

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Antonio F.D. Cabral

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act creating the Mass Rail Transit Fund.

PETITION OF:

NAME:

Antonio F.D. Cabral

DISTRICT/ADDRESS:

13th Bristol

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT CREATING THE MASS RAIL TRANSIT FUND.

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

1 Chapter 90 of the General Laws, as appearing in the 2004 Official Edition, is hereby

2 amended by adding the following subsections:—

3 Section 34S. Vehicle Classification.

4 For purposes of section 34T and 34U

5 only, the registrar shall issue

6 rules and regulations to

7 classify all vehicles required

8 to be registered by this

9 chapter into the following

10 categories: zero emission

11 vehicle, motorcycle,

12 automobile, hybrid

13 automobile, light truck,

14 heavy truck, hybrid truck,

15 sports utility vehicle, hybrid
16 sports utility vehicle, van,
17 luxury vehicle, motor home,
18 trailer, other vehicle and
19 rental vehicle, which shall
20 include all vehicles intended
21 as of the date of registration
22 to be used as a rental vehicle,
23 which shall be known
24 collectively as registration
25 classes. When any such
26 vehicle is first registered
27 pursuant to this chapter, the
28 registrar shall identify said
29 vehicle as a member of one
30 registration class.

31 Section 34T. Green Fee.

32 (a) The registrar or his authorized
33 agents shall collect the
34 following fees, to be called a
35 green fee, each time a vehicle
36 is registered or the vehicle

37 registration is renewed for
38 any reason:

39 (1) For every automobile and hybrid
40 trucks and hybrid sports
41 utility vehicles the fee shall
42 be \$30 for a new or transfer
43 registration and two year
44 renewals, \$15 for vehicles
45 renewing annually.

46 (2) For hybrid automobiles and
47 motorcycles the fee shall be
48 \$15 for a new or transfer
49 registration and for two year
50 renewals, \$7.50 for vehicles
51 renewing annually.

52 (3) For light trucks, vans, luxury
53 vehicles as defined by the
54 registrar and sports utility
55 vehicles the fee shall be \$60
56 for a new or transfer
57 registration and for two year
58 renewals, \$30 for vehicles
59 renewing annually.

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(4) For heavy trucks, motor homes
and buses the fee shall be \$85
for a new or transfer
registration and for two year
renewals, \$42.50 for vehicles
renewing annually.

(5) For all other vehicles required to
register pursuant to section
33 of chapter 90 the fee shall
be \$60 for a new or transfer
registration and for two year
renewals, \$30 for vehicles
renewing annually.

(6) Zero emission vehicles, as
defined by the United States
Department of Environmental
Protection, and those vehicles
without a motor shall be
exempt from the green fee.

(7) Any vehicle owned by any
subdivision of the
commonwealth and used
solely for official business

83 and any vehicle identified in
84 subsections 29, 30 and 33 of
85 section 33 of chapter 90 shall
86 be exempt from the green fee.

87 Section 34U. Luxury Registration

88 Fee.

89 For all vehicles required to
90 register pursuant to chapter
91 90 whose value, as
92 determined pursuant to
93 chapter 60A, exceeds
94 \$35,000, the registrar shall
95 collect a fee at the time of
96 registration equal to one tenth
97 of one percent of the
98 purchase price for a new or
99 transfer registration and for
100 two year renewals, and equal
101 to one five hundredth of one
102 percent for vehicles renewing
103 annually.

104 Section 34V. Car Rental Fee.

105 There shall be a surcharge of 5
106 percent of the total cost of
107 each vehicular rental
108 transaction contract in the
109 commonwealth.

110 **SECTION 2.** The general laws are hereby amended by creating the following new chapter.

111 Chapter 161E. Massachusetts Rail
112 Transit Fund

113 Section 1. As used in this chapter
114 161E, the following words
115 shall have the following
116 meanings:

117 “Authority”, the Massachusetts Bay
118 Transportation Authority,
119 established by section 2 of
120 chapter 161A, or its
121 successor.

122 "Cost", as applied to a project and
123 the site thereof, all costs,
124 whenever incurred, of
125 acquiring land and of
126 acquiring, developing,
127 constructing, improving,

128 furnishing, equipping,
129 finishing and carrying out a
130 project and placing the same
131 in operation, including
132 without limiting the
133 generality of the foregoing,
134 the cost of all lands, property,
135 rights, easements and
136 interests acquired pursuant
137 hereto and all labor,
138 materials, machinery and
139 equipment necessary to carry
140 out a project and place the
141 same in operation, financing
142 charges, interest prior to and
143 during construction and for a
144 period not exceeding two
145 years after completion of
146 construction, the cost of
147 environmental investigation,
148 analyses and remediation, the
149 cost of demolition and
150 removal of any buildings or

151 structures on lands acquired
152 and removal or relocation of
153 any public utilities and other
154 facilities, relocation
155 payments as defined in, and
156 any other costs of relocation
157 assistance required under
158 chapter 79A of the General
159 Laws and this act, the costs
160 of architectural, engineering
161 and legal services, plans,
162 specifications, surveys,
163 estimates of cost and of
164 revenues, other expenses
165 necessary or incident to
166 determining the feasibility or
167 practicability of the project,
168 administrative, marketing and
169 promotion expenses, reserves
170 for debt service, and other
171 capital and current expenses
172 and such other expenses as
173 may be necessary or incident

174 to the construction of a
175 project and the acquisition of
176 land therefore.

177 “Green Fee”, an amount collected by
178 the registrar pursuant to
179 section 35T of chapter 90.

180 “Local Project Receipts,” receipts
181 described in section 11 of this
182 chapter.

183 “Operating costs,” all direct costs,
184 whenever incurred, of
185 operating a rail project that
186 received funding from the
187 Massachusetts Rail Transit
188 Fund.

