

1 AN ACT

2 relating to the construction, acquisition, financing, maintenance,  
3 management, operation, ownership, and control of transportation  
4 facilities and the progress, improvement, policing, and safety of  
5 transportation in the state; imposing criminal penalties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 ARTICLE 1. TRANS-TEXAS CORRIDOR

8 SECTION 1.01. Subtitle B, Title 6, Transportation Code, is  
9 amended by adding Chapter 227 to read as follows:

10 CHAPTER 227. TRANS-TEXAS CORRIDOR

11 SUBCHAPTER A. GENERAL PROVISIONS

12 Sec. 227.001. DEFINITIONS. In this chapter:

13 (1) "Bond" has the meaning assigned by Title 9,  
14 Government Code.

15 (2) "Construction" includes extension, expansion, and  
16 improvement.

17 (3) "Credit agreement" has the meaning assigned by  
18 Title 9, Government Code.

19 (4) "Facility" means:

20 (A) a state highway;

21 (B) a turnpike;

22 (C) a freight or passenger railroad, including a  
23 commuter railroad, intercity railroad, and high-speed railroad;

24 (D) a public utility facility; or

1           (E) any structure that is reasonably necessary  
2 for the effective operation of a method of transportation,  
3 including an intermodal transfer or staging area, weigh station,  
4 inspection station, rest area, service station, restaurant, train  
5 or bus station, warehouse, freight interchange, switching yard,  
6 maintenance yard, and pipeline pumping station.

7           (4-a) "Facility" does not include a border inspection  
8 facility that serves a bridge that had more than 900,000 commercial  
9 border crossings during the fiscal year ending August 31, 2002.

10           (5) "Fee" includes any charge, toll, rent, lease  
11 payment, user fee, franchise fee, percentage fee, license fee,  
12 fare, tariff, or other consideration received in return for the use  
13 of:

14           (A) property that is part of the Trans-Texas  
15 Corridor;

16           (B) a facility on the Trans-Texas Corridor; or

17           (C) a service that is offered in connection with  
18 the Trans-Texas Corridor.

19           (6) "Operation" includes maintenance and repair.

20           (7) "Public utility facility" means:

21           (A) a water, wastewater, natural gas, or  
22 petroleum pipeline or associated equipment;

23           (B) an electric transmission or distribution  
24 line or associated equipment; or

25           (C) telecommunications, information services, or  
26 cable television infrastructure or associated equipment, including  
27 fiber optic cable, conduit, and wireless communications equipment.

1           (8) "Trans-Texas Corridor" means the statewide system  
2 of facilities designated by the commission under this chapter.

3           (9) "Turnpike" has the meaning assigned to turnpike  
4 project under Section 361.001.

5           Sec. 227.002. RULES. The commission may adopt rules and the  
6 department may implement procedures and forms as necessary or  
7 convenient to implement and administer this chapter.

8           Sec. 227.003. APPLICABILITY. (a) All laws governing the  
9 financing, design, construction, maintenance, or operation of a  
10 highway in the state highway system apply to the financing, design,  
11 construction, maintenance, or operation of a highway under this  
12 chapter unless in conflict with this chapter.

13           (b) All laws governing the financing, design, construction,  
14 maintenance, or operation of a turnpike by the department apply to  
15 the financing, design, construction, maintenance, or operation of a  
16 turnpike under this chapter unless in conflict with this chapter.

17           (c) This chapter does not apply to real or personal  
18 property, facilities, funding, projects, operations, construction,  
19 or a project plan of a transportation authority created under  
20 Chapter 451, 452, or 460, unless the commission or its designee has  
21 signed a written agreement with the transportation authority  
22 specifying the terms and conditions under which the transportation  
23 authority may participate in the Trans-Texas Corridor.

24           [Sections 227.004-227.010 reserved for expansion]

25                           SUBCHAPTER B. ESTABLISHMENT

26           Sec. 227.011. DESIGNATION. The commission shall designate  
27 facilities for the Trans-Texas Corridor.

1       Sec. 227.012. ROUTE SELECTION. The commission shall  
2 consider the following criteria when selecting a route for a  
3 segment of the Trans-Texas Corridor:

- 4           (1) current and projected traffic patterns;  
5           (2) the safety of motorists;  
6           (3) potential risks to persons from spills or  
7 accidents of any kind;  
8           (4) environmental effects, including the effect on air  
9 quality;  
10          (5) current and projected economic development;  
11          (6) the current and projected need for additional  
12 transportation options; and  
13          (7) system connectivity.

14       Sec. 227.013. PUBLIC PARTICIPATION. Before designating a  
15 route for a segment of the Trans-Texas Corridor, the department  
16 shall hold at least one public hearing in each county through which  
17 the segment may pass.

18       Sec. 227.014. ESTABLISHMENT OF DISCRETE SYSTEMS. (a) If  
19 the commission determines that the mobility needs of this state  
20 would be most efficiently and economically met by jointly operating  
21 two or more facilities as one operational and financial enterprise,  
22 it may create a system composed of those facilities. The commission  
23 may create more than one system and may combine two or more systems  
24 into one system. The commission may finance, construct, and  
25 operate an additional facility as an expansion of a system if the  
26 commission determines that the facility would most efficiently and  
27 economically be constructed and operated if it were a part of the

1 system and that the addition will benefit the system. A system may  
2 only include facilities located wholly or partly within the  
3 territory of:

- 4 (1) a metropolitan planning organization; or  
5 (2) two adjacent department districts.

6 (b) The revenue of a system must be accounted for separately  
7 and may not be commingled with the revenue of a facility that is not  
8 a part of the system.

9 Sec. 227.015. LOCATION OF FACILITIES. Notwithstanding any  
10 other law, including Chapter 181, Utilities Code, Chapter 402,  
11 Local Government Code, and Section 49.220, Water Code, the  
12 department may:

- 13 (1) specify the location of any facility on the  
14 Trans-Texas Corridor;  
15 (2) direct the time and manner of construction of a  
16 public utility facility on the Trans-Texas Corridor; and  
17 (3) direct the time and manner of construction or  
18 operation of any other facility on the Trans-Texas Corridor.

19 [Sections 227.016-227.020 reserved for expansion]

20 SUBCHAPTER C. DEVELOPMENT AND OPERATION

21 Sec. 227.021. AUTHORITY OF DEPARTMENT. (a) The department  
22 may:

- 23 (1) construct or operate any facility as part of the  
24 Trans-Texas Corridor; or  
25 (2) authorize a governmental or private entity to  
26 construct or operate a facility that is part of the Trans-Texas  
27 Corridor.

1       (b) A governmental entity may only construct or operate a  
2 facility that is located in the geographic area within which that  
3 entity is authorized to operate.

4       (c) Subject to Section 227.029, the department may grant or  
5 deny access to the Trans-Texas Corridor; provided, however, the  
6 department shall grant the owner of a public utility facility that  
7 is located on the Trans-Texas Corridor reasonable access to operate  
8 and maintain the owner's public utility facility. The department  
9 may not discriminate unreasonably among users or potential users of  
10 a facility.

11       (d) The department may construct or contract for the  
12 construction of public utility facilities. However, the department  
13 may not directly or indirectly provide water, wastewater, natural  
14 gas, petroleum pipeline, electric transmission, electric  
15 distribution, telecommunications, information, or cable television  
16 services.

17       (e) Nothing in this chapter, or any contractual right  
18 obtained under a contract with the department authorized by this  
19 chapter, supersedes or renders ineffective any provision of another  
20 law applicable to the owner or operator of a public utility  
21 facility, including any provision of the Utilities Code regarding  
22 licensing, certification, and regulatory jurisdiction of the  
23 Public Utility Commission of Texas or Railroad Commission of Texas.

24       Sec. 227.022. PARTICIPATION BY OTHER ENTITIES. (a) A toll  
25 or non-toll highway on the Trans-Texas Corridor that is constructed  
26 or operated by another entity shall be part of the state highway  
27 system. This subsection applies even if the entity constructing or

1 operating the highway is not independently authorized to construct  
2 or operate a highway that is part of the state highway system.

3 (b) If the department authorizes another governmental  
4 entity to construct or operate a facility on the Trans-Texas  
5 Corridor, that entity has each power of the department under this  
6 chapter with respect to that facility, including the right to  
7 collect fees, except that:

8 (1) any property acquired by the entity shall be held  
9 in the name of the state; and

10 (2) the entity may not file a declaration of taking and  
11 obtain early possession of real property, unless the entity is a  
12 regional mobility authority under Chapter 370.

13 (c) If the department authorizes another governmental  
14 entity to construct or operate a facility on the Trans-Texas  
15 Corridor, that entity is liable for a claim relating to the  
16 Trans-Texas Corridor only to the extent that the department would  
17 be liable if it were constructing or operating the facility.

18 Sec. 227.023. PARTICIPATION BY PRIVATE ENTITIES. (a) To  
19 the maximum extent practical and economical, the department shall  
20 encourage the participation of private entities in the planning,  
21 design, construction, and operation of facilities.

22 (b) The department shall contract with a private entity to  
23 operate a railroad using rail facilities owned by the department  
24 and may not use department employees to operate a railroad. The  
25 department may maintain a rail facility directly or through a  
26 private entity.

27 (c) To the extent and in the manner that the department may

1 enter into comprehensive development agreements under Chapter 361  
2 with regard to turnpikes, the department may enter into  
3 comprehensive development agreements under this chapter with  
4 regard to facilities on the Trans-Texas Corridor. All provisions  
5 of Chapter 361 relating to comprehensive development agreements for  
6 turnpikes apply to comprehensive development agreements for  
7 facilities under this chapter, including provisions relating to the  
8 confidentiality of information. Claims arising under a  
9 comprehensive development agreement are subject to Section  
10 201.112.

11 Sec. 227.024. HIGHWAYS. A highway, including a turnpike,  
12 on the Trans-Texas Corridor is a part of the state highway system.

13 Sec. 227.025. VEHICLE SIZE AND WEIGHT LIMITS. (a) The  
14 commission may authorize the operation of a vehicle that exceeds  
15 the height, length, or gross weight limitations of Subchapter C,  
16 Chapter 621, on a segment of a highway on the Trans-Texas Corridor  
17 if supported by an engineering and traffic study that includes an  
18 analysis of the structural capacity of bridges and pavements,  
19 current and projected traffic patterns and volume, and potential  
20 effects on public safety.

21 (b) This section does not authorize the operation of a  
22 vehicle that exceeds a maximum axle weight authorized by Chapter  
23 621, 622, or 623.

24 Sec. 227.026. ACQUISITION OF PERSONAL PROPERTY. (a) The  
25 department may acquire personal property, except rolling stock,  
26 under a conditional sales contract, lease, equipment trust  
27 certificate, or other form of contract or trust agreement for use in



1 connection with a facility.

2 (b) The department may enter into an agreement with a rail  
3 operator, transportation common carrier, transportation system, or  
4 any other entity for the common use of any facility.

5 (c) The department may enter into agreements with a public  
6 or private utility, the owner or operator of a communications  
7 system, utility common carrier, or transportation system, or  
8 another entity for the common use of a public utility facility in  
9 the Trans-Texas Corridor if the department has adopted rules  
10 requiring each common user to avoid damaging any equipment that the  
11 common user does not own or operate.

12 Sec. 227.027. ENVIRONMENTAL REVIEW. (a) The department  
13 shall conduct or approve each environmental evaluation or study  
14 required for an activity associated with the Trans-Texas Corridor.  
15 This subsection does not prohibit an owner of a public utility  
16 facility or a proposed public utility facility from conducting any  
17 necessary environmental evaluation for the public utility  
18 facility. The department is entitled to review and give final  
19 approval regarding the sufficiency of any environmental evaluation  
20 conducted for a facility within the Trans-Texas Corridor.

21 (b) The commission may allocate responsibilities for  
22 conducting environmental evaluations or studies or preparing  
23 environmental documentation among entities involved in the  
24 construction or operation of any facility of the Trans-Texas  
25 Corridor.

26 Sec. 227.028. ENVIRONMENTAL MITIGATION. (a) The  
27 department may acquire, maintain, hold, restore, enhance, develop,

1 or redevelop property for the purpose of mitigating a past,  
2 present, or future adverse environmental effect arising from the  
3 construction or operation of any part of the Trans-Texas Corridor  
4 without regard to whether the need for mitigation is established  
5 for a particular project.

6 (b) The department may contract with a governmental or  
7 private entity to maintain, control, hold, restore, enhance,  
8 develop, or redevelop property for the mitigation of a past,  
9 present, or future adverse environmental effect arising from the  
10 construction or operation of any part of the Trans-Texas Corridor  
11 without regard to whether the need for mitigation has already been  
12 established for a particular project.

13 (c) If authorized by the applicable regulatory authority,  
14 the department may pay a sum of money to an appropriate governmental  
15 or private entity instead of acquiring or managing property for the  
16 mitigation of a past, present, or future adverse environmental  
17 effect arising from construction or operation of any part of the  
18 Trans-Texas Corridor without regard to whether the need for  
19 mitigation has already been established for a particular project.

20 Sec. 227.029. RELOCATION OF EXISTING FACILITIES. (a) The  
21 department may construct a grade separation at an intersection of a  
22 Trans-Texas Corridor facility with another facility and may change  
23 the line or grade of a facility to accommodate the facility to the  
24 design of a grade separation. The department shall pay the cost of  
25 a grade separation and any damage incurred in changing a line or  
26 grade of a facility.

27 (b) If the department finds it necessary to change the

1 location of a portion of a facility, it shall reconstruct the  
2 facility at the location the department determines to be most  
3 favorable. The reconstructed facility must be of substantially the  
4 same type and in as good condition as the original facility. The  
5 department shall determine and pay the cost of the reconstruction  
6 and any damage incurred in changing the location of a facility.

7 (c) Except as provided in Subsections (d)-(l), this section  
8 does not apply to the conversion of any highway that is a part of the  
9 state highway system to a highway of the Trans-Texas Corridor.

10 (d) Notwithstanding Subsections (a) and (b), this  
11 subsection and Subsections (e)-(i) govern the relocation of a  
12 public utility facility. If the department determines that a  
13 public utility facility must be relocated, including a relocation  
14 caused by the conversion of any road that is part of the state  
15 highway system to a highway on the Trans-Texas Corridor, the  
16 utility and the department shall negotiate in good faith to  
17 establish reasonable terms and conditions concerning the  
18 responsibilities of the parties with regard to sharing of  
19 information about the project and the planning and implementation  
20 of any necessary relocation of the public utility facility.

21 (e) The department shall use its best efforts to provide an  
22 affected utility with plans and drawings of the project that are  
23 sufficient to enable the utility to develop plans for, and  
24 determine the cost of, the necessary relocation of the public  
25 utility facilities. If the department and the affected utility  
26 enter into an agreement after negotiations under Subsection (d),  
27 the terms and conditions of the agreement govern the relocation of

1 each public utility facility covered by the agreement.

2 (f) If the department and an affected utility do not enter  
3 into an agreement under Subsection (d), the department shall  
4 provide to the affected utility:

5 (1) written notice of the department's determination  
6 that the public utility facility must be removed;

7 (2) a final plan for relocation of the public utility  
8 facility; and

9 (3) reasonable terms and conditions for an agreement  
10 with the utility for the relocation of the public utility facility.

11 (g) Not later than the 90th day after the date a utility  
12 receives the notice from the department, including the plan and  
13 agreement terms and conditions under Subsection (f), the utility  
14 shall enter into an agreement with the department that provides for  
15 the relocation.

16 (h) If the utility fails to enter into an agreement within  
17 the 90-day period under Subsection (g), the department may relocate  
18 the public utility facility at the sole cost and expense of the  
19 utility less any reimbursement of costs that would have been  
20 payable to the utility under applicable law. A relocation by the  
21 department under this subsection shall be conducted in full  
22 compliance with applicable law, using standard equipment and  
23 construction practices compatible with the utility's existing  
24 facilities, and in a manner that minimizes disruption of utility  
25 service.

26 (i) The 90-day period under Subsection (g) may be extended:

27 (1) by mutual agreement between the department and the

1 utility; or

2 (2) for any period during which the utility is  
3 negotiating in good faith with the department to relocate its  
4 facility.

5 (j) Notwithstanding Subsections (d)-(i), an owner of a  
6 public utility facility is not obligated to relocate its public  
7 utility facility on the Trans-Texas Corridor if it determines that  
8 another location is feasible.

9 (k) If a public utility facility is relocated on the  
10 Trans-Texas Corridor, the department shall grant the owner  
11 reasonable entry and access to operate and maintain that owner's  
12 public utility facility.

13 (l) Subject to Subsections (a)-(k), the department, as part  
14 of the cost of the project, shall pay the cost of the relocation,  
15 removal, or grade separation of a public utility facility under  
16 Subsections (d)-(i).

17 Sec. 227.030. UNAUTHORIZED USE. The department may remove  
18 unauthorized personal property, including a vehicle, from the  
19 Trans-Texas Corridor without notice and at the owner's expense.  
20 Removed property may be stored until claimed by the owner. If a  
21 removed motor vehicle is not claimed by the owner within 72 hours  
22 after the date and time of removal, it shall be considered abandoned  
23 within the meaning of Chapter 683. The department and its employees  
24 are not liable for damage to property that is removed from the  
25 Trans-Texas Corridor under this section. Any removal or relocation  
26 of a public utility facility is governed by Sections 227.029(d)-(i)  
27 and is not governed by this section.

1       Sec. 227.031. EXCLUSIVE LANES. The department may dedicate  
2 one or more lanes of a highway on the Trans-Texas Corridor to the  
3 exclusive use of designated classes of vehicles.

4       [Sections 227.032-227.040 reserved for expansion]

5               SUBCHAPTER D. RIGHT-OF-WAY ACQUISITION

6       Sec. 227.041. POWERS AND PROCEDURES. (a) Except as  
7 otherwise provided by this subchapter, the commission has the same  
8 powers and duties relating to the condemnation and acquisition of  
9 real property for a facility of the Trans-Texas Corridor that the  
10 commission and the department have relating to the condemnation or  
11 purchase of real property under Subchapter D, Chapter 361, and  
12 Section 361.233 for a turnpike project. The commission may  
13 purchase an option to purchase property, other than real property,  
14 a property right, or a right-of-way used for a public utility  
15 facility, that the commission is considering for possible use as  
16 part of the Trans-Texas Corridor even if it has not been finally  
17 decided that the Trans-Texas Corridor will be located on that  
18 property. An option to purchase may be purchased along alternative  
19 potential routes for the Trans-Texas Corridor even if only one of  
20 those potential routes will be selected as the final route.

21       (b) An interest in real property or a property right is  
22 necessary or convenient for the construction or operation of a  
23 facility if it is located in or contiguous to an existing or planned  
24 segment of the Trans-Texas Corridor and if its acquisition will  
25 further the primary purposes of the Trans-Texas Corridor. Primary  
26 purposes include:

27               (1) providing right-of-way or a location for a

1 facility;

2 (2) providing land for mitigation of adverse  
3 environmental effects;

4 (3) providing buffer zones for scenic or safety  
5 purposes;

6 (4) allowing for possible future expansion of any  
7 facility; and

8 (5) generating revenue, directly or indirectly, for  
9 use in constructing or operating the Trans-Texas Corridor from or  
10 for ancillary facilities that directly benefit users of the  
11 Trans-Texas Corridor.

12 (c) Unless in conflict with this chapter, all laws governing  
13 the acquisition of right-of-way for a state highway apply to the  
14 acquisition of right-of-way for the Trans-Texas Corridor. Sections  
15 203.056, 203.057, and 203.058 apply to an acquisition by the  
16 department from a state agency. Compensation to a state agency  
17 under those sections shall be reasonable and may take the form of a  
18 single payment, a participation payment under Section 227.042, or  
19 both a single payment and a participation payment.

20 Sec. 227.042. CORRIDOR PARTICIPATION PAYMENT FOR REAL  
21 PROPERTY. (a) As an alternative to paying for an interest in real  
22 property or a real property right with a single fixed payment, the  
23 department may, with the owner's consent, pay the owner by means of  
24 a corridor participation payment.

25 (b) A right to receive a corridor participation payment  
26 under this section is subordinate to any right to receive a fee as  
27 payment on the principal of or interest on a bond that is issued for

1 the construction of the applicable segment of the Trans-Texas  
2 Corridor.

3 (c) In this section, "corridor participation payment" means  
4 an intangible legal right to receive a percentage of one or more  
5 identified fees related to a segment of the Trans-Texas Corridor.

6 Sec. 227.043. PURCHASE AND LEASEBACK. The department may  
7 acquire real property for the Trans-Texas Corridor and immediately  
8 lease it back to the former owner for a fixed or indefinite term.

9 Sec. 227.044. RIGHT OF ENTRY TO PROPERTY WITH PUBLIC  
10 UTILITY FACILITY. To ensure the safety and convenience of the  
11 public, the department shall, when entering any real property,  
12 water, or premises on which is located a public utility facility:

13 (1) comply with applicable industry standard safety  
14 codes and practices; and

15 (2) give the owner or operator of the facility not less  
16 than 10 days' notice before entering the real property, water, or  
17 premises.

18 Sec. 227.045. OTHER GOVERNMENTAL ENTITIES. If the  
19 department authorizes another governmental entity to construct or  
20 operate a segment of or a facility on the Trans-Texas Corridor, that  
21 entity has all the powers and duties of the department under this  
22 subchapter, except that the entity:

23 (1) may only construct or operate a facility that is  
24 located in the geographic area within which that entity is  
25 authorized to operate; and

26 (2) may not file a declaration of taking and obtain  
27 early possession of real property.



1       Sec. 227.046. COST OF RELOCATING PUBLIC UTILITY FACILITY.

2       (a) An owner of a public utility facility holding a certificate of  
3 convenience and necessity, certificate of authority, or service  
4 provider certificate of authority shall recover from the department  
5 its reasonable costs to relocate a public utility facility to  
6 accommodate the development or construction of the Trans-Texas  
7 Corridor.

8       (b) An owner of a public utility facility is not obligated  
9 to relocate the utility facility on the Trans-Texas Corridor if the  
10 owner determines that another location is feasible.

11       (c) If a public utility facility is located on the  
12 Trans-Texas Corridor, the department shall grant the owner  
13 reasonable access to operate and maintain the utility facility in  
14 accordance with industry standard safety codes and practices.

15       (d) Relocation of facilities pursuant to this section is  
16 subject to the department's reasonable regulations pertaining to  
17 public health, safety, and welfare.

18       [Sections 227.047-227.060 reserved for expansion]

19                       SUBCHAPTER E. FINANCING

20       Sec. 227.061. PERMISSIBLE SOURCES OF FUNDING. Subject to  
21 Section 227.062, the department may use any available source of  
22 funding in acquiring property for, constructing, and operating the  
23 Trans-Texas Corridor, including:

24               (1) an appropriation from the state highway fund for  
25 construction or maintenance of highways;

26               (2) a fee;

27               (3) proceeds from a bond secured by fees;

1           (4) proceeds from an obligation secured by the Texas  
2 Mobility Fund;

3           (5) a donation, in kind or in cash;

4           (6) a private investment;

5           (7) money transferred from the state infrastructure  
6 bank;

7           (8) a contribution from or contractual obligation of a  
8 governmental entity; and

9           (9) a loan, grant, or reimbursement from the federal  
10 government, subject to Section 227.062.

11           Sec. 227.062. LIMITATIONS ON DEPARTMENT FINANCIAL  
12 PARTICIPATION. (a) Each fiscal year, the total amount disbursed by  
13 the department out of the state highway fund for the following  
14 activities on the Trans-Texas Corridor may not exceed 20 percent of  
15 the obligation authority under the federal-aid highway program that  
16 is distributed to this state in that year:

17           (1) acquisition of right of way;

18           (2) initial construction of toll and nontoll highways;

19 and

20           (3) grading and bed preparation for non-highway  
21 facilities.

22           (b) The limitation under Subsection (a) does not apply to:

23           (1) money spent for:

24                   (A) feasibility studies, environmental studies,  
25 and preliminary engineering conducted before the initial  
26 construction of a facility; or

27                   (B) operation and maintenance of a facility;

1           (2) the proceeds of bonds or other public securities  
2 issued to pay the cost of a facility if those proceeds are deposited  
3 to the credit of the state highway fund;

4           (3) revenue attributable to a facility if that revenue  
5 is deposited to the credit of the state highway fund;

6           (4) loans deposited to the credit of the state highway  
7 fund; or

8           (5) contributions from a public or private entity that  
9 are deposited to the credit of the state highway fund.

10           (c) Each fiscal year, the total amount disbursed by the  
11 department out of state and federal funds shall not exceed \$25  
12 million for the construction or purchase of non-highway facilities  
13 on the Trans-Texas Corridor. This subsection does not apply to  
14 funds derived from the issuance of bonds, private investment,  
15 donations, the Federal Transit Administration, or the Federal  
16 Railroad Administration. This subsection also does not apply to:

17           (1) activities that are subject to the limitation in  
18 Subsection (a); and

19           (2) activities described in Subsection (b)(1).

20           (d) The commission may not disburse money out of the state  
21 highway fund for the initial construction of a facility of the  
22 Trans-Texas Corridor unless the commission finds that the  
23 disbursement will reduce traffic congestion to an extent that is  
24 comparable to the reduction in traffic congestion that would likely  
25 be achieved by spending the same amount of money on the project that  
26 is the most reasonable alternative. This subsection does not apply  
27 to the disbursement of money out of the state highway fund for

1 environmental studies or for the acquisition of right-of-way.

2 (e) The commission may not disburse money from the state  
3 highway fund or the Texas mobility fund to construct a portion of  
4 the Trans-Texas Corridor unless it would replace or supplement a  
5 project identified in the department's unified transportation  
6 program or a transportation corridor identified in the statewide  
7 transportation plan.

8 (f) The commission may not authorize the construction of  
9 rail facilities unless it finds that the construction will reduce  
10 congestion and improve mobility.

11 (g) The commission may not disburse money from the state  
12 highway fund that is dedicated under Sections 7-a and 7-b, Article  
13 VIII, Texas Constitution, for activities on the Trans-Texas  
14 Corridor if as a result, the amount expended each year from those  
15 funds on the addition of capacity to the state highway system would  
16 be less than the average annual expenditure from those funds for the  
17 addition of capacity to the state highway system over the previous  
18 five years. This subsection does not apply to past expenditures for  
19 activities on the Trans-Texas Corridor.

20 Sec. 227.063. FINANCING OF FACILITIES AND SYSTEMS. (a) The  
21 commission and the department have the same powers and duties  
22 relating to the financing of a facility or a system established  
23 under Section 227.014 as the commission and the department have  
24 under Subchapter E, Chapter 361, relating to the financing of a  
25 turnpike project, including the ability to deposit the proceeds of  
26 bonds or other obligations and to pledge, encumber, and expend such  
27 proceeds and revenues as provided by Chapter 361.

1       (b) The powers held by the commission and the department  
2 include the powers to:

3           (1) authorize the issuance of bonds to pay all or part  
4 of the cost of a facility or system or to pay for all or part of the  
5 cost of a facility or system that will become a part of another  
6 system;

7           (2) maintain separate accounts for bond proceeds and  
8 the revenues of a facility or system, and pledge those revenues and  
9 proceeds to the payment of bonds or other obligations issued or  
10 entered into with respect to the facility or system;

11           (3) impose a toll or other fee for the use of a  
12 facility or system; and

13           (4) obtain from another source the fees and other  
14 revenue necessary to pay all or part of the principal and interest  
15 on bonds issued under this chapter.

16       (c) For purposes of this section, a reference in Subchapter  
17 E, Chapter 361 to:

18           (1) a turnpike project means a facility or system; and

19           (2) revenue includes a fee established under this  
20 chapter.

21       (d) The proceeds of bonds issued under this chapter may be  
22 held in trust by a banking institution chosen by the department or,  
23 at the discretion of the department, in trust in the state treasury  
24 outside the general revenue fund and the state highway fund.

25       Sec. 227.064. LOANS AND OTHER FUNDING. The department may  
26 borrow money from the United States or use money in the state  
27 infrastructure bank created under Subchapter D, Chapter 222, to

1 fund the construction or operation of a facility under this  
2 chapter. Money borrowed under this section may be evidenced by the  
3 issuance of bonds.

4 [Sections 227.065-227.080 reserved for expansion]

5 SUBCHAPTER F. REVENUE

6 Sec. 227.081. FEES. (a) Notwithstanding any other law,  
7 including Chapters 161, 162, 163, and 181, Utilities Code, Chapter  
8 402, Local Government Code, and Chapter 49, Water Code, and except  
9 as provided in Subsection (e), the department may require a person,  
10 including a governmental or private entity, to pay a fee as a  
11 condition of using any part of the Trans-Texas Corridor.

12 (b) The commission may establish fees to be imposed by the  
13 department under this chapter. Fees may be set as absolute amounts,  
14 as a percentage of revenue, as a percentage of actual use or  
15 throughput, as a designated portion or percentage of initial  
16 facility funding, or on any other reasonable basis. Subject to  
17 approval by a body having jurisdiction and authority to establish a  
18 tariff, the commission may establish joint fees and divisions of  
19 fees.

20 (c) A fee may exceed the department's costs, but the  
21 commission may not establish a fee that is prohibitive or that  
22 discriminates unreasonably among users or potential users of a  
23 facility.

24 (d) In establishing a fee or the amount of a fee under this  
25 section, the commission shall consider:

- 26 (1) the acquisition cost of the property being used;  
27 (2) if applicable, the value of the property being

1 transported or of the service being offered;

2 (3) any cost to the department or to the public  
3 occasioned by the use, including environmental effects;

4 (4) comparable fees set by the competitive  
5 marketplace; and

6 (5) the desirable effects of full use of the  
7 Trans-Texas Corridor on the state's economy and its residents.

8 (e) If a public road is replaced or eliminated by the  
9 Trans-Texas Corridor and a facility used the right-of-way of that  
10 road under Chapter 161, 162, 163, or 181, Utilities Code, Chapter  
11 402, Local Government Code, or Chapter 49, Water Code, the  
12 department may not require the owner of that facility to pay a fee  
13 as a condition of using a segment of the Trans-Texas Corridor for  
14 the location of a replacement facility.

15 (f) The department may not require the owner of a public  
16 utility facility to pay a fee as a condition of crossing the  
17 Trans-Texas Corridor. The department may not require the owner of a  
18 public utility facility to pay a fee for placing a facility along or  
19 within the Trans-Texas Corridor specifically to provide service to  
20 customers within the Trans-Texas Corridor pursuant to an obligation  
21 as a provider of last resort. The department may not require  
22 payment of a fee for use of the Trans-Texas Corridor by a public  
23 utility facility in existence before the establishment of the  
24 Trans-Texas Corridor or for use by a facility that replaces a  
25 facility in existence before the establishment of the Trans-Texas  
26 Corridor unless the owner of the existing public utility facility  
27 relocates the public utility facility into the Trans-Texas Corridor

1 of its own volition. For use of the Trans-Texas Corridor by a  
2 public utility facility whose owner places the facility in the  
3 Trans-Texas Corridor of its own volition, the department may charge  
4 the owner a fee as negotiated between the department and the owner.  
5 The fee shall be competitively neutral and nondiscriminatory among  
6 similarly situated owners of public utility facilities.

7 Sec. 227.082. LEASE OF PROPERTY OR RIGHTS. (a) The  
8 department may lease property on the Trans-Texas Corridor to any  
9 public or private entity. A lease may be for a term not longer than  
10 50 years.

11 (b) The department may grant a franchise to use or operate a  
12 facility on the Trans-Texas Corridor. A franchise under this  
13 section may be granted for a term not longer than 50 years.

14 (c) The department may grant an exclusive or nonexclusive  
15 license to access or use any portion of the Trans-Texas Corridor for  
16 any purpose. A license granted under this section may be for a  
17 definite or indefinite term. The department may not grant an  
18 exclusive license to access or use a highway on the Trans-Texas  
19 Corridor. The department may not grant an exclusive license for use  
20 of the Trans-Texas Corridor by an owner of a public utility facility  
21 if the exclusive use is prohibited by other law.

22 (d) Property may be leased or a franchise or license granted  
23 for any purpose, including use as a facility and use for unrelated  
24 commercial, industrial, or agricultural purposes.

25 (e) In return for a lease, franchise, or license, the  
26 department may accept anything of value as consideration,  
27 including:



- 1           (1) a cash payment;
- 2           (2) installment payments;
- 3           (3) one or more payments based on percentages of use or  
4 throughput; and
- 5           (4) an interest in real or personal property, or an  
6 intangible legal right.

7           Sec. 227.083. DISPOSITION OF FEES. To the extent that it is  
8 not dedicated to another purpose by the constitution, by statute,  
9 or by contract, or deposited to a separate account under this  
10 chapter, revenue received by the department under this chapter  
11 shall be deposited to the credit of the state highway fund and may  
12 be used for any purpose authorized by this chapter. Subchapter D,  
13 Chapter 316, Government Code, and Section 403.095, Government Code,  
14 do not apply to revenue received under this chapter.

15           SECTION 1.02. Subchapter H, Chapter 545, Transportation  
16 Code, is amended by adding Section 545.3531 to read as follows:

17           Sec. 545.3531. AUTHORITY OF TEXAS TRANSPORTATION  
18 COMMISSION TO ESTABLISH SPEED LIMITS ON TRANS-TEXAS CORRIDOR. (a)  
19 Notwithstanding Section 545.352, the Texas Transportation  
20 Commission, by order recorded in its minutes and except as provided  
21 by Subsection (d), may determine and declare on a highway segment of  
22 the Trans-Texas Corridor designated under Chapter 227 a reasonable  
23 and safe prima facie speed limit in excess of a prima facie speed  
24 limit established by Section 545.352.

25           (b) In determining whether a prima facie speed limit is  
26 reasonable and safe, the commission shall conduct an engineering  
27 and traffic investigation and shall consider the width and

1 condition of the pavement, the usual traffic on the highway  
2 segment, the suitability of existing safety features, and other  
3 circumstances.

4 (c) A prima facie speed limit that is declared by the  
5 commission under this section is effective when the department  
6 erects signs giving notice of the new limit. A new limit that is  
7 enacted under this section is effective at all times or at other  
8 times as determined.

9 (d) The commission may not:

10 (1) modify the rules established by Section  
11 545.351(b); or

12 (2) establish a speed limit of more than 85 miles per  
13 hour.

14 (e) The commission, in conducting the engineering and  
15 traffic investigation specified by Subsection (b), shall follow the  
16 "Procedures for Establishing Speed Zones" as adopted by the  
17 commission.

18 SECTION 1.03. This article takes effect immediately if this  
19 Act receives a vote of two-thirds of all the members elected to each  
20 house, as provided by Section 39, Article III, Texas Constitution.  
21 If this Act does not receive the vote necessary for immediate  
22 effect, this article takes effect September 1, 2003.

23 ARTICLE 2. REGIONAL MOBILITY AUTHORITIES

24 SECTION 2.01. Subtitle G, Title 6, Transportation Code, is  
25 amended by adding Chapter 370 to read as follows:

26 CHAPTER 370. REGIONAL MOBILITY AUTHORITIES

27 SUBCHAPTER A. GENERAL PROVISIONS

1       Sec. 370.001. SHORT TITLE. This chapter may be cited as the  
2 Regional Mobility Authority Act.

3       Sec. 370.002. [reserved]

4       Sec. 370.003. DEFINITIONS. In this chapter:

5           (1) "Authority" means a regional mobility authority  
6 organized under this chapter or under Section 361.003, as that  
7 section existed before September 1, 2003.

8           (2) "Board" means the board of directors of an  
9 authority.

10          (3) "Bond" includes a bond, certificate, note, or  
11 other obligation of an authority authorized by this chapter,  
12 another statute, or the Texas Constitution.

13          (4) "Bond proceeding" includes a bond resolution and a  
14 bond indenture authorized by the bond resolution, a credit  
15 agreement, loan agreement, or other agreement entered into in  
16 connection with the bond or the payments to be made under the  
17 agreement, and any other agreement between an authority and another  
18 person providing security for the payment of a bond.

19          (5) "Bond resolution" means an order or resolution of  
20 a board authorizing the issuance of a bond.

21          (6) "Bondholder" means the owner of a bond and  
22 includes a trustee acting on behalf of an owner of a bond under the  
23 terms of a bond indenture.

24          (7) "Comprehensive development agreement" means an  
25 agreement under Section 370.305.

26          (8) "Governmental entity" means a political  
27 subdivision of the state, including a municipality or a county, a

1 political subdivision of a county, a group of adjoining counties, a  
2 district organized or operating under Section 52, Article III, or  
3 Section 59, Article XVI, Texas Constitution, the department, a rail  
4 district, a transit authority, a nonprofit corporation, including a  
5 transportation corporation, that is created under Chapter 431, or  
6 any other public entity or instrumentality.

7 (9) "Highway" means a road, highway, farm-to-market  
8 road, or street under the supervision of the state or a political  
9 subdivision of this state.

10 (9-a) "Intermodal hub" means a central location where  
11 cargo containers can be easily and quickly transferred between  
12 trucks, trains, and airplanes.

13 (10) "Public utility facility" means:

14 (A) a water, wastewater, natural gas, or  
15 petroleum pipeline or associated equipment;

16 (B) an electric transmission or distribution  
17 line or associated equipment; or

18 (C) telecommunications information services, or  
19 cable television infrastructure or associated equipment, including  
20 fiber optic cable, conduit, and wireless communications  
21 facilities.

22 (11) "Revenue" means fares, fees, rents, tolls, and  
23 other money received by an authority from the ownership or  
24 operation of a transportation project.

25 (12) "Surplus revenue" means revenue that exceeds:

26 (A) an authority's debt service requirements for  
27 a transportation project, including the redemption or purchase

1 price of bonds subject to redemption or purchase as provided in the  
2 applicable bond proceedings;

3 (B) coverage requirements of a bond indenture for  
4 a transportation project;

5 (C) costs of operation and maintenance for a  
6 transportation project;

7 (D) cost of repair, expansion, or improvement of  
8 a transportation project;

9 (E) funds allocated for feasibility studies; and

10 (F) necessary reserves as determined by the  
11 authority.

12 (13) "System" means a transportation project or a  
13 combination of transportation projects designated as a system by  
14 the board under Section 370.034.

15 (14) "Transportation project" means:

16 (A) a turnpike project;

17 (B) a system;

18 (C) a passenger or freight rail facility,  
19 including:

20 (i) tracks;

21 (ii) a rail line;

22 (iii) switching, signaling, or other  
23 operating equipment;

24 (iv) a depot;

25 (v) a locomotive;

26 (vi) rolling stock;

27 (vii) a maintenance facility; and

1                   (viii) other real and personal property  
2 associated with a rail operation;

3                   (D) a roadway with a functional classification  
4 greater than a local road or rural minor collector;

5                   (E) a ferry;

6                   (F) an airport;

7                   (G) a pedestrian or bicycle facility;

8                   (H) an intermodal hub;

9                   (I) an automated conveyor belt for the movement  
10 of freight;

11                   (J) a border crossing inspection station;

12                   (K) an air quality improvement initiative;

13                   (L) a public utility facility; and

14                   (M) if applicable, projects and programs listed  
15 in the most recently approved state implementation plan for the  
16 area covered by the authority, including an early action compact.

17                   (14-a) "Transportation project" does not include a  
18 border inspection facility that serves a bridge system that had  
19 more than 900,000 commercial border crossings during the state  
20 fiscal year ending August 31, 2002.

21                   (15) "Turnpike project" means a highway of any number  
22 of lanes, with or without grade separations, owned or operated by an  
23 authority under this chapter and any improvement, extension, or  
24 expansion to that highway, including:

25                   (A) an improvement to relieve traffic congestion  
26 or promote safety;

27                   (B) a bridge, tunnel, overpass, underpass,

1 interchange, service road, ramp, entrance plaza, approach, or  
2 tollhouse;

3 (C) an administration, storage, or other  
4 building the authority considers necessary for the operation of a  
5 turnpike project;

6 (D) a parking area or structure, rest stop, park,  
7 and other improvement or amenity the authority considers necessary,  
8 useful, or beneficial for the operation of a turnpike project; and

9 (E) a property right, easement, or interest the  
10 authority acquires to construct or operate the turnpike project.

11 Sec. 370.004. CONSTRUCTION COSTS DEFINED. (a) The cost of  
12 acquisition, construction, improvement, extension, or expansion of  
13 a transportation project under this chapter includes the cost of:

14 (1) the actual acquisition, construction,  
15 improvement, extension, or expansion of the transportation  
16 project;

17 (2) the acquisition of real property, rights-of-way,  
18 property rights, easements, and other interests in real property;

19 (3) machinery and equipment;

20 (4) interest payable before, during, and for not more  
21 than three years after acquisition, construction, improvement,  
22 extension, or expansion as provided in the bond proceedings;

23 (5) traffic estimates, revenue estimates, engineering  
24 and legal services, plans, specifications, surveys, appraisals,  
25 construction cost estimates, and other expenses necessary or  
26 incidental to determining the feasibility of the acquisition,  
27 construction, improvement, extension, or expansion;

1           (6) necessary or incidental administrative, legal,  
2 and other expenses;

3           (7) compliance with laws, regulations, and  
4 administrative rulings, including any costs associated with  
5 necessary environmental mitigation measures;

6           (8) financing; and

7           (9) expenses related to the initial operation of the  
8 transportation project.

9           (b) Costs attributable to a transportation project and  
10 incurred before the issuance of bonds to finance the transportation  
11 project may be reimbursed from the proceeds of sale of the bonds.

12           [Sections 370.005-370.030 reserved for expansion]

13 SUBCHAPTER B. CREATION AND POWERS OF REGIONAL MOBILITY AUTHORITIES

14 Sec. 370.031. CREATION OF A REGIONAL MOBILITY AUTHORITY.

15 (a) At the request of one or more counties, the commission by order  
16 may authorize the creation of a regional mobility authority for the  
17 purposes of constructing, maintaining, and operating  
18 transportation projects in a region of this state. An authority is  
19 governed in accordance with Subchapter F.

20           (b) An authority may not be created without the approval of  
21 the commission under Subsection (a) and the approval of the  
22 commissioners court of each county that will be a part of the  
23 authority.

24           Sec. 370.0315. ADDITION AND WITHDRAWAL OF COUNTIES. (a)  
25 One or more counties may petition the commission for approval to  
26 become part of an existing authority. The commission may approve  
27 the petition only if:



1           (1) the board has agreed to the addition; and

2           (2) the commission finds that the affected political  
3 subdivisions in the county or counties will be adequately  
4 represented on the board.

5           (b) One or more counties may petition the commission for  
6 approval to withdraw from an authority. The commission may approve  
7 the petition only if:

8           (1) the authority has no bonded indebtedness; or

9           (2) the authority has debt other than bonded  
10 indebtedness, but the board has agreed to the withdrawal.

11           (c) A county may not become part of an authority or withdraw  
12 from an authority without the approval of the commission.

13           Sec. 370.032. NATURE OF REGIONAL MOBILITY AUTHORITY. (a)  
14 An authority is a body politic and corporate and a political  
15 subdivision of this state.

16           (b) An authority is a governmental unit as that term is  
17 defined in Section 101.001, Civil Practice and Remedies Code.

18           (c) The exercise by an authority of the powers conferred by  
19 this chapter in the acquisition, design, financing, construction,  
20 operation, and maintenance of a transportation project or system  
21 is:

22           (1) in all respects for the benefit of the people of  
23 the counties in which an authority operates and of the people of  
24 this state, for the increase of their commerce and prosperity, and  
25 for the improvement of their health, living conditions, and public  
26 safety; and

27           (2) an essential governmental function of the state.

1        (d) The operations of an authority are governmental, not  
2 proprietary, functions.

3        Sec. 370.033. GENERAL POWERS. (a) An authority, through  
4 its board, may:

5            (1) adopt rules for the regulation of its affairs and  
6 the conduct of its business;

7            (2) adopt an official seal;

8            (3) study, evaluate, design, finance, acquire,  
9 construct, maintain, repair, and operate transportation projects,  
10 individually or as one or more systems, provided that a  
11 transportation project that is subject to Subpart C, 23 C.F.R. Part  
12 450, is:

13            (A) included in the plan approved by the  
14 applicable metropolitan planning organization; and

15            (B) consistent with the statewide transportation  
16 plan and the statewide transportation improvement program;

17            (4) acquire, hold, and dispose of property in the  
18 exercise of its powers and the performance of its duties under this  
19 chapter;

20            (5) enter into contracts or operating agreements with  
21 a similar authority, another governmental entity, or an agency of  
22 the United States, a state of the United States, the United Mexican  
23 States, or a state of the United Mexican States;

24            (6) enter into contracts or agreements necessary or  
25 incidental to its powers and duties under this chapter;

26            (7) cooperate and work directly with property owners  
27 and governmental entities and officials to support an activity

1 required to promote or develop a transportation project;

2 (8) employ and set the compensation and benefits of  
3 administrators, consulting engineers, attorneys, accountants,  
4 construction and financial experts, superintendents, managers,  
5 full-time and part-time employees, agents, consultants, and other  
6 persons as the authority considers necessary or useful;

7 (9) notwithstanding Sections 221.003 and 222.031 and  
8 subject to Subsections (j) and (m), apply for, directly or  
9 indirectly receive and spend loans, gifts, grants, and other  
10 contributions for any purpose of this chapter, including the  
11 construction of a transportation project, and receive and spend  
12 contributions of money, property, labor, or other things of value  
13 from any source, including the United States, a state of the United  
14 States, the United Mexican States, a state of the United Mexican  
15 States, the commission, the department, a subdivision of this  
16 state, or a governmental entity or private entity, to be used for  
17 the purposes for which the grants, loans, or contributions are  
18 made, and enter into any agreement necessary for the grants, loans,  
19 or contributions;

20 (10) install, construct, or contract for the  
21 construction of public utility facilities, direct the time and  
22 manner of construction of a public utility facility in, on, along,  
23 over, or under a transportation project, or request the removal or  
24 relocation of a public utility facility in, on, along, over, or  
25 under a transportation project;

26 (11) organize a corporation under Chapter 431 for the  
27 promotion and development of transportation projects;

1           (12) adopt and enforce rules not inconsistent with  
2 this chapter for the use of any transportation project, including  
3 tolls, fares, or other user fees, speed and weight limits, and  
4 traffic and other public safety rules, provided that an authority  
5 must consider the same factors that the Texas Turnpike Authority  
6 division of the department must consider in altering a prima facie  
7 speed limit under Section 545.354;

8           (13) enter into leases, operating agreements, service  
9 agreements, licenses, franchises, and similar agreements with a  
10 public or private party governing the party's use of all or any  
11 portion of a transportation project and the rights and obligations  
12 of the authority with respect to a transportation project;

13           (14) borrow money from or enter into a loan agreement  
14 or other arrangement with the state infrastructure bank; and

15           (15) do all things necessary or appropriate to carry  
16 out the powers and duties expressly granted or imposed by this  
17 chapter.

18           (b) Except as provided by this subsection, property that is  
19 a part of a transportation project of an authority is not subject to  
20 condemnation or the exercise of the power of eminent domain by any  
21 person, including a governmental entity. The department may  
22 condemn property that is a part of a transportation project of an  
23 authority if the property is needed for the construction,  
24 reconstruction, or expansion of a state highway or rail facility.

25           (c) An authority may, if requested by the commission,  
26 perform any function not specified by this chapter to promote or  
27 develop a transportation project in the authority's area of

1 jurisdiction.

2 (d) An authority may sue and be sued and plead and be  
3 impleaded in its own name.

4 (e) An authority may rent, lease, franchise, license, or  
5 make portions of its properties available for use by others in  
6 furtherance of its powers under this chapter by increasing the  
7 feasibility or the revenue of a transportation project. If the  
8 transportation project is a project other than a public utility  
9 facility an authority may rent, lease, franchise or make property  
10 available only to the extent that the renting, lease or franchise  
11 benefits the users of the project.

12 (f) An authority and a governmental entity may enter into a  
13 contract, agreement, interlocal agreement, or other similar  
14 arrangement under which the authority may plan, design, construct,  
15 or operate a transportation project on behalf of the governmental  
16 entity. An authority may enter into a contract with the department  
17 under which the authority will plan, develop, operate, or maintain  
18 a transportation project on behalf of the department, subject to  
19 the transportation project being in the authority's area of  
20 jurisdiction.

21 (g) Payments to be made to an authority under a contract  
22 described by Subsection (f) constitute operating expenses of the  
23 transportation project or system that is to be operated under the  
24 contract. The contract may extend for the number of years as agreed  
25 to by the parties.

26 (h) An authority shall adopt a written drug and alcohol  
27 policy restricting the use of controlled substances by officers and

1 employees of the authority, prohibiting the consumption of  
2 alcoholic beverages by employees while on duty, and prohibiting  
3 employees from working for the authority while under the influence  
4 of a controlled substance or alcohol. An authority may adopt  
5 policies regarding the testing of employees suspected of being in  
6 violation of the authority's drug and alcohol policy. The policy  
7 shall provide that, unless required by court order or permitted by  
8 the person who is the subject of the testing, the authority shall  
9 keep the results of the test confidential.

10 (i) An authority shall adopt written procedures governing  
11 its procurement of goods and services that are consistent with  
12 general laws applicable to the authority.

13 (j) An authority may not apply for federal highway or rail  
14 funds without the approval of the department.

15 (k) An authority may not directly provide water,  
16 wastewater, natural gas, petroleum pipeline, electric  
17 transmission, electric distribution, telecommunications,  
18 information, or cable television services.

19 (l) If an authority establishes an airport in Central Texas,  
20 the authority may not establish the airport at a location  
21 prohibited to the department by Section 21.069(c).

22 (m) If an authority receives money from the general revenue  
23 fund or the state highway fund it may use the money only to acquire,  
24 design, finance, construct, operate, or maintain a turnpike project  
25 under Section 370.003(14)(A) or (D).

