

LEGAL MEMORANDUM OF COMPLIANCE

SUBJECT: 26-01 Initiative Petition for a Law Relative to Safer Technology per Non-Ionizing Radiation

DATE: August 2026

I. Constitutional Soundness of Statutory Definitions: Opponents may attempt to challenge the definitions as unconstitutionally vague, too broad, or as an improper delegation of legislative power. These arguments fail under long-standing Massachusetts jurisprudence.

A. Definiteness and Fair Notice: Under Massachusetts law, a statute is unconstitutionally vague only if individuals of common intelligence must necessarily guess at its meaning and differ as to its application (*Commonwealth v. Disler*, 451 Mass. 216, 223). The definitions provided for "As Safe As Reasonable and Achievable (ASARAA)", "Research criteria", and "Practicable" establish clear, explicit, and bounded parameters for agency evaluation. They rely on measurable indicators (e.g., biological factors, carrier frequency, and wave polarization) that give regulated parties precise notice.

B. Permissible Standards for Agency Discretion: The supreme judicial court has established that a legislative delegation of authority is permissible under the state constitution if the enabling statute provides a detailed policy and clear statutory guideposts (*Blue Hills Cemetery, Inc. v. Board of Registration in Embalming*, 379 Mass. 368, 373). Section 1 avoids the unconstitutional delegation trap by laying down highly specific scientific and economic criteria that govern, limit, and guide the agency's professional exercise of discretion. The definitions of "Reasonable," "Practicable," and "Proactive avoidance" do not grant unchecked authority; instead, they serve as the strict statutory guardrails required by the SJC to govern the agency's exercises of discretion.

II. Legality of Office: Opponents may argue that federal preemption applies and that mandates are illegal, however the advisory function nullifies such arguments.

A. Preemption Moot: This Act does not propose to regulate radiofrequency radiation, and instead the office serves in an advisory role to the public and government entities. In *Gilardi v. Pittsfield Board of Health* (2026), the Massachusetts supreme court states that Massachusetts must yield to federal preemption regarding the regulation of radiofrequency radiation (i.e., non-ionizing radiation) and emphasizes, without exception, that: 'supremacy means that any State law "that conflicts with federal law is without effect"(quotation and citation omitted). *Cipollone*, 505 U.S. at 516.' While this statement appears quite broad, federal supremacy and preemption have been defined as occurring in specific instances, as in '(1) express preemption, which occurs when the language of the federal statute reveals an express congressional intent to preempt state law . . . ; (2) field preemption, which occurs when the federal scheme of regulation is so pervasive that Congress must have intended to leave no room for a State to supplement it; and (3) conflict preemption, which occurs either when compliance with both the federal and state laws is a physical impossibility, or when the state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of

Congress.’ [*Southwestern Bell Wireless Inc. v. Johnson County Board of County Commissioners*, 199 F.3d 1185 (10th Cir. 1999)]. Congress has never expressly preempted radiofrequency research or monitoring, nor has the FCC established routine radiofrequency monitoring. Even if so, claiming preemption of research and monitoring would conflict with the first amendment, by compelling state and academic silence, and disrupt the right of citizens to hear from their state government.

B. Mandate Moot: This Act does not propose to mandate or require actions based upon the advisory role of the newly instituted office. As stated in section 2, clause 2 of subsection b, with emphasis added: “*participating* public entities, municipalities, and Municipal Light Plants (MLPs) are *authorized* to incrementally integrate...” In other words, such entities *may* implement the recommendations of the new office, but are not required to do so.

C. Advisory Role Accepted Precedent: At the national level, an Office of Technology Assessment was an office of Congress that existed from 1975 to 1995. In Massachusetts, many advisory bodies exist, such as the Environmental Justice Council; the Toxics Use Reduction Act (TURA) Science Advisory Board; the Advisory Committee to the Administrative Council on Toxics Use Reduction; numerous MassDEP Advisory Committees & Stakeholder Workgroups; the Prevention and Wellness Advisory Board; the Governor’s Advisory Council on Competitiveness; the MassTech Board of Directors; the IT Investment Advisory Board (IIAB); the Massachusetts Technology Collaborative; and more.

III. **Relatedness:** Opponents may argue that creating a brand-new, independent agency with sub-departments and varied tasks violates Article 48’s requirement that an initiative contain only “related subjects” or a single common purpose, or that the ASARAA mandate is broad.

A. Common Purpose & Relatedness Precedent: The SJC has repeatedly affirmed that an initiative can design the machinery, personnel, and administrative structures necessary to execute its primary statutory goal without violating the single-subject rule. In *Hensley v. Attorney General*, the supreme court ruled that an extremely detailed plan to legalize marijuana could proceed, even when the initiative licensed and regulated the businesses, taxed retail; and allowed medical marijuana treatment centers to open retail centers at the same location [474 Mass. 651 (Mass. 2016)]. Some of those items could be considered capable of standing alone or ‘severable’ and yet the supreme court allowed all parts as subordinate to a common purpose and as presenting a unified statement of public policy with operational relatedness where voters could reasonably vote yes or no. The detailed plans for licensing, legalization, regulation, and potential treatment centers were all considered related. While a voter might not wish a treatment center to include retail operations, the SJC stated: ‘A voter who favors the legalization of marijuana but not the participation in the retail market of entities registered as medical marijuana treatment centers is free to vote “no” if he or she thinks that the dangers of mixing medical marijuana distribution with retail distribution overcome the benefits of the proposal, but the proposed act does not place anyone “in the untenable position of casting a single vote on two or more *dissimilar* subjects” (emphasis added).’ (659).