189 "Rail Project", the planning, design,
190 acquisition, development,
191 construction, expansion,
192 rehabilitation, improvement,
193 furnishing, equipping and
194 finishing or any combination
195 of the foregoing, necessary to
196 provide subway or commuter

197 rail service to a municipality
198 which does not have such
199 service or to increase the
200 frequency or speed of such
201 service to a community that
202 the secretary determines is
203 underserved by its existing
204 subway or commuter rail
205 service, together with all
206 necessary and related
207 furnishings, machinery,
208 equipment, facilities,
209 approaches, driveways,
210 walkways, parking facilities,
211 roadways, public
212 transportation and
213 landscaping, and including
214 without limitation the
215 acquisition of lands or other
216 property, or rights,
217 easements, and interests
218 acquired for or in respect of
219 any such lands or property

220 for a project, the demolition
221 or removal of any buildings
222 or structures on lands so
223 acquired or in or with respect
224 to which interests are so
225 acquired, relocation
226 payments and other
227 assistance therefore, and site
228 preparation and
229 environmental remediation.
230 Notwithstanding the
231 foregoing, rail project may
232 not include funds for routine
233 maintenance to existing
234 subway or commuter rail
235 facilities or for capital
236 projects to improve the
237 accessibility of existing
238 infrastructure for passengers
239 with disabilities or to
240 improve access to existing
241 service, such as parking
242 expansion, installation of

243 bicycle racks or
244 improvements to pedestrian
245 approaches.

246 “Registrar”, the registrar of motor
247 vehicles, established pursuant
248 to chapter 90.

249 "Secretary", the secretary of the
250 executive office of
251 transportation and public
252 works, established pursuant
253 to chapter 6A.

254 Section 2. There shall be established
255 and set up on the books of the
256 commonwealth a separate
257 fund, to be known as the
258 Massachusetts Rail Transit
259 Fund, consisting of amounts
260 credited to the fund in
261 accordance with section 3.

262 The fund shall be
263 administered in accordance
264 with the provisions of this act
265 by the state treasurer and

266 shall be held in trust
267 exclusively for the purposes
268 and the beneficiaries
269 described herein. The state
270 treasurer shall be treasurer-
271 custodian of the fund and
272 shall have the custody of its
273 monies and securities.

274 Section 3. Commencing on the first
275 day of the first full calendar
276 month following 30 days
277 after the effective date of this
278 act, the following receipts
279 shall be credited to, and
280 deposited by the state
281 treasurer in, the
282 Massachusetts Rail Transit
283 Fund and used in accordance
284 with this section: (i) three
285 cents of the commonwealth's
286 excise tax on motor fuels,
287 levied pursuant to chapter
288 64E, if the commonwealth's

289 per gallon tax, surcharge or
290 levy on motor fuels is
291 increased by more than three
292 cents after January 1, 2009;
293 (ii) the green fee, created by
294 section 36T of chapter 90;
295 (iii) the luxury fee, created by
296 section 36U of chapter 90;
297 and (iv) and the car rental fee
298 created by section 36V of
299 chapter 90. In addition, in
300 accordance with section 12,
301 the local project receipts shall
302 be credited to, and deposited
303 by the state treasurer in the
304 Massachusetts Rail Transit
305 Fund and shall be kept in
306 segregated accounts for each
307 rail project to be used in
308 accordance with this chapter.

309 Section 4. Notwithstanding any
310 general or special law to the
311 contrary, the secretary shall

312 annually rank all of the rail
313 projects contained in the
314 capital investment program
315 required by section 5 of
316 chapter 161A. The secretary
317 shall group said rail projects
318 into two groups. Group 1
319 will include all of said rail
320 projects that would provide
321 new rail service to a city or
322 town in the commonwealth
323 that does not have a
324 commuter rail or rapid transit
325 stop within its borders or, if a
326 rail project would establish
327 new stations in more than one
328 city or town, those rail
329 projects that would provide
330 new rail service to cities or
331 towns in the commonwealth
332 half or more of whom do not
333 have a commuter rail or rapid
334 transit stop within their

335 borders. Group 2 shall
336 include all rail projects
337 contained in the capital
338 investment program required
339 by section 5 of chapter 161A
340 that are not included in
341 Group 1. The secretary shall
342 rank the rail projects within
343 each group based on each rail
344 project's performance
345 relative to the other rail
346 projects in that group on the
347 following evaluation criteria:
348 the cost effectiveness of air
349 quality improvements which
350 the capital investment
351 program predicts a rail
352 project would achieve, the
353 rail project's projected cost
354 per rider and cost per new
355 mass transit rider, whether a
356 rail project constitutes a
357 transit commitment made in

358 connection to the central
359 artery project or is otherwise
360 required by law, the likely
361 economic benefits of a rail
362 project, the likelihood that a
363 rail project will result in
364 sprawl or smart growth
365 development and whether a
366 rail project would serve any
367 environmental justice target,
368 all as defined and described
369 in the capital investment
370 program. The secretary shall
371 report said ranking of rail
372 projects along with his
373 reasons therefore to the clerk
374 of the senate and the clerk of
375 the house and the house and
376 senate chairmen of the Joint
377 Committee on Transportation
378 no more than ninety days
379 after the issuance of the
380 capital investment program

381 required by section 5 of
382 chapter 161A.

383 Section 5. No funds from the
384 Massachusetts Rail Transit
385 Fund shall be used for any
386 purpose other than paying the
387 cost or operating costs of a
388 rail project and only that
389 portion of a rail project's cost
390 or operating costs not
391 available from other sources.

392 Section 6. (a) The Authority shall
393 notify the secretary, the state
394 treasurer and the clerks of the
395 senate and of the house in
396 writing when it determines:
397 1) that the Massachusetts Rail
398 Transit Fund contains and is
399 likely to continue to contain
400 funds, minus those funds
401 already committed to other
402 rail projects but including
403 those local project revenues

404 dedicated to a rail project
405 pursuant to this chapter,
406 necessary to cover: a) the
407 cost of the rail project ranked
408 first in group 1 by the
409 secretary pursuant to section
410 4 minus all other funds
411 available to the authority to
412 cover such cost, calculated
413 based on not less than 105
414 per cent of the debt service
415 on all special obligation
416 bonds to be issued pursuant
417 to section XX that are
418 required to cover the cost of
419 such rail project and b) the
420 amount of any projected
421 annual operating deficit
422 determined by the Authority,
423 calculated as the average of
424 the projected operating
425 deficits of the first ten years
426 of the rail project's operation;

427 and 2) that all plans,
428 approvals, licenses and
429 permits necessary to begin
430 construction of said rail
431 project are in the Authority's
432 possession. Upon the sale of
433 bonds by the state treasurer
434 for a rail project pursuant to
435 section 17 hereof, that rail
436 project shall be removed
437 from the secretary's group
438 rankings made pursuant to
439 section 5.