26 (n) Nothing in this chapter or any contractual right  
27 obtained under a contract with an authority under this chapter

1 supersedes or renders ineffective any provision of another law  
2 applicable to the owner or operator of a public utility facility,  
3 including any provision of the utilities code regarding licensing,  
4 certification, or regulatory jurisdiction of the Public Utility  
5 Commission of Texas or the Railroad Commission of Texas.

6 Sec. 370.034. ESTABLISHMENT OF TRANSPORTATION SYSTEMS. (a)  
7 If an authority determines that the traffic needs of the counties in  
8 which it operates and the traffic needs of the surrounding region  
9 could be most efficiently and economically met by jointly operating  
10 two or more transportation projects as one operational and  
11 financial enterprise, it may create a system made up of those  
12 transportation projects. An authority may create more than one  
13 system and may combine two or more systems into one system. An  
14 authority may finance, acquire, construct, and operate additional  
15 transportation projects as additions to or expansions of a system  
16 if the authority determines that the transportation project could  
17 most efficiently and economically be acquired or constructed if it  
18 were a part of the system and that the addition will benefit the  
19 system.

20 (b) The revenue of a system shall be accounted for  
21 separately and may not be commingled with the revenue of a  
22 transportation project that is not a part of the system or with the  
23 revenue of another system.

24 Sec. 370.035. CONVERSION AND TRANSFER OF STATE HIGHWAY  
25 SYSTEM PROJECTS. (a) The commission by order may convert a segment  
26 of the free state highway system to a turnpike project and transfer  
27 that segment to an authority, or may transfer an existing turnpike

1 project that is part of the state highway system, whether  
2 previously tolled or not, to an authority if:

3 (1) the commission determines that the proposed  
4 transfer is an integral part of the region's overall plan to improve  
5 mobility in the region;

6 (2) the commission determines that the public has a  
7 reasonable alternative route on nontoll roads;

8 (3) the authority agrees to assume all liability and  
9 responsibility for the maintenance and operation of the turnpike  
10 project on its transfer; and

11 (4) approved by the governor.

12 (b) An authority shall reimburse the commission for the cost  
13 of a transferred turnpike project unless the commission determines  
14 that the transfer will result in a substantial net benefit to the  
15 state, the department, and the traveling public that equals or  
16 exceeds that cost.

17 (c) In computing the cost of the turnpike project, the  
18 commission shall:

19 (1) include the total amount spent by the department  
20 for the original construction of the turnpike project, including  
21 the costs associated with the preliminary engineering and design  
22 engineering for plans, specifications, and estimates, the  
23 acquisition of necessary rights-of-way, and actual construction of  
24 the turnpike project and all necessary appurtenant facilities; and

25 (2) consider the anticipated future costs of  
26 expanding, improving, maintaining, operating, or extending the  
27 turnpike project to be incurred by the authority and not by the



1 department if the turnpike project is transferred.

2 (d) The commission may, at the time a turnpike project is  
3 transferred, remove the turnpike project from the state highway  
4 system. After a transfer, the commission has no liability,  
5 responsibility, or duty for the maintenance or operation of the  
6 turnpike project.

7 (e) Before transferring a turnpike project that is part of  
8 the state highway system under this section, the commission shall  
9 conduct a public hearing at which interested persons shall be  
10 allowed to speak on the proposed transfer. Notice of the hearing  
11 must be published in the Texas Register, one or more newspapers of  
12 general circulation in the counties in which the turnpike project  
13 is located, and a newspaper, if any, published in the counties of  
14 the applicable authority.

15 (f) The commission shall adopt rules to implement this  
16 section. The rules shall include criteria and guidelines for the  
17 approval of a transfer of a segment of a highway.

18 (g) An authority shall adopt rules providing criteria and  
19 guidelines for approval of the transfer of a turnpike project under  
20 this section.

21 (h) The commission may not transfer the Queen Isabella  
22 Causeway in Cameron County to an authority under this section.

23 Sec. 370.036. TRANSFER OF BONDED TURNPIKE PROJECT TO  
24 DEPARTMENT. (a) An authority may transfer to the department a  
25 turnpike project of the authority that has outstanding bonded  
26 indebtedness if the commission:

27 (1) agrees to the transfer; and

1           (2) agrees to assume the outstanding bonded  
2 indebtedness.

3           (b) The commission may assume the outstanding bonded  
4 indebtedness only if the assumption:

5           (1) is not prohibited under the terms of an existing  
6 trust agreement or indenture securing bonds or other obligations  
7 issued by the commission for another project;

8           (2) does not prevent the commission from complying  
9 with covenants of the commission under an existing trust agreement  
10 or indenture; and

11           (3) does not cause a rating agency maintaining a  
12 rating on outstanding obligations of the commission to lower the  
13 existing rating.

14           (c) If the commission agrees to the transfer under  
15 Subsection (a), the authority shall convey the turnpike project and  
16 any real property acquired to construct or operate the turnpike  
17 project to the department.

18           (d) At the time of a conveyance under this section, the  
19 commission shall designate the turnpike project as part of the  
20 state highway system. After the designation, the authority has no  
21 liability, responsibility, or duty to maintain or operate the  
22 transferred turnpike project.

23           Sec. 370.037. TRANSFER OF FERRY CONNECTING STATE HIGHWAYS.

24           (a) The commission by order may transfer a ferry operated under  
25 Section 342.001 to an authority if:

26           (1) the commission determines that the proposed  
27 transfer is an integral part of the region's overall plan to improve

1 mobility in the region; and

2 (2) the authority:

3 (A) agrees to the transfer; and

4 (B) agrees to assume all liability and  
5 responsibility for the maintenance and operation of the ferry on  
6 its transfer.

7 (b) An authority shall reimburse the commission for the cost  
8 of a transferred ferry unless the commission determines that the  
9 transfer will result in a substantial net benefit to the state, the  
10 department, and the traveling public that equals or exceeds that  
11 cost.

12 (c) In computing the cost of the ferry, the commission  
13 shall:

14 (1) include the total amount spent by the department  
15 for the original construction of the ferry, including the costs  
16 associated with the preliminary engineering and design engineering  
17 for plans, specifications, and estimates, the acquisition of  
18 necessary rights-of-way, and actual construction of the ferry and  
19 all necessary appurtenant facilities; and

20 (2) consider the anticipated future costs of  
21 expanding, improving, maintaining, or operating the ferry to be  
22 incurred by the authority and not by the department if the ferry is  
23 transferred.

24 (d) The commission shall, at the time the ferry is  
25 transferred, remove the ferry from the state highway system. After  
26 a transfer, the commission has no liability, responsibility, or  
27 duty for the maintenance or operation of the ferry.

1       (e) Before transferring a ferry that is a part of the state  
2 highway system under this section, the commission shall conduct a  
3 public hearing at which interested persons shall be allowed to  
4 speak on the proposed transfer. Notice of the hearing must be  
5 published in the Texas Register, one or more newspapers of general  
6 circulation in the counties in which the ferry is located, and a  
7 newspaper, if any, published in the counties of the applicable  
8 authority.

9       (f) The commission shall adopt rules to implement this  
10 section. The rules must include criteria and guidelines for the  
11 approval of a transfer of a ferry.

12       (g) An authority shall adopt rules establishing criteria  
13 and guidelines for approval of the transfer of a ferry under this  
14 section.

15       (h) An authority may temporarily charge a toll for use of a  
16 ferry transferred under this section to pay the costs necessary for  
17 an expansion of the ferry. An authority may permanently charge a  
18 toll for use of ferry facilities that are an expansion of the ferry  
19 transferred under this section.

20       (i) The commission may not transfer a ferry under this  
21 section if the ferry is located in a municipality with a population  
22 of 5,000 or less unless the city council of the municipality  
23 approves the transfer.

24       Sec. 370.038. COMMISSION RULES. (a) The commission shall  
25 adopt rules that:

26               (1) govern the creation of an authority;

27               (2) govern the commission's approval of a project

1 under Section 370.187 and other commission approvals required by  
2 this chapter;

3 (3) establish design and construction standards for a  
4 transportation project that will connect with a highway in the  
5 state highway system or a department rail facility;

6 (4) establish minimum audit and reporting  
7 requirements and standards;

8 (5) establish minimum ethical standards for authority  
9 directors and employees; and

10 (6) govern the authority of an authority to contract  
11 with the United Mexican States or a state of the United Mexican  
12 States.

13 (b) The commission shall appoint a rules advisory committee  
14 to advise the department and the commission on the development of  
15 the commission's initial rules required by this section. The  
16 committee must include one or more members representing an existing  
17 authority, if applicable. Chapter 2110, Government Code, does not  
18 apply to the committee. This subsection expires on the date the  
19 commission adopts initial rules under this section.

20 [Sections 370.039-370.070 reserved for expansion]

21 SUBCHAPTER C. FEASIBILITY OF REGIONAL TRANSPORTATION PROJECTS

22 Sec. 370.071. EXPENDITURES FOR FEASIBILITY STUDIES. (a)  
23 An authority may pay the expenses of studying the cost and  
24 feasibility and any other expenses relating to the preparation and  
25 issuance of bonds for a proposed transportation project by:

26 (1) using legally available revenue derived from an  
27 existing transportation project;

1           (2) borrowing money and issuing bonds or entering into  
2 a loan agreement payable out of legally available revenue  
3 anticipated to be derived from the operation of an existing  
4 transportation project; or

5           (3) pledging to the payment of the bonds or a loan  
6 agreement legally available revenue anticipated to be derived from  
7 the operation of transportation projects or revenue legally  
8 available to the authority from another source.

9           (b) Money spent under this section for a proposed  
10 transportation project must be reimbursed to the transportation  
11 project from which the money was spent from the proceeds of bonds  
12 issued for the acquisition and construction of the proposed  
13 transportation project.

14           (c) The use of any money of a transportation project to  
15 study the feasibility of another transportation project or used to  
16 repay any money used for that purpose does not constitute an  
17 operating expense of the transportation project producing the  
18 revenue and may be paid only from the surplus money of the  
19 transportation project as determined by the authority.

20           Sec. 370.072. FEASIBILITY STUDY FUND. (a) An authority may  
21 maintain a feasibility study fund. The fund is a revolving fund  
22 held in trust by a banking institution chosen by the authority and  
23 shall be kept separate from the money for a transportation project.

24           (b) An authority may transfer an amount from a surplus fund  
25 established for a transportation project to the authority's  
26 feasibility study fund if the remainder of the surplus fund after  
27 the transfer is not less than any minimum amount required by the

1 bond proceedings to be retained for that transportation project.

2 (c) Money in the feasibility study fund may be used only to  
3 pay the expenses of studying the cost and feasibility and any other  
4 expenses relating to:

5 (1) the preparation and issuance of bonds for the  
6 acquisition and construction of a proposed transportation project;

7 (2) the financing of the improvement, extension, or  
8 expansion of an existing transportation project; and

9 (3) private participation, as authorized by law, in  
10 the financing of a proposed transportation project, the refinancing  
11 of an existing transportation project or system, or the  
12 improvement, extension, or expansion of a transportation project.

13 (d) Money spent under Subsection (c) for a proposed  
14 transportation project must be reimbursed from the proceeds of  
15 revenue bonds issued for, or other proceeds that may be used for,  
16 the acquisition, construction, improvement, extension, expansion,  
17 or operation of the transportation project.

18 (e) For a purpose described by Subsection (c), an authority  
19 may borrow money and issue promissory notes or other  
20 interest-bearing evidences of indebtedness payable out of its  
21 feasibility study fund, pledging money in the fund or to be placed  
22 in the fund.

23 Sec. 370.073. FEASIBILITY STUDY BY MUNICIPALITY, COUNTY,  
24 OTHER GOVERNMENTAL ENTITY, OR PRIVATE GROUP. (a) One or more  
25 municipalities, counties, or other governmental entities, a  
26 combination of municipalities, counties, and other governmental  
27 entities, or a private group or combination of individuals in this

1 state may pay all or part of the expenses of studying the cost and  
2 feasibility and any other expenses relating to:

3 (1) the preparation and issuance of bonds for the  
4 acquisition or construction of a proposed transportation project by  
5 an authority;

6 (2) the improvement, extension, or expansion of an  
7 existing transportation project of the authority; or

8 (3) the use of private participation under applicable  
9 law in connection with the acquisition, construction, improvement,  
10 expansion, extension, maintenance, repair, or operation of a  
11 transportation project by an authority.

12 (b) Money spent under Subsection (a) for a proposed  
13 transportation project is reimbursable without interest and with  
14 the consent of the authority to the person paying the expenses  
15 described in Subsection (a) out of the proceeds from revenue bonds  
16 issued for or other proceeds that may be used for the acquisition,  
17 construction, improvement, extension, expansion, maintenance,  
18 repair, or operation of the transportation project.

19 [Sections 370.074-370.110 reserved for expansion]

20 SUBCHAPTER D. TRANSPORTATION PROJECT FINANCING

21 Sec. 370.111. TRANSPORTATION REVENUE BONDS. (a) An  
22 authority, by bond resolution, may authorize the issuance of bonds  
23 to pay all or part of the cost of a transportation project, to  
24 refund any bonds previously issued for the transportation project,  
25 or to pay for all or part of the cost of a transportation project  
26 that will become a part of another system.

27 (b) As determined in the bond resolution, the bonds of each



1 issue shall:

2 (1) be dated;

3 (2) bear interest at the rate or rates provided by the  
4 bond resolution and beginning on the dates provided by the bond  
5 resolution and as authorized by law, or bear no interest;

6 (3) mature at the time or times provided by the bond  
7 resolution, not exceeding 40 years from their date or dates; and

8 (4) be made redeemable before maturity at the price or  
9 prices and under the terms provided by the bond resolution.

10 (c) An authority may sell the bonds at public or private  
11 sale in the manner and for the price it determines to be in the best  
12 interest of the authority.

13 (d) The proceeds of each bond issue shall be disbursed in  
14 the manner and under any restrictions provided in the bond  
15 resolution.

16 (e) Additional bonds may be issued in the same manner to pay  
17 the costs of a transportation project. Unless otherwise provided  
18 in the bond resolution, the additional bonds shall be on a parity,  
19 without preference or priority, with bonds previously issued and  
20 payable from the revenue of the transportation project. In  
21 addition, an authority may issue bonds for a transportation project  
22 secured by a lien on the revenue of the transportation project  
23 subordinate to the lien on the revenue securing other bonds issued  
24 for the transportation project.

25 (f) If the proceeds of a bond issue exceed the cost of the  
26 transportation project for which the bonds were issued, the surplus  
27 shall be segregated from the other money of the authority and used

1 only for the purposes specified in the bond resolution.

2 (g) Bonds issued and delivered under this chapter and  
3 interest coupons on the bonds are a security under Chapter 8,  
4 Business & Commerce Code.

5 (h) Bonds issued under this chapter and income from the  
6 bonds, including any profit made on the sale or transfer of the  
7 bonds, are exempt from taxation in this state.

8 (i) Bonds issued under this chapter shall be considered  
9 authorized investments under Chapter 2256, Government Code, for  
10 this state, any governmental entity, and any other public entity  
11 proposing to invest in the bonds.

12 Sec. 370.112. INTERIM BONDS. (a) An authority may, before  
13 issuing definitive bonds, issue interim bonds, with or without  
14 coupons, exchangeable for definitive bonds.

15 (b) The interim bonds may be authorized and issued in  
16 accordance with this chapter, without regard to a requirement,  
17 restriction, or procedural provision in any other law.

18 (c) A bond resolution authorizing interim bonds may provide  
19 that the interim bonds recite that the bonds are issued under this  
20 chapter. The recital is conclusive evidence of the validity and the  
21 regularity of the bonds' issuance.

22 Sec. 370.113. PAYMENT OF BONDS; STATE AND COUNTY CREDIT.

23 (a) The principal of, interest on, and any redemption premium on  
24 bonds issued by an authority are payable solely from:

25 (1) the revenue of the transportation project for  
26 which the bonds are issued;

27 (2) payments made under an agreement with the

1 commission, the department, or other governmental entity as  
2 provided by Subchapter G;

3 (3) money derived from any other source available to  
4 the authority, other than money derived from a transportation  
5 project that is not part of the same system or money derived from a  
6 different system, except to the extent that the surplus revenue of a  
7 transportation project or system has been pledged for that purpose;  
8 and

9 (4) amounts received under a credit agreement relating  
10 to the transportation project for which the bonds are issued.

11 (b) Bonds issued under this chapter do not constitute a debt  
12 of this state or of a governmental entity, or a pledge of the faith  
13 and credit of this state or of a governmental entity. Each bond  
14 must contain on its face a statement to the effect that the state,  
15 the authority, or any governmental entity is not obligated to pay  
16 the bond or the interest on the bond from a source other than the  
17 amount pledged to pay the bond and the interest on the bond, and  
18 neither the faith and credit and taxing power of this state or of  
19 any governmental entity are pledged to the payment of the principal  
20 of or interest on the bond. This subsection does not apply to a  
21 governmental entity that has entered into an agreement under  
22 Section 370.303.

23 (c) An authority may not incur a financial obligation that  
24 cannot be paid from revenue derived from owning or operating the  
25 authority's transportation projects or from other revenue provided  
26 by law.

27 Sec. 370.114. EFFECT OF LIEN. (a) A lien on or a pledge of

1 revenue from a transportation project under this chapter or on a  
2 reserve, replacement, or other fund established in connection with  
3 a bond issued under this chapter:

4 (1) is enforceable at the time of payment for and  
5 delivery of the bond;

6 (2) applies to each item on hand or subsequently  
7 received;

8 (3) applies without physical delivery of an item or  
9 other act; and

10 (4) is enforceable against any person having a claim,  
11 in tort, contract, or other remedy, against the applicable  
12 authority without regard to whether the person has notice of the  
13 lien or pledge.

14 (b) A bond resolution is not required to be recorded except  
15 in the regular records of the authority.

16 Sec. 370.115. BOND INDENTURE. (a) Bonds issued by an  
17 authority under this chapter may be secured by a bond indenture  
18 between the authority and a corporate trustee that is a trust  
19 company or a bank that has the powers of a trust company.

20 (b) A bond indenture may pledge or assign the revenues to be  
21 received but may not convey or mortgage any part of a transportation  
22 project.

23 (c) A bond indenture may:

24 (1) set forth the rights and remedies of the  
25 bondholders and the trustee;

26 (2) restrict the individual right of action by  
27 bondholders as is customary in trust agreements or indentures of

1 trust securing corporate bonds and debentures; and

2 (3) contain provisions the authority determines  
3 reasonable and proper for the security of the bondholders,  
4 including covenants:

5 (A) establishing the authority's duties relating  
6 to:

7 (i) the acquisition of property;

8 (ii) the construction, maintenance,  
9 operation, and repair of and insurance for a transportation  
10 project; and

11 (iii) custody, safeguarding, and  
12 application of money;

13 (B) prescribing events that constitute default;

14 (C) prescribing terms on which any or all of the  
15 bonds become or may be declared due before maturity; and

16 (D) relating to the rights, powers, liabilities,  
17 or duties that arise on the breach of a duty of the authority.

18 (d) An expense incurred in carrying out a trust agreement  
19 may be treated as part of the cost of operating the transportation  
20 project.

21 (e) In addition to all other rights by mandamus or other  
22 court proceeding, an owner or trustee of a bond issued under this  
23 chapter may enforce the owner's rights against an issuing  
24 authority, the authority's employees, the authority's board, or an  
25 agent or employee of the authority's board and is entitled to:

26 (1) require the authority or the board to impose and  
27 collect tolls, fares, fees, charges, and other revenue sufficient

1 to carry out any agreement contained in the bond proceedings; and

2 (2) apply for and obtain the appointment of a receiver  
3 for the transportation project or system.

4 Sec. 370.116. APPROVAL OF BONDS BY ATTORNEY GENERAL. (a)

5 An authority shall submit to the attorney general for examination  
6 the record of proceedings relating to bonds authorized under this  
7 chapter. The record shall include the bond proceedings and any  
8 contract securing or providing revenue for the payment of the  
9 bonds.

10 (b) If the attorney general determines that the bonds, the  
11 bond proceedings, and any supporting contract are authorized by  
12 law, the attorney general shall approve the bonds and deliver to the  
13 comptroller:

14 (1) a copy of the legal opinion of the attorney general  
15 stating the approval; and

16 (2) the record of proceedings relating to the  
17 authorization of the bonds.

18 (c) On receipt of the legal opinion of the attorney general  
19 and the record of proceedings relating to the authorization of the  
20 bonds, the comptroller shall register the record of proceedings.

21 (d) After approval by the attorney general, the bonds, the  
22 bond proceedings, and any supporting contract are valid,  
23 enforceable, and incontestable in any court or other forum for any  
24 reason and are binding obligations according to their terms for all  
25 purposes.

26 Sec. 370.117. FURNISHING OF INDEMNIFYING BONDS OR PLEDGES  
27 OF SECURITIES. (a) A bank or trust company incorporated under the

1 laws of this state that acts as depository of the proceeds of bonds  
2 or of revenue may furnish indemnifying bonds or pledge securities  
3 that an authority requires.

4 (b) Bonds of an authority may secure the deposit of public  
5 money of this state or a political subdivision of this state to the  
6 extent of the lesser of the face value of the bonds or their market  
7 value.

8 Sec. 370.118. APPLICABILITY OF OTHER LAW; CONFLICTS. All  
9 laws affecting the issuance of bonds by local governmental  
10 entities, including Chapters 1201, 1202, 1204, and 1371, Government  
11 Code, apply to bonds issued under this chapter. To the extent of a  
12 conflict between those laws and this chapter, the provisions of  
13 this chapter prevail.

14 [Sections 370.119-370.160 reserved for expansion]

15 SUBCHAPTER E. ACQUISITION, CONSTRUCTION, AND OPERATION OF  
16 TRANSPORTATION PROJECTS

17 Sec. 370.161. TRANSPORTATION PROJECTS EXTENDING INTO OTHER  
18 COUNTIES. (a) An authority may acquire, construct, operate,  
19 maintain, expand, or extend a transportation project only in:

20 (1) a county that is a part of the authority;

21 (2) a county in this state that is not a part of the  
22 authority if:

23 (A) the transportation project in that county is  
24 a continuation of a transportation project of the authority  
25 extending from a county adjacent to that county;

26 (B) the county is given an opportunity to become  
27 part of the authority on terms and conditions acceptable to the

1 authority and that county; and

2 (C) the commissioners court of the county agrees  
3 to the proposed acquisition, construction, operation, maintenance,  
4 expansion, or extension of the transportation project in that  
5 county; or

6 (3) a county in another state or the United Mexican  
7 States if:

8 (A) each governing body of a political  
9 subdivision in which the project will be located agrees to the  
10 proposed acquisition, construction, operation, maintenance,  
11 expansion, or extension;

12 (B) the project will bring significant benefits  
13 to the counties in this state that are part of the authority;

14 (C) the county in the other state is adjacent to a  
15 county that is:

16 (i) part of the authority constructing,  
17 operating, maintaining, expanding, or extending the transportation  
18 project; and

19 (ii) has a municipality with a population  
20 of 500,000 or more; and

21 (D) the governor approves the proposed  
22 construction, operation, maintenance, expansion, or extension.

23 (b) A municipality that borders the United Mexican States  
24 and has a population of 500,000 or more has the same authority as a  
25 county to create and participate in an authority. A municipality  
26 creating or participating in an authority has the same powers and  
27 duties as a county participating in an authority, the governing



1 body of the municipality has the same powers and duties as the  
2 commissioners court of a county participating in an authority, and  
3 an elected member of the municipality's governing body has the same  
4 powers and duties as a commissioner of a county that is  
5 participating in an authority.

6 Sec. 370.162. POWERS AND PROCEDURES OF AUTHORITY IN  
7 ACQUIRING PROPERTY. (a) An authority may construct or improve a  
8 transportation project on real property, including a right-of-way  
9 acquired by the authority or provided to the authority for that  
10 purpose by the commission, a political subdivision of this state,  
11 or any other governmental entity.

12 (b) Except as provided by this chapter, an authority has the  
13 same powers and may use the same procedures as the commission in  
14 acquiring property.

15 Sec. 370.163. ACQUISITION OF PROPERTY. (a) Except as  
16 otherwise provided by this subchapter, the governing body of an  
17 authority has the same powers and duties relating to the  
18 condemnation and acquisition of real property for a transportation  
19 project that the commission and the department have under  
20 Subchapter D, Chapter 361, and Section 361.233 relating to the  
21 condemnation or purchase of real property for a turnpike project.  
22 Notwithstanding Section 361.135(a), the concurrence of the  
23 commission is not a prerequisite to the exercise of the power of  
24 condemnation by the governing body of the authority.

25 (b) An authority's acquisition of any property of the  
26 commission under this or another section of this chapter or an  
27 authority's relocation, rerouting, disruption, or alteration of a

1 facility of the commission is considered a conversion of a state  
2 highway system under Section 370.035 and is subject to each  
3 requirement, condition, or limitation provided by that section.

4 (c) The authority granted under this section does not  
5 include the authority to condemn a bridge connecting this state to  
6 the United Mexican States that is owned by a county or municipality.

7 Sec. 370.164. DECLARATION OF TAKING. (a) An authority may  
8 file a declaration of taking with the clerk of the court:

9 (1) in which the authority files a condemnation  
10 petition under Chapter 21, Property Code; or

11 (2) to which the case is assigned.

12 (b) An authority may file the declaration of taking  
13 concurrently with or subsequent to the filing of the condemnation  
14 petition but may not file the declaration after the special  
15 commissioners have made an award in the condemnation proceeding.

16 (c) An authority may not file a declaration of taking before  
17 the completion of all:

18 (1) environmental documentation, including a final  
19 environmental impact statement or a record of decision, that is  
20 required by federal or state law;

21 (2) public hearings and meetings, including those held  
22 in connection with the environmental rules adopted by the authority  
23 under Section 370.188, that are required by federal or state law;  
24 and

25 (3) notifications required by the rules adopted by the  
26 authority under Section 370.188.

27 (d) The declaration of taking must include:

1           (1) a specific reference to the legislative authority  
2 for the condemnation;

3           (2) a description and plot plan of the real property to  
4 be condemned, including the following information if applicable:

5                   (A) the municipality in which the property is  
6 located;

7                   (B) the street address of the property; and

8                   (C) the lot and block number of the property;

9           (3) a statement of the property interest to be  
10 condemned;

11           (4) the name and address of each property owner that  
12 the authority can obtain after reasonable investigation and a  
13 description of the owner's interest in the property; and

14           (5) a statement that immediate possession of all or  
15 part of the property to be condemned is necessary for the timely  
16 construction of a transportation project.

17           (e) A deposit to the registry of the court of an amount equal  
18 to the appraised value as determined by the authority of the  
19 property to be condemned must accompany the declaration of taking.

20           (f) The date on which the declaration is filed is the date of  
21 taking for the purpose of assessing damages to which a property  
22 owner is entitled.

23           (g) After a declaration of taking is filed, the case shall  
24 proceed as any other case in eminent domain under Chapter 21,  
25 Property Code.

26           Sec. 370.165. POSSESSION OF PROPERTY. (a) Immediately on  
27 the filing of a declaration of taking, the authority shall serve a

1 copy of the declaration on each person possessing an interest in the  
2 condemned property by a method prescribed by Section 21.016(d),  
3 Property Code. The authority shall file evidence of the service  
4 with the clerk of the court. On filing of that evidence, the  
5 authority may take possession of the property pending the  
6 litigation.

7 (b) If the condemned property is a homestead or a portion of  
8 a homestead as defined by Section 41.002, Property Code, the  
9 authority may not take possession before the 91st day after the date  
10 of service under Subsection (a).

11 (c) A property owner or tenant who refuses to vacate the  
12 property or yield possession is subject to forcible entry and  
13 detainer under Chapter 24, Property Code.

14 Sec. 370.166. PARTICIPATION PAYMENT FOR REAL PROPERTY. (a)  
15 As an alternative to paying for an interest in real property or a  
16 real property right with a single fixed payment, the authority may,  
17 with the owner's consent, pay the owner by means of a participation  
18 payment.

19 (b) A right to receive a participation payment under this  
20 section is subordinate to any right to receive a fee as payment on  
21 the principal of or interest on a bond that is issued for the  
22 construction of the applicable segment.

23 (c) In this section, "participation payment" means an  
24 intangible legal right to receive a percentage of one or more  
25 identified fees related to a segment constructed by the authority.

26 Sec. 370.167. SEVERANCE OF REAL PROPERTY. (a) If a  
27 transportation project of an authority severs a property owner's

1 real property, the authority shall pay:

2 (1) the value of the property acquired; and

3 (2) the damages, if any, to the remainder of the  
4 owner's property caused by the severance, including damages caused  
5 by the inaccessibility of one tract from the other.

6 (b) At its option, an authority may negotiate for and  
7 purchase the severed real property or any part of the severed real  
8 property if the authority and the property owner agree on terms for  
9 the purchase. An authority may sell and dispose of severed real  
10 property that it determines is not necessary or useful to the  
11 authority. Severed property must be appraised before being offered  
12 for sale by the authority.

13 Sec. 370.168. ACQUISITION OF RIGHTS IN PUBLIC REAL  
14 PROPERTY. (a) An authority may use real property, including  
15 submerged land, streets, alleys, and easements, owned by this state  
16 or a local government that the authority considers necessary for  
17 the construction or operation of a transportation project.

18 (b) This state or a local government having charge of public  
19 real property may consent to the use of the property for a  
20 transportation project.

21 (c) Except as provided by Section 370.035, this state or a  
22 local government may convey, grant, or lease to an authority real  
23 property, including highways and other real property devoted to  
24 public use and rights or easements in real property, that may be  
25 necessary or convenient to accomplish a purpose of the authority,  
26 including the construction or operation of a transportation  
27 project. A conveyance, grant, or lease under this section may be

1 made without advertising, court order, or other action other than  
2 the normal action of this state or local government necessary for a  
3 conveyance, grant, or lease.

4 (d) This section does not deprive the School Land Board of  
5 the power to execute a lease for the development of oil, gas, and  
6 other minerals on state-owned real property adjoining a  
7 transportation project or in tidewater limits. A lease may provide  
8 for directional drilling from the adjoining property or tidewater  
9 area.

10 (e) This section does not affect the obligation of the  
11 authority under another law to compensate this state for acquiring  
12 or using property owned by or on behalf of this state. An  
13 authority's use of property owned by or on behalf of this state is  
14 subject to any covenants, conditions, restrictions, or limitations  
15 affecting that property.

16 Sec. 370.169. COMPENSATION FOR AND RESTORATION OF PUBLIC  
17 PROPERTY. (a) Except as provided by Section 370.035, an authority  
18 may not pay compensation for public real property, parkways,  
19 streets, highways, alleys, or reservations it takes, other than:

20 (1) a park, playground, or designated environmental  
21 preserve;

22 (2) property owned by or on behalf of this state that  
23 under law requires compensation to this state for the use or  
24 acquisition of the property; or

25 (3) as provided by this chapter.

26 (b) Public property damaged in the exercise of a power  
27 granted by this chapter shall be restored or repaired and placed in

1 its original condition as nearly as practicable.

2 (c) An authority has full easements and rights-of-way  
3 through, across, under, and over any property owned by the state or  
4 any local government that are necessary or convenient to construct,  
5 acquire, or efficiently operate a transportation project or system  
6 under this chapter. This subsection does not affect the obligation  
7 of the authority under other law to compensate this state for the  
8 use or acquisition of an easement or right-of-way on property owned  
9 by or on behalf of this state. An authority's use of property owned  
10 by or on behalf of this state is subject to any covenants,  
11 conditions, restrictions, or limitations affecting that property.

12 Sec. 370.170. PUBLIC UTILITY FACILITIES. (a) An authority  
13 may adopt rules for the authority's approval of the installation,  
14 construction, relocation, and removal of a public utility facility  
15 in, on, along, over, or under a transportation project.

16 (b) If the authority determines that a public utility  
17 facility located in, on, along, over, or under a transportation  
18 project must be relocated, the utility and the authority shall  
19 negotiate in good faith to establish reasonable terms and  
20 conditions concerning the responsibilities of the parties with  
21 regard to sharing of information about the project and the planning  
22 and implementation of any necessary relocation of the public  
23 utility facility.

24 (c) The authority shall use its best efforts to provide an  
25 affected utility with plans and drawings of the project that are  
26 sufficient to enable the utility to develop plans for, and  
27 determine the cost of, the necessary relocation of a public utility

1 facility. If the authority and the affected utility enter into an  
2 agreement after negotiations under Subsection (b), the terms and  
3 conditions of the agreement govern the relocation of each public  
4 utility facility covered by the agreement.

5 (d) If the authority and an affected utility do not enter  
6 into an agreement under Subsection (b), the authority shall provide  
7 to the affected utility:

8 (1) written notice of the authority's determination  
9 that the public utility facility must be removed;

10 (2) a final plan for relocation of the public utility  
11 facility; and

12 (3) reasonable terms and conditions for an agreement  
13 with the utility for the relocation of the public utility facility.

14 (e) Not later than the 90th day after the date a utility  
15 receives the notice from the authority, including the plan and  
16 agreement terms and conditions under Subsection (d), the utility  
17 shall enter into an agreement with the authority that provides for  
18 the relocation.

19 (f) If the utility fails to enter into an agreement within  
20 the 90-day period under Subsection (e), the authority may relocate  
21 the public utility facility at the sole cost and expense of the  
22 utility less any reimbursement of costs that would have been  
23 payable to the utility under applicable law. A relocation by the  
24 authority under this subsection shall be conducted in full  
25 compliance with applicable law, using standard equipment and  
26 construction practices compatible with the utility's existing  
27 facilities, and in a manner that minimizes disruption of utility



1 service.

2 (g) The 90-day period under Subsection (e) may be extended:

3 (1) by mutual agreement between the authority and the  
4 utility; or

5 (2) for any period of time during which the utility is  
6 negotiating in good faith with the authority to relocate its  
7 facility.

8 (h) Subject to Subsections (a)-(g), the authority, as a part  
9 of the cost of the transportation project or the cost of operating  
10 the transportation project, shall pay the cost of the relocation,  
11 removal, or grade separation of a public utility facility under  
12 Subsection (a).

13 (i) The authority may reduce the total costs to be paid by  
14 the authority under Subsection (h) by 10 percent for each 30-day  
15 period or portion of a 30-day period by which the relocation or  
16 removal exceeds the reasonable limit specified by agreement between  
17 the authority and the owner or operator of the public utility  
18 facility, unless the failure of the owner or operator of the  
19 facility to timely relocate or remove the facility results directly  
20 from:

21 (1) a material action or inaction of the authority;

22 (2) an inability of the public utility facility owner  
23 or operator to obtain necessary line clearances to perform the  
24 removal or relocation; or

25 (3) conditions beyond the reasonable control of the  
26 owner or operator of the facility, including:

27 (A) an act of God; or

1                   (B) a labor shortage or strike.

2           (j) The owner or operator of a public utility facility  
3 relocated or removed under Subsection (f) shall reimburse the  
4 authority for the expenses the authority reasonably incurred for  
5 the relocation or removal of the facility, less any costs that would  
6 have been payable to the owner or operator under Subsection (h) had  
7 the owner or operator relocated or removed the facility, except  
8 that the owner or operator is not required to reimburse the  
9 authority if the failure of the owner or operator to timely relocate  
10 or remove the facility was the result of circumstances beyond the  
11 control of the owner or operator.

12           (k) Subchapter C, Chapter 181, Utilities Code, applies to  
13 the erection, construction, maintenance, and operation of a line or  
14 pole owned by an electric utility, as that term is defined by  
15 Section 181.041, Utilities Code, over, under, across, on, and along  
16 a transportation project or system constructed by an authority. An  
17 authority has the powers and duties delegated to the commissioners  
18 court by that subchapter.

19           (l) Subchapter B, Chapter 181, Utilities Code, applies to  
20 the laying and maintenance of facilities used for conducting gas by  
21 a gas utility, as that term is defined by Section 181.021, Utilities  
22 Code, through, under, along, across, and over a transportation  
23 project or system constructed by an authority except as otherwise  
24 provided by this section. An authority has the powers and duties  
25 delegated to the commissioners court by that subchapter.

26           (m) The laws of this state applicable to the use of public  
27 roads, streets, and waters by a telephone or telegraph corporation

1 apply to the erection, construction, maintenance, location, and  
2 operation of a line, pole, or other fixture by a telephone or  
3 telegraph corporation over, under, across, on, and along a  
4 transportation project constructed by an authority under this  
5 chapter.

6 Sec. 370.171. LEASE, SALE, OR CONVEYANCE OF TRANSPORTATION  
7 PROJECT. An authority may lease, sell, or convey in any other  
8 manner a transportation project to a governmental entity with the  
9 approval of the governing body of the governmental entity to which  
10 the project is transferred.

11 Sec. 370.172. REVENUE. (a) An authority may:

12 (1) impose tolls, fees, fares, or other charges for  
13 the use of each of its transportation projects and the different  
14 parts or sections of each of its transportation projects; and

15 (2) subject to Subsection (j), contract with a person  
16 for the use of part of a transportation project, or lease or sell  
17 part of a transportation project, including the right-of-way  
18 adjoining the portion used to transport people and property, for  
19 any purpose, including placing on the adjoining right-of-way a gas  
20 station, garage, store, hotel, restaurant, parking facility,  
21 railroad track, billboard, livestock pasturage, telephone line or  
22 facility, telecommunication line or facility, data transmission  
23 line or facility, or electric line or facility, under terms set by  
24 the authority.

25 (b) Tolls, fees, fares, or other charges must be set at  
26 rates or amounts so that the aggregate of tolls, fees, fares, or  
27 other charges from an authority's transportation project, together

1 with other revenue of the transportation project:

2 (1) provides revenue sufficient to pay:

3 (A) the cost of maintaining, repairing, and  
4 operating the transportation project; and

5 (B) the principal of and interest on any bonds  
6 issued for the transportation project as those bonds become due and  
7 payable; and

8 (2) creates reserves for a purpose listed under  
9 Subdivision (1).

10 (c) Any toll, fee, fare, or other charge imposed on an owner  
11 of a public utility facility under this section must be imposed in a  
12 manner that is competitively neutral and nondiscriminatory among  
13 similarly situated users of the transportation project.

14 (d) Tolls, fees, fares, or other usage charges are not  
15 subject to supervision or regulation by any agency of this state or  
16 another governmental entity.

17 (e) Revenue derived from tolls, fees, and fares, and other  
18 revenue derived from a transportation project for which bonds are  
19 issued, other than any part necessary to pay the cost of  
20 maintenance, repair, and operation and to provide reserves for  
21 those costs as provided in the bond proceedings, shall be set aside  
22 at regular intervals as provided in the bond resolution or trust  
23 agreement in a sinking fund that is pledged to and charged with the  
24 payment of:

25 (1) interest on the bonds as it becomes due;

26 (2) principal of the bonds as it becomes due;

27 (3) necessary charges of paying agents for paying

1 principal and interest;

2 (4) the redemption price or the purchase price of  
3 bonds retired by call or purchase as provided in the bond  
4 proceedings; and

5 (5) any amounts due under credit agreements.

6 (f) Use and disposition of money deposited to the credit of  
7 the sinking fund is subject to the bond proceedings.

8 (g) To the extent permitted under the applicable bond  
9 proceedings, revenue from one transportation project of an  
10 authority may be used to pay the cost of another transportation  
11 project of the authority.

12 (h) An authority may not use revenue from a transportation  
13 project in a manner not authorized by this chapter. Except as  
14 provided by this chapter, revenue derived from a transportation  
15 project may not be applied for a purpose or to pay a cost other than  
16 a cost or purpose that is reasonably related to or anticipated to be  
17 for the benefit of a transportation project.

18 (i) An authority may not require the owner of a public  
19 utility facility to pay a fee as a condition of placing a facility  
20 across the rights-of-way.

21 (j) If the transportation project is a project other than a  
22 public utility facility, an authority may contract for the use of  
23 part of a transportation project or lease or sell part of a  
24 transportation project under Subsection (a)(2) only to the extent  
25 that the contract, lease, or sale benefits the users of the  
26 transportation project.

27 Sec. 370.173. AUTHORITY REVOLVING FUND. (a) An authority

1 may maintain a revolving fund to be held in trust by a banking  
2 institution chosen by the authority separate from any other funds  
3 and administered by the authority's board.

4 (b) An authority may transfer into its revolving fund money  
5 from any permissible source, including:

6 (1) money from a transportation project if the  
7 transfer does not diminish the money available for the project to  
8 less than any amount required to be retained by the bond proceedings  
9 pertaining to the project;

10 (2) money received by the authority from any source  
11 and not otherwise committed, including money from the transfer of a  
12 transportation project or system or sale of authority assets;

13 (3) money received from the state highway fund; and

14 (4) contributions, loans, grants, or assistance from  
15 the United States, another state, another political subdivision of  
16 this state, a foreign governmental entity, including the United  
17 Mexican States or a state of the United Mexican States, a local  
18 government, any private enterprise, or any person.

19 (c) The authority may use money in the revolving fund to:

20 (1) finance the acquisition, construction,  
21 maintenance, or operation of a transportation project, including  
22 the extension, expansion, or improvement of a transportation  
23 project;

24 (2) provide matching money required in connection with  
25 any federal, state, local, or private aid, grant, or other funding,  
26 including aid or funding by or with public-private partnerships;

27 (3) provide credit enhancement either directly or

1 indirectly for bonds issued to acquire, construct, extend, expand,  
2 or improve a transportation project;

3 (4) provide security for or payment of future or  
4 existing debt for the design, acquisition, construction,  
5 operation, maintenance, extension, expansion, or improvement of a  
6 transportation project or system;

7 (5) borrow money and issue promissory notes or other  
8 indebtedness payable out of the revolving fund for any purpose  
9 authorized by this chapter; and

10 (6) provide for any other reasonable purpose that  
11 assists in the financing of an authority as authorized by this  
12 chapter.

13 (d) Money spent or advanced from the revolving fund for a  
14 transportation project must be reimbursed from the money of that  
15 transportation project. There must be a reasonable expectation of  
16 repayment at the time the expenditure or advancement is authorized.

17 Sec. 370.174. USE OF SURPLUS REVENUE. (a) Each year, if an  
18 authority determines that it has surplus revenue from  
19 transportation projects, it shall reduce tolls, spend the surplus  
20 revenue on other transportation projects in the counties of the  
21 authority in accordance with Subsection (b), or deposit the surplus  
22 revenue to the credit of the Texas Mobility Fund.

23 (b) Consistent with other law and commission rule, an  
24 authority may spend surplus revenue on other transportation  
25 projects by:

26 (1) constructing a transportation project located  
27 within the counties of the authority;

1           (2) assisting in the financing of a toll or toll-free  
2 transportation project of another governmental entity; or

3           (3) with the approval of the commission, constructing  
4 a toll or toll-free transportation project and, on completion of  
5 the project, transferring the project to another governmental  
6 entity if:

7                   (A) the other governmental entity authorizes the  
8 authority to construct the project and agrees to assume all  
9 liability and responsibility for the maintenance and operation of  
10 the project on its transfer; and

11                   (B) the project is constructed in compliance with  
12 all laws applicable to the governmental entity.

13           Sec. 370.175. EXEMPTION FROM TAXATION OR ASSESSMENT. (a)  
14 An authority is exempt from taxation of or assessments on:

15                   (1) a transportation project or system;

16                   (2) property the authority acquires or uses under this  
17 chapter for a transportation project or system; or

18                   (3) income from property described by Subdivision (1)  
19 or (2).

20           (b) An authority is exempt from payment of development fees,  
21 utility connection fees, assessments, and service fees imposed or  
22 assessed by any governmental entity or any property owners' or  
23 homeowners' association. This subsection does not apply to fees or  
24 assessments charged under approved rate schedules or line extension  
25 policies of a municipally owned electric or gas utility.

26           Sec. 370.176. ACTIONS AFFECTING EXISTING ROADS. (a) An  
27 authority may impose a toll for transit over an existing free road,



1 street, or public highway transferred to the authority under this  
2 chapter.

3 (b) An authority may construct a grade separation at an  
4 intersection of a transportation project with a railroad or highway  
5 and change the line or grade of a highway to accommodate the design  
6 of the grade separation. The action may not affect a segment of the  
7 state highway system without the department's consent. The  
8 authority shall pay the cost of a grade separation and any damage  
9 incurred in changing a line or grade of a railroad or highway as  
10 part of the cost of the transportation project.

11 (c) If feasible, an authority shall provide access to  
12 properties previously abutting a county road or other public road  
13 that is taken for a transportation project and shall pay abutting  
14 property owners the expenses or any resulting damages for a denial  
15 of access to the road.

16 (d) If an authority changes the location of a segment of a  
17 county road as part of its development of a transportation project,  
18 the authority shall, on the request of the county, reconstruct that  
19 segment of the road at a location that the authority determines, in  
20 its discretion, restores the utility of the road. The  
21 reconstruction and its associated costs are in furtherance of a  
22 transportation project.

23 Sec. 370.177. FAILURE OR REFUSAL TO PAY TURNPIKE PROJECT  
24 TOLL; OFFENSE; ADMINISTRATIVE PENALTY. (a) The operator of a  
25 vehicle, other than an authorized emergency vehicle as defined by  
26 Section 541.201, that is driven or towed through a toll collection  
27 facility of a turnpike project shall pay the proper toll. The

1 operator of a vehicle who drives or tows a vehicle through a toll  
2 collection facility and does not pay the proper toll commits an  
3 offense. An offense under this subsection is a misdemeanor  
4 punishable by a fine not to exceed \$250.

5 (b) In the event of nonpayment of the proper toll as  
6 required by Subsection (a), on issuance of a written notice of  
7 nonpayment, the registered owner of the nonpaying vehicle is liable  
8 for the payment of both the proper toll and an administrative fee.

9 (c) The authority may impose and collect the administrative  
10 fee to recover the cost of collecting the unpaid toll, not to exceed  
11 \$100. The authority shall send a written notice of nonpayment to  
12 the registered owner of the vehicle at that owner's address as shown  
13 in the vehicle registration records of the department by first  
14 class mail not later than the 30th day after the date of the alleged  
15 failure to pay and may require payment not sooner than the 30th day  
16 after the date the notice was mailed. The registered owner shall  
17 pay a separate toll and administrative fee for each event of  
18 nonpayment under Subsection (a).

19 (d) The registered owner of a vehicle for which the proper  
20 toll was not paid who is mailed a written notice of nonpayment under  
21 Subsection (c) and fails to pay the proper toll and administrative  
22 fee within the time specified by the notice of nonpayment commits an  
23 offense. Each failure to pay a toll or administrative fee under  
24 this subsection is a separate offense.

25 (e) It is an exception to the application of Subsection (b)  
26 or (d) that the registered owner of the vehicle is a lessor of the  
27 vehicle and not later than the 30th day after the date the notice of

1 nonpayment is mailed provides to the authority a copy of the rental,  
2 lease, or other contract document covering the vehicle on the date  
3 of the nonpayment under Subsection (a), with the name and address of  
4 the lessee clearly legible. If the lessor provides the required  
5 information within the period prescribed, the authority may send a  
6 notice of nonpayment to the lessee at the address shown on the  
7 contract document by first class mail before the 30th day after the  
8 date of receipt of the required information from the lessor. The  
9 lessee of the vehicle for which the proper toll was not paid who is  
10 mailed a written notice of nonpayment under this subsection and  
11 fails to pay the proper toll and administrative fee within the time  
12 specified by the notice of nonpayment commits an offense. The  
13 lessee shall pay a separate toll and administrative fee for each  
14 event of nonpayment. Each failure to pay a toll or administrative  
15 fee under this subsection is a separate offense.

16 (f) It is an exception to the application of Subsection (b)  
17 or (d) that the registered owner of the vehicle transferred  
18 ownership of the vehicle to another person before the event of  
19 nonpayment under Subsection (a) occurred, submitted written notice  
20 of the transfer to the department in accordance with Section  
21 520.023, and before the 30th day after the date the notice of  
22 nonpayment is mailed, provides to the authority the name and  
23 address of the person to whom the vehicle was transferred. If the  
24 former owner of the vehicle provides the required information  
25 within the period prescribed, the authority may send a notice of  
26 nonpayment to the person to whom ownership of the vehicle was  
27 transferred at the address provided by the former owner by first

1 class mail before the 30th day after the date of receipt of the  
2 required information from the former owner. The subsequent owner  
3 of the vehicle for which the proper toll was not paid who is mailed a  
4 written notice of nonpayment under this subsection and fails to pay  
5 the proper toll and administrative fee within the time specified by  
6 the notice of nonpayment commits an offense. The subsequent owner  
7 shall pay a separate toll and administrative fee for each event of  
8 nonpayment under Subsection (a). Each failure to pay a toll or  
9 administrative fee under this subsection is a separate offense.

10 (g) An offense under Subsection (d), (e), or (f) is a  
11 misdemeanor punishable by a fine not to exceed \$250.

12 (h) The court in which a person is convicted of an offense  
13 under this section shall also collect the proper toll and  
14 administrative fee and forward the toll and fee to the authority.

15 (i) In the prosecution of an offense under this section,  
16 proof that the vehicle passed through a toll collection facility  
17 without payment of the proper toll together with proof that the  
18 defendant was the registered owner or the driver of the vehicle when  
19 the failure to pay occurred, establishes the nonpayment of the  
20 registered owner. The proof may be by testimony of a peace officer  
21 or authority employee, video surveillance, or any other reasonable  
22 evidence.

23 (j) It is a defense to prosecution under this section that  
24 the motor vehicle in question was stolen before the failure to pay  
25 the proper toll occurred and was not recovered by the time of the  
26 failure to pay, but only if the theft was reported to the  
27 appropriate law enforcement authority before the earlier of:

1           (1) the occurrence of the failure to pay; or

2           (2) eight hours after the discovery of the theft.