B. Relatedness & Common Purpose of Multi-Tiered Leadership: As the petition institutes a new office to research and make recommendations regarding technology, a variety of expertise is needed and this expertise is selected to lead within its field due to technological complexity. The obtuse

nature of technology to the layman is exactly the reason why this office seeks to research, understand, and advise, but it is also the reason why the model of leadership within specific fields of expertise is adopted, so as to insure knowledgeable experts make the decisions within their fields. While the executive director may assist with drafting publications, this is explicitly constrained to their "technical ability" and under the direct "purview" of the respective division heads, leaving ultimate authority in expert hands—this is a practical measure to not only protect taxpayer funds, but to support the work of the new office by insuring that ‘all hands on deck’ are utilized during operational lulls without compromising scientific or legal division integrity. This operational crossover reinforces the shared, unified purpose of the office rather than creating isolated, disconnected departments, further satisfying Article 48’s operational relatedness standard."

C. ASARAA Relatedness vs. Independence: The ASARAA standard represents a singular, unified public policy objective: the total optimization of technology safety. In the modern tech landscape, physical radiation safety, data cybersecurity, and societal effects are inextricably linked. The agency does not pursue disparate subjects; rather, it applies one cohesive optimization metric to ensure that technology infrastructure protects both the biophysical health, digital security, and natural rights of the Commonwealth's citizens. This standard requires an office with a wide variety of expertise and tasks in order to accomplish the ASARAA advisory mission.

IV. Advisory Board, Appointments, & Staff: Opponents may claim the law unconstitutionally strips the governor of supreme executive authority and violates the separation of powers (Article 30 of the MA Declaration of Rights) by allowing four different constitutional officers to appoint; by utilizing an advisory commission; allowing unchecked expert authority and their choice of staff.

A. Distributed Appointment Precedent: The Massachusetts legislature routinely creates independent state authorities and boards with distributed appointment structure, such as the Gaming Commission; Massachusetts Clean Energy Center; and the Health Policy Commission. The supreme court has previously decided, in 1926, that outside appointing authorities can choose from a list vetted by specialized outside organizations in the foundational case *Bradley v. Board of Zoning Adjustment of Boston*, 255 Mass. 160. As an initiated statute, the people exercise the same legislative power as the General Court to dictate how an independent state agency is staffed.

B. Distributed Appointment Value: Distributing appointment authority serves to increase independence of the appointees, so that no one person may decide the full roster of appointees, and, in some instances, it holds specific value for vetting appointee quality. Logically, the executive director is appointed by the governor, as the governor is an executive authority; the head counsel is appointed by the attorney general, as the attorney general is a legal authority; and the fiscal officer is appointed by the state treasurer, as the state fiscal authority.

C. Advisory Board Precedent: Notably, the Judicial Nominating Commission (JNC) is a non-partisan, diverse body of citizens that screens, interviews, and vets candidates for judgeships and clerk-magistrates. When choosing leaders for quasi-public state agencies, the state routinely establishes an independent advisory council or search committee to source, screen, and advance a short list to the appointing authority (e.g., *Board of Higher Education Search Committee*; no. BHE 22-36, Feb. 1, 2022). The supreme court has also long held that the state legislature (and voters via

initiative) can require appointing authorities to choose from lists compiled by private, specialized organizations (like architectural or medical societies) such as to guarantee technical competence [*Bradley v. Board of Zoning Adjustment of Boston*, 255 Mass. 160 (1926)]. The petition's structure does not alter the constitutional power to appoint; it merely establishes a statutory screening process to guarantee objective qualifications, which is well within legislative and initiative petition boundaries.

D. Zero New Right to Appeal: Clause (iv) of §3(a)(4) states: "The decisions of the Selection Panel under this clause shall be final and binding, with no statutory right to administrative or judicial appeal." While the statute creates no new right to appeal, it does not (and cannot) extinguish the supreme court's inherent constitutional authority to issue extraordinary writs if the panel commits a flagrant abuse of law. This clause simply eliminates statutory appeals, which is a standard legislative method to prevent bad-faith litigation from paralyzing a new launch.

E. Due Process & Confidentiality: The creation of the confidential executive appendix under clause (vi)(F) of §3(4)(a) balances the public interest in transparent vetting with individual privacy. By explicitly maintaining the non-public status of the disqualification list, the statute provides the appointing constitutional officer with necessary ethical data without subjecting applicants to public stigma or violating due process.

F. Expert Authority: The authority to decide within an expert's field of expertise, such as the NIR director's authority to veto and approve scientific content, is within the scope of reason, integrity, and the purpose of advising the people and government. This is a statutory mechanism to insure expert advice remains true, to insure that political machinations cannot force any scientist or other expert to alter data, research, or advisory recommendations. An advisory office cannot advise unless it is given authority to be honest regarding its expert findings. Similarly, to insure high quality, the head counsel can veto journal publications for 'legal or jurisdictional inaccuracy': the journal publication is not a public forum for free speech, but a curated government publication with a compelling public interest to provide accuracy and address gaps in knowledge that help the Commonwealth move closer to ASARAA. Accordingly, the editors retain full administrative discretion to select and prioritize articles that best fulfill this specialized statutory mandate, provided that selections are based on objective peer-review standards and direct relevance to the ASARAA framework rather than arbitrary viewpoint suppression. ORTO is not required to publish every submission, in order to align not only with quality control and mission, but also to prevent paralysis of mission from a deluge of submissions—just as a municipal park has the authority to refuse to install every donated statue as 'The Free Speech Clause restricts government regulation of private speech; it does not regulate government speech.' [*Pleasant Grove City v. Summum*, 555 U.S. 460 (2009)].

G. Expertise Requirements: The office is designed to fill gaps in technological oversight, and for this reason the expertise of the NIR director requires a background in hard science in order to address a gap in examination of biophysical and cellular safety—although this does not mean that the NIR director cannot approve a study that examines cellular or other biophysical analysis with impacts on behavioral or psychological health. The law and policy editor may also examine 'constitutional, civil rights, legal, and socio-economic auditing' as these remain areas of significant concern and evolution as technologies rapidly evolve—in other words, these are significant questions to investigate,

consider, and clarify with respect to technology. The legislature, and the people via initiative, retain the right to define the narrow, technical mandate of a specialized agency.