440 (b) Subsequent to the first rail project
441 having been removed from
442 the secretary's group
443 rankings pursuant to
444 subsection (a), the Authority
445 shall notify the secretary, the
446 state treasurer and the clerks
447 of the senate and of the house
448 in writing when it
449 determines: 1) that the

450 Massachusetts Rail Transit
451 Fund contains and is likely to
452 continue to contain funds,
453 minus those funds already
454 committed to other rail
455 projects but including those
456 local project revenues
457 dedicated to a rail project
458 pursuant to this chapter,
459 necessary to cover: a) the
460 cost of either or both, if
461 available funds exist, of the
462 rail projects ranked first in
463 either group 1 or group 2 by
464 the secretary pursuant to
465 section 4 minus all other
466 funds available to the
467 authority to cover such cost,
468 calculated based on not less
469 than 105 per cent of the debt
470 service on all special
471 obligation bonds to be issued
472 pursuant to section 17 that

473 are required to cover the cost
474 of such rail project and b) the
475 amount of any projected
476 annual operating deficit
477 determined by the Authority,
478 calculated as the average of
479 the projected operating
480 deficits of the first ten years
481 of the rail project's operation;
482 and 2) that all plans,
483 approvals, licenses and
484 permits necessary to begin
485 construction of said rail
486 project are in the Authority's
487 possession. Upon the sale of
488 bonds by the state treasurer
489 for a rail project pursuant to
490 section 17 hereof, that rail
491 project shall be removed
492 from the secretary's group
493 rankings made pursuant to
494 section 5. No later than
495 ninety days after receiving

496 said determination, the
497 secretary shall certify to the
498 state treasurer that he has
499 received said determination
500 and that said determination
501 meets the requirements of
502 this chapter and shall name
503 the next project to be funded
504 pursuant to section 17. In
505 making his choice, the
506 secretary shall continue to
507 give preference, in his
508 discretion, to projects listed
509 in group 1.

510 (c) Determinations described in
511 subsections (a) and (b), shall
512 include: (1) project plans
513 sufficiently complete to
514 indicate the project's
515 boundaries, such land
516 acquisition, demolition and
517 removal of structures, and
518 such redevelopment and

519 general public improvements,
520 as may be proposed to be
521 carried out and proposed land
522 uses including preliminary
523 project designs and a
524 description of the project
525 programs; (2) the proposed
526 method for relocation of
527 persons and organizations to
528 be displaced by the project, if
529 any; (3) cost estimates of the
530 project, including acquisition,
531 and identification of parcels
532 to be acquired and the
533 estimated cost thereof; (4)
534 proposals for informing and
535 communicating with the
536 affected communities; and
537 (5) a description of measures
538 to mitigate environmental
539 and neighborhood impacts of
540 the project and such other
541 planning and urban design

542 issues as the Authority shall
543 determine are presented by
544 the project.

545 (d) In connection with the
546 preparation of the plans
547 described in subsection (c)
548 and the exercise by the
549 Authority of its powers under
550 this act, the Authority and its
551 authorized agents and
552 contractors are hereby
553 authorized, whenever the
554 Authority deems it necessary
555 or convenient, to enter onto
556 any properties and the
557 improvements thereon and to
558 undertake appraisals, surveys,
559 environmental analyses and
560 investigations, including
561 subsurface investigations,
562 permitting analyses and
563 investigations, and other
564 investigations and analyses,

565 for the purpose of
566 determining the value and
567 condition of such properties.
568 The Authority shall provide
569 20 days written notice by
570 certified mail to the owners
571 of properties, as such owners
572 are recorded in the office of
573 the city assessor, prior to any
574 such entry. Such entry,
575 appraisals, surveys, analyses
576 and investigations shall not
577 be deemed a trespass, a
578 taking by eminent domain or
579 an entry under any eminent
580 domain or condemnation
581 proceedings. The Authority
582 shall make reimbursement for
583 any actual injury or actual
584 damage resulting to such
585 properties and any
586 improvements thereon from
587 the entry, appraisals, surveys,

588 analyses and investigations
589 authorized hereunder, and the
590 Authority shall, as far as
591 possible, restore such
592 properties and the
593 improvements thereon to
594 their condition prior to such
595 entry, appraisals, surveys,
596 analyses and investigations.
597 Without derogating from the
598 foregoing, the Authority is
599 hereby authorized to exercise
600 the power of eminent domain
601 as provided in clause (d) of
602 section 11 of chapter 121B of
603 the General Laws in order to
604 temporarily obtain access to
605 properties and the
606 improvements thereon for the
607 Authority and its agents and
608 contractors for the purpose of
609 conducting the appraisals,
610 surveys, analyses and

611 investigations authorized by
612 this act. If the Authority
613 restores the properties and
614 improvements as required
615 hereunder, the damages for
616 the temporary taking hereby
617 authorized shall be nominal
618 in the absence of
619 extraordinary circumstances
620 unique to particular
621 properties.

622 Section 7. (a) In order to provide for
623 a portion of the costs of each
624 rail project and the payment
625 of the principal of and
626 interest on special obligation
627 bonds of the commonwealth
628 issued pursuant to section 17,
629 there is hereby imposed, in
630 addition to the excises levied
631 under chapter 64G of the
632 General Laws and section 22
633 of chapter 546 of the acts of

634 1969, a transportation
635 financing fee upon the
636 transfer or occupancy of any
637 room or rooms in any hotel,
638 motel or other lodging
639 establishment which could be
640 subject to such excises in any
641 city or town that will receive
642 one or more new stations or
643 enhanced service as part of
644 said rail project and any
645 portion of any other city or
646 town designated by the
647 governor that is adjacent to a
648 city or town that will receive
649 one or more new stations or
650 enhanced service as part of
651 said rail project at the rate of
652 2.75 per cent of the total
653 amount of rent for each such
654 occupancy. The
655 transportation financing fee
656 shall take effect on the first

657 day of the calendar quarter
658 following 30 days after the
659 effective date of hereof. All
660 receipts from the
661 transportation financing fee
662 shall be applied solely as
663 provided in this chapter.