3           (k) In this section, "registered owner" means the owner of a  
4 vehicle as shown on the vehicle registration records of the  
5 department or the analogous department or agency of another state  
6 or country.

7           Sec. 370.178. USE AND RETURN OF TRANSPONDERS. (a) For  
8 purposes of this section, "transponder" means a device placed on or  
9 within an automobile that is capable of transmitting or receiving  
10 information used to assess or collect tolls. A transponder is  
11 insufficiently funded if there is no money in the account for which  
12 the transponder was issued.

13           (b) Any law enforcement or peace officer of an entity with  
14 which an authority has contracted under Section 370.181(c) may  
15 seize a stolen or insufficiently funded transponder and return it  
16 to the authority that issued the transponder. An insufficiently  
17 funded transponder may not be seized before the 30th day after the  
18 date that an authority has sent a notice of delinquency to the  
19 holder of the account.

20           (c) The following entities shall consider offering motor  
21 vehicle operators the option of using a transponder to pay tolls  
22 without stopping, to mitigate congestion at toll locations, to  
23 enhance traffic flow, and to otherwise increase the efficiency of  
24 operations:

25           (1) the authority;

26           (2) an entity to which a project authorized by this  
27 chapter is transferred; or

1           (3) a third-party service provider under contract with  
2 an entity described by Subdivision (1) or (2).

3           Sec. 370.179. CONTROLLED ACCESS TO TURNPIKE PROJECTS. (a)  
4 An authority by order may designate a turnpike project or a portion  
5 of a project as a controlled-access toll road.

6           (b) An authority by order may:

7           (1) prohibit the use of or access to or from a turnpike  
8 project by a motor vehicle, bicycle, another classification or type  
9 of vehicle, or a pedestrian;

10          (2) deny access to or from:

11           (A) a turnpike project;

12           (B) real property adjacent to a turnpike project;

13 or

14           (C) a street, road, alley, highway, or other  
15 public or private way intersecting a turnpike project;

16          (3) designate locations on a turnpike project at which  
17 access to or from the toll road is permitted;

18          (4) control, restrict, and determine the type and  
19 extent of access permitted at a designated location of access to a  
20 turnpike project; or

21          (5) erect appropriate protective devices to preserve  
22 the utility, integrity, and use of a turnpike project.

23          (c) Denial of access to or from a segment of the state  
24 highway system is subject to the approval of the commission.

25          Sec. 370.180. PROMOTION OF TRANSPORTATION PROJECT. An  
26 authority may promote the use of a transportation project,  
27 including a project that it operates on behalf of another entity, by

1 appropriate means, including advertising or marketing as the  
2 authority determines appropriate.

3 Sec. 370.181. OPERATION OF TRANSPORTATION PROJECT. (a) An  
4 authority shall operate a transportation project with employees of  
5 the authority or by using services contracted under Subsection (b)  
6 or (c).

7 (b) An authority may enter into an agreement with one or  
8 more persons to provide, on terms and conditions approved by the  
9 authority, personnel and services to design, construct, operate,  
10 maintain, expand, enlarge, or extend the transportation project of  
11 the authority.

12 (c) An authority may contract with any state or local  
13 government for the services of peace officers of that agency.

14 (d) An authority may not directly provide water,  
15 wastewater, natural gas, petroleum pipeline, electric  
16 transmission, electric distribution, telecommunications,  
17 information, or cable television services.

18 (e) Nothing in this chapter, or any contractual right  
19 obtained under a contract with an authority authorized by this  
20 chapter, supersedes or renders ineffective any provision of another  
21 law applicable to the owner or operator of a public utility  
22 facility, including any provision of the Utilities Code regarding  
23 licensing, certification, and regulatory jurisdiction of the  
24 Public Utility Commission of Texas or Railroad Commission of Texas.

25 Sec. 370.182. AUDIT. (a) An authority shall have a  
26 certified public accountant audit the authority's books and  
27 accounts at least annually. The cost of the audit may be treated as

1 part of the cost of construction or operation of a transportation  
2 project.

3 (b) The commission may initiate an independent audit of the  
4 authority or any of its activities at any time the commission  
5 considers appropriate. An audit under this subsection shall be  
6 conducted at the expense of the department.

7 Sec. 370.183. DISADVANTAGED BUSINESSES. (a) Consistent  
8 with general law, an authority shall:

9 (1) set goals for the award of contracts to  
10 disadvantaged businesses and attempt to meet the goals;

11 (2) attempt to identify disadvantaged businesses that  
12 provide or have the potential to provide supplies, materials,  
13 equipment, or services to the authority; and

14 (3) give disadvantaged businesses full access to the  
15 authority's contract bidding process, inform the businesses about  
16 the process, offer the businesses assistance concerning the  
17 process, and identify barriers to the businesses' participation in  
18 the process.

19 (b) This section does not exempt an authority from  
20 competitive bidding requirements provided by other law.

21 Sec. 370.184. PROCUREMENT. An authority shall adopt rules  
22 governing the award of contracts for goods and services.  
23 Notwithstanding any other provision of state law, an authority may  
24 procure goods and services, including materials, engineering,  
25 design, construction, operations, maintenance, and other goods and  
26 services, through any procedure authorized by this chapter.  
27 Procurement of professional services is governed by Chapter 2254,



1 Government Code.

2 Sec. 370.185. COMPETITIVE BIDDING. A contract made by an  
3 authority may be let by a competitive bidding procedure in which the  
4 contract is awarded to the lowest responsible bidder that complies  
5 with the authority's criteria.

6 Sec. 370.186. CONTRACTS WITH GOVERNMENTAL ENTITIES. (a)  
7 An authority may not construct, maintain, or operate a turnpike or  
8 toll project in an area having a governmental entity established  
9 under Chapter 284 or 366 unless the governmental entity and the  
10 authority enter into a written agreement specifying the terms and  
11 conditions under which the project shall be undertaken. An  
12 authority may not construct, maintain, or operate a transportation  
13 project that another governmental entity has determined to be a  
14 project under Chapter 451, 452, or 460 unless the governmental  
15 entity and the authority enter into a written agreement specifying  
16 the terms and conditions under which the project shall be  
17 undertaken.

18 (b) An authority may not receive or be paid revenue derived  
19 by another governmental entity operating under Chapter 284, 366,  
20 451, 452, or 460 unless the governmental entity and the authority  
21 enter into a written agreement specifying the terms and conditions  
22 under which the revenue shall be received by or paid to the  
23 authority.

24 Sec. 370.187. PROJECT APPROVAL. (a) An authority may not  
25 begin construction of a transportation project that will connect to  
26 the state highway system or to a department rail facility without  
27 the approval of the commission.

1       (b) The commission by rule shall establish procedures and  
2 criteria for an approval under this section. The rules must require  
3 the commission to consider a request for project approval not later  
4 than the 60th day after the date the department receives all  
5 information reasonably necessary to review the request.

6       Sec. 370.188. ENVIRONMENTAL REVIEW OF AUTHORITY PROJECTS.

7       (a) An authority shall adopt rules for environmental review of a  
8 transportation project that is not subject to review under the  
9 National Environmental Policy Act (42 U.S.C. Section 4321 et seq.),  
10 as amended. The rules must:

11               (1) specify the types of projects for which a public  
12 hearing is required;

13               (2) establish procedures for public comment on the  
14 environmental review, including a procedure for requesting a public  
15 hearing on an environmental review for which a public hearing is not  
16 required; and

17               (3) require:

18                       (A) an evaluation of any direct or indirect  
19 environmental effect of the project;

20                       (B) an analysis of project alternatives; and

21                       (C) a written report that briefly explains the  
22 authority's review of the project and that specifies any mitigation  
23 measures on environmental harm on which the project is conditioned.

24       (b) An environmental review of a project must be conducted  
25 before the authority may approve the location or alignment of the  
26 project.

27       (c) The authority shall consider the results of the

1 environmental review in executing its duties.

2 (d) The authority shall coordinate with the Texas  
3 Commission on Environmental Quality and the Parks and Wildlife  
4 Department in the preparation of an environmental review.

5 (e) This section does not prohibit an owner of a public  
6 utility facility or a proposed public utility facility from  
7 conducting any necessary environmental evaluation for the public  
8 utility facility. The authority is entitled to review and give  
9 final approval regarding the sufficiency of any environmental  
10 evaluation conducted for a facility that is part of a  
11 transportation project.

12 Sec. 370.189. DEPARTMENT MAINTENANCE AND OPERATION. (a)  
13 If requested by an authority, the department may agree to assume all  
14 or part of the duty to maintain or operate a turnpike project or  
15 ferry of the authority.

16 (b) The authority shall reimburse the department for  
17 necessary costs of maintaining or operating the turnpike project or  
18 ferry as agreed by the department and the authority.

19 (c) Money received by the department under Subsection (b)  
20 shall be deposited to the credit of the state highway fund and is  
21 exempt from the application of Sections 403.095 and 404.071,  
22 Government Code.

23 (d) If the department assumes all of the duty to maintain or  
24 operate a turnpike project or ferry under Subsection (a), the  
25 authority is not liable for damages resulting from the maintenance  
26 or operation of the turnpike project or ferry.

27 (e) An agreement under this section is not a joint

1 enterprise for purposes of liability.

2 Sec. 370.190. PROPERTY OF CERTAIN TRANSPORTATION  
3 AUTHORITIES. An authority may not condemn or purchase real  
4 property of a transportation authority operating under Chapter 451,  
5 452, or 460 unless the authority has entered into a written  
6 agreement with the transportation authority specifying the terms  
7 and conditions under which the condemnation or the purchase of the  
8 real property will take place.

9 Sec. 370.191. COMMERCIAL TRANSPORTATION PROCESSING  
10 SYSTEMS. (a) In this section, "port of entry" means a place  
11 designated by executive order of the president of the United  
12 States, by order of the United States secretary of the treasury, or  
13 by act of the United States Congress at which a customs officer is  
14 authorized to accept entries of merchandise, to collect duties, and  
15 to enforce the various provisions of the customs and navigation  
16 laws.

17 (b) This section applies only to a port of entry for land  
18 traffic from the United Mexican States and does not apply to a port  
19 of entry for marine traffic.

20 (c) To the extent an authority considers appropriate to  
21 expedite commerce and based on the Texas ITS/CVO Business Plan  
22 prepared by the department, the Department of Public Safety, and  
23 the comptroller, the authority shall provide for implementation by  
24 the appropriate agencies of the use of Intelligent Transportation  
25 Systems for Commercial Vehicle Operations (ITS/CVO) in any new  
26 commercial motor vehicle inspection facility constructed by the  
27 authority and in any existing facility located at a port of entry to

1 which this section applies. The authority shall coordinate with  
2 other state and federal transportation officials to develop  
3 interoperability standards for the systems.

4 (d) If an authority constructs a facility at which  
5 commercial vehicle safety inspections are conducted, the facility  
6 may not be used solely for the purpose of conducting commercial  
7 motor vehicle inspections by the Department of Public Safety and  
8 the facility must include implementation of ITS/CVO technology by  
9 the appropriate agencies to support all commercial motor vehicle  
10 regulation and enforcement functions.

11 (e) As part of its implementation of technology under this  
12 section, an authority shall to the greatest extent possible as a  
13 requirement of the construction of the facility:

14 (1) enhance efficiency and reduce complexity for motor  
15 carriers by providing a single point of contact between carriers  
16 and regulating state and federal government officials and providing  
17 a single point of information, available to wireless access, about  
18 federal and state regulatory and enforcement requirements;

19 (2) prevent duplication of state and federal  
20 procedures and locations for regulatory and enforcement  
21 activities, including consolidation of collection of applicable  
22 fees;

23 (3) link information systems of the authority, the  
24 department, the Department of Public Safety, the comptroller, and,  
25 to the extent possible, the United States Department of  
26 Transportation and other appropriate regulatory and enforcement  
27 entities; and

1           (4) take other necessary action to:

2                   (A) facilitate the flow of commerce;

3                   (B) assist federal interdiction efforts;

4                   (C) protect the environment by reducing idling  
5 time of commercial motor vehicles at the facilities;

6                   (D) prevent highway damage caused by overweight  
7 commercial motor vehicles; and

8                   (E) seek federal funds to assist in the  
9 implementation of this section.

10           (f) Construction of a facility to which this section applies  
11 is subject to the availability of federal funding for that purpose.

12           Sec. 370.192. PROPERTY OF RAPID TRANSIT AUTHORITIES. An  
13 authority may not condemn or purchase real property of a rapid  
14 transit authority operating pursuant to Chapter 451 that was  
15 confirmed before July 1, 1985, and in which the principal  
16 municipality has a population of less than 750,000, unless the  
17 authority has entered into a written agreement with the rapid  
18 transit authority specifying the terms and conditions under which  
19 the condemnation or the purchase of the real property will take  
20 place.

21           [Sections 370.193-370.250 reserved for expansion]

22                           SUBCHAPTER F. GOVERNANCE

23           Sec. 370.251. BOARD OF DIRECTORS. (a) The governing body  
24 of an authority is a board of directors consisting of  
25 representatives of each county in which a transportation project of  
26 the authority is located or is proposed to be located. The  
27 commissioners court of each county that initially forms the

1 authority shall appoint at least two directors to the board.  
2 Additional directors may be appointed to the board at the time of  
3 initial formation by agreement of the counties creating the  
4 authority to ensure fair representation of political subdivisions  
5 in the counties of the authority that will be affected by a  
6 transportation project of the authority, provided that the number  
7 of directors must be an odd number. The commissioners court of a  
8 county that is subsequently added to the authority shall appoint  
9 one director to the board. The governor shall appoint one director  
10 to the board who shall serve as the presiding officer of the board  
11 and shall appoint an additional director to the board if an  
12 appointment is necessary to maintain an odd number of directors on  
13 the board.

14 (b) Unless the commissioners courts of the counties of the  
15 authority unanimously agree otherwise, the commissioners court of  
16 each county of an authority that contains an operating  
17 transportation project of the authority shall appoint one  
18 additional director.

19 (c) Directors serve staggered six-year terms, with the  
20 terms of no more than one-third of the directors expiring on  
21 February 1 of each odd-numbered year.

22 (d) One director appointed to the initial board of an  
23 authority by the commissioners court of a county shall be  
24 designated by the court to serve a term of two years and one  
25 director designated to serve a term of four years. If one or more  
26 directors are subsequently appointed to the board, the directors  
27 other than the subsequent appointees shall determine the length of

1 the appointees' terms, to comply with Subsection (c).

2 (e) If a vacancy occurs on the board, the appointing  
3 authority shall promptly appoint a successor to serve for the  
4 unexpired portion of the term.

5 (f) All appointments to the board shall be made without  
6 regard to race, color, disability, sex, religion, age, or national  
7 origin.

8 (g) The following individuals are ineligible to serve as a  
9 director:

10 (1) an elected official;

11 (2) a person who is not a resident of a county within  
12 the geographic area of the authority;

13 (3) a department employee;

14 (4) an employee of a governmental entity any part of  
15 which is located within the geographic boundaries of the authority;  
16 and

17 (5) a person owning an interest in real property that  
18 will be acquired for an authority project, if it is known at the  
19 time of the person's proposed appointment that the property will be  
20 acquired for the authority project.

21 (h) Each director has equal status and may vote.

22 (i) The vote of a majority attending a board meeting is  
23 necessary for any action taken by the board. If a vacancy exists on  
24 a board, the majority of directors serving on the board is a quorum.

25 (j) The commission may refuse to authorize the creation of  
26 an authority if the commission determines that the proposed board  
27 will not fairly represent political subdivisions in the counties of



1 the authority that will be affected by the creation of the  
2 authority.

3 Sec. 370.2515. BOARD COMPOSITION PROPOSAL BY TURNPIKE  
4 AUTHORITY. If a county in which a turnpike authority under Chapter  
5 366 operates or a county owning or operating a toll project under  
6 Chapter 284 is part of an authority, the turnpike authority or the  
7 county may submit to the commission a proposed structure for the  
8 board and a method of appointment to the board:

9 (1) at the creation of the authority if the county is a  
10 county that initially forms an authority;

11 (2) when a new county is added to the authority; and

12 (3) when the county is initially added to the  
13 authority.

14 Sec. 370.252. PROHIBITED CONDUCT FOR DIRECTORS AND  
15 EMPLOYEES. (a) A director or employee of an authority may not:

16 (1) accept or solicit any gift, favor, or service  
17 that:

18 (A) might reasonably influence the director or  
19 employee in the discharge of an official duty; or

20 (B) the director or employee knows or should know  
21 is being offered with the intent to influence the director's or  
22 employee's official conduct;

23 (2) accept other employment or engage in a business or  
24 professional activity that the director or employee might  
25 reasonably expect would require or induce the director or employee  
26 to disclose confidential information acquired by reason of the  
27 official position;

1           (3) accept other employment or compensation that could  
2 reasonably be expected to impair the director's or employee's  
3 independence of judgment in the performance of the director's or  
4 employee's official duties;

5           (4) make personal investments that could reasonably be  
6 expected to create a substantial conflict between the director's or  
7 employee's private interest and the interest of the authority;

8           (5) intentionally or knowingly solicit, accept, or  
9 agree to accept any benefit for having exercised the director's or  
10 employee's official powers or performed the director's or  
11 employee's official duties in favor of another; or

12           (6) have a personal interest in an agreement executed  
13 by the authority.

14           (b) A person is not eligible to serve as a director or chief  
15 administrative officer of an authority if the person or the  
16 person's spouse:

17           (1) is employed by or participates in the management  
18 of a business entity or other organization, other than a  
19 governmental entity, that is regulated by or receives funds from  
20 the authority or the department;

21           (2) directly or indirectly owns or controls more than  
22 a 10 percent interest in a business or other organization that is  
23 regulated by or receives funds from the authority or the  
24 department;

25           (3) uses or receives a substantial amount of tangible  
26 goods, services, or funds from the authority or the department; or

27           (4) is required to register as a lobbyist under

1 Chapter 305, Government Code, because of the person's activities  
2 for compensation on behalf of a profession related to the operation  
3 of the authority or the department.

4 (c) A person is not eligible to serve as a director or chief  
5 administrative officer of an authority if the person is an officer,  
6 employee, or paid consultant of a Texas trade association in the  
7 field of road construction or maintenance, public transportation,  
8 or aviation, or if the person's spouse is an officer, manager, or  
9 paid consultant of a Texas trade association in the field of road  
10 construction or maintenance, public transportation, or aviation.

11 (d) In this section, "Texas trade association" means a  
12 nonprofit, cooperative, and voluntarily joined association of  
13 business or professional competitors in this state designed to  
14 assist its members and its industry or profession in dealing with  
15 mutual business or professional problems and in promoting their  
16 common interests.

17 (e) A person is not ineligible to serve as a director or  
18 chief administrative officer of an authority if the person has  
19 received funds from the department for acquisition of highway  
20 right-of-way unless the acquisition was for a project of the  
21 authority.

22 Sec. 370.253. SURETY BONDS. (a) Before beginning a term,  
23 each director shall execute a surety bond in the amount of \$25,000,  
24 and the secretary and treasurer shall execute a surety bond in the  
25 amount of \$50,000.

26 (b) Each surety bond must be:

27 (1) conditioned on the faithful performance of the

1 duties of office;

2 (2) executed by a surety company authorized to  
3 transact business in this state; and

4 (3) filed with the secretary of state's office.

5 (c) The authority shall pay the expense of the bonds.

6 Sec. 370.254. REMOVAL OF DIRECTOR. (a) It is a ground for  
7 removal of a director from the board if the director:

8 (1) did not have at the time of appointment the  
9 qualifications required by Section 370.251;

10 (2) at the time of appointment or at any time during  
11 the director's term, is ineligible under Section 370.251 or 370.252  
12 to serve as a director;

13 (3) cannot discharge the director's duties for a  
14 substantial part of the term for which the director is appointed  
15 because of illness or disability; or

16 (4) is absent from more than half of the regularly  
17 scheduled board meetings that the director is eligible to attend  
18 during a calendar year.

19 (b) The validity of an action of the board is not affected by  
20 the fact that it is taken when a ground for removal of a director  
21 exists.

22 (c) If the chief administrative officer of the authority has  
23 knowledge that a potential ground for removal exists, that person  
24 shall notify the presiding officer of the board of the ground. The  
25 presiding officer shall then notify the person that appointed the  
26 director that a potential ground for removal exists.

27 Sec. 370.255. COMPENSATION OF DIRECTOR. Each director is

1 entitled to reimbursement for the director's actual expenses  
2 necessarily incurred in the performance of the director's duties.  
3 A director is not entitled to any additional compensation for the  
4 director's services.

5 Sec. 370.256. EVIDENCE OF AUTHORITY ACTIONS. Actions of an  
6 authority are the actions of its board and may be evidenced in any  
7 legal manner, including a board resolution.

8 Sec. 370.257. PUBLIC ACCESS. An authority shall:

9 (1) make and implement policies that provide the  
10 public with a reasonable opportunity to appear before the board to  
11 speak on any issue under the jurisdiction of the authority; and

12 (2) prepare and maintain a written plan that describes  
13 how an individual who does not speak English or who has a physical,  
14 mental, or developmental disability may be provided reasonable  
15 access to the authority's programs.

16 Sec. 370.258. INDEMNIFICATION. (a) An authority may  
17 indemnify one or more of its directors or officers for necessary  
18 expenses and costs, including attorney's fees, incurred by the  
19 directors or officers in connection with any claim asserted against  
20 the directors or officers in their respective capacities as  
21 directors or officers.

22 (b) If an authority does not fully indemnify a director or  
23 officer as provided by Subsection (a), the court in a proceeding in  
24 which any claim against the director or officer is asserted or any  
25 court with jurisdiction of an action instituted by the director or  
26 officer on a claim for indemnity may assess indemnity against the  
27 authority, its receiver, or trustee only if the court finds that, in

1 connection with the claim, the director or officer is not guilty of  
2 negligence or misconduct.

3 (c) A court may not assess indemnity under Subsection (b)  
4 for an amount paid by the director or officer to the authority.

5 (d) This section applies to a current or former director or  
6 officer of the authority.

7 Sec. 370.259. PURCHASE OF LIABILITY INSURANCE. (a) An  
8 authority shall insure its officers and employees from liability  
9 arising from the use, operation, or maintenance of equipment that  
10 is used or may be used in connection with the laying out,  
11 construction, or maintenance of the authority's transportation  
12 projects.

13 (b) Insurance coverage under this section must be provided  
14 by the purchase of a policy of liability insurance from a reliable  
15 insurance company authorized to do business in this state. The form  
16 of the policy must be approved by the commissioner of insurance.

17 (c) This section is not a waiver of immunity of the  
18 authority or the counties in an authority from liability for the  
19 torts or negligence of an officer or employee of an authority.

20 (d) In this section, "equipment" includes an automobile,  
21 motor truck, trailer, aircraft, motor grader, roller, tractor,  
22 tractor power mower, locomotive, rail car, and other power  
23 equipment.

24 Sec. 370.260. CERTAIN CONTRACTS AND SALES PROHIBITED. (a)  
25 A director, agent, or employee of an authority may not:

26 (1) contract with the authority; or

27 (2) be directly or indirectly interested in:

1           (A) a contract with the authority; or

2           (B) the sale of property to the authority.

3           (b) A person who violates Subsection (a) is liable for a  
4 civil penalty to the authority in an amount not to exceed \$1,000.

5           Sec. 370.261. STRATEGIC PLANS AND ANNUAL REPORTS. (a) An  
6 authority shall make a strategic plan for its operations. A  
7 majority of the commissioners courts of the counties of the  
8 authority shall by concurrent resolution determine the types of  
9 information required to be included in the strategic plan. Each  
10 even-numbered year, an authority shall issue a plan covering the  
11 succeeding five fiscal years, beginning with the next odd-numbered  
12 fiscal year.

13           (b) Not later than March 31 of each year, an authority shall  
14 file with the commissioners court of each county of the authority a  
15 written report on the authority's activities describing all  
16 transportation revenue bond issuances anticipated for the coming  
17 year, the financial condition of the authority, all project  
18 schedules, and the status of the authority's performance under the  
19 most recent strategic plan. At the invitation of a commissioners  
20 court of a county of the authority, representatives of the board and  
21 the administrative head of an authority shall appear before the  
22 commissioners court to present the report and receive questions and  
23 comments.

24           (c) The authority shall give notice to the commissioners  
25 court of each county of the authority not later than the 90th day  
26 before the date of issuance of revenue bonds.

27           Sec. 370.262. MEETINGS BY TELEPHONE CONFERENCE CALL. (a)

1 Chapter 551, Government Code, does not prohibit any open or closed  
2 meeting of the board, a committee of the board, or the staff, or any  
3 combination of the board or staff, from being held by telephone  
4 conference call.

5 (b) A telephone conference call meeting is subject to the  
6 notice requirements applicable to other meetings.

7 (c) Notice of a telephone conference call meeting that by  
8 law must be open to the public must specify the location of the  
9 meeting. The location must be a conference room of the authority or  
10 other facility in a county of the authority that is accessible to  
11 the public.

12 (d) Each part of the telephone conference call meeting that  
13 by law must be open to the public shall be audible to the public at  
14 the location specified in the notice and shall be tape-recorded or  
15 documented by written minutes. On conclusion of the meeting, the  
16 tape recording or the written minutes of the meeting shall be made  
17 available to the public.

18 [Sections 370.263-370.300 reserved for expansion]

19 SUBCHAPTER G. PARTICIPATION IN FINANCING, CONSTRUCTION, AND  
20 OPERATION OF TRANSPORTATION PROJECTS

21 Sec. 370.301. DEPARTMENT CONTRIBUTIONS TO TURNPIKE  
22 PROJECTS. (a) The department may agree with an authority to  
23 provide for or contribute to the payment of costs of financial or  
24 engineering and traffic feasibility studies and the design,  
25 financing, acquisition, construction, operation, or maintenance of  
26 a turnpike project or system on terms agreed on by the commission or  
27 department, as applicable, and the authority. The agreement may



1 not be inconsistent with the rights of the bondholders or persons  
2 operating the turnpike project under a lease or other contract.

3 (b) The department may use its engineering and other  
4 personnel, including consulting engineers and traffic engineers,  
5 to conduct feasibility studies under Subsection (a).

6 (c) An obligation or expense incurred by the commission or  
7 department under this section is a part of the cost of the turnpike  
8 project for which the obligation or expense was incurred. The  
9 commission or department may require money contributed by the  
10 commission or department under this section to be repaid from tolls  
11 or other revenue of the turnpike project on which the money was  
12 spent. Money repaid as required by the commission or department  
13 shall be deposited to the credit of the fund from which the  
14 contribution was made. Money deposited as required by this section  
15 is exempt from the application of Section 403.095, Government Code.

16 (d) The commission or department may use federal money for  
17 any purpose described by this chapter.

18 (e) A turnpike project developed by an authority may not be  
19 part of the state highway system unless otherwise agreed to by the  
20 authority and the department.

21 (f) The commission may grant or loan department money to an  
22 authority for the acquisition of land for or the construction,  
23 maintenance, or operation of a turnpike project. The commission  
24 may require the authority to repay money provided under this  
25 section from toll revenue or other sources on terms established by  
26 the commission.

27 (g) Money repaid as required by the commission shall be

1 deposited to the credit of the fund from which the money was  
2 provided. Money deposited as required by this section is exempt  
3 from the application of Section 403.095, Government Code.

4 Sec. 370.302. AGREEMENTS TO CONSTRUCT, MAINTAIN, AND  
5 OPERATE TRANSPORTATION PROJECTS. (a) An authority may enter into  
6 an agreement with a public or private entity, including a toll road  
7 corporation, the United States, a state of the United States, the  
8 United Mexican States, a state of the United Mexican States,  
9 another governmental entity, or a political subdivision, to permit  
10 the entity, independently or jointly with the authority, to study  
11 the feasibility of a transportation project or to acquire, design,  
12 finance, construct, maintain, repair, operate, extend, or expand a  
13 transportation project. An authority and a private entity jointly  
14 may enter into an agreement with another governmental entity to  
15 study the feasibility of a transportation project or to acquire,  
16 design, finance, construct, maintain, repair, operate, extend, or  
17 expand a transportation project.

18 (b) An authority has broad discretion to negotiate  
19 provisions in a development agreement with a private entity. The  
20 provisions may include provisions relating to:

21 (1) the design, financing, construction, maintenance,  
22 and operation of a transportation project in accordance with  
23 standards adopted by the authority; and

24 (2) professional and consulting services to be  
25 rendered under standards adopted by the authority in connection  
26 with a transportation project.

27 (c) An authority may not incur a financial obligation on

1 behalf of, or guarantee the obligations of, a private entity that  
2 constructs, maintains, or operates a transportation project.

3 (d) An authority or a county in an authority is not liable  
4 for any financial or other obligation of a transportation project  
5 solely because a private entity constructs, finances, or operates  
6 any part of a transportation project.

7 (e) An authority may authorize the investment of public and  
8 private money, including debt and equity participation, to finance  
9 a function described by this section.

10 (f) An authority may not directly provide water,  
11 wastewater, natural gas, petroleum pipeline, electric  
12 transmission, electric distribution, telecommunications,  
13 information, or cable television services.

14 (g) Nothing in this chapter, or any contractual right  
15 obtained under a contract with an authority authorized by this  
16 chapter, supersedes or renders ineffective any provision of another  
17 law applicable to the owner or operator of a public utility  
18 facility, including any provision of the Utilities Code regarding  
19 licensing, certification, and regulatory jurisdiction of the  
20 Public Utility Commission of Texas or Railroad Commission of Texas.

21 Sec. 370.303. AGREEMENTS BETWEEN AUTHORITY AND LOCAL  
22 GOVERNMENTAL ENTITIES. (a) A governmental entity other than a  
23 nonprofit corporation may, consistent with the Texas Constitution,  
24 issue bonds, notes, or other obligations or enter into and make  
25 payments under agreements with an authority to acquire, construct,  
26 maintain, or operate a transportation project, whether inside or  
27 outside the geographic boundaries of the governmental entity,

1 including agreements to pay the principal of, and interest on,  
2 bonds, notes, or other obligations issued by the authority and make  
3 payments under any related credit agreements. The entity may  
4 impose and collect taxes to pay the interest on the bonds and to  
5 provide a sinking fund for the redemption of the bonds.

6 (b) In addition to the powers provided by Subsection (a), a  
7 governmental entity may, to the extent constitutionally permitted,  
8 agree with an authority to issue bonds, notes, or other  
9 obligations, create a taxing district or an entity to promote  
10 economic development, fund public improvements to promote economic  
11 development, or enter into and make payments under an agreement to  
12 acquire, construct, maintain, or operate any portion of a  
13 transportation project of the authority. An agreement may include  
14 a means for a local governmental entity to provide funds for a  
15 transportation project that benefits the governmental entity to be  
16 developed by the authority.

17 (c) To make payments under an agreement under Subsection  
18 (b), to pay the interest on bonds issued under Subsection (b), or to  
19 provide a sinking fund for the bonds or the agreement, a  
20 governmental entity may:

21 (1) pledge revenue from any available source,  
22 including annual appropriations;

23 (2) impose and collect taxes; or

24 (3) pledge revenue and impose and collect taxes.

25 (d) The term of an agreement under this section may not  
26 exceed 40 years.

27 (e) An election required to authorize action under this

1 subchapter must be held in conformity with Chapter 1251, Government  
2 Code, or other law applicable to the governmental entity.

3 (f) The governing body of any governmental entity issuing  
4 bonds, notes, or other obligations or entering into agreements  
5 under this section may exercise the authority granted to the  
6 governing body of an issuer with regard to issuance of obligations  
7 under Chapter 1371, Government Code, except that the prohibition in  
8 that chapter on the repayment of an obligation with ad valorem taxes  
9 does not apply to an issuer exercising the authority granted by this  
10 section.

11 Sec. 370.304. ADDITIONAL AGREEMENTS OF AUTHORITY. An  
12 authority may enter into any agreement necessary or convenient to  
13 achieve the purposes of this subchapter.

14 Sec. 370.305. COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a)  
15 An authority may use a comprehensive development agreement with a  
16 private entity to construct, maintain, repair, operate, extend, or  
17 expand a transportation project.

18 (b) A comprehensive development agreement is an agreement  
19 with a private entity that, at a minimum, provides for the design  
20 and construction of a transportation project and may also provide  
21 for the financing, acquisition, maintenance, or operation of a  
22 transportation project.

23 (c) An authority may negotiate provisions relating to  
24 professional and consulting services provided in connection with a  
25 comprehensive development agreement.

26 (d) This section expires on August 31, 2011.

27 Sec. 370.306. PROCESS FOR ENTERING INTO COMPREHENSIVE

1 DEVELOPMENT AGREEMENTS. (a) If an authority enters into a  
2 comprehensive development agreement, the authority shall use a  
3 competitive procurement process that provides the best value for  
4 the authority. The authority may accept unsolicited proposals for  
5 a proposed transportation project or solicit proposals in  
6 accordance with this section.

7 (b) An authority shall establish rules and procedures for  
8 accepting unsolicited proposals that require the private entity to  
9 include in the proposal:

10 (1) information regarding the proposed project  
11 location, scope, and limits;

12 (2) information regarding the private entity's  
13 qualifications, experience, technical competence, and capability  
14 to develop the project; and

15 (3) a proposed financial plan for the proposed project  
16 that includes, at a minimum:

17 (A) projected project costs; and

18 (B) proposed sources of funds.

19 (c) An authority shall publish a request for competing  
20 proposals and qualifications in the Texas Register that includes  
21 the criteria used to evaluate the proposals, the relative weight  
22 given to the criteria, and a deadline by which proposals must be  
23 received if:

24 (1) the authority decides to issue a request for  
25 qualifications for a proposed project; or

26 (2) the authority authorizes the further evaluation of  
27 an unsolicited proposal.

1       (d) A proposal submitted in response to a request published  
2 under Subsection (c) must contain, at a minimum, the information  
3 required by Subsections (b)(2) and (3).

4       (e) An authority may interview a private entity submitting  
5 an unsolicited proposal or responding to a request under Subsection  
6 (c). The authority shall evaluate each proposal based on the  
7 criteria described in the notice. The authority must qualify at  
8 least two private entities to submit detailed proposals for a  
9 project under Subsection (f) unless the authority does not receive  
10 more than one proposal or one response to a request under Subsection  
11 (c).

12       (f) An authority shall issue a request for detailed  
13 proposals from all private entities qualified under Subsection (e)  
14 if the authority proceeds with the further evaluation of a proposed  
15 project. A request under this subsection may require additional  
16 information relating to:

17               (1) the private entity's qualifications and  
18 demonstrated technical competence;

19               (2) the feasibility of developing the project as  
20 proposed;

21               (3) detailed engineering or architectural designs;

22               (4) the private entity's ability to meet schedules;

23               (5) costing methodology; or

24               (6) any other information the authority considers  
25 relevant or necessary.

26       (g) In issuing a request for proposals under Subsection (f),  
27 an authority may solicit input from entities qualified under

1 Subsection (e) or any other person. An authority may also solicit  
2 input regarding alternative technical concepts after issuing a  
3 request under Subsection (f).

4 (h) An authority shall rank each proposal based on the  
5 criteria described in the request for proposals and select the  
6 private entity whose proposal offers the best value to the  
7 authority.

8 (i) An authority may enter into discussions with the private  
9 entity whose proposal offers the apparent best value. The  
10 discussions shall be limited to:

11 (1) incorporation of aspects of other proposals for  
12 the purpose of achieving the overall best value for the authority;

13 (2) clarifications and minor adjustments in  
14 scheduling, cash flow, and similar items; and

15 (3) matters that have arisen since the submission of  
16 the proposal.

17 (j) If at any point in discussions under Subsection (i), it  
18 appears to the authority that the highest ranking proposal will not  
19 provide the authority with the overall best value, the authority  
20 may enter into discussions with the private entity submitting the  
21 next-highest ranking proposal.

22 (k) An authority may withdraw a request for competing  
23 proposals and qualifications or a request for detailed proposals at  
24 any time. The authority may then publish a new request for  
25 competing proposals and qualifications.

26 (l) An authority may require that an unsolicited proposal be  
27 accompanied by a nonrefundable fee sufficient to cover all or part



1 of its cost to review the proposal.

2 (m) An authority shall pay an unsuccessful private entity  
3 that submits a response to a request for detailed proposals under  
4 Subsection (f) a stipulated amount of the final contract price for  
5 any costs incurred in preparing that proposal. The stipulated  
6 amount must be stated in the request for proposals and may not  
7 exceed the value of any work product contained in the proposal that  
8 can, as determined by the authority, be used by the authority in the  
9 performance of its functions. The use by the authority of any  
10 design element contained in an unsuccessful proposal is at the sole  
11 risk and discretion of the authority and does not confer liability  
12 on the recipient of the stipulated amount under this subsection.  
13 After payment of the stipulated amount:

14 (1) the authority owns the exclusive rights to, and  
15 may make use of any work product contained in, the proposal,  
16 including the technologies, techniques, methods, processes, and  
17 information contained in the project design; and

18 (2) the work product contained in the proposal becomes  
19 the property of the authority.

20 (n) An authority shall prescribe the general form of a  
21 comprehensive development agreement and may include any matter the  
22 authority considers advantageous to the authority. The authority  
23 and the private entity shall negotiate the specific terms of a  
24 comprehensive development agreement.

25 (o) Subchapter A, Chapter 223, of this code and Chapter  
26 2254, Government Code, do not apply to a comprehensive development  
27 agreement entered into under Section 370.305.

1           Sec. 370.307. CONFIDENTIALITY OF NEGOTIATIONS FOR  
2 COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) To encourage private  
3 entities to submit proposals under Section 370.306, the following  
4 information is confidential, is not subject to disclosure,  
5 inspection, or copying under Chapter 552, Government Code, and is  
6 not subject to disclosure, discovery, subpoena, or other means of  
7 legal compulsion for its release until a final contract for a  
8 proposed project is entered into:

9           (1) all or part of a proposal submitted by a private  
10 entity for a comprehensive development agreement, except  
11 information provided under Sections 370.306(b)(1) and (2);

12           (2) supplemental information or material submitted by  
13 a private entity in connection with a proposal for a comprehensive  
14 development agreement; and

15           (3) information created or collected by an authority  
16 or its agent during consideration of a proposal for a comprehensive  
17 development agreement.

18           (b) After an authority completes its final ranking of  
19 proposals under Section 370.306(h), the final rankings of each  
20 proposal under each of the published criteria are not confidential.

21           Sec. 370.308. PERFORMANCE AND PAYMENT SECURITY. (a)  
22 Notwithstanding Section 223.006 and the requirements of Subchapter  
23 B, Chapter 2253, Government Code, an authority shall require a  
24 private entity entering into a comprehensive development agreement  
25 under Section 370.305 to provide a performance and payment bond or  
26 an alternative form of security in an amount sufficient to:

27           (1) ensure the proper performance of the agreement;

1 and

2 (2) protect:

3 (A) the authority; and

4 (B) payment bond beneficiaries who have a direct  
5 contractual relationship with the private entity or a subcontractor  
6 of the private entity to supply labor or material.

7 (b) A performance and payment bond or alternative form of  
8 security shall be in an amount equal to the cost of constructing or  
9 maintaining the project.

10 (c) If an authority determines that it is impracticable for  
11 a private entity to provide security in the amount described by  
12 Subsection (b), the authority shall set the amount of the bonds or  
13 the alternative forms of security.

14 (d) A payment or performance bond or alternative form of  
15 security is not required for the portion of an agreement that  
16 includes only design or planning services, the performance of  
17 preliminary studies, or the acquisition of real property.

18 (e) The amount of the payment security must not be less than  
19 the amount of the performance security.

20 (f) In addition to performance and payment bonds, an  
21 authority may require the following alternative forms of security:

22 (1) a cashier's check drawn on a financial entity  
23 specified by the authority;

24 (2) a United States bond or note;

25 (3) an irrevocable bank letter of credit; or

26 (4) any other form of security determined suitable by  
27 the authority.

1       (g) An authority by rule shall prescribe requirements for  
2 alternative forms of security provided under this section.

3       Sec. 370.309. OWNERSHIP OF TRANSPORTATION PROJECTS. (a) A  
4 transportation project other than a public utility facility that  
5 is the subject of a development agreement with a private entity,  
6 including the facilities acquired or constructed on the project, is  
7 public property and belongs to the authority.

8       (b) Notwithstanding Subsection (a), an authority may enter  
9 into an agreement that provides for the lease of rights-of-way, the  
10 granting of easements, the issuance of franchises, licenses, or  
11 permits, or any lawful uses to enable a private entity to construct,  
12 operate, and maintain a transportation project, including  
13 supplemental facilities. At the termination of the agreement, the  
14 transportation project, including the facilities, must be in a  
15 state of proper maintenance as determined by the authority and  
16 shall be returned to the authority in satisfactory condition at no  
17 further cost.

18       Sec. 370.310. LIABILITY FOR PRIVATE OBLIGATIONS. An  
19 authority may not incur a financial obligation for a private entity  
20 that constructs, maintains, or operates a transportation project.  
21 The authority or a political subdivision of the state is not liable  
22 for any financial or other obligation of a transportation project  
23 solely because a private entity constructs, finances, or operates  
24 any part of the project.

25       Sec. 370.311. TERMS OF PRIVATE PARTICIPATION. (a) An  
26 authority shall negotiate the terms of private participation in a  
27 transportation project, including:

1           (1) methods to determine the applicable cost, profit,  
2 and project distribution between the private equity investors and  
3 the authority;

4           (2) reasonable methods to determine and classify toll  
5 rates or user fees;

6           (3) acceptable safety and policing standards; and

7           (4) other applicable professional, consulting,  
8 construction, operation, and maintenance standards, expenses, and  
9 costs.

10          (b) A comprehensive development agreement entered into  
11 under Section 370.305 must include a provision authorizing the  
12 authority to purchase, under terms agreed to by the parties, the  
13 interest of a private equity investor in a transportation project.

14          (c) An authority may only enter into a comprehensive  
15 development agreement under Section 370.305 with a private equity  
16 investor if the project is identified in the department's unified  
17 transportation program or is located on a transportation corridor  
18 identified in the statewide transportation plan.

19          Sec. 370.312. RULES, PROCEDURES, AND GUIDELINES GOVERNING  
20 NEGOTIATING PROCESS. (a) An authority shall adopt rules,  
21 procedures, and other guidelines governing selection and  
22 negotiations to promote fairness, obtain private participants in  
23 transportation projects, and promote confidence among those  
24 participants. The rules must contain criteria relating to the  
25 qualifications of the participants and the award of the contracts.

26          (b) An authority shall have up-to-date procedures for  
27 participation in negotiations on transportation projects.

1       (c) An authority has exclusive judgment to determine the  
2 terms of an agreement.

3       Sec. 370.313. PARTICIPATION ON CERTAIN OTHER BOARDS,  
4 COMMISSIONS, OR PUBLIC BODIES. (a) An authority may participate in  
5 and designate board members to serve as representatives on boards,  
6 commissions, or public bodies, the purposes of which are to promote  
7 the development of joint toll facilities in this state, between  
8 this state and other states of the United States, or between this  
9 state and the United Mexican States or states of the United Mexican  
10 States.

11       (b) A fee or expense associated with authority  
12 participation under this section may be reimbursed from money in  
13 the authority's feasibility study fund.

14       Sec. 370.314. COMBINATION OF ENGINEERING, DESIGN, AND  
15 CONSTRUCTION SERVICES. An authority may procure a combination of  
16 engineering, design, and construction services in a single  
17 procurement for a transportation project provided that any contract  
18 awarded must be the one that results in the best value to the  
19 authority.

20       Sec. 370.315. PERFORMANCE AND PAYMENT BONDS AND SECURITY.  
21 Notwithstanding Chapter 2253, Government Code, an authority shall  
22 require any party to an agreement to operate or maintain a  
23 transportation project to provide performance and payment bonds or  
24 other forms of security, including corporate guarantee, in amounts  
25 considered by the authority to be adequate to protect the authority  
26 and to assure performance of all obligations to the authority and to  
27 subcontractors providing materials or labor for a transportation

1 project.

2 Sec. 370.316. TRANS-TEXAS CORRIDOR PROJECTS. In the event  
3 that an authority is requested by the commission to participate in  
4 the development of a transportation project that has been  
5 designated as part of the Trans-Texas Corridor, the authority shall  
6 have, in addition to all powers granted in this chapter, all powers  
7 of the department related to the development of Trans-Texas  
8 Corridor projects.

9 [Sections 370.317-370.330 reserved for expansion]

10 SUBCHAPTER H. DISSOLUTION OF AUTHORITY

11 Sec. 370.331. VOLUNTARY DISSOLUTION. (a) An authority may  
12 not be dissolved unless the dissolution is approved by the  
13 commission.

14 (b) A board may submit a request to the commission for  
15 approval to dissolve.

16 (c) The commission may approve a request to dissolve only  
17 if:

18 (1) all debts, obligations, and liabilities of the  
19 authority have been paid and discharged or adequate provision has  
20 been made for the payment of all debts, obligations, and  
21 liabilities;

22 (2) there are no suits pending against the authority,  
23 or adequate provision has been made for the satisfaction of any  
24 judgment, order, or decree that may be entered against it in any  
25 pending suit; and

26 (3) the authority has commitments from other  
27 governmental entities to assume jurisdiction of all authority

1 transportation facilities.

2 Sec. 370.332. INVOLUNTARY DISSOLUTION. (a) The commission  
3 by order may require an authority to dissolve if the commission  
4 determines that the authority has not substantially complied with  
5 the requirements of a commission rule or an agreement between the  
6 department and the authority.

7 (b) The commission may not require dissolution unless:

8 (1) the conditions described in Sections  
9 370.331(c)(1) and (2) have been met; and

10 (2) the holders of any indebtedness have evidenced  
11 their agreement to the dissolution.

12 SECTION 2.02. Section 361.003, Transportation Code, is  
13 repealed.

14 SECTION 2.03. (a) This article takes effect immediately if  
15 this Act receives a vote of two-thirds of all members elected to  
16 each house, as provided by Section 39, Article III, Texas  
17 Constitution. If this Act does not receive the vote necessary for  
18 immediate effect, this article takes effect September 1, 2003.

19 (b) This article does not affect the term of a member of the  
20 board of directors of a regional mobility authority serving on the  
21 effective date of this article.

22 ARTICLE 3. ADVANCE ACQUISITION OF PROPERTY

23 SECTION 3.01. The heading to Chapter 202, Transportation  
24 Code, is amended to read as follows:

25 CHAPTER 202. CONTROL OF TRANSPORTATION [~~HIGHWAY~~] ASSETS

26 SECTION 3.02. Chapter 202, Transportation Code, is amended  
27 by adding Subchapter F to read as follows:



1           SUBCHAPTER F. ADVANCE ACQUISITION OF PROPERTY

2           Sec. 202.111. DEFINITION. In this subchapter, "advance  
3 acquisition" means an acquisition by the commission under Section  
4 202.112.

5           Sec. 202.112. ADVANCE ACQUISITIONS. (a) The commission  
6 may purchase an option to acquire property for possible use in or in  
7 connection with a transportation facility, including a facility as  
8 defined by Section 227.001, before a final decision has been made as  
9 to whether the transportation facility will be located on that  
10 property.

11           (b) An advance acquisition shall be made by the commission  
12 using the procedures authorized under Subchapter D of Chapter 203  
13 or other law authorizing the commission or the department to  
14 acquire real property or an interest in real property for a  
15 transportation facility. If the commission acquires real property  
16 or an interest in real property under Subchapter D of Chapter 203 or  
17 other law, the commission may make an advance acquisition in the  
18 manner provided by this subchapter.

19           (c) The commission may not make an advance acquisition by  
20 condemnation.

21           Sec. 202.113. DISPOSAL OF SURPLUS PROPERTY. The commission  
22 shall dispose of property acquired by advance acquisition that is  
23 not needed for a transportation facility in the manner provided by  
24 Subchapter B.

25           Sec. 202.114. MANAGEMENT. If requested by the department,  
26 property acquired by advance acquisition may be managed by the  
27 General Land Office on behalf of the department as the department

1 and the General Land Office may agree. Subchapter E, Chapter 31,  
2 Natural Resources Code, does not apply to property acquired under  
3 this subchapter.

4 ARTICLE 4. RAIL FACILITIES

5 SECTION 4.01. Title 5, Transportation Code, is amended by  
6 adding Subtitle A to read as follows:

7 SUBTITLE A. TEXAS DEPARTMENT OF TRANSPORTATION

8 CHAPTER 91. RAIL FACILITIES

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 91.001. DEFINITIONS. In this chapter:

11 (1) "Commission" means the Texas Transportation  
12 Commission.

13 (2) "Construction" includes design, planning, and  
14 preliminary studies.

15 (3) "Department" means the Texas Department of  
16 Transportation.

17 (4) "Maintenance facility" includes:  
18 (A) a workshop;  
19 (B) a service, storage, security, or personnel  
20 facility; and  
21 (C) equipment for a facility described by  
22 Paragraph (A) or (B).

23 (5) "Operation" includes policing.

24 (6) "Rail facility" means real or personal property,  
25 or any interest in that property, that is determined to be necessary  
26 or convenient for the provision of a freight or passenger rail  
27 facility or system, including commuter rail, intercity rail, and

1 high-speed rail. The term includes all property or interests  
2 necessary or convenient for the acquiring, providing, using, or  
3 equipping of a rail facility or system, including rights-of-way,  
4 trackwork, train controls, stations, and maintenance facilities.

5 (7) "Revenue" includes a charge, toll, rent, payment,  
6 user fee, franchise fee, license fee, fare, tariff, and other  
7 consideration:

8 (A) received in return for the use of:

9 (i) a rail facility; or

10 (ii) a service offered in connection with  
11 the operation of a rail facility; or

12 (B) resulting from a sale or conveyance of a rail  
13 facility.

