - 48,000	[751.50] <u>1,018.00</u>
17	15	48,001 - 52,000	[828.00] <u>1,122.00</u>
18	16	52,001 - 56,000	[882.00] <u>1,195.00</u>
19	17	56,001 - 60,000	[999.00] <u>1,353.00</u>
20	18	60,001 - 64,000	[1,111.50] <u>1,506.00</u>
21	19	64,001 - 68,000	[1,165.50] <u>1,579.00</u>
22	20	68,001 - 73,280	[1,251.00] <u>1,694.00</u>
23	21	73,281 - 76,000	[1,597.50] <u>2,164.00</u>
24	22	76,001 - 78,000	[1,633.50] <u>2,212.00</u>
25	23	78,001 - 78,500	[1,651.50] <u>2,237.00</u>
26	24	78,501 - 79,000	[1,669.50] <u>2,261.00</u>
27	25	79,001 - 80,000	[1,687.50] <u>2,286.00</u>

28 \* \* \*

29 § 1917. Motor buses and limousines.

30 The annual fee for registration of a motor bus or a limousine

1 shall be determined by its seating capacity according to the  
2 following table:

3 Seating Capacity	Fee
4 26 or less	[\$ 9] <u>\$13</u> per seat
5 27 - 51	[234] <u>338</u> plus [\$11.25]
6	<u>\$16</u> per seat in
7	excess of 26
8 52 or more	[540] <u>732</u>

9 § 1918. School buses and school vehicles.

10 The annual fee for registration of a school bus or school  
11 vehicle shall be [\$24] \$33.

12 § 1920. Trailers.

13 (a) General rule.--The annual fee for registration of a  
14 trailer shall be determined by its registered gross weight  
15 according to the following table:

16 Registered Gross	Fee
17 Weight in Pounds	
18 3,000 or less	[\$ 6] <u>\$16</u>
19 3,001 - 10,000	[12] <u>32</u>
20 10,001 or more	[27] <u>71</u>

21 \* \* \*

22 (c) Optional permanent registration.--A trailer with a  
23 registered gross weight of 10,001 or more pounds may be  
24 registered for a one-time fee of [\$135] \$350 in lieu of the  
25 annual fee at the option of the registrant.

26 § 1921. Special mobile equipment.

27 The annual fee for registration of special mobile equipment  
28 shall be [\$36] \$49.

29 § 1922. Implements of husbandry.

30 The annual fee for registration of an implement of husbandry

1 not exempt from registration under this title shall be [\$18]  
2 \$25.

3 § 1923. Antique, classic and collectible vehicles.

4 The fee for registration of an antique, classic or  
5 collectible motor vehicle shall be [\$75] \$102.

6 § 1924. Farm vehicles.

7 (a) General rule.--The annual fee for registration of a farm  
8 vehicle shall be [\$76.50] \$104 or one-third of the regular fee,  
9 whichever is greater.

10 (b) Certificate of exemption.--The biennial processing fee  
11 for a certificate of exemption issued in lieu of registration of  
12 a farm vehicle shall be determined by the type of certificate  
13 issued and the gross weight or combination weight or weight  
14 rating according to the following table:

Certificate type	Weight in pounds	Fee
Type I	17,000 or less	[\$24] <u>\$33</u>
Type II	greater than 17,000	[50] <u>68</u>
Type I	greater than 17,000	[100] <u>136</u>

19 § 1925. Ambulances, taxis and hearses.

20 The annual fee for registration of an ambulance, taxi or  
21 hearse shall be [\$54] \$74.

22 § 1926. Dealers and miscellaneous motor vehicle business.

23 (a) General rule.--The annual fee for a dealer registration  
24 plate or miscellaneous motor vehicle business plate shall be  
25 [\$36] \$49.

26 (b) Motorcycle dealers.--The annual fee for each dealer  
27 registration plate issued to a motorcycle dealer other than a  
28 motor-driven cycle dealer shall be [\$18] \$25.

29 (c) Motor-driven cycle dealers.--The annual fee for each  
30 dealer registration plate issued to a motor-driven cycle dealer

1 shall be [~~\$9~~] \$13.

2 \* \* \*

3 § 1926.1. Farm equipment vehicle dealers.

4 The annual fee for registration of a farm equipment dealer  
5 truck or truck tractor shall be one-half of the regular fee or  
6 [~~\$243~~] \$330, whichever is greater.