664 (b) All terms used in this section
665 shall have the same meaning
666 given such terms in chapter
667 64G of the General Laws and
668 all provisions of said chapter
669 64G relative to the
670 assessment, collection,
671 payment, abatement,
672 verification and
673 administration of the excises
674 imposed therein, including
675 penalties, shall, so far as
676 pertinent, be applicable to the
677 fees imposed by this section.
678 The transportation financing
679 fee imposed under the

680 provisions of this section
681 shall be paid by the operator
682 at the same time and in the
683 same manner as the excises
684 due the commonwealth under
685 said chapter 64G.

686 (c) For the purpose of adding and
687 collecting the transportation
688 financing fee imposed by this
689 section and the excises
690 imposed by said chapter 64G,
691 the commissioner of the
692 department of revenue shall
693 issue a schedule showing the
694 total of the excises due for
695 each bracket of taxable
696 charges or rent, as defined in
697 said chapter 64G, plus the
698 transportation financing fee
699 imposed under this section.
700 Such schedule shall be in
701 such form, including the
702 number and size of the

703 brackets, as said
704 commissioner may
705 determine.

706 Section 8. For each rail project there
707 shall be a surcharge of 5 per
708 cent of the purchase price
709 imposed on the price of any
710 ticket purchased for any
711 water-based sightseeing,
712 tourist venue or
713 entertainment cruise or tour
714 and for any land-based
715 sightseeing, tourist venue or
716 trolley tour, originating or
717 located in the commonwealth
718 and conducted partly or
719 entirely within any city or
720 town or portion thereof
721 described in section 7;
722 provided, however, that no
723 such surcharge shall be
724 imposed on children's tickets,
725 so-called, if said ticket is \$6

726 or less; and provided, further,
727 that no such surcharge shall
728 be imposed for such tours or
729 cruises on tickets sold to an
730 organized school or youth
731 group and adults
732 accompanying such group.

733 Section 9. For each rail project there
734 shall be a surcharge of \$5
735 imposed upon each
736 commercial airline ticket for
737 any flight landing in or taking
738 off from any city or town or
739 portion thereof described in
740 section 7.

741 Section 10. For each rail project
742 there are hereby established
743 district improvement
744 financing districts in the any
745 city or town or portion
746 thereof described in section
747 7, which shall operate in
748 accordance with the

749 provisions of section 1 of
750 chapter 40Q.

751 Section 11. The levies described in
752 section 7, 8, 9 and 10 shall
753 commence on the first day of
754 the first full calendar year
755 following the receipt by the
756 secretary of the determination
757 of the Authority described in
758 section 6.

759 Section 12. Commencing on the first
760 day of the first full calendar
761 year following the receipt by
762 the secretary of the
763 determination of the
764 Authority described in
765 section 6, the following
766 receipts, hereinafter referred
767 to, together with investment
768 earnings thereon, as local
769 project receipts, shall be
770 credited to, and deposited by
771 the state treasurer in the

772 segregated account within the
773 Massachusetts Rail Transit
774 Fund created by the state
775 treasurer for each rail project
776 pursuant to section 3: (i) all
777 receipts from the
778 transportation financing fee
779 imposed by section 7; (ii) all
780 receipts from the excise
781 imposed by section 8; (iii) all
782 receipts from the excise
783 imposed by section 9; (iv) all
784 receipts collected pursuant to
785 section 10; and (v) any funds
786 received by the Authority
787 from the sale, lease or other
788 disposition of land or rights
789 therein adjacent to stations
790 which shall be a part of each
791 rail project. Notwithstanding
792 anything in section 35J of
793 chapter 10 of the General
794 Laws to the contrary,

795 amounts described in this
796 section shall not be included
797 in the computation of the
798 amount to be deposited in the
799 Massachusetts Tourism Fund
800 pursuant to said section 35J.

801 Section 13. For all rail projects
802 constructed pursuant to this
803 chapter all construction
804 employees employed in the
805 construction of said project
806 shall be paid no less than the
807 wage rate established for
808 such work pursuant to a
809 project labor agreement with
810 the appropriate labor
811 organization or labor
812 organizations, which includes
813 (1) a uniform grievance and
814 arbitration procedure for the
815 resolution of work-related
816 disputes on job sites; (2)
817 mutually agreeable uniform

818 work rules and schedules for
819 the project; and (3) an
820 obligation for any such labor
821 organization and its
822 constituent members not to
823 strike with respect to work on
824 such project, provided that it
825 shall not be a precondition to
826 the award of a contract that a
827 bidder have previously
828 entered into a collective
829 bargaining agreement with a
830 labor organization, but only
831 that the bidder be willing to
832 execute and comply with said
833 project labor agreement for
834 the project if it is awarded a
835 contract.

836 Section 14. Expenditures from
837 Massachusetts Rail Transit
838 Fund funds not segregated
839 pursuant to section 3 shall be
840 made for the following

841 purposes only if and when
842 the amounts available in each
843 rail project's segregated fund,
844 created pursuant to section 3,
845 are inadequate to the meet the
846 cost or operating costs of that
847 rail project: (i) for the
848 payment of the principal,
849 including sinking fund
850 payments and premium, if
851 any, and interest on special
852 obligation bonds of the
853 commonwealth issued
854 pursuant to section 17 and on
855 notes issued in anticipation of
856 such bonds for the relevant
857 project; (ii) for the
858 maintenance of, or provision
859 for, any reserves for debt
860 service and other capital and
861 current expenses, including
862 without limitation any capital
863 reserve fund created for such

864 purpose, and for any
865 additional security, insurance
866 or other form of credit
867 enhancement required or
868 provided for in any trust or
869 other security agreement
870 entered into pursuant to this
871 chapter to secure such bonds;
872 and (iii) for direct
873 expenditure for any cost of
874 the rail project and for the
875 operation, promotion and
876 marketing thereof incurred by
877 the Authority.