14 (8) "Right-of-way" means a strip of land of a length  
15 and width determined by the commission to be required, necessary,  
16 or convenient for the provision of a rail facility or system and the  
17 space over, under, or on the land where trackwork is to be located.

18 (9) "Station" means a passenger or freight service  
19 building, terminal, station, ticketing facility, waiting area,  
20 platform, concession, elevator, escalator, facility for  
21 handicapped access, access road, parking facility for passengers,  
22 baggage handling facility, or local maintenance facility, together  
23 with any interest in real property necessary or convenient for  
24 those items.

25 (10) "Surplus revenue" means:

26 (A) revenue that exceeds the department's debt  
27 service requirements, coverage requirements of any bond indenture,

1 costs of operation and maintenance, and cost of expansion or  
2 improvement of a rail facility or system; and

3 (B) reserves and reserve funds maintained by the  
4 department under this chapter.

5 (11) "Trackwork" means track, track beds, track bed  
6 preparation, ties, rail fasteners, slabs, rails, emergency  
7 crossovers, setout tracks, storage tracks, drains, fences,  
8 ballast, switches, bridges, and structures.

9 (12) "Train controls" includes:

10 (A) signals, lights, and other signaling;

11 (B) interlocking equipment;

12 (C) speed monitoring equipment;

13 (D) braking systems;

14 (E) central traffic control facilities; and

15 (F) communication systems.

16 Sec. 91.002. PUBLIC PURPOSE. The following functions are  
17 public and governmental functions, exercised for a public purpose,  
18 and matters of public necessity:

19 (1) the acquisition, financing, construction,  
20 operation, and maintenance of a rail facility under this chapter;

21 (2) the sale, lease, or license of a rail facility to a  
22 rail operator and other public or private persons under this  
23 chapter; and

24 (3) the exercise of any other power granted under this  
25 chapter to the commission and the department.

26 Sec. 91.003. RULES. The commission may adopt rules and the  
27 department may adopt procedures and prescribe forms necessary to

1 implement this chapter.

2 Sec. 91.004. GENERAL POWERS. The department may:

3 (1) plan and make policies for the location,  
4 construction, maintenance, and operation of a rail facility or  
5 system in this state;

6 (2) acquire, finance, construct, maintain, and  
7 subject to Section 91.005, operate a passenger or freight rail  
8 facility, individually or as one or more systems;

9 (3) for the purpose of acquiring or financing a rail  
10 facility or system, accept a grant or loan from a:

11 (A) department or agency of the United States;

12 (B) department, agency, or political subdivision  
13 of this state; or

14 (C) public or private person;

15 (4) contract with a public or private person to  
16 finance, construct, maintain, or operate a rail facility under this  
17 chapter; or

18 (5) perform any act necessary to the full exercise of  
19 the department's powers under this chapter.

20 Sec. 91.005. RELIANCE ON PRIVATE ENTITIES. The department  
21 shall contract with a private entity to operate a railroad using  
22 facilities owned by the department and may not use department  
23 employees to operate a railroad. The department may maintain a  
24 railroad facility directly or through a private entity. The  
25 department may not own rolling stock.

26 Sec. 91.006. COOPERATION OF STATE AGENCIES AND POLITICAL  
27 SUBDIVISIONS. Within available resources, an agency or political

1 subdivision of this state shall cooperate with and assist the  
2 department in exercising its powers and duties under this chapter.

3 Sec. 91.007. NOTIFICATION OF INTENT TO ABANDON OR  
4 DISCONTINUE SERVICE. On receipt of notice of intent to abandon or  
5 discontinue rail service served under 49 C.F.R. Section 1152.20, as  
6 amended, the department shall coordinate with the governing body of  
7 a municipality, county, or rural rail transportation district in  
8 which all or a segment of the line is located to determine whether:

9 (1) the department should acquire the rail facility to  
10 which the notice relates; or

11 (2) any other actions should be taken to provide for  
12 continued rail transportation service.

13 [Sections 91.008-91.030 reserved for expansion]

14 SUBCHAPTER B. ACQUISITION AND DEVELOPMENT OF RAIL FACILITIES

15 Sec. 91.031. ESTABLISHMENT OF RAIL SYSTEMS. (a) If the  
16 commission determines that the provision of rail transportation  
17 services would be most efficiently and economically met by jointly  
18 operating two or more rail facilities as one operational and  
19 financial enterprise, it may create a system composed of those  
20 facilities.

21 (b) The commission may create more than one system and may  
22 combine two or more systems into one system.

23 (c) The department may finance, acquire, construct, and  
24 operate additional rail facilities as additions to and expansions  
25 of the system if the commission determines that the facility would  
26 most efficiently and economically be acquired and constructed if it  
27 were a part of the system and that the addition will benefit the

1 system.

2 (d) The revenue of a system shall be accounted for  
3 separately and may not be commingled with the revenue of a rail  
4 facility that is not part of the system.

5 Sec. 91.032. ACQUISITION OF RAIL FACILITIES. (a) The  
6 commission may authorize the department to acquire an existing rail  
7 facility at a location and on a route the commission determines to  
8 be feasible and viable for rail transportation service.

9 (b) The department may enter into an agreement with the  
10 owner of an operating railroad for the acquisition or use of a rail  
11 facility on terms the department considers to be in the best  
12 interest of the state.

13 Sec. 91.033. ENVIRONMENTAL REVIEW. (a) The department  
14 shall conduct or approve all environmental evaluations or studies  
15 required for the construction, maintenance, or operation of a rail  
16 facility.

17 (b) The commission may adopt rules to allocate  
18 responsibility for conducting an environmental evaluation or study  
19 or preparing environmental documentation among entities involved  
20 in the construction, maintenance, or operation of a rail facility  
21 under this chapter.

22 Sec. 91.034. ENVIRONMENTAL MITIGATION. (a) The department  
23 may acquire, maintain, hold, restore, enhance, develop, or  
24 redevelop property for the purpose of mitigating a past, present,  
25 or future adverse environmental effect arising from the  
26 construction, maintenance, or operation of a rail facility without  
27 regard to whether the need for mitigation has already been

1 established for a particular project.

2 (b) The department may contract with a governmental or  
3 private entity to maintain, control, hold, restore, enhance,  
4 develop, or redevelop property for the mitigation of a past,  
5 present, or future adverse environmental effect arising from the  
6 construction, maintenance, or operation of a rail facility without  
7 regard to whether the need for mitigation has already been  
8 established for a particular project.

9 (c) If authorized by the applicable regulatory authority,  
10 the department may pay an amount of money to an appropriate  
11 governmental or private entity instead of acquiring or managing  
12 property for the mitigation of a past, present, or future adverse  
13 environmental effect arising from construction, maintenance, or  
14 operation of a rail facility without regard to whether the need for  
15 mitigation has already been established for a particular project.

16 Sec. 91.035. USE OF FACILITIES BELONGING TO PUBLIC OR  
17 PRIVATE ENTITY. (a) The department, for the purpose of acquiring,  
18 constructing, maintaining, and operating freight or passenger rail  
19 facilities and systems in this state, may:

20 (1) use a street, alley, road, highway, or other  
21 public way of a municipality, county, or other political  
22 subdivision with the consent of that political subdivision; and

23 (2) at the expense of the department, relocate, raise,  
24 reroute, or change the grade of the construction of a street, alley,  
25 highway, road, railroad, electric line and facility, telegraph and  
26 telephone property and facility, pipeline and facility, conduit and  
27 facility, and other properties, whether publicly or privately



1 owned, as necessary or useful in the construction, maintenance, and  
2 operation of a rail facility or system.

3 (b) The department shall provide reasonable notice to the  
4 owner of the applicable facility of the need for the alteration  
5 under Subsection (a)(2) and allow that owner the opportunity to  
6 complete the alteration.

7 Sec. 91.036. EXPENDITURE OF FUNDS. Subject to Section  
8 91.071(b), the department may receive, accept, and expend funds  
9 from this state, a federal agency, or other public or private source  
10 for:

11 (1) rail planning;

12 (2) studies to determine the viability of a rail  
13 facility for rail transportation service;

14 (3) studies to determine the necessity for the  
15 department's acquisition or construction of a rail facility; and

16 (4) the acquisition, construction, maintenance, or  
17 operation of a rail facility under this chapter, including the  
18 assessment and remediation of environmental contamination existing  
19 in or on a rail facility.

20 Sec. 91.0361. CERTAIN FREIGHT RAILROAD PROJECTS. (a) If  
21 sufficient funds from bonds sold to construct the Central Texas  
22 turnpike project or from the Texas mobility fund are available, the  
23 department may, and is strongly encouraged to, use the funds for  
24 engineering, design, grading, and construction necessary to create  
25 a grade-separated freight rail line capable of being safely  
26 traveled by trains operating at not less than 80 miles per hour in  
27 or adjacent to the State Highway 130 corridor.

1       (b) The department may, and is strongly encouraged to, enter  
2 into negotiations with any Class I railroad concerning building and  
3 operating a freight railroad in or adjacent to the State Highway 130  
4 corridor. The department may explore with any Class I railroad the  
5 possibility of operating the freight railroad line in or adjacent  
6 to the State Highway 130 corridor as a revenue-producing  
7 partnership that could benefit this state and the current holders  
8 of bonds used in the financing of State Highway 130.

9       (c) This section may not be construed to allow any delay in  
10 the current published schedule for the construction and completion  
11 of State Highway 130.

12       Sec. 91.037. CONTRACTS WITH GOVERNMENTAL ENTITIES. This  
13 chapter does not apply to real or personal property, facilities,  
14 funding, projects, operations, construction, or a project plan of a  
15 transportation authority created under Chapter 451, 452, or 460  
16 unless the commission or its designee has signed a written  
17 agreement with the transportation authority specifying the terms  
18 and conditions under which the transportation authority may  
19 participate.

20       [Sections 91.038-91.050 reserved for expansion]

21                   SUBCHAPTER C. CONTRACTS

22       Sec. 91.051. AWARDING OF CONTRACTS. Unless otherwise  
23 provided by this subchapter, a contract made by the department for  
24 the construction, maintenance, or operation of a rail facility must  
25 be let by a competitive bidding procedure in which the contract is  
26 awarded to the lowest responsible bidder that complies with the  
27 department's criteria.

1       Sec. 91.052. AGREEMENTS TO CONSTRUCT, MAINTAIN, AND OPERATE  
2 RAIL FACILITIES. The department may enter into an agreement with a  
3 public entity, including a political subdivision of this state, to  
4 permit the entity, independently or jointly with the department, to  
5 acquire, construct, maintain, or operate a rail facility or system.

6       Sec. 91.053. SMALL AND DISADVANTAGED BUSINESSES. (a) The  
7 department shall:

8           (1) set goals for the award of contracts to small and  
9 disadvantaged businesses and attempt to meet the goals;

10           (2) attempt to identify small and disadvantaged  
11 businesses that provide or have the potential to provide supplies,  
12 materials, equipment, or services to the department; and

13           (3) give small and disadvantaged businesses full  
14 access to the department's contract bidding process and other  
15 contracting processes, inform the businesses about those  
16 processes, offer the businesses assistance concerning those  
17 processes, and identify barriers to the businesses' participation  
18 in those processes.

19           (b) This section does not exempt the department from  
20 competitive bidding requirements imposed by other law.

21           [Sections 91.054-91.070 reserved for expansion]

22           SUBCHAPTER D. FINANCING OF RAIL FACILITIES

23       Sec. 91.071. PERMISSIBLE SOURCES OF FUNDING. (a) The  
24 department may use any legally permissible source of funding in  
25 acquiring, constructing, maintaining, and operating a rail  
26 facility or system, including:

27           (1) appropriations from the state highway fund that

1 are not dedicated for another purpose by Section 7-a or 7-b, Article  
2 VIII, Texas Constitution;

3 (2) proceeds from bonds secured by the Texas Mobility  
4 Fund;

5 (3) donations, whether in kind or in cash; and

6 (4) loans from the state infrastructure bank.

7 (b) Each fiscal year, the total amount disbursed by the  
8 department out of federal and state funds shall not exceed \$12.5  
9 million. This subsection does not apply to:

10 (1) disbursements for the acquisition or construction  
11 of rail lines on the Trans-Texas Corridor;

12 (2) the acquisition of abandoned rail facilities  
13 described in Section 91.007;

14 (3) funding derived from the issuance of bonds,  
15 private investment, donations, and grants or loans from the Federal  
16 Railroad Administration or Federal Transit Administration; and

17 (4) grading and bed preparation.

18 Sec. 91.072. FINANCING OF RAIL FACILITIES AND SYSTEMS. (a)  
19 The commission and the department have the same powers and duties  
20 relating to the financing of a rail facility or a system established  
21 under Section 91.031 as the commission and the department have  
22 under Subchapter E, Chapter 361, relating to the financing of a  
23 turnpike project, including the ability to deposit the proceeds of  
24 bonds or other obligations and to pledge, encumber, and expend such  
25 proceeds and revenues as provided in Chapter 361.

26 (b) The powers held by the commission and the department  
27 include the power to:

1           (1) authorize the issuance of bonds to pay all or part  
2 of the cost of acquiring, constructing, maintaining, or operating a  
3 rail facility or system;

4           (2) maintain separate accounts for bond proceeds and  
5 the revenues of a rail facility or system, and pledge those revenues  
6 and proceeds to the payment of bonds or other obligations issued or  
7 entered into with respect to the facility or system;

8           (3) impose fees, rents, and other charges for the use  
9 of a rail facility or system; and

10           (4) obtain from another source the fees and other  
11 revenue necessary to pay all or part of the principal and interest  
12 on bonds issued under this chapter.

13           (c) For purposes of this section, a reference in Subchapter  
14 E, Chapter 361 to:

15           (1) a turnpike project means a rail facility or  
16 system; and

17           (2) revenue includes a fee, rent, or other usage  
18 charge established under this chapter or other money received under  
19 Sections 91.073 and 91.074.

20           Sec. 91.073. GRANTS AND LOANS. The department may apply  
21 for, accept, and expend money from grants, loans, or reimbursements  
22 for any purpose of this chapter, including paying for the cost of  
23 the acquisition, construction, maintenance, and operation of a rail  
24 facility or system.

25           Sec. 91.074. REVENUE. (a) The department may require a  
26 person, including any public or private entity, to pay a fee as a  
27 condition of using any part of a rail facility or system. The

1 department may not require a person to pay a fee in connection with  
2 the placement, maintenance, or other use of a public utility  
3 facility.

4 (b) The department shall establish and maintain rents or  
5 other compensation for the use of rail facilities or systems in an  
6 amount that is, together with other revenue of the department  
7 received under this chapter, sufficient to enable the department to  
8 comply with the requirements of Section 91.072.

9 (c) The department may contract with a person for the use of  
10 all or part of a rail facility or system or may lease or sell all or  
11 part of a rail facility or system, including all or any part of the  
12 right-of-way adjoining trackwork, for any purpose, including  
13 placing on the adjoining right-of-way a storage or transfer  
14 facility, warehouse, garage, parking facility, telecommunication  
15 line or facility, restaurant, or gas station.

16 (d) The department shall not unreasonably discriminate in  
17 deciding who may use any part of a rail facility or system.

18 (e) All revenue received by the department under this  
19 chapter:

20 (1) shall be deposited to the credit of the state  
21 highway fund and may be used for any purpose authorized by this  
22 chapter; and

23 (2) is exempt from the application of Section 403.095,  
24 Government Code.

25 [Sections 91.075-91.090 reserved for expansion]

26 SUBCHAPTER E. ACQUISITION AND DISPOSAL OF PROPERTY

27 Sec. 91.091. ACQUISITION OF REAL PROPERTY. (a) The

1 commission may authorize the department to acquire in the name of  
2 the state a right-of-way, a property right, or other interest in  
3 real property determined to be necessary or convenient for the  
4 department's acquisition, construction, maintenance, or operation  
5 of rail facilities.

6 (b) The commission may authorize the department to acquire  
7 property by any method, including purchase and condemnation.  
8 Property may be purchased under any terms determined by the  
9 department to be in the best interest of the state.

10 (c) Property may be purchased along alternative potential  
11 routes for a rail facility even if only one of those potential  
12 routes will ultimately be chosen as the final route.

13 Sec. 91.092. PROPERTY NECESSARY OR CONVENIENT FOR RAIL  
14 FACILITIES. Property necessary or convenient for the department's  
15 acquisition, construction, maintenance, or operation of rail  
16 facilities includes an interest in real property or a property  
17 right the commission determines is necessary or convenient to  
18 provide:

19 (1) right-of-way for a location for:

20 (A) a rail facility; or

21 (B) the future expansion of a rail facility;

22 (2) land for mitigation of adverse environmental  
23 effects;

24 (3) buffer zones for scenic or safety purposes; and

25 (4) revenue for use in acquiring, constructing,  
26 maintaining, or operating a rail facility or system, including  
27 revenue received under a contract described by Section 91.074(c).

1       Sec. 91.093. RIGHT OF ENTRY. (a) To acquire property  
2 necessary or convenient for a rail facility, the department may  
3 enter any premises or real property, including a body of water, to  
4 make a survey, geotechnical evaluation, sounding, or examination.

5       (b) An entry under Subsection (a) or (d) is not:

6           (1) a trespass; or

7           (2) an entry under a pending condemnation procedure.

8       (c) The department shall make reimbursements for actual  
9 damages that result from an entry under Subsection (a) or (d).

10       (d) To ensure the safety and convenience of the public, the  
11 department shall, when entering any real property, water, or  
12 premises on which is located a public utility facility:

13           (1) comply with applicable industry standard safety  
14 codes and practices; and

15           (2) notwithstanding Subsection (a), give the owner or  
16 operator of the public utility facility not less than 10 days'  
17 notice before entering the real property, water, or premises.

18       Sec. 91.094. CONVEYANCE OF PROPERTY BELONGING TO POLITICAL  
19 SUBDIVISION OR PUBLIC AGENCY. The governing body of a  
20 municipality, county, political subdivision, or public agency may,  
21 without advertisement, convey the title to or a right in property  
22 determined to be necessary or convenient by the department under  
23 this subchapter.

24       Sec. 91.095. DISPOSAL OF PROPERTY. The department may  
25 sell, convey, or otherwise dispose of any rights or other interests  
26 in real property acquired under this subchapter that the commission  
27 determines are no longer needed for department purposes.



1 [Sections 91.096-91.100 reserved for expansion]

2 SUBCHAPTER F. OPERATION AND USE OF RAIL FACILITIES

3 Sec. 91.101. CONTRACTS FOR RAIL TRANSPORTATION SERVICES.

4 The department may contract with a county or other political  
5 subdivision of the state for the department to provide rail  
6 transportation services on terms agreed to by the parties.

7 Sec. 91.102. CONTRACTS WITH RAIL OPERATORS. (a) The

8 department may lease all or part of a rail facility or system to a  
9 rail operator. The department may contract with a rail operator for  
10 the use or operation of all or part of a rail facility or system.

11 (b) The department shall encourage to the maximum extent  
12 practical the participation of private enterprise in the operation  
13 of rail facilities and systems.

14 (c) A lease agreement shall provide for the department's  
15 monitoring of a rail operator's service and performance.

16 (d) The department may enter into an agreement with a rail  
17 operator to sell all or any part of state-owned rail facilities on  
18 terms the department considers to be in the best interest of the  
19 state.

20 Sec. 91.103. JOINT USE OF RAIL FACILITIES. The department  
21 may:

22 (1) enter into an agreement with a rail operator,  
23 public utility, private utility, communication system, common  
24 carrier, or transportation system for the common use of its  
25 facilities, installations, or properties; and

26 (2) establish through routes, joint fares, and,  
27 subject to approval of a tariff-regulating body having

1 jurisdiction, divisions of tariffs.

2 Sec. 91.104. ROUTINGS. The department may determine  
3 routings for rail facilities acquired, constructed, or operated by  
4 the department under this chapter.

5 Sec. 91.105. PLACEMENT OF UTILITY FACILITIES, LINES, AND  
6 EQUIPMENT. (a) A utility has the same right to place its  
7 facilities, lines, or equipment in, over, or across right-of-way  
8 that is part of a state-owned rail facility as the utility has with  
9 respect to the right-of-way of a state highway under Chapter 181,  
10 Utilities Code. A utility shall notify the department of the  
11 utility's intention to exercise authority over right-of-way that is  
12 part of state-owned rail facilities.

13 (b) On receipt of notice under Subsection (a), the  
14 department may designate the location in the right-of-way where the  
15 utility may place its facilities, lines, or equipment.

16 (c) The department may require a utility to relocate the  
17 utility's facilities, lines, or equipment, at the utility's  
18 expense, to allow for the expansion or relocation of rail  
19 facilities owned by the state. A relocation under this subsection  
20 must be accomplished pursuant to Subsections (e)-(j). The  
21 department shall pay for the cost of the relocation. If a utility  
22 facility is replaced, the cost of replacement is limited to an  
23 amount equal to the cost of replacing the facility with a comparable  
24 facility, less the net salvage value of the replaced facility.

25 (d) A utility may use and operate a facility required to be  
26 relocated under this section at the new location for the same period  
27 and on the same terms as the utility had the right to do at the

1 previous location of the facility.

2 (e) If the department determines that a public utility  
3 facility must be relocated, the utility and the department shall  
4 negotiate in good faith to establish reasonable terms and  
5 conditions concerning the responsibilities of the parties with  
6 regard to sharing of information about the project and the planning  
7 and implementation of any necessary relocation of a public utility  
8 facility.

9 (f) The department shall use its best efforts to provide an  
10 affected utility with plans and drawings of the project that are  
11 sufficient to enable the utility to develop plans for, and  
12 determine the cost of, the necessary relocation of the public  
13 utility facility. If the department and the affected utility enter  
14 into an agreement after negotiations under Subsection (e), the  
15 terms and conditions of the agreement govern the relocation of  
16 public utility facilities covered by the agreement.

17 (g) If the department and an affected utility do not enter  
18 into an agreement under Subsection (e), the department shall  
19 provide to the affected utility:

20 (1) written notice of the department's determination  
21 that the public utility facility must be removed;

22 (2) a final plan for relocation of the public utility  
23 facility; and

24 (3) reasonable terms and conditions for an agreement  
25 with the utility for the relocation of the public utility facility.

26 (h) Not later than the 90th day after the date a utility  
27 receives the notice from the department, including the plan and

1 agreement terms and conditions under Subsection (g), the utility  
2 shall enter into an agreement with the department that provides for  
3 the relocation.

4 (i) If the utility fails to enter into an agreement within  
5 the 90-day period under Subsection (h), the department may relocate  
6 the public utility facility at the sole cost and expense of the  
7 utility less any reimbursement of costs that would have been  
8 payable to the utility under applicable law. A relocation by the  
9 department under this subsection shall be conducted in full  
10 compliance with applicable law, using standard equipment and  
11 construction practices compatible with the utility's existing  
12 facilities, and in a manner that minimizes disruption of utility  
13 service.

14 (j) The 90-day period under Subsection (h) may be extended:

15 (1) by mutual agreement between the department and the  
16 utility; or

17 (2) for any period during which the utility is  
18 negotiating in good faith with the department to relocate its  
19 facility.

20 SECTION 4.02. Section 2, Chapter 1244, Acts of the 77th  
21 Legislature, Regular Session, 2001 (Article 6550c-2, Vernon's  
22 Texas Civil Statutes), is repealed.

23 SECTION 4.03. This article takes effect immediately if this  
24 Act receives a vote of two-thirds of all the members elected to each  
25 house, as provided by Section 39, Article III, Texas Constitution.  
26 If this Act does not receive the vote necessary for immediate  
27 effect, this article takes effect September 1, 2003.

1 ARTICLE 5. ISSUANCE OF BONDS AND OTHER PUBLIC SECURITIES

2 SECTION 5.01. Subchapter A, Chapter 222, Transportation  
3 Code, is amended by adding Section 222.003 to read as follows:

4 Sec. 222.003. ISSUANCE OF BONDS SECURED BY STATE HIGHWAY  
5 FUND. (a) The commission may issue bonds and other public  
6 securities secured by a pledge of and payable from revenue  
7 deposited to the credit of the state highway fund.

8 (b) The aggregate principal amount of the bonds and other  
9 public securities that are issued may not exceed \$3 billion. The  
10 commission may only issue bonds or other public securities in an  
11 aggregate principal amount of not more than \$1 billion each year.

12 (c) Proceeds from the sale of bonds and other public  
13 securities issued under this section shall be used to fund state  
14 highway improvement projects.

15 (d) Of the aggregate principal amount of bonds and other  
16 public securities that may be issued under this section, the  
17 commission shall issue bonds or other public securities in an  
18 aggregate principal amount of \$600 million to fund projects that  
19 reduce accidents or correct or improve hazardous locations on the  
20 state highway system. The commission by rule shall prescribe  
21 criteria for selecting projects eligible for funding under this  
22 section. In establishing criteria for the projects, the commission  
23 shall consider accident data, traffic volume, pavement geometry,  
24 and other conditions that can create or exacerbate hazardous  
25 roadway conditions.

26 (e) The proceeds of bonds and other public securities issued  
27 under this section may not be used for any purpose other than any

1 costs related to the bonds and other public securities and the  
2 purposes for which revenues are dedicated under Section 7-a,  
3 Article VIII, Texas Constitution. The proceeds of bonds and other  
4 public securities issued under this section may not be used for the  
5 construction of a state highway or other facility on the  
6 Trans-Texas Corridor. For purposes of this section, the  
7 "Trans-Texas Corridor" means the statewide system of multimodal  
8 facilities under the jurisdiction of the department that is  
9 designated by the commission, notwithstanding the name given to  
10 that corridor.

11 (f) The commission may enter into credit agreements, as  
12 defined by Chapter 1371, Government Code, relating to the bonds and  
13 other public securities authorized by this section. The agreements  
14 may be secured by and payable from the same sources as the bonds and  
15 other public securities.

16 (g) All laws affecting the issuance of bonds and other  
17 public securities by governmental entities, including Chapters  
18 1201, 1202, 1204, 1207, 1231, and 1371, Government Code, apply to  
19 the issuing of bonds and other public securities and the entering  
20 into of credit agreements under this section.

21 (h) The proceeds of bonds and other public securities issued  
22 under this section may be used to:

23 (1) finance other funds relating to the public  
24 security, including debt service reserve and contingency; and

25 (2) pay the cost or expense of the issuance of the  
26 public security.

27 (i) Bonds and other public securities and credit agreements

1 authorized by this section may not have a principal amount or terms  
2 that, at the time the bonds or other public securities are issued or  
3 the agreements entered into, are expected by the commission to  
4 cause annual expenditures with respect to the obligations to exceed  
5 10 percent of the amount deposited to the credit of the state  
6 highway fund in the immediately preceding year.

7 (j) Bonds and other public securities issued under this  
8 section may be sold in such manner and subject to such terms and  
9 provisions as set forth in the order authorizing their issuance,  
10 and such bonds and other public securities must mature not later  
11 than 20 years after their dates of issuance, subject to any  
12 refundings or renewals.

13 (k) The comptroller shall withdraw from the state highway  
14 fund and forward at the direction of the commission to another  
15 person the amounts as determined by the commission to permit timely  
16 payment of:

17 (1) the principal of and interest on the bonds and  
18 other public securities that mature or become due; and

19 (2) any cost related to the bonds and other public  
20 securities that become due, including payments under credit  
21 agreements.

22 SECTION 5.02. This article takes effect on the date on which  
23 the constitutional amendment proposed by the 78th Legislature,  
24 Regular Session, 2003, that authorizes the legislature to provide  
25 for the issuance of bonds and other public securities secured by the  
26 state highway fund for highway improvement projects takes effect.  
27 If that amendment is not approved by the voters, this article has no

1 effect.

2 ARTICLE 6. PASS-THROUGH TOLLS

3 SECTION 6.01. Subchapter E, Chapter 222, Transportation  
4 Code, is amended by adding Section 222.104 to read as follows:

5 Sec. 222.104. PASS-THROUGH TOLLS. (a) In this section,  
6 "pass-through toll" means a per vehicle fee or a per vehicle mile  
7 fee that is determined by the number of vehicles using a highway.

8 (b) The department may enter into an agreement with a public  
9 or private entity that provides for the payment of pass-through  
10 tolls to the public or private entity as reimbursement for the  
11 construction, maintenance, or operation of a toll or nontoll  
12 facility on the state highway system by the public or private  
13 entity.

14 (c) The department may enter into an agreement with a  
15 regional mobility authority, a regional tollway authority, or a  
16 county acting under Chapter 284 that provides for the payment of  
17 pass-through tolls to the authority or county as compensation for  
18 the payment of all or a portion of the costs of maintaining a state  
19 highway or a portion of a state highway converted to a toll facility  
20 of the authority or county that the department estimates it would  
21 have incurred if the highway had not been converted.

22 (d) The department may use any available funds for the  
23 purpose of making a pass-through toll payment under this section.

24 (e) The commission may adopt rules necessary to implement  
25 this section. Rules adopted under this subsection may establish  
26 criteria for:

27 (1) determining the amount of pass-through tolls to be



1 paid under this section; and

2 (2) allocating the risk that traffic volume will be  
3 higher or lower than the parties to an agreement under this section  
4 anticipated in entering the agreement.

5 SECTION 6.02. This article takes effect immediately if this  
6 Act receives a vote of two-thirds of all the members elected to each  
7 house, as provided by Section 39, Article III, Texas Constitution.  
8 If this Act does not receive the vote necessary for immediate  
9 effect, this article takes effect September 1, 2003.

10 ARTICLE 7. CONVERSION OF NONTOLL STATE HIGHWAY

11 SECTION 7.01. Subchapter A, Chapter 284, Transportation  
12 Code, is amended by adding Section 284.009 to read as follows:

13 Sec. 284.009. CONVEYANCE OF STATE HIGHWAY TO COUNTY. (a)  
14 The commission may convey a nontoll state highway or a segment of a  
15 nontoll state highway, including real property acquired to  
16 construct or operate the highway, to a county for operation and  
17 maintenance as a project under this chapter if:

18 (1) the proposed conveyance is approved by the  
19 commissioners court of each county within which the highway is  
20 located;

21 (2) the commission determines that the proposed  
22 conveyance will improve overall mobility in the region or is the  
23 most feasible and economic means of accomplishing necessary  
24 improvements to the highway;

25 (3) any funds paid by the department for the  
26 construction, maintenance, and operation of the conveyed highway  
27 are repaid to the department; and

1           (4) the county agrees to assume all liability and  
2 responsibility for the maintenance and operation of the conveyed  
3 highway on its conveyance.

4           (b) The commission may only make a conveyance under this  
5 section if the commission determines that the conveyance is the  
6 most feasible and economic means to accomplish necessary  
7 expansions, extensions, or improvements of the conveyed segment of  
8 the highway. Tolls may not be collected by an authority from a  
9 conveyed segment of highway except to finance the expansion,  
10 extension, operation, and maintenance of that highway segment.

11           (c) A county that receives a nontoll state highway or a  
12 segment of a nontoll state highway under Subsection (a) may own,  
13 operate, and maintain the highway as a pooled project under Section  
14 284.065.

15           (d) The commission shall, at the time of a conveyance,  
16 remove the highway or segment of highway from the state highway  
17 system. After a conveyance, the department has no liability,  
18 responsibility, or duty for the maintenance or operation of the  
19 highway or segment.

20           (e) The commission may waive all or a portion of an amount  
21 due under Subsection (a)(3) if it finds that the conveyance will  
22 result in substantial net benefits to the state, the department,  
23 and the traveling public that equal or exceed the amount of payment  
24 waived.

25           (f) Before conveying a nontoll state highway or a segment of  
26 a nontoll state highway under this section, the commission shall  
27 conduct a public hearing to receive comments from interested

1 persons concerning the proposed conveyance. Notice of the hearing  
2 shall be published in the Texas Register and in one or more  
3 newspapers of general circulation in any county in which the  
4 highway or segment is located.

5 (g) The commission shall adopt rules implementing this  
6 section, including criteria and guidelines for approval of a  
7 conveyance of a highway or segment.

8 (h) Funds received by the department under this section:

9 (1) shall be deposited to the credit of the state  
10 highway fund; and

11 (2) are exempt from the application of Section  
12 403.095, Government Code.

13 SECTION 7.02. Section 362.0041, Transportation Code, is  
14 amended by amending Subsections (a), (c), and (d) and adding  
15 Subsections (e)-(g) to read as follows:

16 (a) Except as provided in Subsections [~~Subsection~~] (d) and  
17 (g), [if] the commission may by order convert [finds that the  
18 conversion of] a segment of the free state highway system to a toll  
19 facility if it determines that the conversion will improve overall  
20 mobility in the region or is the most feasible and economic means to  
21 accomplish necessary expansion, improvements, or extensions to  
22 that segment of the state highway system[~~, that segment may be~~  
23 ~~converted by order of the commission to a turnpike project under~~  
24 ~~Chapter 361~~].

25 (c) The commission shall adopt rules implementing this  
26 section, including [~~such rules to include~~] criteria and guidelines  
27 for the approval of a conversion of a highway.

1 (d) The commission may not convert the Queen Isabella  
2 Causeway in Cameron County to a toll facility [~~turnpike project~~].

3 (e) Subchapter G, Chapter 361, applies to a highway  
4 converted to a toll facility under this section.

5 (f) Toll revenue collected under this section:

6 (1) shall be deposited in the state highway fund;

7 (2) may be used by the department to finance the  
8 improvement, extension, expansion, or operation of the converted  
9 segment of highway and may not be collected except for those  
10 purposes; and

11 (3) is exempt from the application of Section 403.095,  
12 Government Code.

13 (g) The commission may only convert a segment of the state  
14 highway system under this section if the conversion is approved by  
15 the commissioners court of each county within which the segment is  
16 located.

17 ARTICLE 8. COMMERCIAL DRIVER'S LICENSES

18 SECTION 8.01. Section 522.003(25), Transportation Code, is  
19 amended to read as follows:

20 (25) "Serious traffic violation" means:

21 (A) a conviction arising from the driving of a  
22 commercial motor vehicle, other than a parking, vehicle weight, or  
23 vehicle defect violation, for:

24 (i) [~~(A)~~] excessive speeding, involving a  
25 single charge of driving 15 miles per hour or more above the posted  
26 speed limit;

27 (ii) [~~(B)~~] reckless driving, as defined by

1 state or local law;

2 (iii) [~~(C)~~] a violation of a state or local  
3 law related to motor vehicle traffic control, including a law  
4 regulating the operation of vehicles on highways, arising in  
5 connection with a fatal accident;

6 (iv) [~~(D)~~] improper or erratic traffic lane  
7 change;

8 (v) [~~(E)~~] following the vehicle ahead too  
9 closely; or

10 (vi) [~~(F) operating~~] a [~~commercial motor~~  
11 ~~vehicle in~~] violation of Sections [~~Section~~] 522.011 or 522.042; or

12 (B) a violation of Section 522.015.

13 SECTION 8.02. Section 522.081, Transportation Code, is  
14 amended to read as follows:

15 Sec. 522.081. DISQUALIFICATION. (a) This subsection  
16 applies [~~only~~] to a violation committed while operating any motor  
17 vehicle, including a commercial motor vehicle. A person who holds a  
18 commercial driver's license is disqualified from driving a  
19 commercial motor vehicle for:

20 (1) 60 days if convicted of:

21 (A) two serious traffic violations that occur  
22 within a three-year period; or

23 (B) one violation of a law that regulates the  
24 operation of a motor vehicle at a railroad grade crossing; or

25 (2) 120 days if convicted of:

26 (A) three serious traffic violations arising  
27 from separate incidents occurring within a three-year period; or

1 (B) two violations of a law that regulates the  
2 operation of a motor vehicle at a railroad grade crossing that occur  
3 within a three-year period~~[, or~~

4 ~~[(3) one year if convicted of three violations of a law~~  
5 ~~that regulates the operation of a motor vehicle at a railroad grade~~  
6 ~~crossing that occur within a three-year period].~~

7 (b) This subsection applies to a violation committed while  
8 operating any motor vehicle, including a commercial motor vehicle,  
9 except as provided by this subsection. A person who holds a  
10 commercial driver's license is disqualified from driving a  
11 commercial motor vehicle for one year:

12 (1) if convicted of three violations of a law that  
13 regulates the operation of a motor vehicle at a railroad grade  
14 crossing that occur within a three-year period;

15 (2) on first conviction of:

16 (A) [(1)] driving a [commercial] motor vehicle  
17 under the influence of alcohol or a controlled substance, including  
18 a violation of Section 49.04 or 49.07, Penal Code;

19 (B) [(2) driving a commercial motor vehicle  
20 while the person's alcohol concentration was 0.04 or more;

21 [(3) intentionally] leaving the scene of an accident  
22 involving a [commercial] motor vehicle driven by the person;

23 (C) [(4)] using a [commercial] motor vehicle in  
24 the commission of a felony, other than a felony described by  
25 Subsection (d)(2);

26 (D) [(5) refusing to submit to a test to  
27 determine the person's alcohol concentration or the presence in the

1 ~~person's body of a controlled substance or drug while driving a~~  
2 ~~commercial motor vehicle;~~

3 ~~(6)~~ causing the death of another person through the  
4 negligent or criminal operation of a ~~commercial~~ motor vehicle; or

5 (E) ~~(7)~~ driving a commercial motor vehicle  
6 while the person's commercial driver's license is revoked,  
7 suspended, or canceled, or while the person is disqualified from  
8 driving a commercial motor vehicle, for an action or conduct that  
9 occurred while operating a commercial motor vehicle;

10 (3) for refusing to submit to a test under Chapter 724  
11 to determine the person's alcohol concentration or the presence in  
12 the person's body of a controlled substance or drug while operating  
13 a motor vehicle in a public place; or

14 (4) if an analysis of the person's blood, breath, or  
15 urine under Chapter 724 determines that the person:

16 (A) had an alcohol concentration of 0.04 or more,  
17 or that a controlled substance or drug was present in the person's  
18 body, while operating a commercial motor vehicle in a public place;  
19 or

20 (B) had an alcohol concentration of 0.08 or more  
21 while operating a motor vehicle, other than a commercial motor  
22 vehicle, in a public place.

23 (c) A person who holds a commercial driver's license is  
24 disqualified from operating a commercial motor vehicle for three  
25 years if:

26 (1) the person:

27 (A) is convicted of an offense [~~If a violation~~]

1 listed in Subsection (b)(2) and the vehicle being operated by the  
2 person was transporting a hazardous material required to be  
3 placarded; or

4 (B) refuses to submit to a test under Chapter 724  
5 to determine the person's alcohol concentration or the presence in  
6 the person's body of a controlled substance or drug while operating  
7 a motor vehicle in a public place and the vehicle being operated by  
8 the person was transporting a hazardous material required to be  
9 placarded; or

10 (2) an analysis of the person's blood, breath, or urine  
11 under Chapter 724 determines that while transporting a hazardous  
12 material required to be placarded the person:

13 (A) while operating a commercial motor vehicle in  
14 a public place had an alcohol concentration of 0.04 or more, or a  
15 controlled substance or drug present in the person's body; or

16 (B) while operating a motor vehicle, other than a  
17 commercial motor vehicle, in a public place had an alcohol  
18 concentration of 0.08 or more [~~(b) occurred while the person was~~  
19 transporting a hazardous material required to be placarded, the  
20 person is disqualified for three years].

21 (d) A person is disqualified from driving a commercial motor  
22 vehicle for life:

23 (1) if the person [~~+~~  
24 [~~(1)~~] is convicted [~~of~~] two or more times [~~violations~~]  
25 of an offense specified by Subsection (b)(2) [~~(b)~~], or a  
26 combination of those offenses, arising from two or more separate  
27 incidents; [~~or~~]



1           (2) if the person uses a [~~commercial~~] motor vehicle in  
2 the commission of a felony involving:

3                   (A) the manufacture, distribution, or dispensing  
4 of a controlled substance; or

5                   (B) possession with intent to manufacture,  
6 distribute, or dispense a controlled substance; or

7           (3) for any combination of two or more of the  
8 following, arising from two or more separate incidents:

9                   (A) a conviction of the person for an offense  
10 described by Subsection (b)(2);

11                   (B) a refusal by the person described by  
12 Subsection (b)(3); and

13                   (C) an analysis of the person's blood, breath, or  
14 urine described by Subsection (b)(4).

15           (e) A person may not be issued a commercial driver's license  
16 and is disqualified from operating a commercial motor vehicle if,  
17 in connection with the person's operation of a commercial motor  
18 vehicle, the person commits an offense or engages in conduct that  
19 would disqualify the holder of a commercial driver's license from  
20 operating a commercial motor vehicle, or is determined to have had  
21 an alcohol concentration of 0.04 or more or to have had a controlled  
22 substance or drug present in the person's body. The period of  
23 prohibition under this subsection is equal to the appropriate  
24 period of disqualification required by Subsections (a)-(d).

25           (f) In this section, "felony" means an offense under state  
26 or federal law that is punishable by death or imprisonment for a  
27 term of more than one year.

1 SECTION 8.03. Section 522.087, Transportation Code, is  
2 amended to read as follows:

3 Sec. 522.087. PROCEDURES APPLICABLE TO DISQUALIFICATION.

4 (a) A person is automatically disqualified under Section  
5 522.081(a)(1)(B), Section 522.081(b)(2) [~~522.081(b)(1), (3), (4),~~  
6 ~~(6), or (7)~~], or Section 522.081(d)(2). An appeal may not be taken  
7 from the disqualification.

8 (b) Disqualifying a person under Section 522.081(a), other  
9 than under Subdivision (1)(B) of that subsection, Section  
10 522.081(b)(1), or Section 522.081(d)(1) or (3) is subject to the  
11 notice and hearing procedures of Sections 521.295-521.303. An  
12 appeal of the disqualification is subject to Section 521.308.

13 SECTION 8.04. Section 543.202(b), Transportation Code, is  
14 amended to read as follows:

15 (b) The record must be made on a form or by a data processing  
16 method acceptable to the department and must include:

17 (1) the name, address, physical description,  
18 including race or ethnicity, date of birth, and driver's license  
19 number of the person charged;

20 (2) the registration number of the vehicle involved;

21 (3) whether the vehicle was a commercial motor vehicle  
22 as defined by Chapter 522 or was involved in transporting hazardous  
23 materials;

24 (4) the person's social security number, if the person  
25 was operating a commercial motor vehicle or was the holder of a  
26 commercial driver's license or commercial driver learner's permit;

27 (5) the date and nature of the offense, including

1 whether the offense was a serious traffic violation as defined by  
2 Chapter 522;

3 (6) whether a search of the vehicle was conducted and  
4 whether consent for the search was obtained;

5 (7) the plea, the judgment, whether the individual was  
6 adjudicated under Article 45.0511, Code of Criminal Procedure, and  
7 whether bail was forfeited;

8 (8) the date of conviction; and

9 (9) the amount of the fine or forfeiture.

10 SECTION 8.05. Section 543.101, Transportation Code, is  
11 repealed.

12 SECTION 8.06. (a) This article takes effect June 1, 2005.

13 (b) Sections 522.081 and 522.087, Transportation Code, as  
14 amended by this article, apply only to conduct that is engaged in or  
15 to an offense that is committed on or after the effective date of  
16 this article. Conduct that is engaged in or an offense committed  
17 before the effective date of this article is governed by Sections  
18 522.081 and 522.087, Transportation Code, as those sections existed  
19 immediately before the effective date of this article, and the  
20 former law is continued in effect for that purpose.

21 ARTICLE 9. MOTOR VEHICLE SALES TAX

22 SECTION 9.01. Chapter 152, Tax Code, is amended by amending  
23 Section 152.121 and adding Section 152.123 to read as follows:

24 Sec. 152.121. TAX SENT TO COMPTROLLER. (a) After  
25 crediting the amounts as provided by Section 152.123, a [~~The~~]  
26 county tax assessor-collector shall send [~~the~~] money collected from  
27 taxes and penalties imposed by this chapter to the comptroller as

1 follows:

2 (1) on the 10th day of each month if during the last  
3 preceding state fiscal year less than \$2 million of the taxes and  
4 penalties imposed by this chapter was collected by the office of the  
5 county tax assessor-collector;

6 (2) once each week if during the last preceding state  
7 fiscal year \$2 million or more, but less than \$10 million, of the  
8 taxes and penalties imposed by this chapter was collected by the  
9 office of the county tax assessor-collector; or

10 (3) daily (as collected) if during the last preceding  
11 state fiscal year \$10 million or more of the taxes and penalties  
12 imposed by this chapter was collected by the office of the county  
13 tax assessor-collector.

14 (b) Taxes on metal dealer plates collected by the Texas  
15 Department of Transportation shall be deposited by the department  
16 in the state treasury in the same manner as are other taxes  
17 collected under this chapter.

18 (c) If the amount of net collections under Chapter 502,  
19 Transportation Code, and this chapter is insufficient to cover the  
20 amount of those net collections authorized to be retained by a  
21 county as a percentage of the tax and penalties collected under this  
22 chapter, the comptroller shall on request of the county tax  
23 assessor-collector authorize the county to retain a portion of the  
24 tax and penalties collected under this chapter to cover the  
25 deficiency.

26 Sec. 152.123. TAX RETAINED BY COUNTY. (a) The county tax  
27 assessor-collector each calendar year shall calculate five percent

1 of the tax and penalties collected by the county tax  
2 assessor-collector under this chapter in the preceding calendar  
3 year. In addition, the county tax assessor-collector shall  
4 calculate each calendar year an amount equal to five percent of the  
5 tax and penalties that the comptroller:

6 (1) collected under Section 152.047 in the preceding  
7 calendar year; and

8 (2) determines are attributable to sales in the  
9 county.

10 (b) The county shall retain the following percentage of the  
11 amounts calculated under Subsection (a) during each of the  
12 following fiscal years:

13 (1) in fiscal year 2006, 10 percent;

14 (2) in fiscal year 2007, 20 percent;

15 (3) in fiscal year 2008, 30 percent;

16 (4) in fiscal year 2009, 40 percent;

17 (5) in fiscal year 2010, 50 percent;

18 (6) in fiscal year 2011, 60 percent;

19 (7) in fiscal year 2012, 70 percent;

20 (8) in fiscal year 2013, 80 percent;

21 (9) in fiscal year 2014, 90 percent;

22 (10) in fiscal year 2015 and succeeding years, 100  
23 percent.

24 (c) The county shall credit the amounts retained under  
25 Subsection (b) to the county's general fund.

26 SECTION 9.02. Section 502.102(b), Transportation Code, is  
27 amended to read as follows:

1 (b) Each Monday, a county assessor-collector shall credit  
2 to the county road and bridge fund an amount equal to the net  
3 collections made during the preceding week until the amount so  
4 credited for the calendar year equals the total of:

5 (1) \$60,000;

6 (2) \$350 for each mile of county road maintained by the  
7 county, according to the most recent information available from the  
8 department, not to exceed 500 miles; and

9 (3) an additional amount of fees equal to the amount  
10 calculated under Section 502.1025 [~~an amount equal to five percent~~  
11 ~~of the tax and penalties collected by the assessor-collector under~~  
12 ~~Chapter 152, Tax Code, in the preceding calendar year; and~~

13 [~~(4) an amount equal to five percent of the tax and~~  
14 ~~penalties collected by the comptroller under Section 152.047, Tax~~  
15 ~~Code, in the preceding calendar year].~~

16 SECTION 9.03. Chapter 502, Transportation Code, is amended  
17 by adding Section 502.1025 to read as follows:

18 Sec. 502.1025. CALCULATION OF ADDITIONAL FEE AMOUNTS  
19 RETAINED BY A COUNTY. (a) The county tax assessor-collector each  
20 calendar year shall calculate five percent of the tax and penalties  
21 collected by the county tax assessor-collector under Chapter 152,  
22 Tax Code, in the preceding calendar year. In addition, the county  
23 tax assessor-collector shall calculate each calendar year an amount  
24 equal to five percent of the tax and penalties that the comptroller:

25 (1) collected under Section 152.047, Tax Code, in the  
26 preceding calendar year; and

27 (2) determines are attributable to sales in the

1 county.

2 (b) A county tax assessor-collector shall retain under  
3 Section 502.102(b) fees based on the following percentage of the  
4 amounts calculated under subsection (a) during each of the  
5 following fiscal years:

- 6 (1) in fiscal year 2006, 90 percent;
- 7 (2) in fiscal year 2007, 80 percent;
- 8 (3) in fiscal year 2008, 70 percent;
- 9 (4) in fiscal year 2009, 60 percent;
- 10 (5) in fiscal year 2010, 50 percent;
- 11 (6) in fiscal year 2011, 40 percent;
- 12 (7) in fiscal year 2012, 30 percent;
- 13 (8) in fiscal year 2013, 20 percent;
- 14 (9) in fiscal year 2014, 10 percent;
- 15 (10) in fiscal year 2015 and succeeding years, 0  
16 percent.

17 (c) The county shall credit the amounts retained under  
18 Subsection (b) to the county road and bridge fund. Money credited  
19 to the fund under this section may only be used for:

- 20 (1) county road construction, maintenance, and  
21 repair;
- 22 (2) bridge construction, maintenance, and repair;
- 23 (3) the purchase of right-of-way for road or highway  
24 purposes; or
- 25 (4) the relocation of utilities for road or highway  
26 purposes.

27 SECTION 9.04. Section 502.108(e), Transportation Code, is

1 repealed.

2 SECTION 9.05. This article takes effect September 1, 2005.

3 ARTICLE 10. DRIVER RESPONSIBILITY

4 SECTION 10.01. Subtitle I, Title 7, Transportation Code, is  
5 amended by adding Chapter 708 to read as follows:

6 CHAPTER 708. DRIVER RESPONSIBILITY PROGRAM

7 SUBCHAPTER A. GENERAL PROVISIONS

8 Sec. 708.001. DEFINITIONS. In this chapter, "department"  
9 and "license" have the meanings assigned by Section 521.001.