H. Bar Reciprocity Compliance: Under the Massachusetts Constitution, the judicial branch has exclusive, absolute authority to regulate the practice of law and bar admissions. The text carefully says that the head counsel must be "eligible for admission... pursuant to Rule 3:01." It explicitly subordinates itself to the existing judicial rules rather than trying to rewrite them. The 12-month window is an employment constraint, not a mandate to the court.

I. Staff Hiring & Expertise: Opponents might argue that allowing sub-directors to bypass standard state civil service hiring practices to make direct, unilateral appointments constitutes an improper creation of a patronage system or violates state personnel laws. However, Massachusetts statutory law frequently grants heads of independent state agencies or specialized divisions the explicit authority to appoint their own technical and confidential staff outside of standard civil service restrictions (e.g., M.G.L. c. 10, § 26 regarding the director of the state lottery, or M.G.L. c. 7D, § 3, the director of the office of information technology services and security). Because ORTO requires highly advanced, hyper-specialized technical and scientific personnel, the law must allow the scientific and legal directors to directly vet and select their own team to ensure competency.

V. Self-Executing Default Mechanisms & Timeline Operations: Opponents may claim that the automatic seating of the highest-ranked candidate upon executive inaction unconstitutionally strips constitutional officers of appointment discretion.

A. Preservation of Executive Discretion: The automatic selection mechanism does not strip constitutional officers of their authority; rather, it establishes a rational procedural consequence for total regulatory inaction. Constitutional officers maintain absolute discretion to select any candidate from the certified list during the standard administrative window. The default trigger only activates to prevent an unconstitutional gridlock of an agency mandated by the voters.

B. Workability and Administrative Flexibility: The inclusion of absolute calendar dates alongside specific holiday pauses and automatic 45-day emergency extensions demonstrates a rational, carefully engineered statutory design. Far from being unworkably rigid, these provisions provide necessary operational certainty for a brand-new agency launch while incorporating practical procedural release valves to handle unforeseen administrative delays.

C. Ethical Continuity in Succession: Requiring interim successors on the certified succession list to meet identical five-year conflict-of-interest parameters ensures that the scientific integrity of the Office cannot be subverted during a sudden operational vacancy. The restriction is a valid exercise of legislative authority to protect the objectivity of state research.

VI. Term Staggering & Vacancy Stabilization: Opponents may argue that long initial terms and extended vacancy appointments unconstitutionally restrict executive oversight or create administrative uncertainty.

A. One-Time Engineering for Permanent Rotation: The establishment of a temporary eight-year initial term for the NIR Director is a mechanism necessary to mathematically establish a permanent

staggered rotation. Long, staggered terms are heavily preempted in Commonwealth administrative law to insulate technical or scientific oversight from political cycles and ensure foundational continuity when building complex regulatory machinery.

B. Administrative Efficiency in Sudden Vacancies: The dual-timeline vacancy framework (Standard vs. Extended Tracks) balances rotational integrity with fiscal responsibility. Automatically extending a successor's appointment when less than 50% of a term remains prevents the Commonwealth and advisory entities from wasting significant administrative resources on consecutive, back-to-back public vetting cycles, while providing the career stability necessary to attract elite scientific talent.

C. Common Law Holdover Continuity: Granting full statutory authority to holdover and interim officials aligns directly with established Massachusetts common law principles. It prevents a dangerous regulatory vacuum or an intentional administrative shutdown, ensuring that the critical public health monitoring mandated by the voters continues uninterrupted during leadership transitions.

VII. Conflict-of-Interest Controls & Technical Mandate Scope: Opponents may claim the retrospective five-year conflict parameters unconstitutionally restrict employment mobility, and that the specialized software/hardware expert fields violate Article 48's single-subject rule.

A. Floor-Not-Ceiling Ethical Protections: The establishment of an unalterable conflict baseline that supersedes standard Chapter 268A waivers is a valid exercise of statutory authority. The SJC and legislature routinely recognize specialized agency-specific ethics baselines (e.g., the Gaming Commission) where the unique nature of the regulated subject matter requires higher insulation from industry capture to maintain public trust.

B. Compelling Public Interest in Objectivity: The five-year retroactive disqualification window for personnel and immediate family members is a rational, proportional safeguard against institutional bias. Because the primary utility of the Office relies on publishing objective scientific evaluations, preventing "revolving door" industry capture is essential to preserve the scientific integrity of the state's research repository.

C. Technological Interoperability & Relatedness: The explicit inclusion of firmware, power-gating, and operating system logging expertise satisfies the Article 48 operational relatedness requirement under Hensley. Because the statutory mandate is to identify and recommend paths toward the ASARAA standard, the agency must possess internal competency in the precise hardware and software mechanisms that control, mitigate, or cease electromagnetic emissions.

D. Technology Hires & Article 48 Relatedness: The inclusion of cybersecurity, firmware power gating, and other listed fields satisfies the operational relatedness standard. Specifically, the NIR director is included not only because NIR expertise is far more rare, but because this expertise is needed to address an enormous gap of knowledge in the Commonwealth. In contrast, the Commonwealth has numerous technology entities, such as the Executive Office of Technology Services and Security (EOTSS), the Massachusetts Broadband Institute (MBI), and the IT Investment Advisory Board (IIAB). Crucially, because ORTO functions as an advisory and research body rather than a policy-setting mechanism, its investigative scope does not usurp or conflict with the

operational mandates of these existing IT authorities. Instead, ORTO provides distinct, specialized data regarding safer alternatives and technological optimization parameters to help inform state leaders. While a specialized NIR Director uniquely addresses an unfulfilled gap in hard biological science, the statute's broad personnel authorization explicitly empowers the agency to hire additional full-time, part-time, or contracted cybersecurity experts as operational demands evolve—utilizing a flexible administrative design that prevents government bloat while ensuring complete capability to execute the total safety mandate.