878 Section 15. (a) The Authority is
879 hereby authorized and
880 directed to acquire all lands,
881 properties, rights, air rights,
882 sub-surface rights, easements
883 and other interests necessary
884 to complete the projects. To
885 carry out and effectuate the
886 foregoing purposes, the

887 Authority may take by
888 eminent domain under
889 chapter 79 or chapter 80A of
890 the General Laws, or acquire
891 by purchase, lease, gift,
892 bequest, grant or otherwise
893 from any party, public or
894 private, and hold, clear,
895 repair, operate and, after
896 having taken or acquired the
897 same, convey as provided in
898 this chapter, any lands and
899 other property, real or
900 personal, improved or
901 unimproved, tangible or
902 intangible, and any interest
903 therein, including, to the
904 extent not inconsistent with
905 federal law, railroad
906 properties, necessary to
907 complete the projects, as
908 stipulated in the reports to be
909 produced pursuant to section

910 6, after a public hearing of
911 which the land owners of
912 record have been notified by
913 certified mail and of which at
914 least 20 days' notice has been
915 given by publication in a
916 newspaper having general
917 circulation in the city in
918 which the land is located;
919 provided, however, that no
920 such taking or acquisition
921 shall be effected until 30 days
922 after the Authority has
923 notified the land owner of
924 record by certified mail and
925 has caused a notice of such
926 determination to be published
927 in a newspaper having
928 general circulation in the city
929 in which the land is located.
930 The value of any lands or real
931 property acquired by the
932 Authority by eminent domain

933 shall be reduced by the costs
934 necessary to remediate the
935 environment of said site. To
936 the extent not inconsistent
937 with federal law, the taking
938 or other acquisition by the
939 Authority of railroad rights of
940 way or related facilities from
941 any department, authority,
942 agency or political
943 subdivision of the
944 commonwealth, from any
945 railroad company, or from
946 any other party, shall be
947 exempt from the procedures,
948 findings and requirements of
949 section 7 of chapter 161C of
950 the General Laws.

951 It is hereby declared that, for
952 purposes of any
953 constitutional entitlement to
954 damages in the event of a
955 taking, all properties and

956 interests taken by the
957 Authority by eminent domain
958 by any subdivision of the
959 commonwealth are being
960 held by the Authority in a
961 governmental and not a
962 proprietary capacity and it is
963 not the intent of this act to
964 confer on the Authority any
965 rights to damages for such
966 taking. Any such taking of
967 property shall be effective
968 notwithstanding any
969 inconsistent prior public use.
970 The Authority may make
971 relocation payments to
972 persons and businesses
973 displaced as a result of
974 carrying out a project and
975 shall otherwise provide
976 relocation assistance as
977 provided in chapter 79A and

978 chapter 121B of the General
979 Laws.

980 To the extent not inconsistent with
981 federal law, if there is a
982 taking or other acquisition of
983 railroad lines, rights of way,
984 easements or related facilities
985 from any party, the Authority
986 is hereby authorized and
987 directed to relocate such
988 railroad lines.

989 (b) The Authority shall have all the
990 powers necessary and
991 convenient to carry out the
992 purposes of this act. Without
993 limiting the generality of the
994 foregoing, the Authority may
995 exercise with respect to the
996 projects and any property
997 acquired in accordance with
998 this section all powers, and
999 shall have all immunities,
1000 consistent with this chapter,

1001 granted to operating agencies,
1002 as defined in chapter 121B of
1003 the General Laws or
1004 otherwise granted to the
1005 Authority under any general
1006 or special law.

1007 (c) The Authority is hereby
1008 authorized and directed to
1009 prepare or cause to be
1010 prepared a report in
1011 accordance with section 62B
1012 of chapter 30 of the General
1013 Laws for those of the projects
1014 for which such a report has
1015 not yet been prepared or is no
1016 longer valid at the time
1017 required by law.

1018 Notwithstanding the
1019 provisions of sections 62 to
1020 62H, inclusive, of said
1021 chapter 30, the Authority
1022 may commence and
1023 undertake research, planning,

1024 design and other work
1025 necessary for the projects and
1026 may engage an owner's
1027 representative, architects and
1028 engineers and a construction
1029 manager therefore for each
1030 rail project individually, and
1031 the Authority may take all
1032 actions necessary or
1033 appropriate or required for
1034 acquisition of lands, air
1035 rights, sub-surface rights or
1036 other property interests prior
1037 to the publication of a final
1038 environmental impact report
1039 pursuant to this section and
1040 section 62C of said chapter
1041 30; provided, however, that
1042 the Authority shall not record
1043 a notice of taking with
1044 respect to any lands or other
1045 property by eminent domain
1046 as provided in this section

1047 until the secretary of energy
1048 and environmental affairs has
1049 issued a notice of availability
1050 of a report submitted to said
1051 secretary in accordance with
1052 said section 62C which
1053 demonstrates to the
1054 satisfaction of said secretary
1055 that a project may be carried
1056 out with appropriate
1057 mitigation measures as may
1058 be necessary to minimize and
1059 prevent damage to the
1060 environment.

1061 (d) The Authority shall be excluded
1062 from the definition of an
1063 owner or operator of a project
1064 with respect to releases of
1065 hazardous materials that
1066 occur before the Authority
1067 acquires ownership of any
1068 portion of a site pursuant to
1069 this act upon or from which

1070 such a release may occur as if
1071 the Authority were a city or
1072 town that has purchased or
1073 taken such land for the
1074 nonpayment of taxes, in
1075 accordance with paragraph
1076 (d) of the definition of
1077 "Owner" or "Operator" of
1078 section 2 of chapter 21E of
1079 the General Laws; provided,
1080 however, that the Authority
1081 complies with all of the
1082 requirements set forth in
1083 subparagraphs (2) and (3) of
1084 said paragraph (d), except
1085 that the Authority shall have
1086 no obligation to comply with
1087 clause (F) of subparagraph
1088 (3) of said subsection (d).

1089 Section 16. (a) No person shall be
1090 precluded by chapter 7 or
1091 chapter 268A of the General
1092 Laws from participating by

1093 contract or otherwise in the
1094 activities of the
1095 commonwealth or the
1096 Authority with regard to the
1097 planning, acquisition,
1098 construction and operation of
1099 a rail project contained in this
1100 act solely by reason of a
1101 financial interest, direct or
1102 indirect, in any contract or
1103 extension thereof for services
1104 with respect to the project
1105 report or otherwise with
1106 respect to the development of
1107 the rail project executed by
1108 such person with the
1109 commonwealth or the
1110 Authority prior to the
1111 effective date hereof. For
1112 purposes of the foregoing, the
1113 Authority shall have all of the
1114 powers granted to it by
1115 general or special law not

1116 inconsistent with this chapter.
1117 Each rail project shall be
1118 exempt from compliance
1119 with applicable zoning codes
1120 and any regulations
1121 promulgated thereunder.