10 Sec. 708.002. RULES. The department shall adopt and  
11 enforce rules to implement and enforce this chapter.

12 Sec. 708.003. FINAL CONVICTIONS. For purposes of this  
13 chapter, a conviction for an offense to which this chapter applies  
14 is a final conviction, regardless of whether the sentence is  
15 probated.

16 [Sections 708.004-708.050 reserved for expansion]

17 SUBCHAPTER B. DRIVER'S LICENSE POINTS SURCHARGE

18 Sec. 708.051. NONAPPLICABILITY. This subchapter does not  
19 apply to:

20 (1) a conviction that became final before September 1,  
21 2003; or

22 (2) an offense covered by Subchapter C.

23 Sec. 708.052. ASSIGNMENT OF POINTS FOR CERTAIN CONVICTIONS.

24 (a) The driver's license of a person accumulates a point under this  
25 subchapter as of the date the department records a conviction of the  
26 person under Section 521.042 or other applicable law.

27 (b) For each conviction arising out of a separate



1 transaction, the department shall assign points to a person's  
2 license as follows:

3 (1) two points for a moving violation of the traffic  
4 law of this state or another state that is not described by  
5 Subdivision (2); and

6 (2) three points for a moving violation of the traffic  
7 law of this state, another state, or a political subdivision of this  
8 or another state that resulted in an accident.

9 (c) The department by rule shall designate the offenses that  
10 constitute a moving violation of the traffic law under this  
11 section.

12 (d) Notwithstanding Subsection (b), the department may not  
13 assign points to a person's driver's license if the offense of which  
14 the person was convicted is the offense of speeding and the person  
15 was at the time of the offense driving less than 10 percent faster  
16 than the posted speed limit. This subsection does not apply to an  
17 offense committed in a school crossing zone as defined by Section  
18 541.302.

19 (e) Notwithstanding Subsection (b), the department may not  
20 assign points to a person's license if the offense committed by the  
21 person was adjudicated under Article 45.051 or 45.0511, Code of  
22 Criminal Procedure.

23 Sec. 708.053. ANNUAL SURCHARGE FOR POINTS. Each year, the  
24 department shall assess a surcharge on the license of a person who  
25 has accumulated six or more points under this subchapter during the  
26 preceding 36-month period.

27 Sec. 708.054. AMOUNT OF POINTS SURCHARGE. The amount of a

1 surcharge under this chapter is \$100 for the first six points and  
2 \$25 for each additional point.

3 Sec. 708.055. NOTICE OF ASSIGNMENT OF FIFTH POINT. The  
4 department shall notify the holder of a driver's license of the  
5 assignment of a fifth point on that license by first class mail sent  
6 to the person's most recent address as shown on the records of the  
7 department.

8 [Sections 708.056-708.100 reserved for expansion]

9 SUBCHAPTER C. SURCHARGES FOR CERTAIN CONVICTIONS AND  
10 LICENSE SUSPENSIONS

11 Sec. 708.101. NONAPPLICABILITY. This subchapter does not  
12 apply to a conviction that became final before September 1, 2003.

13 Sec. 708.102. SURCHARGE FOR CONVICTION OF CERTAIN  
14 INTOXICATED DRIVER OFFENSES. (a) In this section, "offense  
15 relating to the operating of a motor vehicle while intoxicated" has  
16 the meaning assigned by Section 49.09, Penal Code.

17 (b) Each year the department shall assess a surcharge on the  
18 license of each person who during the preceding 36-month period has  
19 been finally convicted of an offense relating to the operating of a  
20 motor vehicle while intoxicated.

21 (c) The amount of a surcharge under this section is \$1,000  
22 per year, except that the amount of the surcharge is:

23 (1) \$1,500 per year for a second or subsequent  
24 conviction within a 36-month period; and

25 (2) \$2,000 for a first or subsequent conviction if it  
26 is shown on the trial of the offense that an analysis of a specimen  
27 of the person's blood, breath, or urine showed an alcohol

1 concentration level of 0.16 or more at the time the analysis was  
2 performed.

3 (d) A surcharge under this section for the same conviction  
4 may not be assessed in more than three years.

5 Sec. 708.103. SURCHARGE FOR CONVICTION OF DRIVING WHILE  
6 LICENSE INVALID OR WITHOUT FINANCIAL RESPONSIBILITY. (a) Each  
7 year the department shall assess a surcharge on the license of each  
8 person who during the preceding 36-month period has been convicted  
9 of an offense under Section 521.457, 601.191, or 601.371.

10 (b) The amount of a surcharge under this section is \$250 per  
11 year.

12 Sec. 708.104. SURCHARGE FOR CONVICTION OF DRIVING WITHOUT  
13 VALID LICENSE. (a) Each year the department shall assess a  
14 surcharge on the license of a person who during the preceding  
15 36-month period has been convicted of an offense under Section  
16 521.021.

17 (b) The amount of a surcharge under this section is \$100 per  
18 year.

19 (c) A surcharge under this section for the same conviction  
20 may not be assessed in more than three years.

21 [Sections 708.105-708.150 reserved for expansion]

22 SUBCHAPTER D. COLLECTION OF SURCHARGES

23 Sec. 708.151. NOTICE OF SURCHARGE. The department shall  
24 notify the holder of a driver's license of the assessment of a  
25 surcharge on that license by first class mail sent to the person's  
26 most recent address as shown on the records of the department. The  
27 notice must specify the date by which the surcharge must be paid and

1 state the consequences of a failure to pay the surcharge.

2 Sec. 708.152. FAILURE TO PAY SURCHARGE. (a) If before the  
3 30th day after the date the department sends a notice under Section  
4 708.151 the person fails to pay the amount of a surcharge on the  
5 person's license or fails to enter into an installment payment  
6 agreement with the department, the license of the person is  
7 automatically suspended.

8 (b) A license suspended under this section remains  
9 suspended until the person pays the amount of the surcharge and any  
10 related costs.

11 Sec. 708.153. INSTALLMENT PAYMENT OF SURCHARGE. (a) The  
12 department by rule shall provide for the payment of a surcharge in  
13 installments.

14 (b) A rule under this section:

15 (1) may not permit a person to pay a surcharge:

16 (A) of less than \$2,300 over a period of more than  
17 12 consecutive months; or

18 (B) of \$2,300 or more over a period of more than  
19 24 consecutive months; and

20 (2) may provide that if the person fails to make a  
21 required installment payment, the department may declare the amount  
22 of the unpaid surcharge immediately due and payable.

23 Sec. 708.154. CREDIT CARD PAYMENT OF SURCHARGE. (a) The  
24 department by rule may authorize the payment of a surcharge by use  
25 of a credit card. The rules shall require the person to pay all  
26 costs incurred by the department in connection with the acceptance  
27 of the credit card.

1        (b) If a surcharge or a related cost is paid by credit card  
2 and the amount is subsequently reversed by the issuer of the credit  
3 card, the license of the person is automatically suspended.

4        (c) A license suspended under this section remains  
5 suspended until the person pays the amount of the surcharge and any  
6 related costs.

7        Sec. 708.155. CONTRACTS FOR COLLECTION OF SURCHARGES. The  
8 department may enter into a contract with a private attorney or a  
9 public or private vendor for the provision of services for the  
10 collection of surcharges receivable under this chapter. The total  
11 amount of compensation may not exceed the amount set in Article  
12 103.0031, Code of Criminal Procedure.

13        Sec. 708.156. REMITTANCE OF SURCHARGES COLLECTED TO  
14 COMPTROLLER. Each surcharge collected by the department under this  
15 chapter shall be remitted to the comptroller as required by Section  
16 780.002, Health and Safety Code.

17        SECTION 10.02. Subtitle B, Title 9, Health and Safety Code,  
18 is amended by adding Chapter 780 to read as follows:

19        CHAPTER 780. TRAUMA FACILITIES AND EMERGENCY MEDICAL SERVICES

20        Sec. 780.001. DEFINITIONS. In this chapter:

21                (1) "Account" means the designated trauma facility and  
22 emergency medical services account established under Section  
23 780.003.

24                (2) "Commissioner" means the commissioner of public  
25 health.

26                (3) "Department" means the Texas Department of Health.

27        Sec. 780.002. DEPOSITS TO ACCOUNT. (a) On the first Monday

1 of each month, the Department of Public Safety shall remit the  
2 surcharges collected during the previous month under the driver  
3 responsibility program operated by that department under Chapter  
4 708, Transportation Code, to the comptroller.

5 (b) The comptroller shall deposit 49.5 percent of the money  
6 received under Subsection (a) to the credit of the account  
7 established under this chapter and 49.5 percent of the money to the  
8 general revenue fund. The remaining one percent of the amount of  
9 the surcharges shall be deposited to the general revenue fund and  
10 may be appropriated only to the Department of Public Safety for  
11 administration of the driver responsibility program operated by  
12 that department under Chapter 708, Transportation Code.

13 (c) Notwithstanding Subsection (b), in any state fiscal  
14 year the comptroller shall deposit 49.5 percent of the surcharges  
15 collected under Chapter 708, Transportation Code, to the credit of  
16 the general revenue fund only until the total amount of the  
17 surcharges deposited to the credit of the general revenue fund  
18 under Subsection (b), and the court costs deposited to the credit of  
19 that fund under Section 542.4031(g)(1), Transportation Code,  
20 equals \$250 million for that year. If in any state fiscal year the  
21 amount received by the comptroller under those laws exceeds \$250  
22 million, the comptroller shall deposit 49.5 percent of the  
23 additional amount received under Subsection (a) to the account  
24 established under this chapter and 49.5 percent of the additional  
25 amount to the credit of the Texas mobility fund.

26 Sec. 780.003. ACCOUNT. (a) The designated trauma facility  
27 and emergency medical services account is created as a dedicated

1 account in the general revenue fund of the state treasury. Money in  
2 the account may be appropriated only to the department for the  
3 purposes described by Section 780.004.

4 (b) The account is composed of money deposited to the credit  
5 of the account under Section 780.002, and the earnings of the  
6 account.

7 (c) Sections 403.095 and 404.071, Government Code, do not  
8 apply to the account.

9 Sec. 780.004. PAYMENTS FROM THE ACCOUNT. (a) The  
10 commissioner, with advice and counsel from the chairpersons of the  
11 trauma service area regional advisory councils, shall use money  
12 appropriated from the account established under this chapter to  
13 fund designated trauma facilities, county and regional emergency  
14 medical services, and trauma care systems in accordance with this  
15 section.

16 (b) The commissioner shall maintain a reserve of \$500,000 of  
17 money appropriated from the account for extraordinary emergencies.

18 (c) In any fiscal year, the commissioner shall use at least  
19 96 percent of the money appropriated from the account, after any  
20 amount necessary to maintain the reserve established by Subsection  
21 (b) is deducted, to fund a portion of the uncompensated trauma care  
22 provided at facilities designated as state trauma facilities by the  
23 department or an undesignated facility in active pursuit of  
24 designation. Funds may be disbursed under this subsection based on  
25 a proportionate share of uncompensated trauma care provided in the  
26 state and may be used to fund innovative projects to enhance the  
27 delivery of patient care in the overall emergency medical services

1 and trauma care system.

2 (d) In any fiscal year, the commissioner shall use not more  
3 than two percent of the money appropriated from the account, after  
4 any amount necessary to maintain the reserve established by  
5 Subsection (b) is deducted, to fund, in connection with an effort to  
6 provide coordination with the appropriate trauma service area, the  
7 cost of supplies, operational expenses, education and training,  
8 equipment, vehicles, and communications systems for local  
9 emergency medical services. The money shall be distributed on  
10 behalf of eligible recipients in each county to the trauma service  
11 area regional advisory council for that county. To receive a  
12 distribution under this subsection, the regional advisory council  
13 must be incorporated as an entity that is exempt from federal income  
14 tax under Section 501(a), Internal Revenue Code of 1986, and its  
15 subsequent amendments, by being listed as an exempt organization  
16 under Section 501(c)(3) of that code. The share of the money  
17 allocated to the eligible recipients in a county's geographic area  
18 shall be based on the relative geographic size and population of the  
19 county and on the relative number of emergency or trauma care runs  
20 performed by eligible recipients in the county. Money that is not  
21 disbursed by a regional advisory council to eligible recipients for  
22 approved functions by the end of the fiscal year in which the funds  
23 were disbursed shall be returned to the department to be used in  
24 accordance with Subsection (c).

25 (e) In any fiscal year, the commissioner may use not more  
26 than one percent of the money appropriated from the account, after  
27 any amount necessary to maintain the reserve established by



1 Subsection (b) is deducted, for operation of the 22 trauma service  
2 areas and for equipment, communications, and education and training  
3 for the areas. Money distributed under this subsection shall be  
4 distributed on behalf of eligible recipients in each county to the  
5 trauma service area regional advisory council for that county. To  
6 receive a distribution under this subsection, the regional advisory  
7 council must be incorporated as an entity that is exempt from  
8 federal income tax under Section 501(a), Internal Revenue Code of  
9 1986, and its subsequent amendments, by being listed as an exempt  
10 organization under Section 501(c)(3) of that code. A regional  
11 advisory council's share of money distributed under this section  
12 shall be based on the relative geographic size and population of  
13 each trauma service area and on the relative amount of trauma care  
14 provided. Money that is not disbursed by a regional advisory  
15 council to eligible recipients for approved functions by the end of  
16 the fiscal year in which the funds were disbursed shall be returned  
17 to the department to be used in accordance with Subsection (c).

18 (f) In any fiscal year, the commissioner may use not more  
19 than one percent of money appropriated from the account, after any  
20 amount necessary to maintain the reserve established by Subsection  
21 (b) is deducted, to fund the administrative costs of the bureau of  
22 emergency management of the department associated with  
23 administering the trauma program, the state emergency medical  
24 services program, and the account and to fund the costs of  
25 monitoring and providing technical assistance for those programs  
26 and that account.

27 (g) In a trauma service area that includes a county with a

1 population of 3.3 million or more, a trauma service area regional  
2 advisory council may enter into an agreement with a regional  
3 council of governments to execute its responsibilities and  
4 functions under this chapter.

5 (h) For purposes of this section "pursuit of designation"  
6 means:

7 (1) submission of an application with the state or  
8 appropriate agency for trauma verification and designation not  
9 later than December 31, 2003;

10 (2) submission of data to the department trauma  
11 registry, provided that only data submitted to the trauma registry  
12 on or after September 1, 2003, will qualify for consideration of  
13 reimbursement under this program;

14 (3) participation in trauma service area regional  
15 advisory council initiatives on or before December 31, 2003; and

16 (4) creation of a hospital trauma performance  
17 committee not later than December 31, 2003.

18 (i) If trauma designation is not attained by an undesignated  
19 facility in active pursuit of designation on or before December 31,  
20 2005, any funds received by the undesignated facility for  
21 unreimbursed trauma services must be returned to the state.

22 Sec. 780.005. CONTROL OF EXPENDITURES FROM THE ACCOUNT.  
23 Money distributed under Section 780.004 shall be used in compliance  
24 with Section 780.004 on the authorization of the executive  
25 committee of the trauma service area regional advisory council.

26 Sec. 780.006. LOSS OF FUNDING ELIGIBILITY. For a period of  
27 not less than one year or more than three years, as determined by

1 the commissioner, the department may not disburse money under  
2 Section 780.004 to a county, municipality, or local recipient that  
3 the commissioner finds used money in violation of that section.

4 Sec. 780.007. This chapter expires September 1, 2007.

5 SECTION 10.03. Not later than December 1, 2004, the Texas  
6 Department of Health shall submit to the lieutenant governor and  
7 the speaker of the house of representatives a report concerning the  
8 use of money under Chapter 780, Health and Safety Code, as added by  
9 this article, and any recommended changes to law to ensure  
10 appropriate funding and coordination of services.

11 ARTICLE 11. DISPOSITION OF DEPARTMENT OF PUBLIC SAFETY FEES

12 SECTION 11.01. Subchapter C, Chapter 521, Transportation  
13 Code, is amended by adding Section 521.058 to read as follows:

14 Sec. 521.058. DISPOSITION OF FEES. Each fee collected  
15 under this subchapter shall be deposited to the credit of the Texas  
16 mobility fund.

17 SECTION 11.02. Section 521.313, Transportation Code, is  
18 amended by adding Subsection (c) to read as follows:

19 (c) Each fee collected under this section shall be deposited  
20 to the credit of the Texas mobility fund.

21 SECTION 11.03. Section 521.3466, Transportation Code, is  
22 amended by adding Subsection (e) to read as follows:

23 (e) Each fee collected under this section shall be deposited  
24 to the credit of the Texas mobility fund.

25 SECTION 11.04. Subchapter R, Chapter 521, Transportation  
26 Code, is amended by adding Section 521.427 to read as follows:

27 Sec. 521.427. DISPOSITION OF FEES. (a) Except as provided

1 by Subsections (b) and (c), each fee collected under this  
2 subchapter shall be deposited to the credit of the Texas mobility  
3 fund.

4 (b) Subsection (a) does not apply to:

5 (1) the portion of a fee collected under Section  
6 521.421(b) or Section 521.421(f), as added by Chapter 1156, Acts of  
7 the 75th Legislature, Regular Session, 1997, that is required by  
8 Section 662.011 to be deposited to the credit of the motorcycle  
9 education fund account;

10 (2) a fee collected under Section 521.421(f), as added  
11 by Chapter 510, Acts of the 75th Legislature, Regular Session,  
12 1997;

13 (3) a fee collected under Section 521.421(g); or

14 (4) a fee collected under Section 521.422(b) or (c).

15 (c) The first \$90,500,254 of fees to which Subsection (a)  
16 applies that are collected during the state fiscal biennium ending  
17 August 31, 2005, shall be deposited to the credit of the general  
18 revenue fund. This subsection expires September 1, 2005.

19 SECTION 11.05. Section 522.029, Transportation Code, is  
20 amended by adding Subsection (i) to read as follows:

21 (i) Except as provided by Section 662.011, each fee  
22 collected under this section shall be deposited to the credit of the  
23 Texas mobility fund.

24 SECTION 11.06. Section 524.051, Transportation Code, is  
25 amended by adding Subsection (c) to read as follows:

26 (c) Each fee collected under this section shall be deposited  
27 to the credit of the Texas mobility fund.

1 SECTION 11.07. Subchapter H, Chapter 548, Transportation  
2 Code, is amended by adding Section 548.508 to read as follows:

3 Sec. 548.508. DISPOSITION OF FEES. Except as provided by  
4 Sections 382.037 and 382.0622, Health and Safety Code, and Section  
5 548.5055, each fee collected by the department under this  
6 subchapter shall be deposited to the credit of the Texas mobility  
7 fund.

8 SECTION 11.08. Section 644.153, Transportation Code, is  
9 amended by adding Subsection (i) to read as follows:

10 (i) Each penalty collected under this section shall be  
11 deposited to the credit of the Texas mobility fund.

12 SECTION 11.09. Section 724.046, Transportation Code, is  
13 amended by adding Subsection (c) to read as follows:

14 (c) Each fee collected under this section shall be deposited  
15 to the credit of the Texas mobility fund.

16 SECTION 11.10. Section 521.055(d), Transportation Code, is  
17 repealed.

18 SECTION 11.11. This article applies only to a fee or penalty  
19 collected on or after the effective date of this Act.

20 ARTICLE 12. ADDITIONAL COURT COSTS

21 SECTION 12.01. (a) Subchapter D, Chapter 542,  
22 Transportation Code, is amended by adding Section 542.4031 to read  
23 as follows:

24 Sec. 542.4031. ADDITIONAL COURT COST. (a) In addition to  
25 other costs, including a cost under Section 542.403, a person  
26 convicted of an offense under this subtitle shall pay \$30 as a court  
27 cost.

1       (b) An officer collecting a cost due under this section in a  
2 case in municipal court shall keep separate records of the money  
3 collected and shall deposit the money in the municipal treasury.

4       (c) An officer collecting a cost due under this section in a  
5 justice, county, or district court shall keep separate records of  
6 the money collected and shall deposit the money in the county  
7 treasury.

8       (d) Each calendar quarter, an officer collecting a cost due  
9 under this section shall submit a report to the comptroller. The  
10 report must comply with Articles 103.005(c) and (d), Code of  
11 Criminal Procedure. If no money due as a cost under this section is  
12 collected in any quarter, the report required for that quarter  
13 shall be filed in the regular manner, and the report shall state  
14 that no money due under this section was collected.

15       (e) The custodian of money in a municipal or county treasury  
16 may deposit money collected under this section in an  
17 interest-bearing account. The custodian shall:

18               (1) keep records of the amount of money collected  
19 under this section that is on deposit in the treasury; and

20               (2) not later than the last day of the month following  
21 each calendar quarter, remit to the comptroller money collected  
22 under this section during the preceding quarter, as required by the  
23 comptroller.

24       (f) A municipality or county may retain five percent of the  
25 money collected under this section as a service fee for the  
26 collection if the municipality or county remits the funds to the  
27 comptroller within the period prescribed in Subsection (e). The

1 municipality or county may retain any interest accrued on the money  
2 if the custodian of the money deposited in the treasury keeps  
3 records of the amount of money collected under this section that is  
4 on deposit in the treasury and remits the funds to the comptroller  
5 within the period prescribed in Subsection (e).

6 (g) Of the money received by the comptroller under this  
7 section, the comptroller shall deposit:

8 (1) 67 percent to the credit of the undedicated  
9 portion of the general revenue fund; and

10 (2) 33 percent to the credit of the designated trauma  
11 facility and emergency medical services account under Section  
12 780.003, Health and Safety Code.

13 (h) Notwithstanding Subsection (g), in any state fiscal  
14 year the comptroller shall deposit court costs received under that  
15 subsection to the credit of the general revenue fund only until the  
16 total amount of the court costs deposited to the credit of the  
17 general revenue fund under that subsection and the surcharges  
18 deposited to the credit of that fund under Section 780.002(b),  
19 Health and Safety Code, equals \$250 million for that year. If in  
20 any state fiscal year the amount received by the comptroller under  
21 those laws exceeds \$250 million, the comptroller shall deposit the  
22 additional amount received under Subsection (g) to the credit of  
23 the Texas mobility fund.

24 (i) Money collected under this section is subject to audit  
25 by the comptroller. Money spent is subject to audit by the state  
26 auditor.

27 (j) In this section a person is considered to have been

1 convicted in a case if:

2 (1) a sentence is imposed;

3 (2) the person receives community supervision or  
4 deferred adjudication; or

5 (3) the court defers final disposition of the case.

6 (k) This section expires September 1, 2007.

7 (b) The change in law made by this section applies only to an  
8 offense committed on or after the effective date of this section.  
9 For the purposes of this section, an offense was committed before  
10 the effective date of this section if any element of the offense  
11 occurred before that date. An offense committed before the  
12 effective date of this section is governed by the law in effect when  
13 the offense was committed, and the former law is continued in effect  
14 for that purpose.

15 ARTICLE 13. STATEWIDE COORDINATION OF PUBLIC TRANSPORTATION

16 SECTION 13.01. Subtitle K, Title 6, Transportation Code, is  
17 amended by adding Chapter 461 to read as follows:

18 CHAPTER 461. STATEWIDE COORDINATION OF PUBLIC TRANSPORTATION

19 Sec. 461.001. LEGISLATIVE INTENT AND CONSTRUCTION. (a)  
20 Public transportation services are provided in this state by many  
21 different entities, both public and private. The multiplicity of  
22 public transportation providers and services, coupled with a lack  
23 of coordination between state oversight agencies, has generated  
24 inefficiencies, overlaps in service, and confusion for consumers.  
25 It is the intent of this chapter:

26 (1) to eliminate waste in the provision of public  
27 transportation services;



1           (2) to generate efficiencies that will permit  
2 increased levels of service; and

3           (3) to further the state's efforts to reduce air  
4 pollution.

5           (b) This chapter shall be liberally construed to achieve its  
6 purposes.

7           Sec. 461.002. DEFINITIONS. In this chapter:

8           (1) "Public transportation provider" means any entity  
9 that provides public transportation services if it is a  
10 governmental entity or if it receives financial assistance from a  
11 governmental entity, whether state, local, or federal. The term  
12 does not include private carriers that do not receive financial  
13 assistance from a governmental entity. It also does not include a  
14 person who provides intercity rail or bus service, commercial air  
15 transportation, water transportation, or nonstop service to or from  
16 a point located outside this state. If a person provides both  
17 public transportation services and services that are not public  
18 transportation services, that person is included within the term  
19 only with regard to the provision of public transportation services  
20 and to the extent of those public transportation services.

21           (2) "Public transportation services" means any  
22 conveyance of passengers and their hand-carried baggage by a  
23 governmental entity or by a private entity if the private entity  
24 receives financial assistance for that conveyance from any  
25 governmental entity. It does not include intercity rail or bus  
26 service, commercial air transportation, water transportation, or  
27 nonstop service to or from a point located outside this state.

1       Sec. 461.003. RULES OF TEXAS TRANSPORTATION COMMISSION.

2       (a) The commission by rule may:

3               (1) require a state agency that is responsible for  
4 ensuring the provision of public transportation services to  
5 contract with the department for the department to assume the  
6 responsibilities of that agency relating to the provision of public  
7 transportation services; and

8               (2) require a public transportation provider to  
9 provide detailed information on its provision of public  
10 transportation services, including revenues, routes, maps,  
11 categories of passengers served, number of passengers served, and  
12 equipment use and condition.

13       (b) Except with regard to health and human services programs  
14 funded by this state, the commission may not direct the planning or  
15 operations of an authority created or operating under Chapter 451,  
16 452, 453, or 460.

17       (c) The commission shall adopt other rules, including rules  
18 defining terms, necessary to implement this chapter.

19       Sec. 461.004. DUTIES OF TEXAS DEPARTMENT OF TRANSPORTATION.

20       (a) The department shall identify:

21               (1) overlaps and gaps in the provision of public  
22 transportation services, including services that could be more  
23 effectively provided by existing, privately funded transportation  
24 resources;

25               (2) underused equipment owned by public  
26 transportation providers; and

27               (3) inefficiencies in the provision of public

1 transportation services by any public transportation provider.

2 (b) The department may contract with any public or private  
3 transportation provider for the department to arrange for the  
4 provision of public transportation services.

5 Sec. 461.005. ELIMINATION OF OVERLAPPING SERVICE. (a) To  
6 eliminate waste and maximize efficiency, the department shall  
7 encourage public transportation providers to agree on the  
8 allocation of specific services and service areas among the  
9 providers. The department may incorporate these discussions in  
10 planning processes such as the development of the statewide  
11 transportation improvement program or a local transportation  
12 improvement plan.

13 (b) If public transportation providers do not reach an  
14 agreement on a service plan under Subsection (a), the department  
15 may develop an interim service plan for that area.

16 (c) The department may require that all or a percentage of  
17 the vehicles used to provide public transportation services comply  
18 with specified emissions standards. The standards may vary among  
19 geographic areas based on the need of each area to reduce levels of  
20 air pollution. This subsection does not apply to an authority  
21 created under Chapter 451, 452, 453, or 460.

22 Sec. 461.006. DUTIES OF PUBLIC TRANSPORTATION PROVIDERS.  
23 Each public transportation provider shall cooperate with the  
24 department in eliminating waste and ensuring efficiency and maximum  
25 coverage in the provision of public transportation services.

26 Sec. 461.007. INCENTIVES FOR EFFICIENCY. (a)  
27 Notwithstanding any other law, including a law establishing a

1 formula for the allocation of public transportation grants, the  
2 commission may increase or reduce the amount of a grant made to a  
3 public transportation provider based on whether the public  
4 transportation provider is complying fully with this chapter.

5 (b) Notwithstanding any other law, the commission may  
6 consider whether a public transportation provider in a geographic  
7 area of this state is complying fully with this chapter in executing  
8 the commission's other responsibilities relating to that area.

9 SECTION 13.02. Section 455.0015, Transportation Code, is  
10 amended by amending Subsection (b) and adding Subsections (c) and  
11 (d) to read as follows:

12 (b) It is the intent of the legislature that, whenever  
13 possible, and to the maximum extent feasible, the existing network  
14 of transportation providers, and in particular the fixed route  
15 components of the existing networks, be used to meet the client  
16 transportation requirements of the state's social service agencies  
17 and their agents. The legislature recognizes the contributions of  
18 nonprofit entities dedicated to providing social services and  
19 related activities and encourages the continued community  
20 involvement of these entities in this area. The legislature  
21 likewise recognizes the potential cost savings and other benefits  
22 of utilizing existing private sector transportation resources. The  
23 department will contract with and promote the use of private sector  
24 transportation resources to the maximum extent feasible consistent  
25 with the goals of this subsection.

26 (c) Each health and human services agency of this state  
27 shall contract with the department for the department to assume all

1 responsibilities of the health and human services agency relating  
2 to the provision of transportation services for clients of eligible  
3 programs.

4 (d) The department may contract with any public or private  
5 transportation provider or with any regional transportation broker  
6 for the provision of public transportation services.

7 SECTION 13.03. Section 455.004, Transportation Code, is  
8 amended to read as follows:

9 Sec. 455.004. PUBLIC TRANSPORTATION ADVISORY COMMITTEE.

10 (a) A public transportation advisory committee consisting of nine  
11 members shall:

12 (1) advise the commission on the needs and problems of  
13 the state's public transportation providers, including the methods  
14 for allocating state public transportation money;

15 (2) comment on rules involving public transportation  
16 during development of the rules and before the commission finally  
17 adopts the rules unless an emergency requires immediate commission  
18 action; ~~and~~

19 (3) advise the commission on the implementation of  
20 Chapter 461; and

21 (4) perform any other duty determined by the  
22 commission.

23 (b) The commission shall appoint members of the advisory  
24 committee. The membership of the committee shall ~~[governor, the~~  
25 ~~lieutenant governor, and the speaker of the house of~~  
26 ~~representatives each shall appoint three members of the committee.~~  
27 ~~The appointing officers shall allocate among themselves the~~

1 ~~authority for appointment of members with different types of~~  
2 ~~qualifications. The committee must] include:~~

3 (1) four members who [~~one member to~~] represent a  
4 diverse cross-section of public transportation providers [~~in rural~~  
5 ~~areas~~];

6 (2) three members who [~~one member to~~] represent a  
7 diverse cross-section of transportation users [~~municipal transit~~  
8 ~~systems in urban areas with populations of less than 200,000~~]; and

9 (3) two members who [~~one member to represent~~  
10 ~~metropolitan transit authorities in urban areas with populations of~~  
11 ~~200,000 or more~~;

12 [~~(4) one member to represent transportation providers~~  
13 ~~for persons with disabilities and the elderly~~; and

14 [~~(5) five members who have a knowledge of and interest~~  
15 ~~in public transportation to~~] represent the general public.

16 (c) A member serves at the pleasure of the commission  
17 [~~officer appointing the member~~]. A member is not entitled to  
18 compensation for service on the committee but is entitled to  
19 reimbursement for reasonable expenses the member incurs in  
20 performing committee duties.

21 (d) The public transportation advisory committee shall meet  
22 [~~quarterly or~~] as requested by the commission.

23 (e) The commission may adopt rules to govern the operation  
24 of the advisory committee.

25 SECTION 13.04. Section 461.012, Health and Safety Code, is  
26 amended by adding Subsection (g) to read as follows:

27 (g) The commission shall contract with the Texas Department

1 of Transportation for the Texas Department of Transportation to  
2 assume all responsibilities of the commission relating to the  
3 provision of transportation services for clients of eligible  
4 programs.

5 SECTION 13.05. Section 533.012, Health and Safety Code, is  
6 amended to read as follows:

7 Sec. 533.012. COOPERATION OF STATE AGENCIES. (a) At the  
8 department's request, all state departments, agencies, officers,  
9 and employees shall cooperate with the department in activities  
10 that are consistent with their functions.

11 (b) The department shall contract with the Texas Department  
12 of Transportation for the Texas Department of Transportation to  
13 assume all responsibilities of the department relating to the  
14 provision of transportation services for clients of eligible  
15 programs.

16 SECTION 13.06. Section 22.001, Human Resources Code, is  
17 amended by adding Subsection (e) to read as follows:

18 (e) The department shall contract with the Texas Department  
19 of Transportation for the Texas Department of Transportation to  
20 assume all responsibilities of the department relating to the  
21 provision of transportation services for clients of eligible  
22 programs.

23 SECTION 13.07. Section 40.002, Human Resources Code, is  
24 amended by adding Subsection (f) to read as follows:

25 (f) The department may contract with the Texas Department of  
26 Transportation for the Texas Department of Transportation to assume  
27 all responsibilities of the department relating to the provision of

1 transportation services for clients of eligible programs.

2 SECTION 13.08. Section 91.021, Human Resources Code, is  
3 amended by adding Subsection (g) to read as follows:

4 (g) The commission shall contract with the Texas Department  
5 of Transportation for the Texas Department of Transportation to  
6 assume all responsibilities of the commission relating to the  
7 provision of transportation services for clients of eligible  
8 programs.

9 SECTION 13.09. Section 101.0256, Human Resources Code, is  
10 amended to read as follows:

11 Sec. 101.0256. COORDINATED ACCESS TO LOCAL SERVICES. (a)  
12 The department and the Texas Department of Human Services shall  
13 develop standardized assessment procedures to share information on  
14 common clients served in a similar service region.

15 (b) The department shall contract with the Texas Department  
16 of Transportation for the Texas Department of Transportation to  
17 assume all responsibilities of the department relating to the  
18 provision of transportation services for clients of eligible  
19 programs.

20 SECTION 13.10. Section 111.0525, Human Resources Code, is  
21 amended by adding Subsection (d) to read as follows:

22 (d) The commission shall contract with the Texas Department  
23 of Transportation for the Texas Department of Transportation to  
24 assume all responsibilities of the commission relating to the  
25 provision of transportation services for clients of eligible  
26 programs.

27 SECTION 13.11. Section 301.063, Labor Code, is amended by



1 adding Subsection (f) to read as follows:

2 (f) The commission shall contract with the Texas Department  
3 of Transportation for the Texas Department of Transportation to  
4 assume all responsibilities of the commission relating to the  
5 provision of transportation services for clients of eligible  
6 programs.

7 SECTION 13.12. It is the intent of the legislature that the  
8 provision of health and human services transportation through the  
9 Texas Department of Transportation will improve the delivery of  
10 transportation services to clients and enhance their access to  
11 transportation services. Furthermore, it is the intent of the  
12 legislature that these services be provided in a manner that will  
13 generate efficiencies in operation, control costs, and permit  
14 increased levels of service. The Texas Department of  
15 Transportation shall encourage cooperation and coordination among  
16 transportation providers, regional transportation brokers, and  
17 actual and potential clients in an effort to achieve the stated  
18 legislative goals.

19 SECTION 13.13. Any funds that are used by the Texas  
20 Department of Transportation to implement the transportation  
21 services provided in Sections 13.02, 13.04, 13.05, 13.06, 13.07,  
22 13.08, 13.09, 13.10, and 13.11 shall be accounted for and budgeted  
23 separately from other funds appropriated to the Texas Department of  
24 Transportation for any other public transportation program or  
25 budget strategy.

26 ARTICLE 14. CONDITIONAL GRANT PROGRAM

27 SECTION 14.01. Section 56.141(4), Education Code, is

1 amended to read as follows:

2 (4) "Eligible profession" means the profession of  
3 engineering or another profession as defined [~~identified~~] by [~~the~~]  
4 department rule for which the department determines there is a need  
5 [~~as having a significant statistical underrepresentation of~~  
6 ~~minorities or women~~] in the department's workforce.

7 SECTION 14.02. Section 56.142(a), Education Code, is  
8 amended to read as follows:

9 (a) The department shall establish and administer a  
10 conditional grant program under this subchapter to provide  
11 financial assistance to eligible [~~women and minority~~] students who  
12 agree to work for the department in an eligible profession for the  
13 two academic years immediately following the date of the student's  
14 receipt of an eligible degree.

15 SECTION 14.03. Section 56.143, Education Code, is amended  
16 to read as follows:

17 Sec. 56.143. ELIGIBLE STUDENT. (a) To be eligible for a  
18 conditional grant under this subchapter, a student must:

19 (1) complete and file with the department, on forms  
20 prescribed by the department, a conditional grant application and a  
21 declaration of intent to become a member of an eligible profession  
22 and work for the department for the two academic years immediately  
23 following the date of the student's receipt of an eligible degree;

24 (2) enroll in an institution;

25 (3) be a Texas resident, as defined by Texas Higher  
26 Education Coordinating Board rule;

27 (4) be economically disadvantaged [~~a minority~~], as

1 defined by department rule [~~, or a woman~~]; and

2 (5) have complied with any other requirements adopted  
3 by the department under this subchapter.

4 (b) In determining who should receive a grant under this  
5 program, the department:

6 (1) shall give highest priority to students who  
7 demonstrate the greatest financial need; and

8 (2) may consider whether the applicant would be the  
9 first generation of the applicant's family to attend or graduate  
10 from an undergraduate program or from a graduate or professional  
11 program.

12 SECTION 14.04. Section 56.147, Education Code, is amended  
13 by reenacting and amending Subsection (b), as amended by Chapters  
14 151 and 165, Acts of the 74th Legislature, Regular Session, 1995,  
15 and by adding Subsection (c) to read as follows:

16 (b) The department shall issue not less than \$400,000  
17 annually in conditional grants under this subchapter from money  
18 available to fund the conditional grant program [~~gifts, grants, and~~  
19 ~~funds described by Subsection (a)~~].

20 (c) The department may provide outreach programs to recruit  
21 students into the conditional grant program.

22 SECTION 14.05. The change in law made by this article does  
23 not affect the eligibility of a person awarded a grant under  
24 Subchapter I, Chapter 56, Education Code, before the effective date  
25 of this article to receive the grant or to participate in the  
26 conditional grant program under Subchapter I, Chapter 56, Education  
27 Code, as that subchapter existed when the person was awarded the

1 grant, and the former law is continued in effect for that purpose.

2 ARTICLE 15. TEXAS TURNPIKE AUTHORITY

3 SECTION 15.01. Section 201.112(a), Transportation Code, is  
4 amended to read as follows:

5 (a) The commission may by rule establish procedures for the  
6 informal resolution of a claim arising out of a contract described  
7 by:

- 8 (1) Section 22.018;
- 9 (2) Chapter 223; ~~or~~
- 10 (3) Chapter 361; or
- 11 (4) Chapter 2254, Government Code.

12 SECTION 15.02. The heading to Chapter 361, Transportation  
13 Code, is amended to read as follows:

14 CHAPTER 361. STATE HIGHWAY ~~[TEXAS]~~ TURNPIKE PROJECTS  
15 ~~[AUTHORITY]~~

16 SECTION 15.03. Sections 361.001(2), (3), (4), and (5),  
17 Transportation Code, are amended to read as follows:

18 (2) ~~["Board" means the board of directors of the~~  
19 ~~authority.~~

20 ~~[(3)]~~ "Owner" includes a person having title to or an  
21 interest in any property, rights, easements, and interests  
22 authorized to be acquired under this chapter.

23 (3) ~~[(4)]~~ "Turnpike project" means a toll highway  
24 constructed, maintained, or operated under this chapter as part of  
25 the state highway system and any improvement, extension, or  
26 expansion to the highway and includes:

27 (A) a facility to relieve traffic congestion and

1 promote safety;

2 (B) a bridge, tunnel, overpass, underpass,  
3 interchange, entrance plaza, approach, toll house, service road,  
4 ramp, or service station;

5 (C) an administration, storage, or other  
6 building the department [~~authority~~] considers necessary to operate  
7 the project;

8 (D) property rights, easements, and interests  
9 the department [~~authority~~] acquires to construct or operate the  
10 project;

11 (E) a parking area or structure, rest stop, park,  
12 and any other improvement or amenity the department [~~authority~~]  
13 considers necessary, useful, or beneficial for the operation of a  
14 turnpike project; and

15 (F) a toll-free facility that is appurtenant to  
16 and necessary for the efficient operation of a turnpike project,  
17 including a service road, access road, ramp, interchange, bridge,  
18 or tunnel.

19 (4) [~~(5)~~] "Regional tollway authority" means a  
20 regional tollway authority created under Chapter 366.

21 SECTION 15.04. The heading to Subchapter B, Chapter 361,  
22 Transportation Code, is amended to read as follows:

23 SUBCHAPTER B. ADMINISTRATIVE PROVISIONS [~~TEXAS TURNPIKE~~  
24 AUTHORITY]

25 SECTION 15.05. Section 361.031, Transportation Code, as  
26 amended by Chapters 920 and 1237, Acts of the 77th Legislature,  
27 Regular Session, 2001, is reenacted and amended to read as follows:

1           Sec. 361.031. TEXAS TURNPIKE AUTHORITY. (a) The Texas  
2 Turnpike Authority is a division of the Texas Department of  
3 Transportation. The [that has full] authority is responsible for  
4 promoting and coordinating the development of turnpike projects  
5 under this chapter. The commission and the director shall assign  
6 duties to [exercise all powers granted to it under this chapter.  
7 ~~Powers granted to the department under this chapter and Chapter 362~~  
8 ~~to study, design, construct, operate, expand, enlarge, or extend a~~  
9 ~~turnpike project as a part of the state highway system shall be~~  
10 ~~exercised by the department acting by and through] the authority  
11 and other offices of the department as appropriate for the proper  
12 administration of this chapter and other law.~~

13           (b) The exercise by the department [authority] of the powers  
14 conferred by this chapter in the construction, operation, and  
15 maintenance of a turnpike project is:

16           (1) in all respects for the benefit of the people of  
17 this state, for the increase of their commerce and prosperity, and  
18 for the improvement of their health and living conditions and  
19 public safety; and

20           (2) an essential governmental function of the state.

21           SECTION 15.06. Section 361.042, Transportation Code, is  
22 redesignated as Section 361.032, Transportation Code, and amended  
23 to read as follows:

24           Sec. 361.032 [~~361.042~~]. GENERAL POWERS AND DUTIES. (a)  
25 The commission [~~board~~] shall[+]

26           [~~(1) on its own initiative or at the request of the~~  
27 ~~commission, consider, study, plan, and develop turnpike projects~~

1 ~~under this chapter,~~

2           ~~[(2)]~~ adopt rules for the implementation and  
3 administration of this chapter ~~[regulation of its affairs and the~~  
4 ~~conduct of its business, and~~

5           ~~[(3)]~~ ~~undertake such other duties as are delegated to~~  
6 ~~it by the commission].~~

7           (b) The department ~~[authority]~~ may:

8           (1) construct, maintain, repair, and operate turnpike  
9 projects in this state;

10           (2) acquire, hold, and dispose of property in the  
11 exercise of its powers and the performance of its duties under this  
12 chapter;

13           (3) with the approval of the governor and the  
14 commission, enter into contracts or operating agreements with  
15 similar authorities or agencies of another state, including a state  
16 of the United Mexican States;

17           (4) enter into contracts or agreements necessary or  
18 incidental to its duties and powers under this chapter;

19           (5) employ consulting engineers, accountants,  
20 construction and financial experts, superintendents, managers, and  
21 other employees and agents the department ~~[authority]~~ considers  
22 necessary and set their compensation;

23           (6) ~~[employ attorneys to advance or defend legal~~  
24 ~~actions pertaining to the division's activities, notwithstanding~~  
25 ~~any other law to the contrary, including Section 402.0212,~~  
26 ~~Government Code,~~

27           ~~[(7)]~~ receive grants for the construction of a

1 turnpike project and receive contributions of money, property,  
2 labor, or other things of value from any source to be used for the  
3 purposes for which the grants or contributions are made;

4 (7) notwithstanding Chapter 2113, Government Code,  
5 ~~[(8) adopt and enforce rules not inconsistent with this chapter~~  
6 ~~for the use of any turnpike project, including rules establishing~~  
7 ~~speed limits and maximum allowable vehicle and load weight limits~~  
8 ~~for turnpike projects;~~

9 ~~[(9)]~~ engage in marketing, advertising, and other  
10 activities to promote the development and use of turnpike projects  
11 and may enter into contracts or agreements necessary to procure  
12 marketing, advertising, or other promotional services from outside  
13 service providers;

14 ~~[(10) with the concurrence of the commission, form,~~  
15 ~~develop, or utilize a corporation created under Chapter 431 for the~~  
16 ~~promotion and development of turnpike projects;]~~ and

17 (8) [(11)] do all things necessary or appropriate to  
18 carry out the powers expressly granted by this chapter.

19 SECTION 15.07. Section 361.054, Transportation Code, is  
20 redesignated as Section 361.033, Transportation Code, and amended  
21 to read as follows:

22 Sec. 361.033 ~~[361.054]~~. AUDIT. Notwithstanding any other  
23 law to the contrary, the department ~~[authority]~~ shall have an  
24 independent certified public accountant audit the department's  
25 ~~[authority's]~~ books and accounts for activities under this chapter  
26 at least annually. The audit shall be conducted in accordance with  
27 the requirements of any trust agreement securing bonds issued under



1 this chapter that is in effect at the time of the audit. The cost of  
2 the audit may be treated as part of the cost of construction or  
3 operation of a turnpike project. This section does not affect the  
4 ability of a state agency to audit the department's [~~authority's~~]  
5 books and accounts.

6 SECTION 15.08. The heading to Subchapter C, Chapter 361,  
7 Transportation Code, is amended to read as follows:

8 SUBCHAPTER C. DEVELOPMENT [~~APPROVAL~~] OF TURNPIKE PROJECTS

9 SECTION 15.09. Section 361.101, Transportation Code, is  
10 amended to read as follows:

11 Sec. 361.101. DETERMINATION OF TURNPIKE PROJECTS. The  
12 department [~~authority~~] may:

13 (1) construct, maintain, repair, and operate a  
14 turnpike project to:

15 (A) facilitate vehicular traffic throughout this  
16 state;

17 (B) promote the agricultural and industrial  
18 development of this state;

19 (C) effect traffic safety; or

20 (D) improve connections between highways of this  
21 state, adjoining states, and the United Mexican States; and

22 (2) at any time determine to undertake a turnpike  
23 project, except that the commission by order must approve [~~the~~  
24 ~~location of the project before~~] final designation.

25 SECTION 15.10. Section 361.103, Transportation Code, is  
26 amended to read as follows:

27 Sec. 361.103. APPLICATION OF OTHER LAW. All other law

1 applicable to the department, the commission, or the state highway  
2 system shall apply to the development, construction, maintenance,  
3 and operation of a turnpike project under this chapter unless in  
4 conflict with a provision of this chapter. [~~ENVIRONMENTAL REVIEW.~~

5 ~~(a) The authority by rule shall provide for the authority's~~  
6 ~~environmental review of turnpike projects. The rules must provide~~  
7 ~~for:~~

8 ~~[(1) public comment on environmental reviews of~~  
9 ~~turnpike projects, including the types of projects for which public~~  
10 ~~hearings are required, and a procedure for requesting a public~~  
11 ~~hearing on an environmental review for which a public hearing is not~~  
12 ~~required;~~

13 ~~[(2) the environmental factors and impacts the~~  
14 ~~authority will evaluate in its environmental reviews; and~~

15 ~~[(3) environmental review of alternate routes for a~~  
16 ~~proposed turnpike project.~~

17 ~~[(b) The environmental review of a turnpike project must be~~  
18 ~~conducted before the location or alignment of the project is~~  
19 ~~adopted.~~

20 ~~[(c) The commission must approve each environmental review~~  
21 ~~under this section before construction of a turnpike project~~  
22 ~~begins.~~

23 ~~[(d) At least once during each five-year period, the~~  
24 ~~authority, after a public hearing, shall review the rules relating~~  
25 ~~to environmental review and make appropriate changes.]~~

26 SECTION 15.11. Subchapter C, Chapter 361, Transportation  
27 Code, is amended by adding Section 361.104 to read as follows:

1           Sec. 361.104. ENTRANCES AND EXITS OF TURNPIKE PROJECT. The  
2 department shall:

3           (1) designate the location of and establish, limit,  
4 and control the entrances and exits of a turnpike project as  
5 considered necessary or desirable to ensure the proper operation  
6 and maintenance of the project; and

7           (2) prohibit entrance to a project at any place not  
8 designated as an entrance.

9           SECTION 15.12. Section 361.131, Transportation Code, is  
10 amended to read as follows:

11           Sec. 361.131. POWERS AND PROCEDURES OF DEPARTMENT  
12 [AUTHORITY] IN ACQUIRING PROPERTY. Except as otherwise provided by  
13 this chapter, the department ~~[authority, acting by and through the~~  
14 ~~board,~~] has the same powers and may use the same procedures:

15           (1) in acquiring property under this chapter as the  
16 commission or the department in acquiring property under Subchapter  
17 D, Chapter 203; and

18           (2) in disposing of surplus property acquired under  
19 this chapter as the commission or the department under Subchapter  
20 B, Chapter 202.

21           SECTION 15.13. Section 361.132, Transportation Code, is  
22 amended to read as follows:

23           Sec. 361.132. ACQUISITION OF PROPERTY. (a) The department  
24 ~~[authority]~~ may acquire, in the name of the state, public or private  
25 real property it determines necessary or convenient for the  
26 construction, expansion, enlargement, extension, improvement, or  
27 operation of a turnpike project or for otherwise carrying out this

1 chapter.

2 (b) The real property the department [~~authority~~] may  
3 acquire under this subchapter includes:

4 (1) public parks, playgrounds, or reservations;

5 (2) parts of or rights in public parks, playgrounds,  
6 or reservations;

7 (3) rights-of-way;

8 (4) property rights, including:

9 (A) a right of ingress or egress; and

10 (B) a reservation right in real property that  
11 restricts or prohibits for not more than seven years the:

12 (i) addition of a new improvement on the  
13 real property;

14 (ii) addition to or modification of an  
15 existing improvement on the real property; or

16 (iii) subdivision of the real property;

17 (5) franchises;

18 (6) easements; and

19 (7) other interests in real property.