VIII. Mandatory Disclosures: Opponents may claim the expansive familial disclosure scope infringes upon personal privacy rights, or that the multi-tiered termination and removal criteria violate executive branch authority.

A. Proportional Disclosure: The inclusion of extended family members, adult children, and professional associates within the annual disclosure track is a rational and proportional transparency mechanism. Unlike salaried staff who face absolute divestment mandates, these extended entities require only baseline disclosure to unmask proxy industry influence. The inclusion of mandatory State Ethics Commission redactions ensures individual privacy is preserved while fulfilling a compelling public interest in institutional integrity.

B. Division Accountability: Granting the NIR Director and Head Counsel narrow, independent statutory authority to terminate compromised subordinates or to void related tainted publications within their respective scientific or legal domains does not fracture executive authority. Because any such action is strictly conditioned upon a prior, independent adjudication of a conflict violation by a court or the State Ethics Commission, the framework establishes a valid, self-correcting statutory structure that guarantees due process.

C. Removal for Cause: The requirement that the State Ethics Commission certify a material conflict or act of malfeasance under Chapter 30A before a core leader is removed for cause represents a standard and permissible legislative constraint. Because the constitutional appointing officer retains the exclusive power to initiate removal proceedings, the independent certification process functions strictly as a neutral fact-finding safeguard to insulate state scientific research from arbitrary political suppression.

IX. Hardship Hires & Research Provisions: Opponents may claim the ten-year university grant restriction is arbitrary, and that the Field Director's waiver authority bypasses standard administrative review.

A. Workability: The inclusion of a conditional staff recruitment hardship exception completely refutes any facial "unworkability" challenges. By providing a structured mechanism to reduce the lookup period to twenty-four months during recruitment deficits, the statute guarantees continuous agency operations while maintaining baseline ethical integrity through binding recusal agreements.

B. Narrowly Tailored Waivers: The Field Director's authority to waive or reduce general employer recusals is a valid, narrow exercise of statutory discretion based on technical expertise. Because the text explicitly prohibits any waiver from creating a financial or competitive advantage for a former

employer, and mandates a fourteen-day public digital posting alongside State Ethics Commission filing, the mechanism provides necessary operational flexibility while preventing self-dealing.

C. Prevention of Institutional Capture: The ten-year lookback restriction on university grants and partnerships is a rational and necessary measure to ensure absolute scientific objectivity. Because corporate funding is a documented vector for institutional research bias, the Commonwealth has a compelling interest in ensuring state funds only support wholly independent research. The statute's explicit authorization to contract with independent, out-of-state, and non-profit laboratories ensures a robust alternative pipeline of valid scientific cross-validation.

X. Enforcement: Opponents may claim that zero-tolerance immediate removal criteria infringe upon public employee due process, or that the split administrative and judicial enforcement tracks create jurisdictional conflicts under Chapter 268A.

A. Due Process Guardrails: The mandate for immediate removal for cause based on any level of self-dealing does not bypass constitutional due process. Because the text explicitly conditions removal upon a prior "formal finding by the State Ethics Commission or a court," the employee is guaranteed standard notice, an evidentiary hearing, and full Chapter 30A or judicial protections before any employment action occurs.

B. Preservation of Existing Enforcement Channels: The dual administrative and civil enforcement tracks do not create a separate, unconstitutional parallel judicial system. The framework meticulously anchors all fines, clawbacks, and restitutions within the existing statutory parameters of M.G.L. c. 268A. It respects the traditional division of labor in the Commonwealth, where the State Ethics Commission administers internal civil ethics fines while the Attorney General possesses distinct authority to seek judicial remedies in Superior Court.

XI. Schedule of Prohibited Fields and Industries: Opponents may claim the definitions of prohibited entities are unconstitutionally vague, and that including specialized tracking software sectors violates Article 48's single-subject rule.

A. Objective Boundaries: The designated "Prohibited Industry" sectors are anchored to distinct, legally recognizable commercial and manufacturing categories. The inclusion of corporate-funded proxy groups and trade associations relies on standard, quantifiable financial metrics. This targeted framework provides clear notice to applicants and state regulators, successfully satisfying the constitutional standard against statutory vagueness.

B. Hardware & Software Integration: The inclusion of radio-frequency spatial-sensing and proximity-based biometric tracking software sectors satisfies the Article 48 operational relatedness requirement. Modern technological safety cannot be audited by examining hardware in isolation; software deployment protocols directly control the frequency, intensity, and duration of wireless emissions. Regulating employee conflicts within these specialized software sectors is inherently necessary to ensure objective evaluation of the ASARAA standard.

C. Valid Internal Qualifications: The restriction on personnel with recent ties to lobbying or public relations firms does not infringe upon First Amendment rights. The statute places no restrictions or

penalties on private corporate speech or the right to petition the government. The framework functions strictly as an internal ethical qualification baseline, protecting the Commonwealth's independent scientific repository from institutional capture.

XII. Operational Research, GIS Mapping, and Infrastructure Disclosures: Opponents may claim that ambient RF mapping is preempted by the federal Telecommunications Act of 1996, and that mandatory utility emission disclosures impose an unconstitutional regulatory burden.

A. Preservation of State Informational Police Powers: The establishment of an ambient emission GIS mapping database does not violate federal preemption under the Telecommunications Act of 1996 (TCA). The statute explicitly restricts ORTO's field operations to non-commercial data gathering "without imposing localized infrastructure permitting restrictions." While the TCA prevents states from blocking or regulating wireless infrastructure based on RF emissions, it does not strip the Commonwealth of its constitutional authority to conduct independent public health research, map public exposure trends, or advise citizens on safer technological optimization.