7 § 1927. Transfer of registration.

8 The fee for transfer of registration shall be [~~\$6~~] \$9.

9 § 1928. Temporary and electronically issued registration  
10 plates.

11 The fee payable by a dealer or other dispensing agent for a  
12 temporary registration plate or for a registration plate to be  
13 issued for new registration processed electronically with the  
14 department shall be [~~\$5~~] \$14. The charge of the agent for  
15 providing an applicant with a plate under this section shall not  
16 exceed a total of [~~\$10~~] \$28.

17 § 1929. Replacement registration plates.

18 The fee for a replacement registration plate other than a  
19 legislative or personal plate shall be [~~\$7.50~~] \$11.

20 § 1930. Legislative registration plates.

21 The fee for issuance of a legislative registration plate  
22 shall be [~~\$20~~] \$51 which shall be in addition to the annual  
23 registration fee. Only one payment of the issuance fee shall be  
24 charged for each legislative registration plate issued or  
25 replaced.

26 § 1931. Personal registration plates.

27 The fee for issuance of a personal registration plate shall  
28 be [~~\$20~~] \$51 which shall be in addition to the annual  
29 registration fee. Only one payment of the issuance fee shall be  
30 charged for each personal registration issued or replaced.

1 § 1931.1. Street rod registration plates.

2 The fee for the issuance of a street rod registration plate  
3 shall be [~~\$20~~] \$51 which shall be in addition to the annual  
4 registration fee. Only one payment of the issuance fee shall be  
5 charged for each street rod registration plate issued or  
6 replaced.

7 § 1932. Duplicate registration cards.

8 The fee for each duplicate registration card when ordered at  
9 the time of vehicle registration, the transfer or renewal of  
10 registration or the replacement of a registration plate shall be  
11 [~~\$1.50~~] \$3. The fee for each duplicate registration card issued  
12 at any other time shall be [~~\$4.50~~] \$7.

13 § 1933. Commercial implements of husbandry.

14 The annual fee for registration of a commercial implement of  
15 husbandry shall be [~~\$76.50~~] \$104 or one-half of the regular fee,  
16 whichever is greater.

17 § 1951. Driver's license and learner's permit.

18 (a) Driver's license.--The driver's license fee for each  
19 year or partial year shall be [~~\$5.25~~] \$6.25 plus the cost of the  
20 photograph required in section 1510(a) (relating to issuance and  
21 content of driver's license).

22 (b) Learner's permit.--The fee for a learner's permit shall  
23 be [~~\$5~~] \$18.

24 (c) Identification card.--The fee for an identification card  
25 shall be \$5 plus the cost of the photograph.

26 (d) Replacement license or card.--The fee for a replacement  
27 [driver's license or identification card shall be \$5 plus the  
28 cost of the photograph.] license or card shall be the cost of  
29 the photograph plus the following:

30 (1) For a driver's license, \$7.





1 registration of a vehicle following a suspension or revocation.

2 Section 3. Section 9502(a) of Title 75 is amended by adding  
3 a paragraph to read:

4 § 9502. Imposition of tax.

5 (a) General rule.--

6 \* \* \*

7 (5) The following apply:

8 (i) For fiscal year 2010-2011, an additional 52  
9 mills is hereby imposed upon all fuels as defined and  
10 provided in Chapter 90, and such tax shall also be  
11 collected as provided in section 9004(b).

12 (ii) The Department of Revenue shall determine and  
13 publish in the Pennsylvania Bulletin the average  
14 wholesale price to be applied to fiscal year 2010-2011 or  
15 portion of the fiscal year thereof.

16 (iii) The amount of the tax imposed under this  
17 paragraph shall increase annually by the rate of  
18 inflation calculated using the Consumer Price Index for  
19 the most recent available data over a 12-month period or  
20 by 1.5%, whichever is less, rounded up to the nearest  
21 tenth of a mill, as determined by the Department of  
22 Revenue, by July 1 of each year. The Department of  
23 Revenue shall publish a notice in the Pennsylvania  
24 Bulletin at least five weeks prior to July 1 of each year  
25 giving notice of the revised tax.

26 (iv) The proceeds of the tax imposed under this  
27 paragraph shall be appropriated to the department to be  
28 allocated as follows:

29 (A) Eighty-seven percent to be used for State  
30 roads and bridges.