1122 (b) The Authority shall prepare
1123 quarterly reports for each rail
1124 project described by this
1125 chapter which shall include,
1126 but not be limited to: (i) the
1127 total dollars expended on the
1128 project to date, (ii) the
1129 number of contracts entered
1130 into to date; (iii) the number
1131 of contracts entered into with
1132 minority businesses; (iv) the
1133 number of contracts entered
1134 into with women-owned
1135 businesses; (v) the dollar
1136 value of contracts entered
1137 into with minority
1138 businesses; (vi) the dollar

1139 value of contracts entered
1140 into with women-owned
1141 businesses; (vii) the total
1142 number of employees
1143 working on the project; and
1144 (viii) the total number of
1145 employees working on the
1146 project, broken down by race,
1147 ethnicity and gender. Said
1148 quarterly reports shall be
1149 submitted to the secretary of
1150 the executive office for
1151 administration and finance,
1152 the house ways and means
1153 committee, the senate ways
1154 and means committee, the
1155 clerk of the house and the
1156 clerk of the senate.

1157 Section 17. Upon the certification by
1158 the secretary of his receipt of
1159 a determination made
1160 pursuant to section 6, the
1161 state treasurer shall issue

1162 bonds in such amounts and at
1163 such time as he determines,
1164 after consultation with the
1165 secretary and the Authority,
1166 necessary to meet the
1167 expenditures required for the
1168 rail project which is the
1169 subject of said determination.
1170 Any such bonds shall be
1171 special obligations of the
1172 commonwealth payable first
1173 from the local project receipts
1174 defined in sections (7), (8),
1175 (9) and (10) to the extent
1176 available and second from the
1177 unsegregated funds described
1178 in section 3.

1179 Section 18 (a) The administration of
1180 the fees imposed under
1181 sections (7), (8), (9) and (10)
1182 of chapter 161E is hereby
1183 vested in the commissioner of
1184 revenue. Said fees shall be

1185 collected by the vendor or
1186 operator of the service or
1187 facility and remitted to the
1188 department of revenue on a
1189 quarterly basis. Amounts
1190 collected pursuant to section
1191 10 shall be collected by the
1192 city or town and remitted to
1193 the department of revenue.
1194 All provisions of this act
1195 relative to assessment,
1196 collection, payment,
1197 abatement, verification and
1198 administration, including
1199 penalties and interest, shall,
1200 so far as pertinent, be
1201 applicable to the fees
1202 imposed by this act as though
1203 they were taxes enumerated
1204 in section 2 of chapter 62C.
1205 Section 19. The Massachusetts Bay
1206 Transportation Authority or
1207 its successor is hereby

1208 authorized and directed to
1209 take whatever actions are
1210 necessary to pursue any
1211 federal funds for which the
1212 projects or any portions
1213 thereof are eligible and to
1214 seek or coordinate with
1215 partners where warranted.

1216 Section 20. The Executive Office of
1217 Transportation and Public
1218 Works or its successor shall
1219 choose a regional planning
1220 agency or agencies
1221 established pursuant to
1222 Chapter 40B to conduct
1223 corridor land use planning for
1224 the projects. Each regional
1225 planning agency or agencies
1226 shall work with
1227 municipalities, state agencies
1228 and other stakeholders to
1229 complete the land use
1230 corridor plan prior to

1231 November 1, 2010. Each
1232 land use corridor plan shall
1233 include the necessary actions
1234 to be taken by municipal or
1235 state government, including
1236 zoning and other bylaw
1237 changes, in order to
1238 maximize the long term
1239 benefit of the expansion,
1240 preserve capacity added by
1241 the project, promote
1242 sustainable economic and
1243 residential development,
1244 protect critical open space
1245 and other natural resources,
1246 and mitigate environmental
1247 and neighborhood impacts,
1248 including sprawl and
1249 gentrification.

1250 The Massachusetts Bay

1251 Transportation Authority or
1252 its successor shall not begin
1253 construction on new rail

1254 stations to be completed
1255 pursuant to chapter 161E
1256 until the secretary finds that
1257 the municipality in which the
1258 station would be located has
1259 taken substantial actions to
1260 implement the applicable
1261 provisions and requirements
1262 of the corridor land use plan
1263 and have taken actions to
1264 reasonably ensure ongoing
1265 implementation of the plan
1266 after construction is
1267 complete.

1268 One tenth of one percent of the cost
1269 of each rail project shall be
1270 used for corridor land use
1271 planning pursuant to this
1272 section, and shall be allocated
1273 from the Massachusetts Rail
1274 Transit Fund to the regional
1275 planning agencies identified
1276 by the Executive Office of

1277 Transportation and Public
1278 Works or its successor for the
1279 purposes of corridor land use
1280 planning pursuant to this
1281 section. Each regional
1282 planning agency receiving
1283 funds shall file a report with
1284 the Executive Office of
1285 Transportation and Public
1286 Works or its successor and
1287 the House and Senate
1288 Committees on Ways and
1289 Means detailing their
1290 activities.

1291 Section 21. The provisions of this act
1292 shall be deemed to provide an
1293 exclusive, additional,
1294 alternative and complete
1295 method for the doing of the
1296 things authorized hereby and
1297 shall be deemed and
1298 construed to be supplemental
1299 and additional to, and not in

1300 derogation of, powers
1301 conferred upon the
1302 Massachusetts Bay
1303 Transportation Authority or
1304 its successor; provided,
1305 however, that insofar as the
1306 provisions of this act are
1307 inconsistent with the
1308 provisions of any general or
1309 special law, administrative
1310 order or regulation or any
1311 limitation imposed by a
1312 corporate or municipal
1313 charter, the provisions of this
1314 act shall be controlling.

1315 Section 22. This act, being necessary
1316 for the welfare of the
1317 commonwealth and its
1318 inhabitants, shall be liberally
1319 construed to affect its
1320 purposes.

1321 **SECTION 3.** (a) To meet the
1322 expenditures necessary to

1323 carry out the provisions of
1324 section 2, the state treasurer
1325 may issue and sell bonds of
1326 the commonwealth in any
1327 amount. Any such bonds
1328 shall be special obligations of
1329 the commonwealth payable
1330 first from the local project
1331 receipts described in section
1332 12 of chapter 161E to the
1333 extent available and second
1334 from the receipts described in
1335 section 3 of chapter 161E to
1336 the extent available.