B. Adherence to Fourth Amendment Boundaries: The technical field monitoring frameworks are meticulously designed to respect constitutional privacy parameters. By strictly confining automated and manual testing to public rights-of-way or private structures utilizing "voluntary permission without trespass," the statute guarantees that no unconstitutional warrantless searches occur. Ambient electromagnetic emissions escaping into public spaces possess no reasonable expectation of privacy under established constitutional jurisprudence.

C. Due Process in Corporate Reporting Thresholds: The requirement that electric utility providers disclose geographic data points exceeding 0.2 microtesla is a valid, flexible reporting mandate. The statute incorporates direct due process protections by utilizing the public records exemption under M.G.L. c. 4, § 7 to shield sensitive facility blueprints, and by embedding a phased compliance track with hardship extensions. Because the provision does not alter utility operational parameters but merely gathers exposure metrics, it represents a permissible exercise of state environmental oversight.

XIII. Monitoring, Data, and Investigations: Opponents may claim that autonomous ambient RF monitoring is preempted by federal law, that cross-referencing health registries violates medical privacy, and that public facility investigations violate Article 48's single-subject rule.

A. Statutory Separation of Monitoring and Regulation: The autonomous ambient radiofrequency monitoring framework represents a valid exercise of the Commonwealth's informational police powers. The statute explicitly declares its intent to operate "without infringing upon federal regulatory boundaries," and limits field actions to objective data gathering in public rights-of-way. Because the framework does not alter, enforce, or override federal FCC exposure limits, but merely documents existing environmental baselines for public awareness, it remains immune to federal preemption under the Telecommunications Act.

B. Data Privacy Standards: The synthesis of electric utility matrices and wireless gradients with state disease registries does not infringe upon constitutional or statutory privacy rights. The text

explicitly mandates the use of "de-identified data" and "public-use aggregated data sets" compiled in "strict compliance with the Commonwealth's data privacy statutes." This framework mirrors established public health tracking methodologies under M.G.L. c. 111, protecting individual medical identity while satisfying a compelling public interest in tracking spatial environmental health trends and demographic equity.

C. Investigation Relatedness: Authorizing requested "targeted investigations" and joint testing protocols with the Department of Public Health's Indoor Air Quality Unit satisfies the Article 48 single-subject rule under *Hensley*. This mechanism provides a practical, unified approach to public sector facility safety. By allowing concurrent, voluntary environmental tracking to differentiate between chemical, biological, or electromagnetic exposures in public buildings, the statute maximizes state resources and directly executes its singular public policy goal: optimizing total technology safety.

XIV. Advisory & Optimization Scope: Opponents may claim that including civil liberties, municipal sovereignty, and utility line noise targets violates Article 48's single-subject rule, or that insulating reports from executive editing violates the separation of powers.

A. Unified Optimization Under Article 48: The inclusion of civil liberties, workplace privacy, municipal data sovereignty, and dual-use radio-frequency risks within the advisory report framework satisfies the single-subject requirement under *Hensley*. Modern technological infrastructure cannot be safely evaluated in a silo; physical emissions, data privacy vulnerabilities, and civic impacts are inextricably intertwined. The statute does not present disparate subjects, but rather applies a singular, unified public policy metric—the ASARAA optimization standard—to ensure that alternative communication pathways protect both the physical health and constitutional liberties of the Commonwealth's citizens.

B. Preservation of Utility Jurisdictions: The authorization to establish advisory target specifications for minimizing high-frequency voltage transients and line noise at the Point of Common Coupling does not usurp the regulatory authority of the Department of Public Utilities (DPU). Because the statute explicitly frames these outputs as non-binding "advisory reports," voluntary blueprints, and recommendations to promote proactive avoidance, it does not alter mandatory state electrical codes or issue coercive utility orders. It functions strictly as an engineering research filter, which is a permissible exercise of state informational authority.

C. Research Independence: The requirement that ORTO's research publications remain "unedited by any outside authority" is a valid statutory mechanism to protect institutional integrity. Similar to independent state auditing bodies, an advisory research agency cannot fulfill its mandate to inform the public unless its empirical findings are legally insulated from political or corporate suppression. Because the agency lacks binding regulatory or enforcement powers, this publishing independence does not fracture executive authority, but rather guarantees a transparent, evidence-based data stream for state leaders and the public.

XV. XVI. Legislative Appendices, Community Registries, and Citizen Science: Opponents may claim that agency legislative recommendations constitute improper state lobbying, that citizen self-

reporting registries rely on unverified data, and that equipment-lending programs are administratively unworkable.

A. Consistency with Statutory Legislative Reporting: The mandate to compile a Legislative Recommendations Appendix outlining statutory concepts for the General Court is a standard, recognized administrative function in the Commonwealth. Under M.G.L. c. 7A, § 12, independent reporting authorities are explicitly empowered to submit aggregated financial, narrative, and disclosure data directly to the Legislature and the Governor without outside executive filtration. Furthermore, pursuant to the broader reporting frameworks governing public health and environmental hazards under M.G.L. c. 111, state research bodies are routinely authorized to transmit technical findings directly to legislative clerks. Because this appendix functions strictly as a non-binding informational resource for elected lawmakers and possesses no independent regulatory enforcement power, it represents a standard and permissible exercise of state informational reporting.

B. Validity of Community Epidemiology: The voluntary self-reporting registry represents a recognized public health data-gathering methodology. In environmental tracking, crowd-sourced exposure and health registries serve as essential early-warning indicators to identify geographic symptom clusters for further professional study. By explicitly requiring total anonymization and the deletion of specific residential street numbers, the statute balances public interest in transparent environmental data with individual privacy and corporate protections.

XVI. Administrative Discretion in Equipment Allocation: The voluntary equipment-sharing and calibration lending program satisfies the standard for operational workability. Because the framework is explicitly conditioned upon "available agency resources," the Office retains full administrative authority to establish objective training protocols, checkout parameters, and data-validation thresholds. Utilizing state resources to facilitate calibrated citizen science is a rational, cost-effective method to expand the Commonwealth's environmental data pipeline without expanding permanent government field staff.