20 (c) The department [~~authority~~] may acquire the real  
21 property by any method, including purchase and condemnation. The  
22 department [~~authority~~] may purchase public or private real property  
23 on the terms and at the price the department [~~authority~~] and the  
24 owner consider reasonable.

25 (d) Property necessary or convenient for the construction  
26 or operation of a turnpike project under Subsection (a) includes an  
27 interest in real property, a property right, or materials that the

1 department [~~authority~~] determines are necessary or convenient to:

2 (1) protect a turnpike project;

3 (2) drain a turnpike project;

4 (3) divert a stream, river, or other watercourse from  
5 the right-of-way of a turnpike project;

6 (4) store materials or equipment used in the  
7 construction or maintenance of a turnpike project;

8 (5) provide a location for an ancillary facility that  
9 generates revenue for use in the construction, maintenance, or  
10 operation of a turnpike project, including a gas station, garage,  
11 store, hotel, or restaurant;

12 (6) construct or operate a warehouse, toll house, toll  
13 plaza, service station, or other facility used in connection with  
14 the construction, maintenance, or operation of a turnpike project;

15 (7) [~~(6)~~] lay out, construct, or maintain a roadside  
16 park;

17 (8) [~~(7)~~] lay out, construct, or maintain a parking  
18 lot that will contribute to the maximum use of a turnpike project  
19 with the least possible congestion;

20 (9) [~~(8)~~] mitigate an adverse environmental effect  
21 that directly results from the construction or maintenance of a  
22 turnpike project; or

23 (10) [~~(9)~~] accomplish any other purpose related to the  
24 location, construction, improvement, maintenance, beautification,  
25 preservation, or operation of a turnpike project.

26 (e) The department [~~authority~~] shall comply with all  
27 relocation assistance procedures applicable to the department in

1 connection with any displacement of owners or tenants as a  
2 consequence of the department's [~~authority's~~] acquisition of real  
3 property under this chapter.

4 (f) The department [~~authority~~] may acquire timber, earth,  
5 stone, gravel, or other materials as necessary to carry out a  
6 purpose under this chapter.

7 SECTION 15.14. Sections 361.133(b) and (c), Transportation  
8 Code, are amended to read as follows:

9 (b) The governing body of a political subdivision or public  
10 agency may without advertising convey title to or rights or  
11 easements in real property the department [~~authority~~] needs in  
12 connection with the construction or operation of a turnpike  
13 project.

14 (c) Notwithstanding any law to the contrary, a political  
15 subdivision or a state agency may lease, lend, grant, or convey to  
16 the department [~~authority~~] at its request real property, including  
17 highways and other real property already devoted to public use,  
18 that may be necessary or appropriate to accomplish the department's  
19 [~~authority's~~] purposes. The political subdivision or state agency  
20 may lease, lend, grant, or convey the property:

21 (1) on terms the subdivision or agency determines  
22 reasonable and fair; and

23 (2) without advertisement, court order, or other  
24 action or formality other than the regular and formal action of the  
25 subdivision or agency concerned.

26 SECTION 15.15. Section 361.134, Transportation Code, is  
27 amended to read as follows:

1           Sec. 361.134. DESCRIPTION OF REAL PROPERTY. Real property  
2 acquired by the department under this chapter [~~authority~~] shall be  
3 described so as to locate the boundary line of the property with  
4 reference to:

5           (1) lot and block lines and corners of all existing and  
6 recorded subdivision properties, if applicable; or

7           (2) survey lines and corners.

8           SECTION 15.16. Section 361.135, Transportation Code, is  
9 amended to read as follows:

10          Sec. 361.135. CONDEMNATION OF REAL PROPERTY. (a) The  
11 [~~board, with the concurrence of the~~] commission[~~7~~] may approve the  
12 acquisition of [~~acquire~~] public or private real property in the  
13 name of the state by the exercise of the power of condemnation under  
14 the laws applicable to the exercise of that power on property for  
15 public use if:

16           (1) the department [~~authority~~] and the owner cannot  
17 agree on a reasonable price for the property; or

18           (2) the owner is legally incapacitated, absent,  
19 unknown, or unable to convey title.

20          (b) The [~~board, with the concurrence of the~~] commission[~~7~~]  
21 may approve the condemnation of [~~condemn~~] real property that the  
22 commission [~~authority~~] determines is:

23           (1) necessary or convenient for the construction or  
24 operation of [~~appropriate to construct or to efficiently operate~~] a  
25 turnpike project, as described by Section 361.132(d);

26           (2) necessary to restore public or private property  
27 damaged or destroyed, including property necessary or convenient to

1 mitigate an environmental effect that directly results from the  
2 construction, operation, or maintenance of a turnpike project;

3 (3) necessary for access, approach, service, and  
4 interchange roads;

5 (4) necessary to provide proper drainage and ground  
6 slope for a turnpike project; or

7 (5) necessary otherwise to carry out this chapter.

8 (c) ~~[The authority may construct a supplemental facility  
9 only on real property the authority purchases.]~~

10 ~~[(d)]~~ The court having jurisdiction of a condemnation  
11 proceeding may:

12 (1) make orders as are just to the department  
13 ~~[authority]~~ and the owners of the real property; and

14 (2) require an undertaking or other security to secure  
15 the owners against any loss or damage by reason of the department's  
16 ~~[board's]~~ failure to accept and pay for the real property.

17 (d) ~~[(e)]~~ An undertaking or security under Subsection  
18 (c)(2) ~~[(d)(2)]~~ or an act or obligation of the department  
19 ~~[authority]~~ or the commission ~~[board]~~ does not impose any liability  
20 on the state, the department ~~[authority]~~, or the commission ~~[board]~~  
21 except liability that may be paid from the money authorized by this  
22 chapter.

23 SECTION 15.17. Section 361.136, Transportation Code, is  
24 amended to read as follows:

25 Sec. 361.136. SEVERANCE OF REAL PROPERTY. (a) If a  
26 turnpike project severs an owner's real property, the department  
27 ~~[authority]~~ shall pay:



1 (1) the value of the property acquired; and

2 (2) the damages to the remainder of the owner's  
3 property caused by the severance, including damages caused by the  
4 inaccessibility of one tract from the other.

5 (b) The department [~~authority~~] may negotiate for and  
6 purchase the severed real property or either part of the severed  
7 real property if the department [~~authority~~] and the owner agree on  
8 terms for the purchase. Instead of a single fixed payment for the  
9 real property, the department may agree to a payment to the owner in  
10 the form of:

11 (1) an intangible legal right to receive a percentage  
12 of identified revenue attributable to the applicable segment of the  
13 turnpike project; or

14 (2) an exclusive or nonexclusive right to use or  
15 operate a segment or part of the turnpike project.

16 (c) A right to a payment under Subsection (b)(1) is subject  
17 to any pledge of the revenue under the term of a trust agreement  
18 securing bonds issued for the project.

19 SECTION 15.18. Section 361.137, Transportation Code, is  
20 amended by amending Subsections (a) through (d) and adding  
21 Subsection (d-1) to read as follows:

22 (a) The department [~~authority~~] may file a declaration of  
23 taking with the clerk of the court:

24 (1) in which the department [~~authority~~] files a  
25 condemnation petition under Chapter 21, Property Code; or

26 (2) to which the case is assigned.

27 (b) The department [~~authority~~] may file the declaration of

1 taking concurrently with or subsequent to the petition but may not  
2 file the declaration after the special commissioners have made an  
3 award in the condemnation proceeding.

4 (c) The department may not file a declaration of taking  
5 before the completion of:

6 (1) all environmental documentation, including a  
7 final environmental impact statement or a record of decision, that  
8 is required by federal or state law;

9 (2) all public hearings and meetings, including those  
10 held in connection with the environmental process and under  
11 Sections 201.604 and 203.021, that are required by federal or state  
12 law; and

13 (3) all notifications required by Section 203.022.

14 (d) [~~(c)~~] The declaration of taking must include:

15 (1) a specific reference to the legislative authority  
16 for the condemnation;

17 (2) a description and plot plan of the real property to  
18 be condemned, including the following information if applicable:

19 (A) the municipality in which the property is  
20 located;

21 (B) the street address of the property; and

22 (C) the lot and block number of the property;

23 (3) a statement of the property interest to be  
24 condemned;

25 (4) the name and address of each property owner that  
26 the department [~~authority~~] can obtain after reasonable  
27 investigation and a description of the owner's interest in the

1 property; and

2 (5) a statement that immediate possession of all or  
3 part of the property to be condemned is necessary for the timely  
4 construction of a turnpike project.

5 (d-1) [~~(d)~~] A deposit to the registry of the court of an  
6 amount equal to the appraised value, as determined by the  
7 department [~~authority~~], of the property to be condemned must  
8 accompany the declaration of taking.

9 SECTION 15.19. Sections 361.138(a) and (b), Transportation  
10 Code, are amended to read as follows:

11 (a) Immediately on the filing of a declaration of taking,  
12 the department [~~authority~~] shall serve a copy of the declaration on  
13 each person possessing an interest in the condemned property by a  
14 method prescribed by Section 21.016(d), Property Code. The  
15 department [~~authority~~] shall file evidence of the service with the  
16 clerk of the court. On filing of that evidence, the department  
17 [~~authority~~] may take possession of the property pending the  
18 litigation.

19 (b) If the condemned property is a homestead or a portion of  
20 a homestead as defined by Section 41.002, Property Code, the  
21 department [~~authority~~] may not take possession sooner than the 91st  
22 [~~31st~~] day after the date of service under Subsection (a).

23 SECTION 15.20. Section 361.141(a), Transportation Code, is  
24 amended to read as follows:

25 (a) The department [~~authority~~] may not pay compensation for  
26 public real property, parkways, streets, highways, alleys, or  
27 reservations it takes, except for:

- 1           (1) parks and playgrounds; and  
2           (2) property acquired under restrictions and  
3 limitations requiring payment of compensation.

4           SECTION 15.21. Section 361.142, Transportation Code, is  
5 amended to read as follows:

6           Sec. 361.142. COVENANTS, CONDITIONS, RESTRICTIONS, OR  
7 LIMITATIONS. Covenants, conditions, restrictions, or limitations  
8 affecting property acquired in any manner by the department  
9 [~~authority~~] are not binding against the department [~~authority~~] and  
10 do not impair the department's [~~authority's~~] ability to use the  
11 property for a purpose authorized by this chapter. The  
12 beneficiaries of the covenants, conditions, restrictions, or  
13 limitations are not entitled to enjoin the department [~~authority~~]  
14 from using the property for a purpose authorized under this  
15 chapter, but this section does not affect the right of a person to  
16 seek damages to the person's property under Section 17, Article I,  
17 Texas Constitution.

18           SECTION 15.22. Section 361.171, Transportation Code, is  
19 amended to read as follows:

20           Sec. 361.171. TURNPIKE REVENUE BONDS. (a) The commission  
21 [~~authority~~] by order [~~resolution~~] may authorize [~~provide for~~] the  
22 issuance of turnpike revenue bonds to pay all or part of the cost of  
23 a turnpike project. Each project shall be financed and built by a  
24 separate bond issue. The proceeds of a bond issue may be used  
25 solely for the payment of the project for which the bonds were  
26 issued and may not be divided between or among two or more projects.  
27 Each project is a separate undertaking, the cost of which shall be

1 determined separately.

2 (b) As determined in the order authorizing the issuance, the  
3 ~~[The]~~ bonds of each issue shall:

4 (1) ~~[must]~~ be dated;

5 (2) bear interest at the rate or rates provided by the  
6 order and beginning on the dates provided by the order and as  
7 authorized by law, or bear no interest;

8 (3) mature at the time or times provided by the order,  
9 not exceeding 40 years from their date or dates, ~~[determined by the~~  
10 ~~authority]~~; and

11 (4) ~~[may]~~ be made redeemable before maturity, at the  
12 price or prices and under the terms provided by the order ~~[set by~~  
13 ~~the authority in the proceeding authorizing the issuance of the~~  
14 ~~bonds]~~.

15 (c) The commission ~~[authority]~~ may sell the bonds at public  
16 or private sale in the manner and for the price it determines to be  
17 in the best interest of the department ~~[authority]~~.

18 (d) The proceeds of each bond issue shall be disbursed in  
19 the manner and under the restrictions, if any, the commission  
20 ~~[authority]~~ provides in the order ~~[resolution]~~ authorizing the  
21 issuance of the bonds or in the trust agreement securing the bonds.

22 (e) If the proceeds of a bond issue are less than the  
23 turnpike project cost, additional bonds may ~~[in like manner]~~ be  
24 issued in the same manner to pay the costs of a turnpike project  
25 ~~[provide the amount of the deficit]~~. Unless otherwise provided in  
26 the order ~~[resolution]~~ authorizing the issuance of the bonds or in  
27 the trust agreement securing the bonds, the additional bonds are on

1 a parity with and are payable, without preference of priority, from  
2 the same fund as [~~without preference or priority of~~] the bonds first  
3 issued. In addition, the commission may issue bonds for a turnpike  
4 project secured by a lien on the revenue of the turnpike project  
5 subordinate to the lien on the revenue securing other bonds issued  
6 for the turnpike project.

7 (f) If the proceeds of a bond issue exceed the cost of the  
8 turnpike project for which the bonds were issued, the surplus shall  
9 be segregated from the other money of the commission and used only  
10 for the purposes specified in the order authorizing the issuance  
11 [~~deposited to the credit of the sinking fund for the bonds~~].

12 (g) In addition to other permitted uses, the proceeds of a  
13 bond issue may be used to pay costs incurred before the issuance of  
14 the bonds, including costs of environmental review, design,  
15 planning, acquisition of property, relocation assistance,  
16 construction, and operation.

17 (h) Bonds issued and delivered under this chapter and  
18 interest coupons on the bonds are a security under Chapter 8,  
19 Business & Commerce Code.

20 (i) Bonds issued under this chapter and income from the  
21 bonds, including any profit made on the sale or transfer of the  
22 bonds, are exempt from taxation in this state.

23 SECTION 15.23. Section 361.172, Transportation Code, is  
24 amended to read as follows:

25 Sec. 361.172. APPLICABILITY OF OTHER LAW; CONFLICTS. All  
26 [~~LAWS. (a) Except as provided by Subsection (b), the authority may~~  
27 ~~issue turnpike revenue bonds or turnpike revenue refunding bonds~~

1 ~~under this chapter without complying with any other law applicable~~  
2 ~~to the issuance of bonds.~~

3 ~~[(b) Notwithstanding any other provisions of this chapter,~~  
4 ~~the following]~~ laws affecting the issuance of bonds by governmental  
5 entities, including Chapters 1201, 1202, 1204, 1207, and 1371,  
6 Government Code, apply to bonds issued under this chapter. To the  
7 extent of a conflict between those laws and this chapter, the  
8 provisions of this chapter prevail ~~[by the authority].~~

9 ~~[(1) Chapters 1201, 1202, 1204, and 1371, Government~~  
10 ~~Code; and~~

11 ~~[(2) Subchapters A-C, Chapter 1207, Government Code].~~

12 SECTION 15.24. Section 361.173, Transportation Code, is  
13 amended to read as follows:

14 Sec. 361.173. PAYMENT OF BONDS; CREDIT OF STATE NOT  
15 PLEDGED. (a) The principal of, interest on, and any redemption  
16 premium on bonds issued by the commission under this chapter  
17 ~~[authority]~~ are payable solely from:

18 (1) ~~[the money authorized for their payment under this~~  
19 ~~chapter or other law; and~~

20 ~~[(2)]~~ the revenue of the turnpike project for which the  
21 bonds were issued, including tolls pledged to pay the bonds; and

22 (2) amounts received under a credit agreement relating  
23 to the turnpike project for which the bonds are issued.

24 (b) Bonds issued under this chapter do not constitute a debt  
25 of the state or a pledge of the faith and credit of the state. Each  
26 bond must contain on its face a statement to the effect that:

27 (1) the state, the commission, and the department

1 [authority] are not obligated to pay the bond or the interest on the  
2 bond from a source other than the amount pledged to pay the bond and  
3 the interest on the bond; and

4 (2) the faith and credit and the taxing power of the  
5 state are not pledged to the payment of the principal of or interest  
6 on the bond.

7 (c) The commission and the department [authority] may not  
8 incur financial obligations that cannot be paid from tolls or  
9 revenue derived from owning or operating turnpike projects or from  
10 money provided by law.

11 SECTION 15.25. Section 361.174, Transportation Code, is  
12 amended to read as follows:

13 Sec. 361.174. SOURCES OF PAYMENT OF AND SECURITY FOR  
14 TURNPIKE PROJECT BONDS. Notwithstanding any other provisions of  
15 this chapter, turnpike project bonds issued by the commission  
16 [authority] may[+]

17 [~~(1)~~] be payable from and secured by payments made  
18 under an agreement with a local governmental entity as provided by  
19 Subchapter A, Chapter 362, and may state on their faces any pledge  
20 of revenue or taxes and any security for the bonds under the  
21 agreement [~~, and~~

22 [~~(2) be payable from and secured by money derived from~~  
23 ~~any other source available to the authority, other than money~~  
24 ~~derived from a different turnpike project~~].

25 SECTION 15.26. Section 361.175, Transportation Code, is  
26 amended to read as follows:

27 Sec. 361.175. TURNPIKE REVENUE REFUNDING BONDS. (a) The



1 commission [~~authority~~] by order [~~resolution~~] may provide for the  
2 issuance of turnpike revenue refunding bonds to:

3 (1) refund any outstanding bonds issued under this  
4 chapter for a turnpike project, including the payment of any  
5 redemption premium on the bonds and any interest accrued as of the  
6 date of redemption of the bonds; and

7 (2) construct improvements, extensions, or  
8 enlargements to the turnpike project for which the outstanding  
9 bonds were issued.

10 (b) This chapter, to the extent applicable, governs:

11 (1) the issuance of the refunding bonds;

12 (2) the maturities and other details of the bonds;

13 (3) the rights of the bondholders; and

14 (4) the rights and obligations of the commission and  
15 the department [~~authority~~] with respect to the bonds and the  
16 bondholders.

17 (c) The commission [~~authority~~] may:

18 (1) issue refunding bonds in exchange for outstanding  
19 bonds; or

20 (2) sell refunding bonds and use the proceeds to pay or  
21 provide for the payment of the outstanding bonds.

22 SECTION 15.27. Subchapter E, Chapter 361, Transportation  
23 Code, is amended by adding Sections 361.1751-361.1753 to read as  
24 follows:

25 Sec. 361.1751. INTERIM BONDS. (a) The commission may,  
26 before issuing definitive bonds, issue interim bonds, with or  
27 without coupons, exchangeable for definitive bonds.

1           (b) An order authorizing interim bonds may provide that the  
2 interim bonds recite that the bonds are issued under this chapter.  
3 The recital is conclusive evidence of the validity and the  
4 regularity of the bonds' issuance.

5           Sec. 361.1752. EFFECT OF LIEN. (a) A lien on or a pledge of  
6 revenue from a turnpike project or on a reserve, replacement, or  
7 other fund established in connection with a bond issued under this  
8 chapter:

9                   (1) is enforceable at the time of payment for and  
10 delivery of the bond;

11                   (2) applies to each item on hand or subsequently  
12 received;

13                   (3) applies without physical delivery of an item or  
14 other act; and

15                   (4) is enforceable against any person having a claim,  
16 in tort, contract, or other remedy, against the commission or the  
17 department without regard to whether the person has notice of the  
18 lien or pledge.

19           (b) An order authorizing the issuance of bonds is not  
20 required to be recorded except in the regular records of the  
21 department.

22           Sec. 361.1753. APPROVAL OF BONDS BY ATTORNEY GENERAL. (a)  
23 The commission shall submit to the attorney general for examination  
24 the record of proceedings relating to bonds authorized under this  
25 chapter. The record shall include the bond proceedings and any  
26 contract securing or providing revenue for the payment of the  
27 bonds.

1        (b) If the attorney general determines that the bonds, the  
2 bond proceedings, and any supporting contract are authorized by  
3 law, the attorney general shall approve the bonds and deliver to the  
4 comptroller:

5            (1) a copy of the legal opinion of the attorney general  
6 stating the approval; and

7            (2) the record of proceedings relating to the  
8 authorization of the bonds.

9        (c) On receipt of the legal opinion of the attorney general  
10 and the record of proceedings relating to the authorization of the  
11 bonds, the comptroller shall register the record of proceedings.

12        (d) After approval by the attorney general, the bonds, the  
13 bond proceedings, and any supporting contract are valid,  
14 enforceable, and incontestable in any court or other forum for any  
15 reason and are binding obligations according to their terms for all  
16 purposes.

17        SECTION 15.28. Sections 361.176(a) and (e), Transportation  
18 Code, are amended to read as follows:

19        (a) Bonds issued under this chapter may be secured by a  
20 trust agreement between the commission [~~authority~~] and a corporate  
21 trustee that is a trust company or a bank that has the powers of a  
22 trust company.

23        (e) A trust agreement may:

24            (1) set forth the rights and remedies of the  
25 bondholders and the trustee;

26            (2) restrict the individual right of action by  
27 bondholders as is customary in trust agreements or trust indentures

1 securing corporate bonds and debentures; and

2 (3) contain provisions the commission [~~authority~~]  
3 determines reasonable and proper for the security of the  
4 bondholders.

5 SECTION 15.29. Section 361.177, Transportation Code, is  
6 amended to read as follows:

7 Sec. 361.177. PROVISIONS PROTECTING AND ENFORCING RIGHTS  
8 AND REMEDIES OF BONDHOLDERS. A trust agreement or order  
9 [~~resolution~~] providing for the issuance of bonds may contain  
10 [~~reasonable~~] provisions to protect and enforce the rights and  
11 remedies of the bondholders, including:

12 (1) covenants establishing the commission's [~~stating~~  
13 ~~the~~] duties relating [~~of the authority in relation~~] to:

14 (A) the acquisition of property;

15 (B) [~~and~~] the construction, improvement,  
16 expansion, maintenance, repair, operation, and insurance of the  
17 turnpike project in connection with which the bonds were  
18 authorized; and

19 (C) [~~(B)~~] the custody, safeguarding, and  
20 application of money;

21 (2) covenants prescribing events that constitute  
22 default;

23 (3) covenants prescribing terms on which any or all of  
24 the bonds become or may be declared due before maturity;

25 (4) covenants relating to the rights, powers,  
26 liabilities, or duties that arise on the breach of a duty of the  
27 commission; and

1           (5) [~~2~~] provisions for the employment of consulting  
2 engineers in connection with the construction or operation of the  
3 turnpike project.

4           SECTION 15.30. Section 361.178, Transportation Code, is  
5 amended to read as follows:

6           Sec. 361.178. FURNISHING OF INDEMNIFYING BONDS OR PLEDGE OF  
7 SECURITIES. A bank or trust company incorporated under the laws of  
8 [~~that has its main office or a branch office in~~] this state and that  
9 acts as depository of the proceeds of bonds or of revenue may  
10 furnish indemnifying bonds or pledge securities that the department  
11 [~~authority~~] requires.

12           SECTION 15.31. Sections 361.179(a), (b), (d), (e), and (g),  
13 Transportation Code, are amended to read as follows:

14           (a) The department [~~authority~~] may:

15                 (1) impose tolls for the use of each turnpike project  
16 and the different parts or sections of each turnpike project; and

17                 (2) notwithstanding anything in Chapter 202 to the  
18 contrary, contract with a person for the use of part of a turnpike  
19 project or lease [~~or sell~~] part of a turnpike project[~~, including~~  
20 ~~the right-of-way adjoining the paved portion,~~] for [~~any purpose,~~  
21 ~~including placing on the adjoining right-of-way~~] a gas station,  
22 garage, store, hotel, restaurant, railroad tracks, utilities, and  
23 [~~telephone line, telecommunication line,~~] telecommunications  
24 facilities and equipment[~~, and electric line,~~] and set the terms  
25 for the use or[~~,~~] lease[~~, or sale~~].

26           (b) The tolls shall be set so that the aggregate of tolls  
27 from the turnpike project:

1 (1) provides a fund sufficient with other revenue and  
2 contributions, if any, to pay:

3 (A) the cost of maintaining, repairing, and  
4 operating the project; and

5 (B) the principal of and interest on the bonds  
6 issued for the project as those bonds become due and payable; and

7 (2) creates reserves for the purposes listed under  
8 Subdivision (1).

9 (d) The tolls and other revenue derived from the turnpike  
10 project for which bonds were issued, except the part necessary to  
11 pay the cost of maintenance, repair, and operation and to provide  
12 reserves for those costs as may be provided in the order  
13 [~~resolution~~] authorizing the issuance of the bonds or in the trust  
14 agreement securing the bonds, shall be set aside at regular  
15 intervals as may be provided in the order [~~resolution~~] or trust  
16 agreement in a sinking fund that is pledged to and charged with the  
17 payment of:

18 (1) interest on the bonds as it becomes due;

19 (2) principal of the bonds as it becomes due;

20 (3) necessary charges of paying agents for paying  
21 principal and interest; and

22 (4) the redemption price or the purchase price of  
23 bonds retired by call or purchase as provided by the bonds.

24 (e) Use and disposition of money to the credit of the  
25 sinking fund are subject to the order [~~resolution~~] authorizing the  
26 issuance of the bonds or to the trust agreement.

27 (g) Money in the sinking fund, less the reserve provided by

1 the order [~~resolution~~] or trust agreement, if not used within a  
2 reasonable time to purchase bonds for cancellation, shall be  
3 applied to the redemption of bonds at the applicable redemption  
4 price.

5 SECTION 15.32. Section 361.183(b), Transportation Code, is  
6 amended to read as follows:

7 (b) Money spent under Subsection (a) for a proposed turnpike  
8 is reimbursable, with the consent of the commission [~~authority~~], to  
9 the person paying the expenses out of the proceeds from turnpike  
10 revenue bonds issued for or other proceeds that may be used for the  
11 construction, improvement, extension, expansion, or operation of  
12 the project.

13 SECTION 15.33. Section 361.185, Transportation Code, is  
14 amended to read as follows:

15 Sec. 361.185. TRUST FUND. (a) All money received under  
16 this chapter, whether as proceeds from the sale of bonds or as  
17 revenue, is a trust fund to be held and applied as provided by this  
18 chapter. Notwithstanding any other law, including Section 9,  
19 Chapter 1123, Acts of the 75th Legislature, Regular Session, 1997,  
20 and without the prior approval of the comptroller, funds held under  
21 this chapter shall be held in trust by a banking institution chosen  
22 by the department [~~authority~~] or, at the discretion of the  
23 department [~~authority~~], in trust in the state treasury outside the  
24 general revenue fund.

25 (b) The order [~~resolution~~] authorizing the issuance of  
26 bonds or the trust agreement securing the bonds shall provide that  
27 an officer to whom or a bank or trust company to which the money is

1 paid shall act as trustee of the money and shall hold and apply the  
2 money for the purpose of the order [~~resolution~~] or trust agreement,  
3 subject to this chapter and the order [~~resolution~~] or trust  
4 agreement.

5 SECTION 15.34. Section 361.186, Transportation Code, is  
6 amended to read as follows:

7 Sec. 361.186. REMEDIES. Except to the extent restricted by  
8 a trust agreement, a holder of a bond issued under this chapter [~~or~~  
9 ~~of a coupon incident to a bond~~] and a trustee under a trust  
10 agreement may:

11 (1) protect and enforce by a legal proceeding a right  
12 under:

13 (A) this chapter or another law of this state;

14 (B) the trust agreement; or

15 (C) the order [~~resolution~~] authorizing the  
16 issuance of the bond; and

17 (2) compel the performance of a duty this chapter, the  
18 trust agreement, or the order [~~resolution~~] requires the commission  
19 or the department [~~authority~~] or an officer of the commission or the  
20 department [~~authority~~] to perform, including the imposing of tolls.

21 SECTION 15.35. Section 361.187(a), Transportation Code, is  
22 amended to read as follows:

23 (a) The commission [~~authority~~] is exempt from taxation of or  
24 assessments on:

25 (1) a turnpike project;

26 (2) property the department [~~authority~~] acquires or  
27 uses under this chapter; or



1           (3) income from property described by Subdivision (1)  
2 or (2).

3           SECTION 15.36. Section 361.188, Transportation Code, is  
4 amended to read as follows:

5           Sec. 361.188. VALUATION OF BONDS SECURING DEPOSIT OF PUBLIC  
6 FUNDS. Bonds of the commission [~~authority, when they are~~  
7 ~~accompanied by the unmatured coupons incident to the bonds,~~] may  
8 secure the deposit of public funds of the state or a political  
9 subdivision of the state to the extent of the lesser of the face  
10 value of the bonds or their market value.

11          SECTION 15.37. Section 361.189, Transportation Code, is  
12 amended to read as follows:

13          Sec. 361.189. USE OF SURPLUS REVENUE. The commission by  
14 order [~~resolution~~] may authorize the use of surplus revenue of a  
15 turnpike project to pay the costs of another turnpike project  
16 within the region [~~, other than a project financed under Subchapter~~  
17 ~~I, or a toll-free project~~]. The commission may in the order  
18 [~~resolution~~] prescribe terms for the use of the revenue, including  
19 the pledge of the revenue, but may not take an action under this  
20 section that violates, impairs, or is inconsistent with a bond  
21 order [~~resolution~~], trust agreement, or indenture governing the use  
22 of the surplus revenue.

23          SECTION 15.38. Section 361.191, Transportation Code, is  
24 amended to read as follows:

25          Sec. 361.191. EXPENDITURE OF MONEY AUTHORIZED BY COMMISSION  
26 [~~DEPARTMENT OF TRANSPORTATION~~]. (a) The commission [~~Texas~~  
27 ~~Department of Transportation~~] may provide for the expenditure of

1 money for the cost of the acquisition, construction, maintenance,  
 2 or operation of a turnpike project [~~by the authority~~]. The  
 3 commission [~~department~~] may require the repayment of [~~authority to~~  
 4 ~~repay~~] money provided under this section from toll revenue or other  
 5 sources on terms established by the commission.

6 (b) Money repaid as required by the commission [~~department~~]  
 7 shall be deposited to the credit of the fund from which the money  
 8 was provided. Money deposited as required by this section is exempt  
 9 from the application of Section 403.095, Government Code.

10 SECTION 15.39. Section 361.231(a), Transportation Code, is  
 11 amended to read as follows:

12 [~~(a)~~] A contract of the department [~~authority~~] for the  
 13 construction, improvement, repair, or maintenance of a turnpike  
 14 project shall[~~, to the extent applicable,~~] be awarded under the  
 15 same terms as a contract of the department under Sections  
 16 223.001-223.007 [~~, 223.009,~~] and 223.009-223.011 [~~223.010~~].

17 SECTION 15.40. Sections 361.232(b), (c), and (d),  
 18 Transportation Code, are amended to read as follows:

19 (b) The department [~~authority~~] may construct a grade  
 20 separation at an intersection of a turnpike project with a railroad  
 21 or highway and change the line or grade of a highway to accommodate  
 22 it to the design of a grade separation. The department [~~authority~~]  
 23 shall pay the cost of a grade separation and any damage incurred in  
 24 changing a line or grade of a railroad or highway as part of the cost  
 25 of the turnpike project.

26 (c) If feasible, the department [~~authority~~] shall provide  
 27 access to properties previously abutting a county or other public

1 road that is taken for a turnpike project and shall pay abutting  
2 property owners the expenses or any resulting damages for denial of  
3 access to the road.

4 (d) If the department [~~authority~~] finds it necessary to  
5 change the location of a portion of a highway, it shall reconstruct  
6 the highway at the location the [~~authority and the~~] department  
7 determines [~~determine~~] to be most favorable. The reconstructed  
8 highway must be of substantially the same type and in as good  
9 condition as the original highway. The department [~~authority~~]  
10 shall determine and pay the cost of the reconstruction and any  
11 damage incurred in changing the location of a highway as part of the  
12 cost of the turnpike project.

13 SECTION 15.41. Sections 361.233(a) and (c), Transportation  
14 Code, are amended to read as follows:

15 (a) The department [~~authority~~] and its authorized agents  
16 may enter any real property, water, or premises in this state to  
17 make a survey, sounding, drilling, or examination it determines  
18 necessary or appropriate for the purposes of this chapter.

19 (c) The department [~~authority~~] shall make reimbursement for  
20 any actual damages to real property, water, or premises that result  
21 from an activity described by Subsection (a).

22 SECTION 15.42. Sections 361.234(a), (b), (d), (e), (f), and  
23 (g), Transportation Code, are amended to read as follows:

24 (a) The commission [~~authority~~] may adopt rules for the  
25 installation, construction, maintenance, repair, renewal,  
26 relocation, and removal of a public utility facility in, on, along,  
27 over, or under a turnpike project.

1           (b) If the department [~~authority~~] determines it is  
2 necessary that a public utility facility located in, on, along,  
3 over, or under a turnpike project be relocated in the project,  
4 removed from the project, or carried along or across the turnpike by  
5 grade separation, the owner or operator of the facility shall  
6 relocate or remove the facility in accordance with the order of the  
7 department [~~authority~~]. The department [~~authority~~], as a part of  
8 the cost of the turnpike project or the cost of operating the  
9 project, shall pay the cost of the relocation, removal, or grade  
10 separation, including the cost of:

11           (1) installing the facility in a new location or  
12 locations;

13           (2) interests in real property, and other rights  
14 acquired to accomplish the relocation or removal; and

15           (3) maintenance of grade separation structures.

16           (d) The department [~~authority~~] and the public utility shall  
17 have 90 days from the date the department [~~authority~~] provides  
18 written notice to the public utility of the need for relocation of  
19 utility facilities to reach an agreement concerning the period for  
20 completion of the relocation. The 90-day period may be extended by  
21 mutual written agreement. If the parties are unable to reach an  
22 agreement for the period for completion of the relocation, the  
23 department [~~authority~~] may specify a reasonable period. The  
24 department [~~authority~~] may reduce the total costs to be paid by the  
25 department [~~authority~~] by 10 percent for each 30-day period or  
26 portion of a 30-day period that the relocation exceeds the period  
27 specified by agreement between the department [~~authority~~] and

1 public utility or as reasonably specified by the department  
 2 [~~authority~~] if no agreement is reached, unless the public utility's  
 3 failure to timely perform results from a material action or  
 4 inaction by the department [~~authority~~] or from conditions that were  
 5 beyond the reasonable control of the utility. If an owner or  
 6 operator of a public utility facility does not timely remove or  
 7 relocate the facility as required under Subsection (b) and the  
 8 department [~~authority~~] relocates the facility, the department  
 9 [~~authority~~] shall relocate the facility in a safe manner that  
 10 complies with applicable law and utility construction standards  
 11 recognized by the department [~~authority~~] and that minimizes  
 12 disruption of utility service and shall notify the public utility  
 13 and other appropriate regulatory agencies of the relocation. A  
 14 public utility shall reimburse the department [~~authority~~] for  
 15 expenses reasonably incurred for the relocation of a public utility  
 16 facility unless the failure of the public utility to timely  
 17 relocate the facility was the result of circumstances beyond the  
 18 control of the utility, in which case the department [~~authority~~]  
 19 shall pay the cost of the relocation.

20 (e) Notwithstanding anything in this chapter to the  
 21 contrary, [+

22 [~~(1)~~] Subchapter B, Chapter 181, Utilities Code,  
 23 applies to the laying and maintenance of pipes, mains, conductors,  
 24 and other facilities used for conducting gas by a gas utility  
 25 described in that subchapter through, under, along, across, and  
 26 over a turnpike project constructed by the department [~~authority~~],  
 27 ~~and~~

1           ~~[(2) the authority has the powers and duties assigned~~  
2 ~~to the commission by Subchapter B, Chapter 181, Utilities Code].~~

3           (f) Notwithstanding anything in this chapter to the  
4 contrary, Subchapter C, Chapter 181, Utilities Code, applies to the  
5 erection, construction, maintenance, and operation of lines and  
6 poles owned by an electric utility, as that term is defined by  
7 Section 181.041, Utilities Code, over, under, across, on, and along  
8 a turnpike project constructed by the department ~~[authority. The~~  
9 ~~authority has the powers and duties delegated to the commission by~~  
10 ~~Subchapter C, Chapter 181, Utilities Code].~~

11           (g) Notwithstanding anything in this chapter to the  
12 contrary, the laws of this state applicable to the use of public  
13 roads, streets, and waters of this state by a telephone and  
14 telegraph corporation apply to the erection, construction,  
15 maintenance, location, and operation of a line, pole, or other  
16 fixture by a telephone and telegraph corporation over, under,  
17 across, on, and along a turnpike project constructed by the  
18 department ~~[authority].~~

19           SECTION 15.43. Section 361.235(a), Transportation Code, is  
20 amended to read as follows:

21           (a) The department ~~[authority]~~ may use real property owned  
22 by the state, including submerged land, that the department  
23 ~~[authority]~~ considers necessary for the construction or operation  
24 of a turnpike project.

25           SECTION 15.44. Section 361.236, Transportation Code, is  
26 amended to read as follows:

27           Sec. 361.236. MAINTENANCE OF TURNPIKE PROJECT.       The

1 department [~~authority~~] shall maintain and keep in good condition  
2 and repair each turnpike project opened to traffic.

3 SECTION 15.45. Section 361.238(b) and (c), Transportation  
4 Code, are amended to read as follows:

5 (b) If the conditions of Subsections (a)(1) and (2) are met,  
6 the commission may continue to charge a toll to fund the  
7 construction, maintenance, and operation of other turnpike  
8 projects in the region in which the turnpike project is located  
9 [~~sufficient to pay the costs of maintaining the facility~~].

10 (c) The following entities shall consider offering motor  
11 vehicle operators the option of using a transponder to pay tolls  
12 without stopping, to mitigate congestion at toll locations, to  
13 enhance traffic flow, and to otherwise increase the efficiency of  
14 operations:

15 (1) the department [~~authority~~];

16 (2) an entity to which a project authorized by this  
17 chapter is transferred; or

18 (3) a third party service provider under contract with  
19 an entity described by Subdivision (1) or (2).

20 SECTION 15.46. Section 361.251, Transportation Code, is  
21 amended to read as follows:

22 Sec. 361.251. TURNPIKE PROJECT A STATE [~~PUBLIC~~] HIGHWAY. A  
23 turnpike project is a state highway subject to all laws applicable  
24 to the regulation and control of traffic on a state [~~public~~]  
25 highway.

26 SECTION 15.47. Section 361.253, Transportation Code, is  
27 amended by amending Subsections (b), (d), (e), and (g) and adding

1 Subsection (i) to read as follows:

2 (b) The department [~~authority~~] may impose and collect the  
3 administrative fee, so as to recover the cost of collecting the  
4 unpaid toll, not to exceed \$100. The department [~~authority~~] shall  
5 send a written notice of nonpayment to the registered owner of the  
6 vehicle at that owner's address as shown in the vehicle  
7 registration records of the department by first class mail not  
8 later than the 30th day after the date of the alleged failure to pay  
9 and may require payment not sooner than the 30th day the date the  
10 notice was mailed. The registered owner shall pay a separate toll  
11 and administrative fee for each event of nonpayment under Section  
12 361.252.

13 (d) It is an exception to the application of Subsection (a)  
14 or (c) if the registered owner of the vehicle is a lessor of the  
15 vehicle and not later than the 30th day after the date the notice of  
16 nonpayment is mailed provides to the department [~~authority~~] a copy  
17 of the rental, lease, or other contract document covering the  
18 vehicle on the date of the nonpayment under Section 361.252, with  
19 the name and address of the lessee clearly legible. If the lessor  
20 provides the required information within the period prescribed, the  
21 department [~~authority~~] may send a notice of nonpayment to the  
22 lessee at the address shown on the contract document by first class  
23 mail before the 30th day after the date of receipt of the required  
24 information from the lessor. The lessee of the vehicle for which  
25 the proper toll was not paid who is mailed a written notice of  
26 nonpayment under this subsection and fails to pay the proper toll  
27 and administrative fee within the time specified by the notice of



1 nonpayment commits an offense. The lessee shall pay a separate toll  
2 and administrative fee for each event of nonpayment. Each failure  
3 to pay a toll or administrative fee under this subsection is a  
4 separate offense.

5 (e) It is an exception to the application of Subsection (a)  
6 or (c) if the registered owner of the vehicle transferred ownership  
7 of the vehicle to another person before the event of nonpayment  
8 under Section 361.252 occurred, submitted written notice of the  
9 transfer to the department in accordance with Section 520.023, and,  
10 before the 30th day after the date the notice of nonpayment is  
11 mailed, provides to the department [~~authority~~] the name and address  
12 of the person to whom the vehicle was transferred. If the former  
13 owner of the vehicle provides the required information within the  
14 period prescribed, the department [~~authority~~] may send a notice of  
15 nonpayment to the person to whom ownership of the vehicle was  
16 transferred at the address provided the former owner by first class  
17 mail before the 30th day after the date of receipt of the required  
18 information from the former owner. The subsequent owner of the  
19 vehicle for which the proper toll was not paid who is mailed a  
20 written notice of nonpayment under this subsection and fails to pay  
21 the proper toll and administrative fee within the time specified by  
22 the notice of nonpayment commits an offense. The subsequent owner  
23 shall pay a separate toll and administrative fee for each event of  
24 nonpayment under Section 361.252. Each failure to pay a toll or  
25 administrative fee under this subsection is a separate offense.

26 (g) The court in which a person is convicted of an offense  
27 under this section shall also collect the proper toll and

1 administrative fee and forward the toll and fee to the department  
2 for deposit in the depository bank used for that purpose  
3 ~~[authority]~~.

4 (i) The department may contract, in accordance with Section  
5 2107.003, Government Code, with a person to collect the unpaid toll  
6 and administrative fee before referring the matter to a court with  
7 jurisdiction over the offense.

8 SECTION 15.48. Section 361.255(b), Transportation Code, is  
9 amended to read as follows:

10 (b) Any peace officer of this state may seize a stolen or  
11 insufficiently funded transponder and return it to the department  
12 ~~[authority]~~, except that an insufficiently funded transponder may  
13 not be seized sooner than the 30th day after the date the department  
14 ~~[authority]~~ has sent a notice of delinquency to the holder of the  
15 account.

16 SECTION 15.49. Sections 361.256(a), (b), and (d),  
17 Transportation Code, are amended to read as follows:

18 (a) To aid in the collection of tolls and in the enforcement  
19 of toll violations, the department ~~[authority]~~ may use automated  
20 enforcement technology that it determines is necessary, including  
21 automatic vehicle license plate identification photography and  
22 video surveillance, by electronic imaging or photographic copying.

23 (b) Automated enforcement technology approved by the  
24 department ~~[authority]~~ under Subsection (a) may be used only for  
25 the purpose of producing, depicting, photographing, or recording an  
26 image of a license plate attached to the front or rear of a vehicle.

27 (d) Evidence obtained from technology approved by the

1 department [~~authority~~] under Subsection (a) may not be used in the  
2 prosecution of an offense other than under Section 361.252 or  
3 361.253.

4 SECTION 15.50. The heading to Subchapter H, Chapter 361,  
5 Transportation Code, is amended to read as follows:

6 SUBCHAPTER H. TRANSFER OF TURNPIKE PROJECT [~~TO COUNTY,~~  
7 ~~MUNICIPALITY, REGIONAL TOLLWAY AUTHORITY,~~  
8 ~~OR LOCAL GOVERNMENT CORPORATION]~~

9 SECTION 15.51. Section 361.281, Transportation Code, is  
10 amended to read as follows:

11 Sec. 361.281. APPLICABILITY OF SUBCHAPTER. This subchapter  
12 applies only to:

13 (1) a county with a population of more than 1.5  
14 million;

15 (2) a local government corporation serving a county  
16 with a population of more than 1.5 million;

17 (3) an adjacent county in a joint turnpike authority  
18 with a county with a population of more than 1.5 million;

19 (4) a municipality with a population of more than  
20 170,000 that is adjacent to the United Mexican States; [~~or~~]

21 (5) a regional tollway authority created under Chapter  
22 366; or

23 (6) a regional mobility authority created under  
24 Section 361.003.

25 SECTION 15.52. Section 361.282, Transportation Code, is  
26 amended to read as follows:

27 Sec. 361.282. LEASE, SALE, OR CONVEYANCE OF TURNPIKE

1 PROJECT. (a) The department [~~authority~~] may lease, sell, or convey  
2 in another manner a turnpike project to a county, a municipality,  
3 regional tollway authority, regional mobility authority, or a local  
4 government corporation created under Chapter 431.

5 (b) The [~~authority, the~~] commission[~~7~~] and the governor  
6 must approve the transfer of the turnpike project as being in the  
7 best interests of the state and the entity receiving the turnpike  
8 project.

9 SECTION 15.53. Section 361.283, Transportation Code, is  
10 amended to read as follows:

11 Sec. 361.283. DISCHARGE OF [~~AUTHORITY'S~~] OUTSTANDING  
12 BONDED INDEBTEDNESS. An agreement to lease, sell, or convey a  
13 turnpike project under Section 361.282 must provide for the  
14 discharge and final payment or redemption of the department's  
15 [~~authority's~~] outstanding bonded indebtedness for the project.

16 SECTION 15.54. Subchapter H, Chapter 361, Transportation  
17 Code, is amended by adding Section 361.284 to read as follows:

18 Sec. 361.284. REPAYMENT OF DEPARTMENT'S EXPENDITURES. (a)  
19 Except as provided by Subsection (b), an agreement to lease, sell,  
20 or convey a turnpike project under Section 361.282 must provide for  
21 the repayment of any expenditures of the department for the design,  
22 construction, operation, and maintenance of the project that have  
23 not been reimbursed with the proceeds of bonds issued for the  
24 project.

25 (b) The commission may waive repayment of all or a portion  
26 of the expenditures if it finds that the transfer will result in  
27 substantial net benefits to the state, the department, and the

1 public that equal or exceed the amount of repayment waived.

2 SECTION 15.55. Section 361.285(a), Transportation Code, is  
3 amended to read as follows:

4 (a) An agreement for the lease, sale, or conveyance of a  
5 turnpike project under this subchapter shall be submitted to the  
6 attorney general for approval as part of the records of proceedings  
7 relating to the issuance of bonds of the county, municipality,  
8 regional tollway authority, regional mobility authority, or local  
9 government corporation.

10 SECTION 15.56. Section 361.301, Transportation Code, is  
11 amended to read as follows:

12 Sec. 361.301. AGREEMENTS WITH PUBLIC OR PRIVATE ENTITIES TO  
13 CONSTRUCT, MAINTAIN, REPAIR, AND OPERATE TURNPIKE PROJECTS. (a)  
14 Notwithstanding Section 361.231 and Subchapter A, Chapter 2254,  
15 Government Code, the department [~~The authority~~] may enter into an  
16 agreement with a public or private entity, including a toll road  
17 corporation, to permit the entity, independently or jointly with  
18 the department [~~authority~~], to construct, maintain, repair, and  
19 operate turnpike projects.

20 (b) The department [~~authority~~] may authorize the investment  
21 of public and private money, including debt and equity  
22 participation, to finance a function described by this section.

23 SECTION 15.57. Section 361.302, Transportation Code, is  
24 amended to read as follows:

25 Sec. 361.302. COMPREHENSIVE [~~EXCLUSIVE~~] DEVELOPMENT  
26 AGREEMENTS [~~WITH PUBLIC OR PRIVATE ENTITIES~~]. (a) Subject to  
27 Section 361.3021, the department [~~The authority~~] may enter into a

1 comprehensive [~~use an exclusive~~] development agreement with a  
2 private entity to construct, maintain, repair, operate, extend, or  
3 expand a turnpike project.

4 (b) In this subchapter, "comprehensive development  
5 agreement" means an agreement with a private entity that, at a  
6 minimum, provides for the design and construction of a turnpike  
7 project and may also provide for the financing, acquisition,  
8 maintenance, or operation of a turnpike project [~~by invested~~  
9 ~~private funding or by public and private funding~~].

10 (c) The department [~~authority~~].

11 [~~(1) has broad discretion to negotiate the terms of~~  
12 ~~financing, and~~

13 [~~(2)~~] may negotiate provisions relating to  
14 professional and consulting services provided in connection with a  
15 comprehensive development agreement [~~regard to the turnpike~~  
16 ~~project and to the construction, maintenance, and operation of the~~  
17 ~~project, including provisions for combining those services~~].

18 (d) Money disbursed by the department under a comprehensive  
19 development agreement is not included in the amount:

20 (1) required to be spent in a biennium for engineering  
21 and design contracts under Section 223.041; or

22 (2) appropriated in Strategy A.1.1.  
23 Plan/Design/Manage of the General Appropriations Act for that  
24 biennium for the purpose of making the computation under Section  
25 223.041.

26 (e) The authority to enter into comprehensive development  
27 agreements provided by this section expires on August 31, 2011.

1 SECTION 15.58. Subchapter I, Chapter 361, Transportation  
2 Code, is amended by adding Sections 361.3021-361.3024 to read as  
3 follows:

4 Sec. 361.3021. LIMITATION ON DEPARTMENT FINANCIAL  
5 PARTICIPATION. The amount of money disbursed by the department  
6 from the state highway fund and the Texas mobility fund during a  
7 federal fiscal year to pay the costs under comprehensive  
8 development agreements may not exceed 40 percent of the obligation  
9 authority under the federal-aid highway program that is distributed  
10 to this state for the fiscal year.

11 Sec. 361.3022. PROCESS FOR ENTERING INTO COMPREHENSIVE  
12 DEVELOPMENT AGREEMENTS. (a) If the department enters into a  
13 comprehensive development agreement, the department shall use a  
14 competitive procurement process that provides the best value for  
15 the department. The department may accept unsolicited proposals  
16 for a proposed project or solicit proposals in accordance with this  
17 section.