1           (B) Eleven percent for municipal roads and  
2           bridges distributed to municipalities pursuant to the  
3           act of June 1, 1956 (1955 P.L.1944, No.655), referred  
4           to as the Liquid Fuels Tax Municipal Allocation Law.

5           (C) Two percent for county roads and bridges  
6           distributed to counties as follows:

7                   (I) The distribution shall be in the ratio  
8                   of:

9                           (a) the square footage of deck area of a  
10                           county's county-owned bridges; to

11                           (b) the total square footage of deck area  
12                           of county-owned bridges throughout this  
13                           Commonwealth.

14                   (II) The amount of square footage under  
15                   subclause (I) shall be that reported as part of  
16                   the National Bridge Inspection Standards Program.

17           \* \* \*

18           Section 4. Repeals are as follows:

19                   (1) The General Assembly declares that the repeal under  
20                   paragraph (2) is necessary to effectuate the addition of 74  
21                   Pa.C.S. Ch. 91.

22                   (2) Section 3 of the act of May 29, 1945 (P.L.1108,  
23                   No.402), referred to as the Limited Access Highway Law, is  
24                   repealed insofar as it is inconsistent with the addition of  
25                   74 Pa.C.S. Ch. 91.

26           Section 5. The addition of 72 Pa.C.S. Ch. 22 shall apply to  
27           taxable years beginning after December 31, 2010.

28           SECTION 5.1. THE FOLLOWING SHALL APPLY: 

29                   (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), THE GENERAL  
30                   ASSEMBLY DECLARES THAT THE PROVISIONS OF THIS ACT ARE

1 NONSEVERABLE AND THAT IN THE EVENT A COURT OF COMPETENT  
2 JURISDICTION RULES FINALLY THAT ANY PROVISION MANDATED IN  
3 THIS ACT IS LEGALLY OR CONSTITUTIONALLY IMPERMISSIBLE, THIS  
4 ENTIRE ACT SHALL BE VOID.

5 (2) IF ANY OF THE PROVISIONS OF 72 PA.C.S. § 2206 ARE  
6 HELD TO BE INVALID BY ANY COURT, THE ENTIRE SECTION SHALL BE  
7 DEEMED VOID AND SEVERABLE FROM THE REMAINING CHAPTER AND ACT.

8 SECTION 5.2. THE PENNSYLVANIA SUPREME COURT SHALL HAVE  
9 EXCLUSIVE JURISDICTION TO HEAR ANY CHALLENGE TO OR TO RENDER A  
10 DECLARATORY JUDGMENT CONCERNING THE CONSTITUTIONALITY OF THIS  
11 PART. THE SUPREME COURT IS AUTHORIZED TO TAKE SUCH ACTION AS IT  
12 DEEMS APPROPRIATE, CONSISTENT WITH THE SUPREME COURT RETAINING  
13 JURISDICTION OVER SUCH A MATTER, TO FIND FACTS OR TO EXPEDITE A  
14 FINAL JUDGMENT IN CONNECTION WITH SUCH A CHALLENGE OR REQUEST  
15 FOR DECLARATORY RELIEF.

16 Section 6. This act shall take effect as follows:

17 (1) The amendment or addition of 74 Pa.C.S. § 1521 and  
18 75 Pa.C.S. §§ 1553(c), 1617(1), (2) and (4), 1912, 1913,  
19 1914, 1915, 1916(a)(1), 1917, 1918, 1920(a) and (c), 1921,  
20 1922, 1923, 1924, 1925, 1926(a), (b) and (c), 1926.1, 1927,  
21 1928, 1929, 1930, 1931, 1931.1, 1932, 1933, 1951, 1957, 1959  
22 and 1960 shall take effect in 180 days.

23 (2) The addition of 75 Pa.C.S. § 9502(a)(5)(iii) shall  
24 take effect 30 days after publication of the notice under 75  
25 Pa.C.S. § 9502(a)(5)(ii).

26 (3) The addition of 74 Pa.C.S §§ 9101, 9102, 9103, 9105,  
27 9106, 9107, 9108, 9109, 9110, 9111, 9112, 9113, 9114, 9115,  
28 9116, 9117, 9118, 9119, 9121 and 9122 shall take effect in 60  
29 days.

30 (4) The remainder of this act shall take effect

1 immediately.