XVII. Collaborations and Public Domain Data: Opponents may claim that restricting data suppression violates academic freedom or university intellectual property rights, and that leveraging public university infrastructure constitutes an unconstitutional administrative burden.

A. Voluntary Participation Conditions: The requirement that all research assets generated via university collaborations remain permanently in the public domain does not infringe upon academic freedom or proprietary rights. Because all such institutional partnerships are strictly conditioned upon "voluntary agreement," the statute does not impose coercive regulations on higher education. The Commonwealth possesses the clear authority to establish transparency baselines for voluntary state-backed research to ensure public funds are not weaponized to support corporate data suppression.

B. Resource Optimization: Authorizing the Office to utilize the physical laboratories and computing resources of the University of Massachusetts system is an efficient, constitutionally valid method of public asset optimization. By grounding these resource-sharing frameworks within "voluntary agreements" and limiting tool deployment to "available monies within the ORTO Trust

Fund," the provision avoids creating an unfunded mandate, instead fostering a fiscally responsible collaborative framework that minimizes state operational waste.

XVIII. Patents, Journal, and Interstate Research: Opponents may claim that state patent holding and tiered licensing violate commerce principles, that interstate data alliances constitute unauthorized compacts, and that peer-reviewer honorariums constitute a misuse of public funds.

A. Patent Authority: The automatic assignment of patent rights to the Office and the execution of a tiered capacity licensing framework are constitutionally valid. The Commonwealth and its public subdivisions routinely hold intellectual property and execute licensing agreements to protect state-funded innovations. Because all resulting royalties are deposited exclusively into a public trust fund to sustain the agency's safety mandate, the framework serves a valid public purpose. The tiered capacity schedule is a rational, non-arbitrary mechanism to promote the deployment of safer technology alternatives while preventing corporate monopoly capture.

B. Inter-State Collaboration: The authorization to establish inter-state epidemiological and technical alliances does not violate the Compact Clause of the United States Constitution. Under federal jurisprudence, interstate agreements only require congressional approval if they unconstitutionally encroach upon federal supremacy. Because these alliances operate strictly on a non-commercial, public-benefit basis to share de-identified public health data and research registries, they represent a permissible exercise of cooperative state sovereignty to monitor regional environmental conditions.

C. Responsible Scientific Peer-Review: Operating a Diamond Open-Access institutional journal and providing nominal reviewer honorariums from the Trust Fund satisfies the constitutional standards for public expenditures. Procuring independent, external expert validation through flat-rate technical fees is a recognized and necessary administrative expense to guarantee scientific objectivity. Because the publishing framework is explicitly limited to available agency resources, it prevents fiscal waste while fulfilling a compelling public interest in maintaining a rigorous, conflict-free scientific repository.

XIX. XX. Expert Testimony & Consumer Risks: Opponents may claim that petitioning for expert fees unconstitutionally chills corporate access to courts, that consumer safety alerts constitute commercial disparagement, and that independent brief submissions violate the Attorney General's centralized litigation authority.

A. Valid Public Purpose in Statutory Fee Shifting: The authorization allowing the Head Counsel to petition a court or tribunal for reasonable expert witness fees against a non-prevailing commercial entity is a valid, constitutionally sound cost-recovery mechanism. Massachusetts law heavily preempts the use of statutory fee-shifting frameworks (e.g., M.G.L. c. 93A) to preserve public and municipal resources during public-interest litigation. Because the mechanism leaves final fee-awarding authority exclusively to judicial discretion and mandates that all recovered costs be deposited into the public Trust Fund, it represents a rational measure to shield taxpayers from the fiscal burdens of corporate safety challenges.

B. Protected Government Speech: The publication of independent product safety audits, technical fact-checks, and consumer protection alerts represents a valid exercise of state informational authority to protect the public from deceptive commercial practices. Under established First Amendment jurisprudence, the state possesses wide latitude to engage in government speech to educate its citizens on environmental and public health hazards. By conditioning these alerts upon formal Head Counsel approval and objective, data-driven "ASARAA-Contingent Triggers," the statute prevents arbitrary commercial disparagement while fulfilling a compelling public interest in

C. Permissible Dissemination of Evidence: Authorizing the Office to compile legal evidence, submit scientific affidavits, and present expert data before courts and tribunals does not unconstitutionally encroach upon the centralized litigation authority of the Attorney General. The framework explicitly limits these legal division outputs to technical affidavits, field data, and scientific testimony. Massachusetts administrative law routinely permits independent state boards and technical commissions to submit specialized expert data directly to judicial and administrative bodies to protect the integrity of unique, voter-mandated safety standards.

D. Permissible Integration with Chapter 93A: Authorizing the Executive Director and Head Counsel to submit a formal consumer protection referral to the Attorney General based on an empirical record of commercial deception does not alter state legal boundaries. The provision creates no independent prosecutorial power within ORTO. Instead, it utilizes existing, constitutionally sound enforcement channels under M.G.L. c. 93A, serving as a data-driven investigative resource to assist the Chief Legal Officer of the Commonwealth.

XX. Consumer Protection Enforcement Referrals & Remote-First Phased Implementation:

Opponents may claim that fixed launch dates infringe upon legislative budgetary power, and that flexible onboarding timelines create unconstitutional administrative volatility.

A. Deference to Legislative Appropriations: The establishment of a fixed November 15, 2029 foundational launch date does not violate Article 48's restriction against initiative-mandated appropriations. The statute explicitly conditions all core leadership salaries upon the "appropriation of funds by the General Court." This structural design creates the necessary legal architecture for the agency while preserving the Legislature's absolute constitutional authority over public expenditures, fully satisfying established SJC workability standards.

B. Valid Exercise of Administrative Discretion: Granting the Executive Director and NIR Director statutory authority to adjust or extend onboarding windows is a permissible exercise of administrative flexibility. Because the statute enforces unprecedentedly rigorous scientific qualification and anti-conflict baselines, rigid calendar constraints would actively undermine the voter-mandated vetting process. Characterizing specific dates as directory operational goals provides the agency with the necessary elasticity to secure elite talent without fracturing statutory certainty.