18 (b) The department shall establish rules and procedures for  
19 accepting unsolicited proposals that require the private entity to  
20 include in the proposal:

21 (1) information regarding the proposed project  
22 location, scope, and limits;

23 (2) information regarding the private entity's  
24 qualifications, experience, technical competence, and capability  
25 to develop the project; and

26 (3) a proposed financial plan for the proposed project  
27 that includes, at a minimum:

1           (A) projected project costs; and

2           (B) proposed sources of funds.

3           (c) The department shall publish a request for competing  
4 proposals and qualifications in the Texas Register that includes  
5 the criteria used to evaluate the proposals, the relative weight  
6 given to the criteria, and a deadline by which proposals must be  
7 received if:

8           (1) the department decides to issue a request for  
9 qualifications for a proposed project; or

10           (2) the department authorizes the further evaluation  
11 of an unsolicited proposal.

12           (d) A proposal submitted in response to a request published  
13 under Subsection (c) must contain, at a minimum, the information  
14 required by Subsections (b)(2) and (3).

15           (e) The department may interview a private entity  
16 submitting an unsolicited proposal or responding to a request under  
17 Subsection (c). The department shall evaluate each proposal based  
18 on the criteria described in the notice. The department must  
19 qualify at least two private entities to submit detailed proposals  
20 for a project under Subsection (f) unless the department does not  
21 receive more than one proposal or one response to a request under  
22 Subsection (c).

23           (f) The department shall issue a request for detailed  
24 proposals from all private entities qualified under Subsection (e)  
25 if the department proceeds with the further evaluation of a  
26 proposed project. A request under this subsection may require  
27 additional information relating to:



1           (1) the private entity's qualifications and  
2 demonstrated technical competence;

3           (2) the feasibility of developing the project as  
4 proposed;

5           (3) detailed engineering or architectural designs;

6           (4) the private entity's ability to meet schedules;

7           (5) costing methodology; or

8           (6) any other information the department considers  
9 relevant or necessary.

10          (g) In issuing a request for proposals under Subsection (f),  
11 the department may solicit input from entities qualified under  
12 Subsection (e) or any other person. The department may also solicit  
13 input regarding alternative technical concepts after issuing a  
14 request under Subsection (f).

15          (h) The department shall rank each proposal based on the  
16 criteria described in the request for proposals and select the  
17 private entity whose proposal offers the apparent best value to the  
18 department.

19          (i) The department may enter into discussions with the  
20 private entity whose proposal offers the apparent best value. The  
21 discussions shall be limited to:

22               (1) incorporation of aspects of other proposals for  
23 the purpose of achieving the overall best value for the department;

24               (2) clarifications and minor adjustments in  
25 scheduling, cash flow, and similar items; and

26               (3) matters that have arisen since the submission of  
27 the proposal.

1       (j) If at any point in discussions under Subsection (i), it  
2 appears to the department that the highest ranking proposal will  
3 not provide the department with the overall best value, the  
4 department may enter into discussions with the private entity  
5 submitting the next-highest ranking proposal.

6       (k) The department may withdraw a request for competing  
7 proposals and qualifications or a request for detailed proposals at  
8 any time. The department may then publish a new request for  
9 competing proposals and qualifications.

10       (l) The department may require that an unsolicited proposal  
11 be accompanied by a nonrefundable fee sufficient to cover all or  
12 part of its cost to review the proposal.

13       (m) The department shall pay an unsuccessful private entity  
14 that submits a response to a request for detailed proposals under  
15 Subsection (f) a stipulated amount of the final contract price for  
16 any costs incurred in preparing that proposal. The stipulated  
17 amount must be stated in the request for proposals and may not  
18 exceed the value of any work product contained in the proposal that  
19 can, as determined by the department, be used by the department in  
20 the performance of its functions. The use by the department of any  
21 design element contained in an unsuccessful proposal is at the sole  
22 risk and discretion of the department and does not confer liability  
23 on the recipient of the stipulated amount under this section. After  
24 payment of the stipulated amount:

25           (1) the department owns with the unsuccessful proposer  
26 jointly the rights to, and may make use of any work product  
27 contained in, the proposal, including the technologies,

1 techniques, methods, processes, and information contained in the  
2 project design; and

3 (2) the use by the unsuccessful proposer of any  
4 portion of the work product contained in the proposal is at the sole  
5 risk of the unsuccessful proposer and does not confer liability on  
6 the department.

7 (n) The department may prescribe the general form of a  
8 comprehensive development agreement and may include any matter the  
9 department considers advantageous to the department. The  
10 department and the private entity shall finalize the specific terms  
11 of a comprehensive development agreement.

12 (o) Subchapter A, Chapter 223, and Chapter 2254, Government  
13 Code, do not apply to a comprehensive development agreement entered  
14 into under Section 361.302.

15 Sec. 361.3023. CONFIDENTIALITY OF INFORMATION RELATING TO  
16 COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) To encourage private  
17 entities to submit proposals under Section 361.3022, the following  
18 information is confidential, is not subject to disclosure,  
19 inspection, or copying under Chapter 552, Government Code, and is  
20 not subject to disclosure, discovery, subpoena, or other means of  
21 legal compulsion for its release until a final contract for a  
22 proposed project is entered into:

23 (1) all or part of a proposal that is submitted by a  
24 private entity for a comprehensive development agreement, except  
25 information provided under Section 361.3022(b)(1) and (2);

26 (2) supplemental information or material submitted by  
27 a private entity in connection with a proposal for a comprehensive

1 development agreement; and

2 (3) information created or collected by the department  
3 or its agent during consideration of a proposal for a comprehensive  
4 development agreement.

5 (b) After the department completes its final ranking of  
6 proposals under Section 361.3022(h), the final rankings of each  
7 proposal under each of the published criteria are not confidential.

8 Sec. 361.3024. PERFORMANCE AND PAYMENT SECURITY. (a)  
9 Notwithstanding Section 223.006 and the requirements of Subchapter  
10 B, Chapter 2253, Government Code, the department shall require a  
11 private entity entering into a comprehensive development agreement  
12 under Section 361.302 to provide a performance and payment bond or  
13 an alternative form of security in an amount sufficient to:

14 (1) ensure the proper performance of the agreement;  
15 and

16 (2) protect:  
17 (A) the department; and  
18 (B) payment bond beneficiaries who have a direct  
19 contractual relationship with the private entity or a subcontractor  
20 of the private entity to supply labor or material.

21 (b) A performance and payment bond or alternative form of  
22 security shall be in an amount equal to the cost of constructing or  
23 maintaining the project.

24 (c) If the department determines that it is impracticable  
25 for a private entity to provide security in the amount described by  
26 Subsection (b), the department shall set the amount of the bonds or  
27 the alternative forms of security.

1        (d) A payment or performance bond or alternative form of  
2 security is not required for the portion of an agreement that  
3 includes only design or planning services, the performance of  
4 preliminary studies, or the acquisition of real property.

5        (e) The amount of the payment security must not be less than  
6 the amount of the performance security.

7        (f) In addition to performance and payment bonds, the  
8 department may require the following alternate forms of security:

9            (1) a cashier's check drawn on a financial entity  
10 specified by the department;

11            (2) a United States bond or note;

12            (3) an irrevocable bank letter of credit; or

13            (4) any other form of security determined suitable by  
14 the department.

15        (g) The department by rule shall prescribe requirements for  
16 alternate forms of security provided under this section.

17        SECTION 15.59. Section 361.303, Transportation Code, is  
18 amended to read as follows:

19        Sec. 361.303. OWNERSHIP OF TURNPIKE PROJECT. (a) A  
20 turnpike project that is the subject of a comprehensive development  
21 agreement with a private entity, including the facilities acquired  
22 or constructed on the project, is public property and belongs to the  
23 department [~~authority~~].

24        (b) Notwithstanding Subsection (a), the department  
25 [~~authority~~] may enter into an agreement that provides for the lease  
26 of rights-of-way, the granting of easements, the issuance of  
27 franchises, licenses, or permits, or any lawful uses to enable a

1 private entity to construct, operate, and maintain a turnpike  
2 project, including supplemental facilities. At the termination of  
3 the agreement, the turnpike project, including the facilities, is  
4 to be in a state of proper maintenance as determined by the  
5 department [~~authority~~] and shall be returned to the department  
6 [~~authority~~] in satisfactory condition at no further cost.

7 SECTION 15.60. Section 361.304, Transportation Code, is  
8 amended to read as follows:

9 Sec. 361.304. LIABILITY FOR PRIVATE OBLIGATIONS. The  
10 department [~~authority~~] may not incur a financial obligation for a  
11 private entity that constructs, maintains, or operates a turnpike  
12 project. The state[~~, the authority,~~] or a political subdivision of  
13 the state is not liable for any financial or other obligations of a  
14 turnpike project solely because a private entity constructs,  
15 finances, or operates any part of the project.

16 SECTION 15.61. Section 361.305, Transportation Code, is  
17 amended to read as follows:

18 Sec. 361.305. TERMS OF PRIVATE PARTICIPATION. (a) The  
19 department [~~authority~~] shall negotiate the terms of private  
20 participation in a turnpike project, including:

21 (1) methods to determine the applicable cost, profit,  
22 and project distribution between the private equity investors and  
23 the department [~~authority~~];

24 (2) reasonable methods to determine and classify toll  
25 rates;

26 (3) acceptable safety and policing standards; and

27 (4) other applicable professional, consulting,

1 construction, operation, and maintenance standards, expenses, and  
2 costs.

3 (b) A comprehensive development agreement entered into  
4 under Section 361.302 must include a provision authorizing the  
5 department to purchase, under terms and conditions agreed to by the  
6 parties, the interest of a private equity investor in a turnpike  
7 agreement.

8 (c) The department may only enter into a comprehensive  
9 development agreement under Section 361.302 with a private equity  
10 investor if the project is identified in the department's unified  
11 transportation program or is located on a transportation corridor  
12 identified in the statewide transportation plan.

13 SECTION 15.62. Section 361.306, Transportation Code, is  
14 amended to read as follows:

15 Sec. 361.306. RULES, PROCEDURES, AND GUIDELINES GOVERNING  
16 SELECTION AND NEGOTIATING PROCESS. (a) The commission [~~authority~~]  
17 shall adopt rules, procedures, and guidelines governing selection  
18 and negotiations to promote fairness, obtain private participants  
19 in turnpike projects, and promote confidence among those  
20 participants. The rules must contain criteria relating to the  
21 qualifications of the participants and the award of the contracts  
22 [~~and may authorize the authority to impose a fee for reviewing~~  
23 ~~proposals for private involvement in a turnpike project~~].

24 (b) The department [~~authority~~] shall have up-to-date  
25 procedures for participation in negotiations on turnpike projects.

26 (c) The department [~~authority~~] has exclusive judgment to  
27 determine the terms of an agreement.

1 (d) The department [~~authority~~] shall include the attorney  
2 general or the attorney general's designated representative in a  
3 negotiation with a private participant.

4 SECTION 15.63. Section 361.307, Transportation Code, is  
5 amended to read as follows:

6 Sec. 361.307. AGREEMENTS WITH PRIVATE ENTITIES AND OTHER  
7 GOVERNMENTAL AGENCIES. (a) The department [~~authority~~] and a  
8 private entity jointly may enter into an agreement with another  
9 governmental agency or entity, including a federal agency, an  
10 agency of this or another state, including the United Mexican  
11 States or a state of the United Mexican States, or a political  
12 subdivision, to independently or jointly provide services, to study  
13 the feasibility of a turnpike project, or to finance, construct,  
14 operate, and maintain a turnpike project.

15 (b) The department may not enter into an agreement with the  
16 United Mexican States or a state of the United Mexican States  
17 without the approval of the governor.

18 SECTION 15.64. Section 361.331(a), Transportation Code, is  
19 amended to read as follows:

20 (a) After the department [~~authority~~] conducts a public  
21 hearing in each affected county, [~~and with the approval of~~] the  
22 commission[~~, the authority~~] may designate as a pooled turnpike  
23 project two or more turnpike projects that are wholly or partly  
24 located in the territory of:

25 (1) a metropolitan planning organization; or

26 (2) two adjacent districts of the department.

27 SECTION 15.65. Section 361.333, Transportation Code, is



1 amended to read as follows:

2           Sec. 361.333. ISSUANCE OF TURNPIKE REVENUE BONDS; PLEDGE OF  
3 PROJECT REVENUE. Subject to this chapter, the commission  
4 [~~authority~~] may:

5           (1) provide by order [~~resolution~~] for the issuance of  
6 turnpike revenue bonds to pay all or part of the cost of a pooled  
7 turnpike project; and

8           (2) pledge all or part of the revenue of the project.

9           SECTION 15.66. Sections 361.334(a) and (e), Transportation  
10 Code, are amended to read as follows:

11           (a) The commission [~~authority~~] by order [~~resolution~~] may  
12 issue turnpike revenue refunding bonds to:

13           (1) refund any outstanding bonds issued under this  
14 chapter for a pooled turnpike project, including any redemption  
15 premium on the bonds and any interest accrued as of the date of  
16 redemption of the bonds; and

17           (2) construct an improvement, extension, or  
18 enlargement to a pooled turnpike project.

19           (e) The commission [~~authority~~] may:

20           (1) issue refunding bonds in exchange for outstanding  
21 bonds; or

22           (2) sell refunding bonds and use the proceeds to  
23 redeem outstanding bonds.

24           SECTION 15.67. Section 361.335, Transportation Code, is  
25 amended to read as follows:

26           Sec. 361.335. ISSUANCE OF BONDS AND PLEDGE OF TURNPIKE  
27 PROJECT REVENUE WITHOUT REGARD TO WHETHER BONDS ARE REFUNDED.

1 Without regard to whether bonds are refunded, the commission  
2 [~~authority~~] by order [~~resolution~~] may:

3 (1) issue bonds, of parity or otherwise, to:

4 (A) pay all or part of the cost of a pooled  
5 turnpike project; or

6 (B) construct an improvement, extension, or  
7 enlargement to a pooled turnpike project; and

8 (2) pledge all or part of the revenue of the pooled  
9 turnpike project to the payment of the bonds.

10 SECTION 15.68. Sections 362.003(b) and (c), Transportation  
11 Code, are amended to read as follows:

12 (b) This chapter is cumulative of all laws affecting the  
13 commission, the department, and the local governmental entities,  
14 except that in the event any other law conflicts with this chapter,  
15 the provisions of this chapter prevail. Chapters 1201 and 1371,  
16 Government Code, and Subchapters A, B, and C, Chapter 1207,  
17 Government Code, apply to bonds issued by the commission under this  
18 chapter.

19 (c) The department may [~~This chapter is cumulative of all~~  
20 ~~laws affecting the authority, and the authority is authorized to~~]  
21 enter into all agreements necessary or convenient to effectuate the  
22 purposes of this chapter. [~~Particularly, but not by way of~~  
23 ~~limitation, the provisions of Chapters 1201 and 1371, Government~~  
24 ~~Code, and Subchapters A-C, Chapter 1207, Government Code, and~~  
25 ~~Chapter 361 are applicable to the bonds issued by the authority~~  
26 ~~under this chapter.~~]

27 SECTION 15.69. Sections 362.007(a) and (b), Transportation

1 Code, are amended to read as follows:

2 (a) Under authority of Section 52, Article III, Texas  
3 Constitution, a local governmental entity other than a nonprofit  
4 corporation may, upon the required vote of the qualified voters, in  
5 addition to all other debts, issue bonds or enter into and make  
6 payments under agreements with the department [~~authority~~], not to  
7 exceed 40 years in term, in any amount not to exceed one-fourth of  
8 the assessed valuation of real property within the local  
9 governmental entity, except that the total indebtedness of any  
10 municipality shall never exceed the limits imposed by other  
11 provisions of the constitution, and levy and collect taxes to pay  
12 the interest thereon and provide a sinking fund for the redemption  
13 thereof, for the purposes of construction, maintenance, and  
14 operation of turnpike projects of the department [~~authority~~], or in  
15 aid thereof.

16 (b) In addition to Subsection (a), a local governmental  
17 entity may, within any applicable constitutional limitations,  
18 agree with the department [~~authority~~] to issue bonds or enter into  
19 and make payments under an agreement to construct, maintain, or  
20 operate any portion of a turnpike project of the department  
21 [~~authority~~].

22 SECTION 15.70. Section 362.008, Transportation Code, is  
23 amended to read as follows:

24 Sec. 362.008. ADDITIONAL AGREEMENTS OF DEPARTMENT  
25 [~~AUTHORITY~~]. The department [~~authority~~] may enter into any  
26 agreement necessary or convenient to achieve the purposes of this  
27 subchapter.

1 SECTION 15.71. The heading to Section 545.354,  
2 Transportation Code, is amended to read as follows:

3 Sec. 545.354. AUTHORITY OF [~~TEXAS TURNPIKE AUTHORITY AND~~]  
4 REGIONAL TOLLWAY AUTHORITIES TO ALTER SPEED LIMITS ON TURNPIKE  
5 PROJECTS.

6 SECTION 15.72. Section 545.354(a)(1), Transportation Code,  
7 is amended to read as follows:

8 (1) In this section, "authority" means [~~the Texas~~  
9 ~~Turnpike Authority or~~] a regional tollway authority governed by  
10 Chapter 366.

11 SECTION 15.73. Section 621.102(a), Transportation Code, is  
12 amended to read as follows:

13 (a) The [~~Except as provided by Subsection (h), the~~]  
14 commission may set the maximum single axle weight, tandem axle  
15 weight, or gross weight of a vehicle, or maximum single axle weight,  
16 tandem axle weight, or gross weight of a combination of vehicles and  
17 loads, that may be moved over a state highway or a farm or ranch road  
18 if the commission finds that heavier maximum weight would rapidly  
19 deteriorate or destroy the road or a bridge or culvert along the  
20 road. A maximum weight set under this subsection may not exceed the  
21 maximum set by statute for that weight.

22 SECTION 15.74. Sections 222.103(i) and (j), 361.005,  
23 361.043, 361.046, 361.0485, 361.049, 361.051, 361.052, 361.053,  
24 361.055, 361.102, 361.181, 361.182, 361.184, 361.231(b), 361.237,  
25 361.308, 362.001(1), 362.052, 362.053, and 621.102(h),  
26 Transportation Code, are repealed.

27 SECTION 15.75. This article takes effect immediately if

1 this Act receives a vote of two-thirds of all the members elected to  
2 each house, as provided by Section 39, Article III, Texas  
3 Constitution. If this Act does not receive the vote necessary for  
4 immediate effect, this article takes effect September 1, 2003.

5 ARTICLE 16. COMMERCIAL MOTOR VEHICLE SAFETY STANDARDS

6 SECTION 16.01. Subdivision (1), Section 548.001,  
7 Transportation Code, is amended to read as follows:

8 (1) "Commercial motor vehicle" means a self-propelled  
9 or towed vehicle, other than a farm vehicle with a gross weight,  
10 registered weight, or gross weight rating of less than 48,000  
11 pounds, that is used on a public highway to transport passengers or  
12 cargo if:

13 (A) the vehicle, including a school activity bus  
14 as defined in Section 541.201, or combination of vehicles has a  
15 gross weight, registered weight, or gross weight rating of more  
16 than 26,000 pounds;

17 (B) the vehicle, including a school activity bus  
18 as defined in Section 541.201, is designed or used to transport more  
19 than 15 passengers, including the driver; or

20 (C) the vehicle is used to transport hazardous  
21 materials in a quantity requiring placarding by a regulation issued  
22 under the Hazardous Materials Transportation Act (49 U.S.C. Section  
23 5101 [~~4801~~] et seq.).

24 SECTION 16.02. Subdivisions (1) and (5), Section 644.001,  
25 Transportation Code, are amended to read as follows:

26 (1) "Commercial motor vehicle" means:

27 (A) a commercial motor vehicle as defined by 49

1 C.F.R. Section 390.5, if operated interstate; or

2 (B) a commercial motor vehicle as defined  
3 [described] by Section 548.001, if operated intrastate.

4 (5) "Federal motor carrier safety regulation" means a  
5 federal regulation in Subtitle A, Title 49, or Subchapter B,  
6 Chapter III, Subtitle B, Title 49, Code of Federal Regulations.

7 SECTION 16.03. Subsections (a) through (d), Section  
8 644.103, Transportation Code, are amended to read as follows:

9 (a) An officer of the department may stop, enter, or detain  
10 on a highway or at a port of entry a motor vehicle that is subject to  
11 this chapter.

12 (b) A municipal police officer who is certified under  
13 Section 644.101 may stop, enter, or detain on a highway or at a port  
14 of entry within the territory of the municipality a motor vehicle  
15 that is subject to this chapter. A sheriff or deputy sheriff who is  
16 certified under Section 644.101 may stop, enter, or detain on a  
17 highway or at a port of entry within the territory of the county a  
18 motor vehicle that is subject to this chapter.

19 (c) A person [~~An officer~~] who detains a vehicle under this  
20 section may prohibit the further operation of the vehicle on a  
21 highway if the vehicle or operator of the vehicle is in violation of  
22 a federal safety regulation or a rule adopted under this chapter.

23 (d) A noncommissioned employee of the department who is  
24 certified for the purpose by the director and who is supervised by  
25 an officer of the department may, at a fixed-site facility, stop,  
26 enter, or detain a motor vehicle that is subject to this chapter.  
27 If the employee's inspection shows that an enforcement action, such

1 as the issuance of a citation, is warranted, the noncommissioned  
2 employee may take enforcement action only if the employee is under  
3 the supervision of an [supervising] officer of the department [must  
4 take the action].

5 SECTION 16.04. Section 644.153, Transportation Code, is  
6 amended to read as follows:

7 Sec. 644.153. ADMINISTRATIVE PENALTY. (a) The department  
8 may impose an administrative penalty against a person who violates:

- 9 (1) a rule adopted under this chapter; or  
10 (2) a provision of Subchapter [Subtitle] C that the  
11 department by rule subjects to administrative penalties.

12 (b) To be designated as subject to an administrative penalty  
13 under Subsection (a)(2), a provision must relate to the safe  
14 operation of a commercial motor vehicle.

15 (c) The department shall:

16 (1) designate one or more employees to investigate  
17 violations and conduct audits of persons subject to this chapter;  
18 and

19 (2) impose an administrative penalty if the department  
20 discovers a violation that is covered by Subsection (a) or (b).

21 (d) A penalty under this section~~+~~

22 [~~1~~] may not exceed the maximum penalty provided for  
23 a violation of a similar federal safety regulation~~, and~~

24 [~~2~~] ~~shall be administered in the same manner as a~~  
25 ~~penalty under Section 643.251, except that the amount of a penalty~~  
26 ~~shall be determined under Subdivision (1)].~~

27 (e) If the department determines to impose a penalty, the

1 department shall issue a notice of claim. The department shall send  
2 the notice of claim by certified mail, registered mail, personal  
3 delivery, or another manner of delivery that records the receipt of  
4 the notice by the person responsible. The notice of claim must  
5 include a brief summary of the alleged violation and a statement of  
6 the amount of the recommended penalty and inform the person that the  
7 person is entitled to a hearing on the occurrence of the violation,  
8 the amount of the penalty, or both the occurrence of the violation  
9 and the amount of the penalty. [~~(d)~~] A person who is subject to an  
10 administrative penalty imposed by the department under this section  
11 [~~subchapter~~] is required to pay the penalty [~~administrative~~  
12 penalties] or respond to the department within 20 days of receipt of  
13 the department's notice of claim.

14 (f) Before the 21st day after the date the person receives  
15 the notice of claim, the person may:

16 (1) accept the determination and pay the recommended  
17 penalty; or

18 (2) make a written request for an informal hearing or  
19 an administrative hearing on the occurrence of the violation, the  
20 amount of the penalty, or both the occurrence of the violation and  
21 the amount of the penalty.

22 (g) At the conclusion of an informal hearing requested under  
23 Subsection (f), the department may modify the recommendation for a  
24 penalty.

25 (h) If the person requests an administrative hearing, the  
26 department shall set a hearing and give notice of the hearing to the  
27 person. The hearing shall be held by an administrative law judge of



1 the State Office of Administrative Hearings. The administrative  
2 law judge shall make findings of fact and conclusions of law and  
3 promptly issue to the director a proposal for a decision as to the  
4 occurrence of the violation and the amount of a proposed penalty.

5 (i) If a penalty is proposed under Subsection (h), the  
6 administrative law judge shall include in the proposal for a  
7 decision a finding setting out costs, fees, expenses, and  
8 reasonable and necessary attorney's fees incurred by the state in  
9 bringing the proceeding. The director may adopt the finding and  
10 make it a part of a final order entered in the proceeding.

11 (j) Based on the findings of fact, conclusions of law, and  
12 proposal for a decision, the director by order may find that a  
13 violation has occurred and impose a penalty or may find that no  
14 violation occurred. The director may, pursuant to Section  
15 2001.058(e), Government Code, increase or decrease the amount of  
16 the penalty recommended by the administrative law judge within the  
17 limits prescribed by this chapter.

18 (k) Notice of the director's order shall be given to the  
19 affected person in the manner required by Chapter 2001, Government  
20 Code, and must include a statement that the person is entitled to  
21 seek a judicial review of the order.

22 (l) Before the 31st day after the date the director's order  
23 becomes final as provided by Section 2001.144, Government Code, the  
24 person must:

- 25 (1) pay the amount of the penalty;  
26 (2) pay the amount of the penalty and file a petition  
27 for judicial review contesting:

- 1           (A) the occurrence of the violation;  
2           (B) the amount of the penalty; or  
3           (C) both the occurrence of the violation and the  
4 amount of the penalty; or

5           (3) without paying the amount of the penalty, file a  
6 petition for judicial review contesting:

- 7           (A) the occurrence of the violation;  
8           (B) the amount of the penalty; or  
9           (C) both the occurrence of the violation and the  
10 amount of the penalty.

11           (m) Within the 30-day period under Subsection (l), a person  
12 who acts under Subsection (l) may:

- 13           (1) stay enforcement of the penalty by:  
14           (A) paying the amount of the penalty to the court  
15 for placement in an escrow account; or  
16           (B) filing with the court a supersedeas bond  
17 approved by the court for the amount of the penalty that is  
18 effective until all judicial review of the director's order is  
19 final; or

20           (2) request the court to stay enforcement of the  
21 penalty by:

- 22           (A) filing with the court an affidavit of the  
23 person stating that the person is financially unable to pay the  
24 amount of the penalty and is financially unable to give the  
25 supersedeas bond; and

26           (B) sending a copy of the affidavit to the  
27 director by certified mail.

1       (n) Before the sixth day after the date the director  
2 receives a copy of an affidavit filed under Subsection (m)(2), the  
3 department may file with the court a contest to the affidavit. The  
4 court shall hold a hearing on the facts alleged in the affidavit as  
5 soon as practicable and shall stay the enforcement of the penalty if  
6 the court finds that the alleged facts are true. The person who  
7 files an affidavit under Subsection (m)(2) has the burden of  
8 proving that the person is financially unable to:

9               (1) pay the amount of the penalty; and

10              (2) file the supersedeas bond.

11       (o) If the person does not pay the amount of the penalty and  
12 the enforcement of the penalty is not stayed, the director may:

13              (1) refer the matter to the attorney general for  
14 collection of the amount of the penalty;

15              (2) initiate an impoundment proceeding under  
16 Subsection (q); or

17              (3) refer the matter to the attorney general and  
18 initiate the impoundment proceeding.

19       (p) [~~e~~] A person who fails to pay, or becomes delinquent  
20 in the payment of an administrative penalty~~[, the administrative~~  
21 ~~penalties]~~ imposed by the department under this subchapter may  
22 ~~[shall]~~ not operate or direct the operation of a commercial motor  
23 vehicle on the highways of this state until ~~[such time as]~~ the  
24 administrative penalty has ~~[penalties have]~~ been remitted to the  
25 department.

26       (q) [~~f~~] The department shall impound any commercial motor  
27 vehicle owned or operated by a person in violation of Subsection (p)

1 [~~(e)~~] after the department has first served the person with a notice  
2 of claim. Service of the notice may be by certified mail,  
3 registered mail, personal delivery, or any other manner of delivery  
4 showing receipt of the notice.

5 (r) [~~(g)~~] A commercial motor vehicle impounded by the  
6 department under Subsection (q) [~~this section~~] shall remain  
7 impounded until [~~such time as~~] the administrative penalties imposed  
8 against the person are remitted to the department, except that an  
9 impounded commercial motor vehicle left at a vehicle storage  
10 facility controlled by the department or any other person shall be  
11 considered an abandoned motor vehicle on the 11th day after the date  
12 of impoundment if the delinquent administrative penalty is not  
13 remitted to the department before that day. Chapter 683 applies to  
14 the commercial motor vehicle, except that the department is  
15 entitled to receive from the proceeds of the sale the amount of the  
16 delinquent administrative penalty and costs.

17 (s) [~~(h)~~] All costs associated with the towing and storage  
18 of the commercial motor vehicle and load shall be the  
19 responsibility of the person and not the department or the State of  
20 Texas.

21 (t) A proceeding under this section is subject to Chapter  
22 2001, Government Code.

23 SECTION 16.05. Section 644.155, Transportation Code, is  
24 amended to read as follows:

25 Sec. 644.155. COMPLIANCE REVIEW AND SAFETY AUDIT PROGRAM.  
26 The department shall implement and enforce a compliance review and  
27 safety audit program similar to the federal program established

1 under 49 C.F.R. Part 385 for any person who owns or operates a  
2 commercial motor vehicle that is domiciled in this state.

3 SECTION 16.06. Subsection (a), Section 683.002,  
4 Transportation Code, is amended to read as follows:

5 (a) For the purposes of this chapter, a motor vehicle is  
6 abandoned if the motor vehicle:

7 (1) is inoperable, is more than five years old, and has  
8 been left unattended on public property for more than 48 hours;

9 (2) has remained illegally on public property for more  
10 than 48 hours;

11 (3) has remained on private property without the  
12 consent of the owner or person in charge of the property for more  
13 than 48 hours;

14 (4) has been left unattended on the right-of-way of a  
15 designated county, state, or federal highway for more than 48  
16 hours; [~~or~~]

17 (5) has been left unattended for more than 24 hours on  
18 the right-of-way of a turnpike project constructed and maintained  
19 by the Texas Turnpike Authority division of the Texas Department of  
20 Transportation or a controlled access highway; or

21 (6) is considered an abandoned motor vehicle under  
22 Section 644.153(r).

23 SECTION 16.07. Subsection (b), Section 683.012,  
24 Transportation Code, is amended to read as follows:

25 (b) The notice under Subsection (a) must:

26 (1) be sent by certified mail not later than the 10th  
27 day after the date the agency:

1 (A) takes the abandoned motor vehicle,  
2 watercraft, or outboard motor into custody; or

3 (B) receives the report under Section 683.031;

4 (2) specify the year, make, model, and identification  
5 number of the item;

6 (3) give the location of the facility where the item is  
7 being held;

8 (4) inform the owner and lienholder of the right to  
9 claim the item not later than the 20th day after the date of the  
10 notice on payment of:

11 (A) towing, preservation, and storage charges;  
12 or

13 (B) garagekeeper's charges and fees under  
14 Section 683.032 and, if the vehicle is a commercial motor vehicle  
15 impounded under Section 644.153(q), the delinquent administrative  
16 penalty and costs; and

17 (5) state that failure of the owner or lienholder to  
18 claim the item during the period specified by Subdivision (4) is:

19 (A) a waiver by that person of all right, title,  
20 and interest in the item; and

21 (B) consent to the sale of the item at a public  
22 auction.

23 SECTION 16.08. Section 683.015, Transportation Code, is  
24 amended by adding Subsection (e) to read as follows:

25 (e) If the vehicle is a commercial motor vehicle impounded  
26 under Section 644.153(q), the Department of Public Safety is  
27 entitled from the proceeds of the sale to an amount equal to the

1 amount of the delinquent administrative penalty and costs.

2 SECTION 16.09. (a) This article takes effect September 1,  
3 2003.

4 (b) The changes in law made in Section 16.04 of this article  
5 apply only to an administrative penalty for a violation that occurs  
6 on or after the effective date of this article.

7 (c) An administrative penalty for a violation that occurred  
8 before the effective date of this article is governed by the law in  
9 effect at the time of the violation, and the former law is continued  
10 in effect for that purpose.

11 ARTICLE 17. NONREPAIRABLE AND SALVAGE MOTOR VEHICLES; SALVAGE

12 VEHICLE DEALERS

13 SECTION 17.01. Section 501.0234(b), Transportation Code,  
14 is amended to read as follows:

15 (b) This section does not apply to a motor vehicle:

16 (1) that has been declared a total loss by an insurance  
17 company in the settlement or adjustment of a claim;

18 (2) for which the certificate of title has been  
19 surrendered in exchange for:

20 (A) a salvage vehicle [~~certificate of~~] title  
21 issued under this chapter;

22 (B) a nonrepairable [~~motor~~] vehicle [~~certificate~~  
23 ~~of~~] title issued under this chapter;

24 (C) a certificate of authority issued under  
25 Subchapter D, Chapter 683; or

26 (D) an ownership document issued by another state  
27 that is comparable to a document described by Paragraphs (A)-(C);

1 or

2 (3) with a gross weight in excess of 11,000 pounds.

3 SECTION 17.02. Subchapter E, Chapter 501, Transportation  
4 Code, is amended to read as follows:

5 SUBCHAPTER E. NONREPAIRABLE AND SALVAGE MOTOR VEHICLES

6 Sec. 501.091 [~~501.0911~~]. DEFINITIONS. [~~(a)~~] In this  
7 subchapter:

8 (1) "Actual cash value" means the market value of a  
9 motor vehicle [~~as determined:~~

10 [~~(A) from publications commonly used by the~~  
11 ~~automotive and insurance industries to establish the values of~~  
12 ~~motor vehicles; or~~

13 [~~(B) if the entity determining the value is an~~  
14 ~~insurance company, by any other procedure recognized by the~~  
15 ~~insurance industry, including market surveys, that is applied by~~  
16 ~~the company in a uniform manner].~~

17 (2) [~~"Automobile recycler" means a person in the~~  
18 ~~business of dealing in salvage motor vehicles for the purpose of~~  
19 ~~dismantling the vehicles to sell used parts or a person otherwise~~  
20 ~~engaged in the business of acquiring, selling, or dealing in~~  
21 ~~salvage parts for reuse or resale as parts. The term includes a~~  
22 ~~dealer in used motor vehicle parts.~~

23 [~~(3)~~] "Casual sale" means the sale by a salvage  
24 vehicle dealer or an insurance company [~~at auction~~] of not more than  
25 five [~~one~~] nonrepairable motor vehicles [~~vehicle~~] or [~~late model~~]  
26 salvage motor vehicles [~~vehicle~~] to the same person during a  
27 calendar year. The term does not include:



1                    (A) a sale at auction to a salvage vehicle  
2 dealer; or

3                    (B) the sale of an export-only motor vehicle to a  
4 person who is not a resident of the United States.

5                    (3) "Damage" means sudden damage to a motor vehicle  
6 caused by the motor vehicle being wrecked, burned, flooded, or  
7 stripped of major component parts. The term does not include  
8 gradual damage from any cause, sudden damage caused by hail, or any  
9 damage caused only to the exterior paint of the motor vehicle.

10                   (4) "Export-only motor vehicle" means a motor vehicle  
11 described by Section 501.099.

12                   (5) [~~(4)~~] "Insurance company" means:

13                    (A) a person authorized to write automobile  
14 insurance in this state; or

15                    (B) an out-of-state insurance company that pays a  
16 loss claim for a motor vehicle in this state.

17                    ~~[(5) "Late model motor vehicle" means a motor vehicle~~  
18 ~~with the same model year as the current calendar year or one of the~~  
19 ~~five calendar years preceding that calendar year.]~~

20                    ~~(6) ["Late model salvage motor vehicle" or "salvage~~  
21 ~~motor vehicle" means a late model motor vehicle, other than a late~~  
22 ~~model vehicle that is a nonrepairable motor vehicle, that is~~  
23 ~~damaged to the extent that the total estimated cost of repairs,~~  
24 ~~other than repairs related to hail damage but including parts and~~  
25 ~~labor, is equal to or greater than an amount equal to 75 percent of~~  
26 ~~the actual cash value of the vehicle in its predamaged condition.~~

27                    ~~[(7)] "Major component part" means one of the~~

1 following parts of a motor vehicle:

2 (A) the engine;

3 (B) the transmission;

4 (C) the frame;

5 (D) a [~~the right or left front~~] fender;

6 (E) the hood;

7 (F) a door allowing entrance to or egress from  
8 the passenger compartment of the motor vehicle;

9 (G) a [~~the front or rear~~] bumper;

10 (H) a [~~the right or left~~] quarter panel;

11 (I) a [~~the~~] deck lid, tailgate, or hatchback;

12 (J) the cargo box of a one-ton or smaller truck,  
13 including a pickup truck;

14 (K) the cab of a truck; [~~or~~]

15 (L) the body of a passenger motor vehicle;

16 (M) the roof or floor pan of a passenger motor  
17 vehicle, if separate from the body of the motor vehicle.

18 (7) "Metal recycler" means a person who:

19 (A) is predominately engaged in the business of  
20 obtaining ferrous or nonferrous metal that has served its original  
21 economic purpose to convert the metal, or sell the metal for  
22 conversion, into raw material products consisting of prepared  
23 grades and having an existing or potential economic value;

24 (B) has a facility to convert ferrous or  
25 nonferrous metal into raw material products consisting of prepared  
26 grades and having an existing or potential economic value, by  
27 method other than the exclusive use of hand tools, including the

1 processing, sorting, cutting, classifying, cleaning, baling,  
2 wrapping, shredding, shearing, or changing the physical form or  
3 chemical content of the metal; and

4 (C) sells or purchases the ferrous or nonferrous  
5 metal solely for use as raw material in the production of new  
6 products.

7 (8) "Motor vehicle" has the meaning assigned by  
8 Section 501.002(14).

9 (9) [~~(8)~~] "Nonrepairable motor vehicle" means a [~~late~~  
10 ~~model~~] motor vehicle that:

11 (A) is damaged, wrecked, or burned to the extent  
12 that the only residual value of the vehicle is as a source of parts  
13 or scrap metal; or

14 (B) comes into this state under a title or other  
15 ownership document that indicates that the vehicle is  
16 nonrepairable, junked, or for parts or dismantling only [~~or missing~~  
17 ~~a major component part to the extent that the total estimated cost~~  
18 ~~of repairs to rebuild or reconstruct the vehicle, including parts~~  
19 ~~and labor other than the costs of materials and labor for repainting~~  
20 ~~the vehicle and excluding sales taxes on the total cost of the~~  
21 ~~repairs, and excluding the cost of repairs to repair hail damage, is~~  
22 ~~equal to or greater than an amount equal to 95 percent of the actual~~  
23 ~~cash value of the vehicle in its predamaged condition].~~

24 (10) [~~(9)~~] "Nonrepairable [~~motor~~] vehicle  
25 [~~certificate of~~] title" means a document issued by the department  
26 that evidences ownership of a nonrepairable motor vehicle.

27 [~~(10)~~] "~~Older model motor vehicle~~" means a motor

1 ~~vehicle that was manufactured in a model year before the sixth~~  
2 ~~preceding model year, including the current model year.]~~

3 (11) ~~["Other negotiable evidence of ownership" means a~~  
4 ~~document other than a Texas certificate of title or a salvage~~  
5 ~~certificate of title that relates to a motor vehicle that the~~  
6 ~~department considers sufficient to support issuance of a Texas~~  
7 ~~certificate of title for the vehicle.~~

8 [~~(12)~~] "Out-of-state buyer" means a person licensed in  
9 an automotive business by another state or jurisdiction if the  
10 department has listed the holders of such a license as permitted  
11 purchasers of salvage motor vehicles or nonrepairable motor  
12 vehicles based on substantially similar licensing requirements and  
13 on whether salvage vehicle dealers licensed in Texas are permitted  
14 to purchase salvage motor vehicles or nonrepairable motor vehicles  
15 in the other state or jurisdiction.

16 (12) "Out-of-state ownership document" means a  
17 negotiable document issued by another state or jurisdiction that  
18 the department considers sufficient to prove ownership of a  
19 nonrepairable motor vehicle or salvage motor vehicle and to support  
20 the issuance of a comparable Texas certificate of title for the  
21 motor vehicle. The term does not include a title issued by the  
22 department, including a regular certificate of title, a  
23 nonrepairable vehicle title, a salvage vehicle title, a Texas  
24 Salvage Certificate, Certificate of Authority to Demolish a Motor  
25 Vehicle, or another ownership document issued by the department.

26 (13) "Public highway" has the meaning assigned by  
27 Section 502.001.

1           (14) [(13)] "Rebuilder" means a person who acquires  
2 and repairs, rebuilds, or reconstructs for operation on a public  
3 highway [highways], three [five] or more [late model] salvage motor  
4 vehicles in a calendar year [any 12-month period].

5           (15) "Salvage motor vehicle":

6                   (A) means a motor vehicle that:

7                           (i) is damaged to the extent that the cost  
8 of repair exceeds the actual cash value of the motor vehicle  
9 immediately before the damage; or

10                           (ii) is damaged and that comes into this  
11 state under an out-of-state salvage motor vehicle certificate of  
12 title or similar out-of-state ownership document that states on its  
13 face "accident damage," "flood damage," "inoperable,"  
14 "rebuildable," "salvageable," or similar notation; and

15                   (B) does not include an out-of-state motor  
16 vehicle with a "rebuilt," "prior salvage," "salvaged," or similar  
17 notation, a nonrepairable motor vehicle, or a motor vehicle for  
18 which an insurance company has paid a claim for:

19                           (i) the cost of repairing hail damage; or

20                           (ii) theft, unless the motor vehicle was  
21 damaged during the theft and before recovery to the extent  
22 described by Paragraph (A)(i).

23           (16) [(14)] "Salvage [~~motor~~] vehicle [~~certificate of~~]  
24 title" means a [any] document issued by the department that  
25 evidences ownership of a salvage motor vehicle.

26           (17) [(15)] "Salvage vehicle dealer" means a person  
27 engaged in this state in the business of acquiring, selling,

1 dismantling, repairing, rebuilding, reconstructing, or otherwise  
2 dealing in nonrepairable motor vehicles, salvage motor vehicles, or  
3 used parts. The term does not include a person who casually  
4 repairs, rebuilds, or reconstructs fewer than three salvage motor  
5 vehicles in the same calendar year. The term includes a person  
6 engaged in the business of:

7 (A) a salvage vehicle dealer, regardless of  
8 whether the person holds a license issued by the department to  
9 engage in that business;

10 (B) dealing in nonrepairable motor vehicles or  
11 salvage motor vehicles, regardless of whether the person deals in  
12 used parts; or

13 (C) dealing in used parts regardless of whether  
14 the person deals in nonrepairable motor vehicles or salvage motor  
15 vehicles [~~has the meaning assigned by Section 1.01, Article~~  
16 ~~6687-1a, Revised Statutes~~].

17 (18) "Self-insured motor vehicle" means a motor  
18 vehicle for which the evidence of ownership is a manufacturer's  
19 certificate of origin or for which the department or another state  
20 or jurisdiction has issued a regular certificate of title, is  
21 self-insured by the owner, and is owned by an individual, a  
22 business, or a governmental entity, without regard to the number of  
23 motor vehicles they own or operate. The term does not include a  
24 motor vehicle that is insured by an insurance company.

25 (19) "Used part" means a part that is salvaged,  
26 dismantled, or removed from a motor vehicle for resale as is or as  
27 repaired. The term includes a major component part but does not

1 include a rebuildable or rebuilt core, including an engine, block,  
2 crankshaft, transmission, or other core part that is acquired,  
3 possessed, or transferred in the ordinary course of business

4 [~~(b) For purposes of this subchapter:~~

5 ~~(1) the estimated cost of repair parts shall be~~  
6 ~~determined by using a manual of repair costs or other instrument~~  
7 ~~that is generally recognized and commonly used in the motor vehicle~~  
8 ~~insurance industry to determine those costs or an estimate of the~~  
9 ~~actual cost of the repair parts; and~~

10 ~~(2) the estimated labor costs shall be computed by~~  
11 ~~using the hourly rate and time allocations that are reasonable and~~  
12 ~~commonly assessed in the repair industry in the community in which~~  
13 ~~the repairs are performed].~~

14       Sec. 501.092 [~~501.0912~~]. INSURANCE COMPANY TO SURRENDER  
15 CERTIFICATES OF TITLE TO CERTAIN [~~LATE MODEL~~] SALVAGE MOTOR  
16 VEHICLES OR NONREPAIRABLE MOTOR VEHICLES. (a) An insurance company  
17 that is licensed to conduct business in this state and that  
18 acquires, through payment of a claim, ownership or possession of a  
19 [~~late model~~] salvage motor vehicle or nonrepairable motor vehicle  
20 covered by a certificate of title issued by this state or a  
21 manufacturer's certificate of origin [~~through payment of a claim~~]  
22 shall surrender a properly assigned [~~certificate of~~] title or  
23 manufacturer's certificate of origin to the department, on a form  
24 prescribed by the department, except that not earlier than the 46th  
25 day after the date of payment of the claim the insurance company may  
26 surrender a certificate of title, on a form prescribed by the  
27 department, and receive a salvage certificate of title or a

1 nonrepairable certificate of title without obtaining a properly  
2 assigned certificate of title if the insurance company:

3 (1) has obtained the release of all liens on the motor  
4 vehicle;

5 (2) is unable to locate one or more owners of the motor  
6 vehicle; and

7 (3) has provided notice to the last known address in  
8 the department's records to each owner that has not been located:

9 (A) by registered or certified mail, return  
10 receipt requested; or

11 (B) if a notice sent under Paragraph (A) is  
12 returned unclaimed, by publication in a newspaper of general  
13 circulation in the area where the unclaimed mail notice was sent.

14 (b) For a salvage motor vehicle [~~described by Section~~  
15 ~~501.0911(6) but not by Section 501.0911(8)~~], the insurance company  
16 shall apply for a salvage [~~motor~~] vehicle [~~certificate of~~] title.  
17 For a nonrepairable motor vehicle [~~described by Section~~  
18 ~~501.0911(8)~~], the insurance company shall apply for a nonrepairable  
19 [~~motor~~] vehicle [~~certificate of~~] title.

20 (c) An insurance company may not sell a [~~late model salvage~~]  
21 motor vehicle to which this section applies unless the department  
22 has issued a salvage [~~motor~~] vehicle [~~certificate of~~] title or a  
23 nonrepairable [~~motor~~] vehicle [~~certificate of~~] title for the motor  
24 vehicle or a comparable ownership document has been issued by  
25 another state or jurisdiction for the motor vehicle.

26 (d) An insurance company may sell a [~~late model salvage~~]  
27 motor vehicle to which this section applies, or assign a salvage



1 ~~[motor]~~ vehicle ~~[certificate of]~~ title or a nonrepairable ~~[motor]~~  
2 vehicle ~~[certificate of]~~ title for the motor vehicle, only to a  
3 salvage vehicle dealer, an out-of-state buyer, a buyer in a casual  
4 sale at auction, or a metal recycler ~~[person described by~~  
5 ~~Subsection (g), Article 6687-2b, Revised Statutes]~~. If the motor  
6 vehicle is not a ~~[late model]~~ salvage motor vehicle or a  
7 nonrepairable motor vehicle, the insurance company is not required  
8 to surrender the regular certificate of title for the vehicle or to  
9 be issued a salvage ~~[motor]~~ vehicle ~~[certificate of]~~ title or a  
10 nonrepairable ~~[motor]~~ vehicle ~~[certificate of]~~ title for the motor  
11 vehicle.

12 (e) An insurance company or other person who acquires  
13 ownership of a motor vehicle other than a nonrepairable or salvage  
14 motor vehicle may voluntarily and on proper application obtain a  
15 salvage vehicle title or a nonrepairable vehicle title for the  
16 vehicle.

17 Sec. 501.093 ~~[501.0915]~~. INSURANCE COMPANY ~~[TO SUBMIT]~~  
18 REPORT ON CERTAIN VEHICLES ~~[TO DEPARTMENT]~~. (a) If an insurance  
19 company pays ~~[after payment of]~~ a ~~[total loss]~~ claim on a ~~[late~~  
20 ~~model salvage motor vehicle or a]~~ nonrepairable motor vehicle or  
21 salvage motor vehicle and the ~~[an]~~ insurance company does not  
22 acquire ownership of the motor vehicle, the insurance company shall  
23 submit to the department, before the 31st day after the date of the  
24 payment of the claim, on the form prescribed by the department, a  
25 report stating that the insurance company:

26 (1) ~~[the insurance company]~~ has paid a ~~[total loss]~~  
27 claim on the motor vehicle; and

1           (2) ~~[the insurance company]~~ has not acquired ownership  
2 of the motor vehicle.

3           (b) The owner of a ~~[late model salvage]~~ motor vehicle to  
4 which this section applies may not operate or permit operation of  
5 the motor vehicle on a public highway or transfer ownership of the  
6 motor vehicle by sale or otherwise unless the department has issued  
7 a salvage ~~[motor]~~ vehicle ~~[certificate of]~~ title or a nonrepairable  
8 ~~[motor]~~ vehicle ~~[certificate of]~~ title for the motor vehicle or a  
9 comparable ownership document has been issued by another state or  
10 jurisdiction for the motor vehicle.

11           (c) Subsection (b) does not apply if:

12                   (1) the department has issued a nonrepairable vehicle  
13 title or salvage vehicle title for the motor vehicle; or

14                   (2) another state or jurisdiction has issued a  
15 comparable out-of-state ownership document for the motor vehicle.

16           Sec. 501.094. SELF-INSURED MOTOR VEHICLE. (a) This  
17 section applies only to a motor vehicle in this state that is:

18                   (1) a self-insured motor vehicle;

19                   (2) damaged to the extent it becomes a nonrepairable  
20 or salvage motor vehicle; and

21                   (3) removed from normal operation by the owner.