1337 (b) Bonds of the commonwealth may
1338 be issued under authority of
1339 this section in such manner
1340 and on such terms and
1341 conditions as the state
1342 treasurer, with the
1343 concurrence of the secretary
1344 of administration and finance,
1345 may determine in accordance

1346 with the provisions of this
1347 subsection and, to the extent
1348 not inconsistent with the
1349 provisions hereof, provisions
1350 of General Law for the
1351 issuance of bonds of the
1352 commonwealth. Bonds may
1353 be secured by a trust
1354 agreement or other security
1355 agreement entered into by the
1356 state treasurer, with the
1357 concurrence of the secretary
1358 of administration and finance,
1359 on behalf of the
1360 commonwealth, which trust
1361 agreement or other security
1362 agreement may pledge or
1363 assign all or any part of the
1364 local project receipts credited
1365 to the fund pursuant to
1366 sections 3 and 12 of chapter
1367 161E, and any other pledged
1368 funds as hereinafter provided,

1369 and rights to receive the
1370 same, whether existing or
1371 coming into existence and
1372 whether held or thereafter
1373 acquired, and the proceeds
1374 thereof. The state treasurer is
1375 also authorized, with the
1376 concurrence of the secretary
1377 of administration and finance,
1378 to enter into additional
1379 security, insurance or other
1380 forms of credit enhancement
1381 which may be secured on a
1382 parity or subordinate basis
1383 with the bonds. A pledge in
1384 any such trust or other
1385 security agreement or credit
1386 enhancement agreement shall
1387 be valid and binding from the
1388 time such pledge shall be
1389 made without any physical
1390 delivery or further act, and
1391 the lien of such pledge shall

1392 be valid and binding as
1393 against all parties having
1394 claims of any kind in tort,
1395 contract or otherwise,
1396 irrespective of whether such
1397 parties have notice thereof.
1398 Any such pledge shall be
1399 perfected by filing of the trust
1400 or other security agreement
1401 or credit enhancement
1402 agreement in the records of
1403 the state treasurer, and no
1404 filing need be made under
1405 chapter 106 of the General
1406 Laws. Any such trust
1407 agreement, security
1408 agreement or credit
1409 enhancement agreement may
1410 establish provisions defining
1411 defaults and establishing
1412 remedies and other matters
1413 relating to the rights and
1414 security of the holders of the

1415 bonds or other secured parties
1416 as determined by the state
1417 treasurer, including
1418 provisions relating to the
1419 establishment of reserves, the
1420 issuance of additional or
1421 refunding bonds, whether or
1422 not secured on a parity basis,
1423 the application of the moneys
1424 and funds pledged pursuant
1425 to such agreement, in this act
1426 referred to as pledged funds,
1427 and other matters deemed
1428 necessary or desirable by the
1429 state treasurer for the security
1430 of such bonds, and may also
1431 regulate the custody,
1432 investment and application of
1433 moneys.

1434 (c) As additional security for bonds
1435 of the commonwealth issued
1436 under authority of this
1437 section, the state treasurer,

1438 with the concurrence of the
1439 secretary of administration
1440 and finance, shall create and
1441 establish a special fund for
1442 each rail project, herein
1443 referred to as the Capital
1444 Reserve Funds, within the
1445 Massachusetts Rail Transit
1446 Fund established under
1447 section 3 of chapter 161E or
1448 otherwise under a trust or
1449 other security agreement
1450 securing such bonds, and
1451 shall pay into the capital
1452 reserve funds any receipts
1453 available for such purpose as
1454 provided in chapter 161E and
1455 section 3(a) of this act and
1456 any other moneys
1457 appropriated and made
1458 available for the purposes of
1459 such fund, any proceeds of
1460 such bonds to the extent

1461 determined by the state
1462 treasurer, with the
1463 concurrence of the secretary
1464 of administration and finance,
1465 or as may be provided in any
1466 such trust or other security
1467 agreement, and any other
1468 moneys available for
1469 purposes of such fund as
1470 provided in this section, all of
1471 which shall be pledged funds
1472 for purposes of this act.

1473 (d) All moneys held in the Capital
1474 Reserve Funds, except as
1475 hereinafter provided, shall be
1476 used solely for the payment
1477 of the principal of bonds of
1478 the commonwealth issued
1479 under authority of this section
1480 as the same mature, the
1481 purchase of such bonds, the
1482 payment of interest on such
1483 bonds or the payment of any

1484 redemption premium required
1485 to be paid when such bonds
1486 are redeemed prior to
1487 maturity; provided, however,
1488 that, moneys in the capital
1489 reserve funds shall not be
1490 withdrawn therefrom at any
1491 time in such amount as would
1492 reduce the amount of any
1493 such fund to less than the
1494 maximum amount of
1495 principal and interest
1496 maturing and becoming due
1497 in any succeeding fiscal year
1498 on all such bonds outstanding
1499 or such lesser amount as shall
1500 be established by the state
1501 treasurer, with the
1502 concurrence of the secretary
1503 of administration and finance,
1504 as necessary or appropriate to
1505 secure such bonds, in this act
1506 referred to as the capital

1507 reserve fund requirements,
1508 except for the purpose of
1509 paying the principal of and
1510 interest on such bonds
1511 maturing and becoming due
1512 and for the payment of which
1513 other receipts held in the
1514 funds are not available.

1515 (e) Notwithstanding any provision of
1516 this act to the contrary, the
1517 state treasurer shall not issue
1518 bonds of the commonwealth
1519 under authority of this section
1520 at any time if following such
1521 issuance the balance on
1522 deposit in the Capital Reserve
1523 Funds would be less than the
1524 capital reserve fund
1525 requirements with respect to
1526 all such bonds then
1527 outstanding.

1528 (f) If on the last day of any fiscal
1529 year during which any bonds

1530 of the commonwealth issued
1531 under authority of this section
1532 are outstanding, the balance
1533 on deposit in the Capital
1534 Reserve Funds shall be less
1535 than the capital reserve fund
1536 requirements as then
1537 calculated, after deposit
1538 therein of all amounts
1539 available therefore in the
1540 funds or otherwise under the
1541 trust or other security
1542 agreement securing such
1543 bonds, the motor fuel excise
1544 tax shall be increased and all
1545 newly created revenue
1546 directed into the
1547 Massachusetts Rail Transit
1548 Fund until the balance of said
1549 capital reserve fund shall
1550 again equal the capital
1551 reserve fund requirement as
1552 so certified by the secretary

1553 of administration and finance
1554 but in no event shall the total
1555 amount of the excise imposed
1556 pursuant to sections 3 and 3A
1557 of chapter 64G of the General
1558 Laws and section 22 of
1559 chapter 546 of the acts of
1560 1969 exceed 14 per cent.