XXI. Consumer Protection Enforcement Referrals & Remote-First Phased Implementation:

Opponents may claim that agency enforcement referrals usurp consumer protection channels, that fixed launch dates infringe upon legislative budgetary power, and that flexible onboarding timelines create unconstitutional administrative volatility.

A. Permissible Integration with Chapter 93A Enforcement: Authorizing the Executive Director and Head Counsel to submit a formal consumer protection referral to the Attorney General based on an empirical record of commercial deception does not alter state legal boundaries. The provision creates no independent prosecutorial power within ORTO. Instead, it utilizes existing, constitutionally sound enforcement channels under M.G.L. c. 93A, serving as a data-driven investigative resource to assist the Chief Legal Officer of the Commonwealth.

B. Deference to Legislative Appropriations: The establishment of a fixed November 15, 2029 foundational launch date does not violate Article 48's restriction against initiative-mandated appropriations. The statute explicitly conditions all core leadership salaries upon the "appropriation of funds by the General Court." This structural design creates the necessary legal architecture for the agency while preserving the Legislature's absolute constitutional authority over public expenditures, fully satisfying established SJC workability standards.

C. Administrative Timeline Discretion: Granting the Executive Director and NIR Director statutory authority to adjust or extend onboarding windows is a permissible exercise of administrative flexibility. Because the statute enforces unprecedentedly rigorous scientific qualification and anti-conflict baselines, rigid calendar constraints would actively undermine the voter-mandated vetting process. Characterizing specific dates as directory operational goals provides the agency with the necessary elasticity to secure elite talent without fracturing statutory guidelines.

XXII. Defense Against the "Specific Appropriation" Ban (Art. 48): Opponents may argue that the "Mandatory Priority Hierarchy" or the strict allocation tiers constitute an unconstitutional restriction on the state treasury. This argument fails under established Supreme Judicial Court (SJC) precedent for three reasons:

A. Subordinated to the Legislative Power of the Purse: The text repeatedly and explicitly states that all expenditures within Tiers I, II, and III are "subject to appropriation by the General Court." It does not write a direct check from the treasury. If the General Court chooses not to appropriate the funds, no money moves. It acts strictly as an allocation formula if and when the legislature acts.

B. The "Nature for All" Precedent: Like Question 6 (2026), this initiative establishes a statutory framework for revenue categorization. The SJC has consistently ruled that 'not all revenues received by the Commonwealth are subject to the provisions of art. 63' and that funds held in trust are not subject to art. 63 for the purposes of art. 48, such as in the unemployment fund [*Opinion of the Justices to the House of Representatives*, 393 Mass. 1209 (1984)]. Explicitly, the SJC has stated: 'General Laws like G. L. c. 94C, § 47 (d), that specify that funds be directed to particular purposes, are not appropriations.' [*Mazzone v. Attorney General*, 432 Mass. 515 (2000)]. Nevertheless, the proposed petition initiative repeatedly includes the proviso that the trust is subject to appropriation by the General Court.

C. Non-Reversion Mechanics: The provision that funds "shall not revert to the General Fund at the close of a fiscal year" is a standard and widely utilized statutory mechanic within the Massachusetts General Laws (e.g., the Massachusetts Environmental Police Trust Fund under M.G.L. c. 29, § 2LLLL, or the health services provisions under M.G.L. c. 29, § 2TTTTT). The Legislature routinely

implements this standard language to ensure structural accounting continuity for programmatic accounts without infringing upon or altering the state's baseline annual budgetary cycles.

XXIII. Legality of Administrative Overhead and Salary Restrictions: A key strength of the text is its explicit division between core executive operations and supplemental trust spending. This structure is completely aligned with standard Massachusetts government accounting practices.

A. Supplant vs. Supplement: Paragraph (c)(1) explicitly dictates that core leadership salaries "shall depend entirely upon annual appropriation... from the General Fund." This protects the state by ensuring that permanent, essential constitutional officers are vetted through the standard legislative budget process, avoiding the trap of funding permanent state leadership through volatile, non-budgetary fees.

B. Permissible Personnel Guardrails: While an initiative cannot micro-manage an executive officer, it *can* set programmatic boundaries on public trust assets. By specifying that trust assets support "grants, research infrastructure, and contractual personnel," the text mirrors existing statutory trusts, such as the Public Records Assistance Fund (M.G.L. c. 10, § 35DDD), which limits expenditures to municipal information technology grants.

XXIV. Protection of Executive Management and Scientific Discretion: The text carefully preserves the separation of powers by avoiding the top-down micro-management of day-to-day work, vesting explicit authorization authority in the respective directors:

A. Internal Checks and Balances: Subsections (c)(3)(A) and (B) explicitly preserve executive operational authority by requiring the "exclusive formal authorization" of the NIR Director or Head Counsel, verified by the Fiscal Officer. The initiative does not force individual purchases; it establishes a workflow for state officials to exercise their professional judgment.

B. Fiscal Officer Certification: The requirement in paragraph (c)(2) that the Fiscal Officer and Executive Director must "formally certify that available fund balances are sufficient" before executing hires is standard fiscal prudence. It mimics the statutory requirements of M.G.L. c. 29, § 27 regarding state service contracts, ensuring the agency cannot inadvertently run a deficit.

XXV. Legality of Grants and Public Research Tool Distribution: The grant and equipment distribution mechanisms (Tiers II and III) are structured cleanly within existing administrative law frameworks:

A. Objective Procurement Standards: The use of a "double-blind, competitive application process based strictly on merit" in paragraph (c)(4) eliminates any vulnerability regarding favoritism or arbitrary private enrichment. It establishes a constitutional, viewpoint-neutral standard for public benefit distribution.