1561 (g) In order to increase the
1562 marketability of any bonds
1563 issued by the commonwealth
1564 under authority of this
1565 section, and in consideration
1566 of the acceptance of payment
1567 for any such bonds, the
1568 commonwealth covenants
1569 with the purchasers and all
1570 subsequent holders and
1571 transferees of any such bonds
1572 that until all such bonds,
1573 including all bonds issued to
1574 refund such bonds, and the
1575 interest thereon, shall be paid

1576 or, if earlier, shall be deemed
1577 paid within the meaning of
1578 any trust or other security
1579 agreement or credit
1580 enhancement agreement
1581 securing the same, (i) receipts
1582 shall not be diverted from the
1583 purposes identified in this
1584 act; (ii) no pledged funds
1585 shall be diverted from the
1586 funds established by section 3
1587 of chapter 161E or the capital
1588 reserve funds except as
1589 provided in this act; (iii) in
1590 any fiscal year of the
1591 commonwealth, unless and
1592 until an appropriation has
1593 been made which is sufficient
1594 to pay the principal,
1595 including sinking fund
1596 payments, of and interest on
1597 all such bonds and to provide
1598 for or maintain any reserves,

1599 additional security, insurance
1600 or other form of credit
1601 enhancement required or
1602 provided for in any trust or
1603 other security agreement or
1604 credit enhancement
1605 agreement securing any such
1606 bonds or notes, no pledged
1607 funds shall be applied to any
1608 other use; and (iv) so long as
1609 such revenues are necessary,
1610 as determined by the state
1611 treasurer in accordance with
1612 any applicable trust or other
1613 security agreement or credit
1614 enhancement agreement, for
1615 the purposes for which they
1616 have been pledged, the rate of
1617 any fees imposed by chapter
1618 161E or which may constitute
1619 pledged funds under this
1620 section shall not be reduced
1621 below the amount in effect at

1622 the time of issuance of any
1623 such bond.

1624 (h) Any bonds issued under authority
1625 of this section, and any notes
1626 of the commonwealth issued
1627 in anticipation thereof as
1628 hereinafter provided, shall be
1629 deemed to be investment
1630 securities under chapter 106
1631 of the General Laws, shall be
1632 securities in which any public
1633 officer, fiduciary, insurance
1634 company, financial institution
1635 or investment company may
1636 properly invest funds and
1637 shall be securities which may
1638 be deposited with any public
1639 custodian for any purpose for
1640 which the deposit of bonds is
1641 authorized by law. Any such
1642 bonds and notes, their
1643 transfer and the income
1644 therefrom, including profit on

1645 the sale thereof, shall at all
1646 times be exempt from
1647 taxation by and within the
1648 commonwealth.

1649 **SECTION 4.** The state treasurer
1650 may borrow, from time to
1651 time, on the credit of the
1652 commonwealth such sums of
1653 money as may be necessary
1654 for the purposes of meeting
1655 payments as authorized by
1656 chapter 161E in anticipation
1657 of the receipt of proceeds of
1658 special obligation bonds of
1659 the commonwealth issued
1660 under authority of section
1661 XX15, and may issue and
1662 renew, from time to time,
1663 notes of the commonwealth
1664 therefore, bearing interest
1665 payable at such time and at
1666 such rate as shall be fixed by
1667 the state treasurer. Such

1668 notes shall be issued and may
1669 be renewed one or more
1670 times for such maximum
1671 term of years, not exceeding
1672 seven years, as the governor
1673 may recommend to the
1674 general court in accordance
1675 with Section 3 of Article
1676 LXII of the Amendments to
1677 the Constitution; provided,
1678 however, that all such notes
1679 shall be payable no later than
1680 seven years after issuance.
1681 Notes and the interest thereon
1682 issued under the authority of
1683 this section, notwithstanding
1684 any other provisions of this
1685 act, shall be general
1686 obligations of the
1687 commonwealth.

1688 **SECTION 5.** This act shall be
1689 construed in all respects so as
1690 to meet all constitutional

1691 requirements. In carrying out
1692 the purposes and provisions
1693 of this act, all steps shall be
1694 taken which are necessary to
1695 meet constitutional
1696 requirements whether or not
1697 such steps are required by
1698 statute.

1699 **SECTION 6.** Section 1 of chapter
1700 161C of the General Laws is
1701 hereby amended by adding
1702 after the last sentence the
1703 following sentence:–

1704 Furthermore, to carry out the
1705 purposes of this section, the
1706 Commonwealth of
1707 Massachusetts shall preserve
1708 intact the right of way for the
1709 proposed North South Rail
1710 Link. This right of way is
1711 extremely vulnerable to the
1712 impact of development and
1713 redevelopment around the

1714 existing rail tracks and
1715 terminals. In addition, rail
1716 projects already in planning
1717 and construction phases will
1718 exceed the capacity of the
1719 South Station terminal.
1720 Preservation of the right of
1721 way for the North South Rail
1722 Link will assure that rail
1723 transportation can be
1724 enhanced or expanded in our
1725 region.

1726 **SECTION 7.** Chapter 161C of the
1727 General Laws is hereby
1728 amended by inserting after
1729 section 7 the following
1730 section:—

1731 Section 8. This section requires the
1732 Commonwealth of
1733 Massachusetts through its
1734 executive office of
1735 transportation and
1736 construction, in consultation

1737 with the Massachusetts
1738 turnpike authority and the
1739 Massachusetts Bay
1740 Transportation Authority or
1741 their successors to perform a
1742 study to specifically identify
1743 and map the necessary right
1744 of way to allow for the
1745 construction of the proposed
1746 North South Rail Link
1747 connecting North Station to
1748 South Station. This study
1749 must include particular
1750 reference to the Major
1751 Investment Study/Draft
1752 Environmental Impact Report
1753 (EOEA#10270), prepared
1754 under the aegis of the
1755 executive office of
1756 environmental affairs which
1757 was concluded on March 31,
1758 2003. A plan to preserve said
1759 right of way, once identified,

1760

shall be determined and

1761

implemented immediately.

1762

1763

1764