B. Preservation of Municipal Home Rule: Paragraph (c)(5) explicitly protects municipalities and public educational institutions by making the tools "strictly voluntary" and banning any "mandatory administrative, operational, or training costs." This completely insulates the petition from challenges

under the Local Mandate Law (M.G.L. c. 29, § 27C), which throws out state mandates that impose unfunded financial burdens on cities and towns.

XXVI. Legality of Independence Protections and Asset Control: The independence parameters established in the ORTO Trust Fund subsection (c) are compliant with Massachusetts public administrative law, procurement standards, and conflict-of-interest statutes.

A. Unconditional Philanthropic Donations: The absolute prohibition on "naming, earmarking, or placing restrictive covenants" in paragraph (c)(1) ensures that private entities cannot purchase regulatory influence. This structure perfectly aligns with M.G.L. c. 44, § 53A and general state accounting principles, which allow public agencies to accept grants and gifts provided they are held in a separate account and expended for the general purpose of the agency under public oversight.

B. Grant Control and Sovereign Research Integrity: Paragraphs (c)(2) and (c)(3) guarantee that the Commonwealth retains absolute ownership or joint open-science public domain rights over all research assets. This insulates the initiative from any challenge regarding the improper use of public resources for private enrichment. Under Articles 6 and 7 of the Massachusetts Declaration of Rights, public power and resources cannot be leveraged to generate exclusive private privileges or monopolies (*Leigh v. Board of Registration in Nursing*, 399 Mass. 558, 563). Mandating that the agency retain joint open-science public rights over research data ensures complete alignment with the constitutional requirement that state-supported research serve an uncompromised public purpose.

C. Mandatory Rejection of Compromised Funds: The directive in paragraph (c)(4) requiring the immediate return of funds attached to outcomes or personnel manipulations is a valid exercise of statutory ethics control. It operates as a localized extension of the Massachusetts Conflict of Interest Law (M.G.L. c. 268A), establishing a bright-line rule to prevent regulatory capture.

XXVII. Patent Framework and Intellectual Property Protections: The patent and licensing architecture set forth in paragraph (c)(5) is legally sound and mirrors established state and federal technology-transfer frameworks.

A. Mandatory Assignment of Inventions: The requirement that patentable technologies engineered by agency personnel, contractors, or volunteers be automatically assigned to ORTO (subparagraph i) is consistent with the "work-for-hire" doctrine and standard public employment covenants. It ensures that inventions developed using public assets remain public property.

B. Dynamic, Tiered Capacity Licensing: The authority granted to the Executive Director to execute non-exclusive licensing agreements based on a "tiered schedule adjusted dynamically based upon financial capacity" (subparagraph iii) is a recognized and lawful mechanism. It aligns with the broad tech-transfer and patent-management frameworks granted to state institutions under M.G.L. c. 75, § 14A, which vest absolute control over patent rights, licensing agreements, and royalty collections in the managing state officers to safeguard public assets.

XXVIII. Defense of Compensation and Revenue Restrictions: ORTO Trust Fund subsections (d) and (e) safeguard the fiscal integrity of the trust fund, preventing any claims of financial impropriety or unconstitutional fee allocation.

A. Prohibition on Merit-Based Financial Bonuses: The strict ban on bonuses, commissions, or merit-based increases from trust assets (subsection d) ensures total compliance with the Massachusetts Personnel Classification System (M.G.L. c. 30, § 45). By requiring all personnel compensation to conform to standard salary schedules, the text guarantees that public employees cannot self-enrich based on the volume of trust revenue.

B. Lawfulness of Capitalization and Revenue Sources: The designated revenue streams in subsection (e) of the ORTO Trust Fund are legally permissible and constitutionally distinct from general taxation:

1. *Federal and Private Grants (e)(1)*: Lawful under standard federal-state matching and public trust accounting.
2. *Custom Service Fees (e)(2)*: Valid under the *Emerson College* cost-recovery standard, as they are collected only from entities requesting specialized custom services [*Emerson College v. City of Boston*, 391 Mass. 415 (1984)].
3. *Licensing Royalties (e)(3)*: Legally recognized proprietary revenue derived from state-owned intellectual property.
4. *Recovered Litigation Costs (e)(4)*: Fully compliant with the "American Rule" exceptions where statutory authorization explicitly permits an agency to recover expert witness fees and litigation costs when successful. This setup mirrors established state public trust funds that are expressly built to absorb recovered legal costs, judgments, and enforcement penalties (such as the Environmental Justice Trust Fund) rather than reverting them directly to the baseline state treasury.

XXIX. Tolling & Uniform Baselines: Opponents may claim that tolling provisions create administrative vagueness, that local preemption violates municipal home rule, and that structural complexities render the statute unseverable.

A. Fiscal Soundness via Tolling: The automatic statutory tolling mechanism in Section 7(3) guarantees workability. By explicitly halting the agency launch clock if the General Court delays necessary appropriations, the statute ensures that no "ghost agency" or unfunded administrative mandate can occur, completely satisfying the fiscal integrity requirements of Article 48.

B. Valid Uniform Public Health Baselines: Establishing a uniform, minimum state baseline for technical disclosures and optimization recommendations does not violate the Home Rule Amendment. The supreme court routinely recognizes that the legislature (and the voters via initiative) may set a uniform state floor for technological, environmental, and public safety data, while explicitly preserving federal boundaries and permitting maximum state-wide adaptation upon any future expansion of state jurisdiction.

C. Absolute Structural and Operational Severability: The inclusion of a comprehensive, standard severability clause protects the statutory core from piecemeal litigation. The organizational

machinery, scientific research tracks, legal auditing divisions, and municipal clearinghouse functions are operationally distinct and capable of standing alone. Under established Massachusetts jurisprudence, if any specific technical threshold or personnel parameter is deemed invalid, the remaining independent frameworks can fully execute the voters' core intent: optimizing total technology safety.