22           (b) The owner of a motor vehicle to which this section  
23 applies shall submit to the department before the 31st day after the  
24 date of the damage, on the form prescribed by the department, a  
25 report stating that the motor vehicle was self-insured, damaged,  
26 and was removed from normal operation.

27           (c) When the owner submits a report under Subsection (b),

1 the owner shall:

2 (1) surrender the regular certificate of title or  
3 manufacturer's certificate of origin for the motor vehicle; and

4 (2) apply for a nonrepairable vehicle title or salvage  
5 vehicle title under this subchapter.

6 Sec. 501.095 [~~501.0916~~]. SALE, TRANSFER, OR RELEASE OF  
7 NONREPAIRABLE MOTOR VEHICLE OR [LATE MODEL] SALVAGE [OR  
8 NONREPAIRABLE] MOTOR VEHICLE. (a) If the department has not issued  
9 a nonrepairable vehicle title or salvage vehicle title for the  
10 motor vehicle and an out-of-state ownership document for the motor  
11 vehicle has not been issued by another state or jurisdiction, a  
12 business or governmental entity described by Subdivisions (1)-(3)  
13 [A person] may [not] sell, transfer, or release a [late model  
14 salvage motor vehicle or a] nonrepairable motor vehicle or salvage  
15 motor vehicle only to a person who is [other than]:

16 (1) a licensed [~~person who holds a~~] salvage vehicle  
17 dealer or metal recycler [~~license issued~~] under Chapter 2302,  
18 Occupations Code;

19 (2) an insurance company that has paid a claim on the  
20 nonrepairable or salvage motor [~~former owner of the~~] vehicle;

21 (3) a governmental entity; or

22 (4) an out-of-state buyer [~~+~~

23 [~~(5) a buyer in a casual sale at auction; or~~

24 [~~(6) a person described by Section 2302.003,~~  
25 Occupations Code].

26 (b) A person, other than a salvage vehicle dealer or an  
27 insurance company licensed to do business in this state, who

1 acquired ownership of a nonrepairable or salvage ~~[who sells,~~  
 2 ~~transfers, or releases a]~~ motor vehicle that has not been issued  
 3 ~~[under Subsection (a) shall deliver a properly assigned certificate~~  
 4 ~~of title for the vehicle to the person to whom the motor vehicle is~~  
 5 ~~sold, transferred, or released. If the assigned certificate of~~  
 6 ~~title is not a salvage motor vehicle certificate of title,]~~ a  
 7 nonrepairable ~~[motor]~~ vehicle ~~[certificate of]~~ title, salvage  
 8 vehicle title, or a comparable ownership document issued by another  
 9 state or jurisdiction~~[, the purchaser]~~ shall, before selling the  
 10 motor vehicle, surrender the properly assigned ~~[not later than the~~  
 11 ~~10th day after the date the purchaser receives the]~~ certificate of  
 12 title for the motor vehicle to the department and apply to the  
 13 department for:

14 (1) a nonrepairable vehicle title if the vehicle is a  
 15 nonrepairable motor vehicle ~~[surrender the certificate of title to~~  
 16 ~~the department];~~ or ~~[and]~~

17 (2) ~~[apply for]~~ a salvage ~~[motor]~~ vehicle ~~[certificate~~  
 18 ~~of]~~ title if the vehicle is a salvage motor vehicle ~~[or a~~  
 19 ~~nonrepairable motor vehicle certificate of title for the vehicle,~~  
 20 ~~as appropriate].~~

21 (c) If the department has issued a nonrepairable vehicle  
 22 title or salvage vehicle title for the motor vehicle or another  
 23 state or jurisdiction has issued a comparable out-of-state  
 24 ownership document for the motor vehicle, a person may sell,  
 25 transfer, or release a nonrepairable motor vehicle or salvage motor  
 26 vehicle to any person ~~[A salvage vehicle dealer that acquires~~  
 27 ~~ownership of a late model salvage motor vehicle or a nonrepairable~~

1 ~~motor vehicle for the purpose of dismantling, scrapping, or~~  
2 ~~destroying the vehicle shall, before the 31st day after the date the~~  
3 ~~dealer acquires the vehicle, submit to the department, on the form~~  
4 ~~prescribed by the department, a report stating that the vehicle~~  
5 ~~will be dismantled, scrapped, or destroyed, accompanied by a~~  
6 ~~properly assigned regular certificate of title, salvage motor~~  
7 ~~vehicle certificate of title, nonrepairable motor vehicle~~  
8 ~~certificate of title, or comparable ownership document issued by~~  
9 ~~another state or jurisdiction for the vehicle.~~

10 ~~[(d) On receipt of the report and the certificate of title,~~  
11 ~~the department shall issue the salvage vehicle dealer a receipt for~~  
12 ~~the certificate of title, salvage motor vehicle certificate of~~  
13 ~~title, nonrepairable motor vehicle certificate of title, or~~  
14 ~~comparable ownership document issued by another state or~~  
15 ~~jurisdiction.~~

16 ~~[(c) A salvage vehicle dealer who submits a report under~~  
17 ~~Subsection (c) shall report to the department after the action is~~  
18 ~~taken that the vehicle was dismantled, scrapped, or destroyed].~~

19 Sec. 501.096. NONREPAIRABLE MOTOR VEHICLE OR SALVAGE MOTOR  
20 VEHICLE DISMANTLED, SCRAPPED, OR DESTROYED. (a) If a salvage  
21 vehicle dealer acquires ownership of a nonrepairable motor vehicle  
22 or salvage motor vehicle for the purpose of dismantling, scrapping,  
23 or destroying the motor vehicle, the dealer shall, before the 31st  
24 day after the date the dealer acquires the motor vehicle, submit to  
25 the department a report stating that the motor vehicle will be  
26 dismantled, scrapped, or destroyed. The dealer shall:

27 (1) make the report on a form prescribed by the

1 department; and

2 (2) submit with the report a properly assigned  
3 manufacturer's certificate of origin, regular certificate of  
4 title, nonrepairable vehicle title, salvage vehicle title, or  
5 comparable out-of-state ownership document for the motor vehicle.

6 (b) After receiving the report and title or document, the  
7 department shall issue the salvage vehicle dealer a receipt for the  
8 manufacturer's certificate of origin, regular certificate of  
9 title, nonrepairable vehicle title, salvage vehicle title, or  
10 comparable out-of-state ownership document.

11 (c) The salvage vehicle dealer shall:

12 (1) [~~Sec. 501.0917. SALVAGE VEHICLE DEALER TO SUBMIT~~  
13 ~~REPORT TO DEPARTMENT. (a) A salvage vehicle dealer that acquires~~  
14 ~~an older model vehicle for the purpose of dismantling, scrapping,~~  
15 ~~or destroying the vehicle and that receives a properly assigned~~  
16 ~~certificate of title for the vehicle shall, before the 31st day~~  
17 ~~after the date the dealer acquires the vehicle:~~

18 ~~[(1) submit to the department, on the form prescribed~~  
19 ~~by the department, a report stating that the vehicle will be~~  
20 ~~dismantled, scrapped, or destroyed, accompanied by the properly~~  
21 ~~assigned regular certificate of title, salvage motor vehicle~~  
22 ~~certificate of title, nonrepairable motor vehicle certificate of~~  
23 ~~title, or comparable ownership document issued by another state or~~  
24 ~~jurisdiction for the vehicle; and~~

25 ~~[(2)]~~ keep on the business premises of the dealer,  
26 until the third anniversary of the date the report on the motor  
27 vehicle is submitted to the department, a record of the vehicle, its

1 ownership, and its condition as dismantled, scrapped, or destroyed;  
2 and

3 (2) [~~.(b) A salvage vehicle dealer that is required~~  
4 ~~to submit a report under Subsection (a) shall~~] present to the  
5 department, on the form prescribed by the department, evidence that  
6 the motor vehicle was dismantled, scrapped, or destroyed before the  
7 61st day after the date the dealer completed the dismantling,  
8 scrapping, or destruction of the motor vehicle.

9 Sec. 501.097 [~~501.0920~~]. APPLICATION FOR NONREPAIRABLE  
10 VEHICLE TITLE OR SALVAGE [MOTOR] VEHICLE [~~CERTIFICATE OF~~] TITLE.

11 (a) An application for a [~~salvage motor vehicle certificate of~~  
12 ~~title or a~~] nonrepairable vehicle title or salvage [~~motor~~] vehicle  
13 [~~certificate of~~] title must:

14 (1) be made on a form prescribed by the department and  
15 accompanied by a \$8 application fee [~~established by the department,~~  
16 ~~not to exceed an amount that is sufficient, when added to other fees~~  
17 ~~collected under this chapter, to recover the actual costs to the~~  
18 ~~department of issuing the certificate~~]; [~~and~~]

19 (2) include, in addition to any other information  
20 required by the department:

21 (A) the name and current address of the owner;

22 (B) a description of the motor vehicle, including  
23 the make, style of body, model year, and vehicle identification  
24 number; and

25 (C) a statement describing whether the motor  
26 vehicle:

27 (i) was the subject of a total loss claim

1 paid by an insurance company under Section 501.092 or 501.093;

2 (ii) is a self-insured motor vehicle under  
3 Section 501.094;

4 (iii) is an export-only motor vehicle under  
5 Section 501.099; or

6 (iv) was sold, transferred, or released to  
7 the owner or former owner of the motor vehicle or a buyer at a  
8 casual sale; and

9 (3) include the name and address of:

10 (A) any currently recorded lienholder, if the  
11 motor vehicle is a nonrepairable motor vehicle; or

12 (B) any currently recorded lienholder or a new  
13 lienholder, if the motor vehicle is a salvage motor vehicle  
14 [description of the damage to the vehicle;

15 (D) the estimated cost of repairs to the  
16 vehicle, including parts and labor; and

17 (E) the predamaged actual cash value of the  
18 vehicle].

19 (b) On receipt of a complete application, the properly  
20 assigned title or manufacturer's certificate of origin and the  
21 ~~[prescribed]~~ application fee, the department shall, before the  
22 sixth business day after the date the department receives the  
23 application, issue the applicant the appropriate ~~[a salvage motor~~  
24 ~~vehicle certificate of]~~ title for the ~~[or a nonrepairable]~~ motor  
25 vehicle ~~[certificate of title, as appropriate]~~.

26 (c) A nonrepairable ~~[motor]~~ vehicle ~~[certificate of]~~ title  
27 must state on its face that ~~[, except as provided by Sections~~



1 ~~501.0925 and 501.0927,~~] the motor vehicle:

2 (1) may not:

3 (A) be repaired, rebuilt, or reconstructed;

4 (B) be issued a regular certificate of title or  
5 registered in this state;

6 (C) be operated on a public highway, in addition  
7 to any other requirement of law; and

8 (2) may only be used as a source for used parts or  
9 scrap metal.

10 (d) The fee collected under Subsection (a)(1) shall be  
11 credited to the state highway fund to defray the costs of  
12 administering this subchapter and the costs to the department for  
13 issuing the title.

14 Sec. 501.098 [~~501.0921~~]. RIGHTS [~~POSSESSION AND OPERATION~~]  
15 OF HOLDER OF NONREPAIRABLE VEHICLE TITLE OR SALVAGE [~~MOTOR~~] VEHICLE  
16 TITLE. (a) A person who holds a nonrepairable vehicle title for a  
17 motor vehicle:

18 (1) is entitled to possess, transport, dismantle,  
19 scrap, destroy, record a lien as provided for in Section  
20 501.097(a)(3)(A), and sell, transfer, or release ownership of the  
21 motor vehicle or a used part from the motor vehicle;

22 (2) may not:

23 (A) operate or permit the operation of the motor  
24 vehicle on a public highway, in addition to any other requirement of  
25 law;

26 (B) repair, rebuild, or reconstruct the motor  
27 vehicle; or

1                   (C) register the motor vehicle.

2           (b) A person who holds a nonrepairable certificate of title  
3 issued prior to September 1, 2003:

4                   (1) is entitled to:

5                   (A) repair, rebuild, or reconstruct the motor  
6 vehicle;

7                   (B) possess, transport, dismantle, scrap, or  
8 destroy the motor vehicle; and

9                   (C) sell, transfer, or release ownership of the  
10 vehicle or a used part from the motor vehicle; and

11                   (2) may not:

12                   (A) operate or permit the operation of the motor  
13 vehicle on a public highway, in addition to any other requirement of  
14 law; or

15                   (B) register the motor vehicle.

16           (c) A person who holds a salvage [~~motor~~] vehicle  
17 [~~certificate of~~] title for a motor vehicle:

18                   (1) is entitled to possess [~~the vehicle, record a lien~~  
19 ~~on the vehicle~~], transport, dismantle, scrap, destroy, repair,  
20 rebuild, reconstruct, record a lien on [~~the vehicle~~], and sell,  
21 transfer, or release ownership of the motor vehicle or a used part  
22 from the motor vehicle; and [~~—~~]

23                   (2) [~~(b) A vehicle for which a salvage motor vehicle~~  
24 ~~certificate of title is the most current title~~] may not operate or  
25 permit the operation of the motor vehicle [~~be operated~~] on a public  
26 highway, in addition to any other requirement of law.

27           Sec. 501.099. SALE OF EXPORT-ONLY MOTOR VEHICLES. (a) This

1 section applies to a nonrepairable motor vehicle or a salvage motor  
2 vehicle that is offered for sale in this state to a person who  
3 resides in a jurisdiction outside the United States.

4 (b) A person may purchase a nonrepairable motor vehicle or a  
5 salvage motor vehicle only if:

6 (1) the person purchases the motor vehicle from a  
7 licensed salvage vehicle dealer or a governmental entity;

8 (2) the motor vehicle has been issued a nonrepairable  
9 vehicle title or a salvage vehicle title; and

10 (3) the purchaser certifies to the seller on a form  
11 provided by the department that the purchaser will:

12 (A) remove the motor vehicle from the United  
13 States; and

14 (B) not return the motor vehicle to any state of  
15 the United States as a motor vehicle titled or registered under its  
16 manufacturer's vehicle identification number.

17 (c) A salvage vehicle dealer or a governmental entity that  
18 sells a nonrepairable motor vehicle or a salvage motor vehicle to a  
19 person who is not a resident of the United States shall, before the  
20 sale of the motor vehicle, obtain a copy, photocopy, or other  
21 accurate reproduction of a valid identification card,  
22 identification certificate, or an equivalent document issued to the  
23 purchaser by the appropriate authority of the jurisdiction in which  
24 the purchaser resides that bears a photograph of the purchaser and  
25 is capable of being verified using identification standards adopted  
26 by the United States or the international community.

27 (d) The department by rule shall establish a list of

1 identification documents that are valid under Subsection (c) and  
2 provide a copy of the list to each holder of a salvage vehicle  
3 dealer license and to each appropriate governmental entity.

4 (e) A salvage vehicle dealer or a governmental entity that  
5 sells a nonrepairable motor vehicle or a salvage motor vehicle to a  
6 person who is not a resident of the United States shall:

7 (1) stamp on the face of the title so as not to obscure  
8 any name, date, or mileage statement on the title the words "FOR  
9 EXPORT ONLY" in capital letters that are black; and

10 (2) stamp in each unused reassignment space on the  
11 back of the title the words "FOR EXPORT ONLY" and print the number  
12 of the dealer's salvage vehicle license or the name of the  
13 governmental entity, as applicable.

14 (f) The words "FOR EXPORT ONLY" required by Subsection (e)  
15 must be at least two inches wide and clearly legible.

16 (g) A salvage vehicle dealer or governmental entity who  
17 sells a nonrepairable motor vehicle or a salvage motor vehicle  
18 under this section to a person who is not a resident of the United  
19 States shall keep on the business premises of the dealer or entity  
20 until the third anniversary of the date of the sale:

21 (1) a copy of each document related to the sale of the  
22 vehicle; and

23 (2) a list of all vehicles sold under this section that  
24 contains:

25 (A) the date of the sale;

26 (B) the name of the purchaser;

27 (C) the name of the country that issued the

1 identification document provided by the purchaser, as shown on the  
2 document; and

3 (D) the vehicle identification number.

4 (h) This section does not prevent a person from exporting or  
5 importing a used part obtained from an export-only motor vehicle.

6 Sec. 501.100 [~~501.0922~~]. APPLICATION FOR REGULAR  
7 CERTIFICATE OF TITLE FOR SALVAGE [~~MOTOR~~] VEHICLE. (a) A vehicle  
8 for which a nonrepairable certificate of title issued prior to  
9 September 1, 2003 or a salvage [~~motor~~] vehicle [~~certificate of~~]  
10 title has been issued may be issued a regular certificate of title  
11 [~~only~~] after the motor vehicle has been repaired, rebuilt, or  
12 reconstructed by a person described by Section 501.104(a)  
13 [~~application~~] and, in addition to any other requirement of law,  
14 only if the application is accompanied by a separate form that:

15 (1) describes each major component part used to repair  
16 the motor vehicle; and

17 (2) shows the identification number required by  
18 federal law to be affixed to or inscribed on the part[~~, and~~

19 [~~(2) is accompanied by a written statement signed by a~~  
20 ~~specially trained commissioned officer of the Department of Public~~  
21 ~~Safety certifying to the department that:~~

22 [~~(A) the vehicle identification numbers and~~  
23 ~~parts identification numbers are accurate,~~

24 [~~(B) the applicant has proof that the applicant~~  
25 ~~owns the parts used to repair the vehicle, and~~

26 [~~(C) the vehicle may be safely operated and~~  
27 ~~complies with all applicable motor vehicle safety standards of this~~

1 state].

2 (b) [~~The Department of Public Safety may impose a fee, in an~~  
3 ~~amount not to exceed the lesser of \$200 or the actual cost to that~~  
4 ~~department, for conducting an inspection and providing the written~~  
5 ~~statement required by Subsection (a).~~

6 [~~Sec. 501.0923. ISSUANCE OF CERTIFICATE OF TITLE FOR~~  
7 ~~REBUILT SALVAGE MOTOR VEHICLE. (a)] On receipt of a complete  
8 application under this section [~~Section 501.0922,~~] accompanied by  
9 the \$13 [~~peace officer's statement and the appropriate~~] fee for the  
10 certificate of title, the department shall issue the applicant a  
11 regular certificate of title for the motor vehicle.~~

12 (c) [~~(b)~~] A regular certificate of title issued under this  
13 section must:

14 (1) [~~bear on its face the words "REBUILT SALVAGE", and~~  
15 [~~(2)~~] describe or disclose the motor vehicle's former  
16 condition in a manner reasonably understandable to a potential  
17 purchaser of the motor vehicle; and

18 (2) bear on its face the words "REBUILT SALVAGE" in  
19 capital letters that:

20 (A) are red;

21 (B) are centered on and occupy at least 15  
22 percent of the face of the certificate of title; and

23 (C) do not prevent any other words on the title  
24 from being read or copied.

25 (d) In addition to the fee described by Subsection (b), the  
26 applicant shall pay a \$65 rebuild fee.

27 (e) On or after the 31st day after the date the department

1 receives a rebuilder fee under Subsection (d), the department shall  
2 deposit \$50 of the fee to the credit of the state highway fund to be  
3 used only by the Department of Public Safety to enforce this chapter  
4 and \$15 to the credit of the general revenue fund.

5 (f) The department may not issue a regular certificate of  
6 title for a motor vehicle based on a:

7 (1) nonrepairable vehicle title or comparable  
8 out-of-state ownership document;

9 (2) receipt issued under Section 501.096(b); or

10 (3) certificate of authority.

11 Sec. 501.101 [~~501.0924~~]. ISSUANCE OF [~~CERTIFICATE OF~~] TITLE  
12 TO MOTOR VEHICLE [~~CERTAIN VEHICLES~~] BROUGHT INTO STATE. (a) This  
13 section applies only to [~~On proper application by the owner of~~] a  
14 motor vehicle brought into this state from another state or  
15 jurisdiction that has on any certificate of title or comparable  
16 out-of-state ownership document issued by the other state or  
17 jurisdiction:

18 (1) a "rebuilt," "salvage," [~~"nonrepairable,"~~] or  
19 similar [~~analogous~~] notation; or

20 (2) a "nonrepairable," "dismantle only," "parts  
21 only," "junked," "scrapped," or similar notation.

22 (b) On receipt of a complete application from the owner of  
23 the motor vehicle, the department shall issue the applicant the  
24 appropriate [~~a~~] certificate of title [~~or other appropriate~~  
25 ~~document~~] for the motor vehicle.

26 (c) [~~b~~] A certificate of title [~~or other appropriate~~  
27 ~~document~~] issued under this section must show on its face:

- 1           (1) the date of issuance;
- 2           (2) the name and address of the owner;
- 3           (3) any registration number assigned to the motor
- 4 vehicle; and
- 5           (4) a description of the motor vehicle or other [~~as~~
- 6 ~~determined by the department; and~~
- 7           [~~(5) any~~] notation the department considers necessary
- 8 or appropriate.

9           Sec. 501.102 [~~501.0926~~]. OFFENSES [~~OFFENSE~~].    (a) A

10 [~~Except as provided by Section 501.0927, a~~] person commits an

11 offense if the person:

12           (1) applies to the department for a regular

13 certificate of title for a motor vehicle; and

14           (2) knows or reasonably should know that:

15                   (A) the vehicle is a nonrepairable motor vehicle

16 that has been repaired, rebuilt, or reconstructed;

17                   (B) the vehicle identification number assigned

18 to the motor vehicle belongs to a nonrepairable motor vehicle that

19 has been repaired, rebuilt, or reconstructed;

20                   (C) the title issued to the motor vehicle belongs

21 to a nonrepairable motor vehicle that has been repaired, rebuilt,

22 or reconstructed;

23                   (D) the vehicle identification number assigned

24 to the motor vehicle belongs to an export-only motor vehicle;

25                   (E) the motor vehicle is an export-only motor

26 vehicle; or

27                   (F) the motor vehicle is a nonrepairable motor



1 vehicle or salvage motor vehicle for which a nonrepairable vehicle  
2 title, salvage vehicle title, or comparable ownership document  
3 issued by another state or jurisdiction has not been issued.

4 (b) A person commits an offense if the person knowingly  
5 sells, transfers, or releases a salvage motor vehicle in violation  
6 of this subchapter.

7 (c) A person commits an offense if the person knowingly  
8 fails or refuses to surrender a regular certificate of title after  
9 the person:

10 (1) receives a notice from an insurance company that  
11 the motor vehicle is a nonrepairable or salvage motor vehicle; or

12 (2) knows the vehicle has become a nonrepairable motor  
13 vehicle or salvage motor vehicle under Section 501.094.

14 (d) Except as provided by Subsection (e), an offense under  
15 this section is a Class C misdemeanor.

16 (e) If it is shown on the trial of an offense under this  
17 section that the defendant has been previously convicted of:

18 (1) one offense under this section, the offense is a  
19 Class B misdemeanor; or

20 (2) two or more offenses under this section, the  
21 offense is a state jail felony.

22 Sec. 501.103 [501.0928]. COLOR OF NONREPAIRABLE VEHICLE  
23 TITLE OR [DEPARTMENT TO PRINT] SALVAGE [AND NONREPAIRABLE MOTOR]  
24 VEHICLE [CERTIFICATES OF] TITLE. (a) The department shall print a  
25 nonrepairable vehicle title:

26 (1) in a color that distinguishes it from a regular  
27 certificate of title or salvage vehicle title; and

1           (2) so that it clearly shows that it is the negotiable  
2 ownership document for a nonrepairable motor vehicle.

3           (b) A nonrepairable vehicle title must state on its face  
4 that the motor vehicle:

5           (1) may not be:

6                   (A) issued a regular certificate of title;

7                   (B) registered in this state; or

8                   (C) repaired, rebuilt, or reconstructed; and

9           (2) may be used only as a source for used parts or  
10 scrap metal.

11          (c) The department shall print a salvage [motor] vehicle  
12 [certificates of] title:

13                   (A) [and nonrepairable motor vehicle  
14 certificates of title] in a color that distinguishes it [them] from  
15 a regular certificate of title or nonrepairable vehicle  
16 [certificates of] title; and

17                   (B) so that each document clearly shows that it  
18 is the ownership document for a [late model] salvage motor vehicle  
19 [or a nonrepairable motor vehicle].

20          (d) [(b) A nonrepairable motor vehicle certificate of title  
21 for a vehicle that is nonrepairable because of damage caused  
22 exclusively by flood must bear an appropriate notation on its face.

23          [(c)] A salvage [motor] vehicle [certificate of] title for a  
24 vehicle that is a salvage motor vehicle because of damage caused  
25 exclusively by flood must bear a [an appropriate] notation on its  
26 face that the department considers appropriate. If the title for a  
27 motor vehicle reflects the notation required by this subsection,

1 the owner may sell, transfer, or release the motor vehicle only as  
2 provided by this subchapter.

3 (e) The department may provide a stamp to a person who is a  
4 licensed salvage vehicle dealer under Chapter 2302, Occupations  
5 Code, to mark the face of a title under this subchapter. The  
6 department shall provide the stamp to the person for a fee in the  
7 amount determined by the department to be necessary for the  
8 department to recover the cost of providing the stamp.

9 Sec. 501.104 [~~501.0929~~]. REBUILDER TO POSSESS [~~CERTIFICATE~~  
10 ~~OF~~] TITLE OR OTHER DOCUMENTATION. (a) This section applies only  
11 to:

- 12 (1) a rebuilder licensed as a salvage vehicle dealer;  
13 (2) a person engaged in the business of a rebuilder,  
14 regardless of whether the person is licensed to engage in that  
15 business; or  
16 (3) a person engaged in the casual repair, rebuilding,  
17 or reconstruction of fewer than three motor vehicles in the same  
18 12-month period.

19 (b) A person described by Subsection (a) [~~rebuilder~~] must  
20 possess:

21 (1) a regular certificate of title, [~~a salvage motor~~  
22 vehicle certificate of title, a] nonrepairable vehicle title,  
23 salvage [~~motor~~] vehicle [~~certificate of~~] title, or [a] comparable  
24 out-of-state ownership document [~~issued by another state or~~  
25 jurisdiction] for any motor vehicle that is:

- 26 (A) owned by the person;  
27 (B) [~~(1)~~] in the person's [~~rebuilder's~~]

1 inventory; and

2 (C) [~~2~~] being offered for resale; or

3 (2) a contract entered into with the owner, a work  
4 order, or another document that shows the authority for the person  
5 to possess any motor vehicle that is:

6 (A) owned by another person;

7 (B) on the person's business or casual premises;

8 and

9 (C) being repaired, rebuilt, or reconstructed  
10 for the other person.

11 ~~[(b) A person who rebuilds a late model salvage motor~~  
12 ~~vehicle for which the department has issued a salvage motor vehicle~~  
13 ~~certificate of title, or who assembles a late model salvage motor~~  
14 ~~vehicle from component parts, may apply to the department for a~~  
15 ~~certificate of title for the vehicle. A certificate of title issued~~  
16 ~~by the department under this subsection must bear the words~~  
17 ~~"REBUILT SALVAGE."]~~

18 Sec. 501.105. RETENTION OF RECORDS RELATING TO CERTAIN  
19 CASUAL SALES. Each licensed salvage vehicle dealer or insurance  
20 company that sells a nonrepairable motor vehicle or a salvage motor  
21 vehicle at a casual sale shall keep on the business premises of the  
22 dealer or the insurance company a list of all casual sales made  
23 during the preceding 36-month period that contains:

24 (1) the date of the sale;

25 (2) the name of the purchaser;

26 (3) the name of the jurisdiction that issued the  
27 identification document provided by the purchaser, as shown on the

1 document; and

2 (4) the vehicle identification number.

3 Sec. 501.106 [~~501.0930~~]. ENFORCEMENT OF SUBCHAPTER. (a)  
4 This subchapter shall be [~~exclusively~~] enforced by the department  
5 and [~~or~~] any other governmental or law enforcement entity,  
6 including the Department of Public Safety, and the [~~agency or its~~]  
7 personnel of the entity [~~, except~~] as provided by this subchapter.

8 (b) The department, [~~or~~] an agent, officer, or employee of  
9 the department, or another person enforcing this subchapter is not  
10 liable to a person damaged or injured by an act or omission relating  
11 to the issuance of a regular certificate of title, [~~salvage motor~~  
12 ~~vehicle certificate of title, or~~] nonrepairable [~~motor~~] vehicle  
13 [~~certificate of~~] title, or salvage vehicle title under this  
14 subchapter.

15 Sec. 501.107 [~~501.0931~~]. APPLICABILITY OF SUBCHAPTER TO  
16 RECYCLER. (a) This subchapter does not apply to [~~, and does not~~  
17 ~~preclude or prohibit~~] a sale to, purchase by, or other transaction  
18 by or with, a metal recycler [~~person described by Subsection (g),~~  
19 ~~Article 6687-2b, Revised Statutes,~~] except as provided by  
20 Subsections (b) and (c).

21 (b) A metal recycler [~~person described by Subsection (g),~~  
22 ~~Article 6687-2b, Revised Statutes,~~] shall submit to the department  
23 the properly assigned manufacturer's certificate of origin,  
24 regular certificate of title, nonrepairable vehicle title, salvage  
25 vehicle title, or comparable out-of-state ownership [~~equivalent~~]  
26 document that the person receives in conjunction with the purchase  
27 of a motor vehicle not later than the 60th day after the date the

1 metal recycler [~~person~~] receives the [~~certificate of~~] title or  
2 out-of-state ownership [~~equivalent~~] document.

3 (c) This subchapter applies to a transaction with a metal  
4 recycler [~~person described by Subsection (g), Article 6687-2b,~~  
5 ~~Revised Statutes,~~] in which a motor vehicle:

6 (1) is sold or delivered to the metal recycler  
7 [~~person~~] for the purpose of reuse or resale as a motor vehicle or as  
8 a source of used [~~motor vehicle~~] parts; and

9 (2) [~~if the motor vehicle~~] is [~~so~~] used for that  
10 purpose.

11 [~~(d) This subchapter does not:~~

12 [~~(1) prohibit the owner of a late model salvage motor~~  
13 ~~vehicle or a nonrepairable motor vehicle from selling the vehicle~~  
14 ~~to any person, if the vehicle is so classified solely because of~~  
15 ~~water damage caused by a flood; or~~

16 [~~(2) limit the ability or authority of an insurance~~  
17 ~~company to adjust or settle a claim for loss on a motor vehicle.]~~

18 SECTION 17.03. Section 2302.001, Occupations Code, is  
19 amended to read as follows:

20 Sec. 2302.001. DEFINITIONS. In this chapter:

21 (1) [~~"Actual cash value" has the meaning assigned by~~  
22 ~~Section 501.0911, Transportation Code.~~

23 [~~(2)~~] "Casual sale," "damage," "insurance company,"  
24 "major component part," "metal recycler," "motor vehicle,"  
25 "nonrepairable motor vehicle," "nonrepairable vehicle title,"  
26 "out-of-state buyer," "salvage motor vehicle," "salvage vehicle  
27 title," "salvage vehicle dealer," and "used part" have [~~has~~] the

1 meanings [~~meaning~~] assigned by Section 501.091 [~~501.0911~~],  
2 Transportation Code.

3 (2) [~~(3)~~] "Commission" means the Texas Transportation  
4 Commission.

5 (3) [~~(4)~~] "Department" means the Texas Department of  
6 Transportation.

7 (4) [~~(5)~~] "Federal safety certificate" means the  
8 label or tag required under 49 U.S.C. Section 30115 that certifies  
9 that a motor vehicle or equipment complies with applicable federal  
10 motor vehicle safety standards.

11 (5) [~~(6)~~] ~~"Late model motor vehicle" has the meaning~~  
12 ~~assigned by Section 501.0911, Transportation Code.~~

13 [~~(7)~~] ~~"Major component part" has the meaning assigned~~  
14 ~~by Section 501.0911, Transportation Code.~~

15 [~~(8)~~] ~~"Motor vehicle" has the meaning assigned by~~  
16 ~~Section 541.201, Transportation Code.~~

17 [~~(9)~~] ~~"Nonrepairable motor vehicle certificate of~~  
18 ~~title" has the meaning assigned by Section 501.0911, Transportation~~  
19 ~~Code.~~

20 [~~(10)~~] ~~"Out-of-state buyer" has the meaning assigned by~~  
21 ~~Section 501.0911, Transportation Code.~~

22 [~~(11)~~] ~~"Person" means an individual, partnership,~~  
23 ~~corporation, trust, association, or other private legal entity.~~

24 [~~(12)~~] ~~"Salvage motor vehicle certificate of title" has~~  
25 ~~the meaning assigned by Section 501.0911, Transportation Code.~~

26 [~~(13)~~] ~~"Salvage part" means a major component part of a~~  
27 ~~salvage motor vehicle that is serviceable to the extent that it can~~

1 ~~be reused.~~

2           ~~[(14)]~~ "Salvage pool operator" means a person who  
3 engages in the business of selling nonrepairable motor vehicles or  
4 salvage motor vehicles at auction, including wholesale auction, or  
5 otherwise.

6           (6) ~~[(15)]~~ "Salvage vehicle agent" means a person who  
7 acquires, sells, or otherwise deals ~~[employed by a salvage vehicle~~  
8 ~~dealer to acquire, sell, or deal]~~ in nonrepairable or salvage motor  
9 vehicles or used ~~[salvage]~~ parts in this state as directed by the  
10 salvage vehicle dealer under whose license the person operates.  
11 The term does not include a person who:

12                           (A) is a licensed salvage vehicle dealer;

13                           (B) is a partner, owner, or officer of a business  
14 entity that holds a salvage vehicle dealer license;

15                           (C) is an employee of a licensed salvage vehicle  
16 dealer; or

17                           (D) only transports salvage motor vehicles for a  
18 licensed salvage vehicle dealer.

19           ~~[(16)] "Salvage vehicle dealer" means a person licensed~~  
20 ~~under this chapter who engages in the business of acquiring,~~  
21 ~~selling, dismantling, repairing, or dealing in salvage motor~~  
22 ~~vehicles or vehicle parts of a type required to be covered by a~~  
23 ~~salvage motor vehicle certificate of title or nonrepairable motor~~  
24 ~~vehicle certificate of title.]~~

25           SECTION 17.04. Subchapter A, Chapter 2302, Occupations  
26 Code, is amended by adding Section 2302.0015 to read as follows:

27           Sec. 2302.0015. CONSENT TO ENTRY AND INSPECTION. (a) A



1 person consents to an entry or inspection described by Subsection

2 (b) by:

3 (1) accepting a license under this chapter; or

4 (2) engaging in a business or activity regulated under  
5 this chapter.

6 (b) For the purpose of enforcing or administering this  
7 chapter or Chapter 501 or 502, Transportation Code, a member of the  
8 commission, an employee or agent of the commission or department, a  
9 member of the Public Safety Commission, an officer of the  
10 Department of Public Safety, or a peace officer may at a reasonable  
11 time:

12 (1) enter the premises of a business regulated under  
13 one of those chapters; and

14 (2) inspect or copy any document, record, vehicle,  
15 part, or other item regulated under one of those chapters.

16 (c) A person described by Subsection (a):

17 (1) may not refuse or interfere with an entry or  
18 inspection under this section; and

19 (2) shall cooperate fully with a person conducting an  
20 inspection under this section to assist in the recovery of stolen  
21 motor vehicles and parts and to prevent the sale or transfer of  
22 stolen motor vehicles and parts.

23 (d) An entry or inspection occurs at a reasonable time for  
24 purposes of Subsection (b) if the entry or inspection occurs:

25 (1) during normal business hours of the person or  
26 activity regulated under this chapter; or

27 (2) while an activity regulated under this chapter is

1 occurring on the premises.

2 SECTION 17.05. Sections 2302.005, 2302.006, 2302.007,  
3 2302.051, 2302.052, and 2302.101, Occupations Code, are amended to  
4 read as follows:

5 Sec. 2302.005. APPLICABILITY OF CERTAIN MUNICIPAL  
6 ORDINANCES, LICENSES, AND PERMITS. This chapter [~~Subchapters B-E~~]:

7 (1) is [~~are~~] in addition to any municipal ordinance  
8 relating to the regulation of a person who deals in nonrepairable or  
9 salvage motor vehicles or used parts; and

10 (2) does [~~do~~] not prohibit the enforcement of a  
11 requirement of a municipal license or permit that is related to an  
12 activity regulated under this chapter [~~those subchapters~~].

13 Sec. 2302.006. APPLICATION OF CHAPTER [~~SUBCHAPTERS B-E~~] TO  
14 METAL RECYCLERS. (a) Except as provided by Subsections  
15 [~~Subsection~~] (b) and (c), this chapter does [~~Subchapters B-E do~~]  
16 not apply to a transaction in which a metal recycler is a party.

17 (b) This chapter applies to [~~, other than~~] a transaction in  
18 which a motor vehicle:

19 (1) is sold, transferred, released, or delivered to a  
20 [~~the~~] metal recycler for the purpose of reuse or resale as a motor  
21 vehicle or as a source of used [~~motor vehicle~~] parts; and

22 (2) is used for that purpose.

23 (c) Sections 2302.0015 and [~~(b) Section~~] 2302.205 apply  
24 [~~applies~~] to a metal recycler.

25 [~~(c) Subchapter C does not apply to a sale or purchase by a~~  
26 ~~metal recycler.~~]

27 Sec. 2302.007. APPLICATION OF CHAPTER [~~SUBCHAPTERS B-E~~] TO

1 INSURANCE COMPANIES. This chapter does [~~Subchapters B-E do~~] not  
2 apply to an insurance company [~~authorized to engage in the business~~  
3 ~~of insurance in this state~~].

4 Sec. 2302.051. RULES AND ENFORCEMENT POWERS. The  
5 commission shall adopt rules as necessary to administer this  
6 chapter [~~subchapter and Subchapters A and C-E~~] and may take other  
7 action as necessary to enforce this chapter [~~those subchapters~~].

8 Sec. 2302.052. DUTY TO SET FEES. The commission shall set  
9 application fees, license fees, renewal fees, and other fees as  
10 required to implement this chapter [~~Subchapters C-E~~]. The  
11 commission shall set the fees in amounts reasonable and necessary  
12 to implement and enforce this chapter [~~those subchapters~~].

13 Sec. 2302.101. LICENSE REQUIRED FOR SALVAGE VEHICLE DEALER.  
14 [~~(a) In this section, "automobile recycler" has the meaning~~  
15 ~~assigned by Section 501.0911, Transportation Code.~~

16 [~~(b)~~] Unless a person holds a salvage vehicle dealer license  
17 issued under this chapter, the person may not:

18 (1) act as a salvage vehicle dealer or rebuilder [~~an~~  
19 ~~automobile recycler~~]; or

20 (2) store or display a motor vehicle as an agent or  
21 escrow agent of an insurance company.

22 SECTION 17.06. Section 2302.107(d), Occupations Code, is  
23 amended to read as follows:

24 (d) A salvage vehicle agent may acquire, sell, or otherwise  
25 deal in [~~late model salvage motor vehicles~~], nonrepairable or  
26 salvage motor vehicles or used [~~, or salvage~~] parts as directed by  
27 the authorizing dealer.

1 SECTION 17.07. Sections 2302.201, 2302.202, 2302.204,  
2 2302.205, 2302.251, 2302.302, 2302.351, and 2302.353, Occupations  
3 Code, are amended to read as follows:

4 Sec. 2302.201. DUTIES ON ACQUISITION OF SALVAGE MOTOR  
5 VEHICLE. (a) A salvage vehicle dealer who acquires ownership of a  
6 salvage motor vehicle from an owner must receive from the owner a  
7 properly [an] assigned [certificate of] title.

8 (b) The [~~If the assigned certificate of title is not a~~  
9 ~~salvage motor vehicle certificate of title, a nonrepairable motor~~  
10 ~~vehicle certificate of title, or a comparable ownership document~~  
11 ~~issued by another state or jurisdiction, the~~] dealer shall comply  
12 with Subchapter E, Chapter 501 [~~Section 501.0916(b)~~],  
13 Transportation Code.

14 Sec. 2302.202. RECORDS OF PURCHASES. A salvage vehicle  
15 dealer [~~license holder~~] shall maintain a record of each salvage  
16 motor vehicle and each used [~~salvage~~] part purchased or sold by the  
17 dealer [~~license holder~~].

18 Sec. 2302.204. CASUAL SALES. This chapter does [~~This~~  
19 ~~subchapter and Subchapters B-D do~~] not apply to a person who  
20 purchases fewer than three [~~a~~] nonrepairable motor vehicles  
21 [~~vehicle~~] or salvage motor vehicles [~~vehicle~~] from a salvage  
22 vehicle dealer, an insurance company or salvage pool operator in a  
23 casual sale at auction, except that:

24 (1) the commission shall adopt rules as necessary to  
25 regulate casual sales by salvage vehicle dealers, insurance  
26 companies, or salvage pool operators and to enforce this section;  
27 and

1           (2) a salvage vehicle dealer, insurance company, or  
2 salvage pool operator who sells a motor vehicle in a casual sale  
3 shall comply with those rules and Subchapter E, Chapter 501,  
4 Transportation Code.

5           Sec. 2302.205. DUTY OF METAL RECYCLER. A metal recycler who  
6 purchases a motor vehicle shall submit a regular certificate of  
7 title or a nonrepairable or salvage vehicle [~~, not later than the~~  
8 ~~60th day after the date the recycler receives the certificate of]~~  
9 title or comparable out-of-state ownership [~~equivalent document in~~  
10 ~~conjunction with the purchase, submit the certificate or]~~ document  
11 to the department and comply with Subchapter E, Chapter 501,  
12 Transportation Code.

13           Sec. 2302.251. DEFINITIONS. In this subchapter:

14           (1) "Component part" means a major component part as  
15 defined in Section 501.091, Transportation Code, or a minor  
16 component part [+

17                           [~~(A) a front-end assembly or tail section,~~  
18                           [~~(B) the cab of a light or heavy truck,~~  
19                           [~~(C) the bed of a one-ton or lighter truck, or~~  
20                           [~~(D) an interior component part, a special~~  
21 ~~accessory part, or a motor vehicle part that displays or should~~  
22 ~~display one or more of the following:~~

23   [~~(i) a federal safety certificate,~~  
24   [~~(ii) a motor number,~~  
25   [~~(iii) a serial number,~~  
26   [~~(iv) a manufacturer's permanent vehicle~~  
27 ~~identification number, or~~

1                    [~~(v) a derivative of a vehicle~~  
2 identification number].

3            (2) [~~"Front-end assembly" means a motor vehicle hood,~~  
4 ~~right or left front fender, grill, bumper, radiator, or radiator~~  
5 ~~support, if two or more of these parts are assembled together as one~~  
6 ~~unit.~~

7            [~~(3)~~] "Interior component part" means a a [~~the front or~~  
8 ~~rear~~] seat or [~~the~~] radio of a motor vehicle.

9            (3) "Minor component part" means an interior component  
10 part, a special accessory part, or a motor vehicle part that  
11 displays or should display one or more of the following:

- 12                    (A) a federal safety certificate;  
13                    (B) a motor number;  
14                    (C) a serial number or a derivative; or  
15                    (D) a manufacturer's permanent vehicle  
16 identification number or a derivative.

17            (4) "Special accessory part" means a tire, wheel,  
18 tailgate, or removable glass top of a motor vehicle.

19            [~~(5) "Tail section" means a motor vehicle roof, floor~~  
20 ~~pan, right or left rear quarter panel, deck lid, or rear bumper, if~~  
21 ~~two or more of these parts are assembled together as one unit.]~~

22            Sec. 2302.302. LIMITS ON OPERATION OF HEAVY MACHINERY. (a)  
23 A salvage vehicle dealer may not operate heavy machinery in a motor  
24 vehicle salvage yard between the hours of 7 p.m. of one day and 7  
25 a.m. of the following day.

26            (b) This section does not apply to conduct necessary to a  
27 sale or purchase by the dealer.

1           Sec. 2302.351. INJUNCTIONS. (a) The prosecutor in the  
2 county where a motor vehicle salvage yard is located or the city  
3 attorney in the municipality where the salvage yard is located may  
4 bring suit to enjoin for a period of less than one year a violation  
5 of this chapter [~~Subchapter G~~].

6           (b) If a salvage vehicle dealer, ~~or~~ an employee of the  
7 dealer acting in the course of employment, or a salvage vehicle  
8 agent operating under the dealer's license is convicted of more  
9 than one offense under Section 2302.353(a) [~~2302.353(a)(2) or (b)~~],  
10 the district attorney for a [~~the~~] county in which the dealer's  
11 salvage business is located may bring an action in that county to  
12 enjoin the dealer's business operations for a period of at least one  
13 year.

14           (c) An action under Subsection (b) must be brought in the  
15 name of the state. If judgment is in favor of the state, the court  
16 shall:

17           (1) enjoin the dealer from maintaining or  
18 participating in the business of a salvage vehicle dealer for a  
19 definite period of at least one year or indefinitely, as determined  
20 by the court; and

21           (2) order that the dealer's place of business be closed  
22 for the same period.

23           Sec. 2302.353. OFFENSES. (a) A person commits an offense  
24 if the person knowingly violates:

25           (1) a provision of this chapter other than Subchapter  
26 G [~~Subchapter C, D, or E or a rule adopted under Subchapter C, D, or~~  
27 ~~E~~]; or

1           (2) a rule adopted under a provision of this chapter  
2 other than Subchapter G [Subchapter F].

3           (b) [~~A person commits an offense if the person violates~~  
4 ~~Subchapter F in conjunction with a violation of Section 31.03,~~  
5 ~~Penal Code.~~

6           [~~(c)~~] A person commits an offense if the person knowingly  
7 violates Subchapter G.

8           (c) [~~(d)~~] ~~An offense under Subsection (a) is a Class A~~  
9 ~~misdemeanor.~~

10          [~~(e)~~] An offense under Subsection (a) [~~(b)~~] is a Class A  
11 misdemeanor unless it is shown on the trial of the offense that the  
12 defendant has been previously convicted of an offense under that  
13 subsection, in which event the offense is punishable as a state jail  
14 felony [~~of the third degree~~].

15          (d) [~~(f)~~] An offense under Subsection (b) [~~(c)~~] is a Class C  
16 misdemeanor.

17          SECTION 17.08. Section 152.001(4), Tax Code, is amended to  
18 read as follows:

19           (4) "Motor Vehicle" does not include:

20                   (A) a device moved only by human power;

21                   (B) a device used exclusively on stationary rails  
22 or tracks;

23                   (C) road-building machinery;

24                   (D) a mobile office;

25                   (E) a vehicle with respect to which the  
26 certificate of title has been surrendered in exchange for:

27                           (i) a salvage vehicle title [~~certificate~~]



1 issued pursuant to Chapter 501, Transportation Code;

2 (ii) a certificate of authority issued  
3 pursuant to Chapter 683, Transportation Code;

4 (iii) a nonrepairable [~~motor~~] vehicle  
5 [~~certificate of~~] title issued pursuant to Chapter 501,  
6 Transportation Code;

7 (iv) an ownership document issued by  
8 another state if the document is comparable to a document issued  
9 pursuant to Subparagraph (i), (ii), or (iii); or

10 (F) a vehicle that has been declared a total loss  
11 by an insurance company pursuant to the settlement or adjustment of  
12 a claim.

13 SECTION 17.09. The following provisions are repealed:

14 (1) Sections 501.0913, 501.0914, 501.0918, 501.0919,  
15 501.0925, and 501.0927, Transportation Code; and

16 (2) Sections 2302.002, 2302.003, 2302.004, and  
17 2302.352, Occupations Code.

18 SECTION 17.10. This article takes effect September 1, 2003.

19 SECTION 17.11. (a) A person who owns a nonrepairable motor  
20 vehicle for which a nonrepairable motor vehicle certificate of  
21 title was issued before the effective date of this article may  
22 repair, rebuild, or reconstruct the motor vehicle and receive a  
23 regular certificate of title for the motor vehicle.

24 (b) On the effective date of this article, the Department of  
25 Transportation shall:

26 (1) deem a salvage certificate issued before the  
27 effective date of this Act to be a salvage vehicle certificate of

1 title; and

2 (2) discontinue issuance of salvage certificates.

3 (c) On the effective date of this article, the Texas  
4 Department of Transportation shall consider a salvage motor vehicle  
5 certificate of title issued before the effective date of this  
6 article to be a salvage vehicle title.

7 (d) On the effective date of this article, the Texas  
8 Department of Transportation shall issue a nonrepairable vehicle  
9 title as the certificate of authority to dispose of a motor vehicle  
10 as provided for in Chapter 683, Transportation Code.

11 SECTION 17.12. (a) The changes in law made by this article  
12 apply only to an offense committed on or after the effective date of  
13 this article. For purposes of this section, an offense was  
14 committed before the effective date of this article if any element  
15 of the offense occurred before the effective date.

16 (b) An offense committed before the effective date of this  
17 article is covered by the law in effect when the offense was  
18 committed, and the former law is continued in effect for this  
19 purpose.

20 ARTICLE 18. FUNDING OF PORT SECURITY, PROJECTS, AND STUDIES

21 SECTION 18.01. The heading to Chapter 55, Transportation  
22 Code, is amended to read as follows:

23 CHAPTER 55. FUNDING OF PORT SECURITY, PROJECTS, AND STUDIES

24 [~~TEXAS PORT TRANSPORTATION AND ECONOMIC DEVELOPMENT FUNDING~~]

25 SECTION 18.02. Section 55.001, Transportation Code, is  
26 amended to read as follows:

27 Sec. 55.001. DEFINITIONS. In this chapter:

1           (1) "Commission" means the Texas Transportation  
2 Commission.

3           (2) "Committee" means the [~~Texas~~] Port Authority  
4 [~~Transportation and Economic Development~~] Advisory Committee.

5           (3) [~~(2)~~] "Department" means the Texas Department of  
6 Transportation [~~Economic Development~~].

7           (4) [~~(3)~~] "Fund" means the port access account fund.

8           (5) [~~(4)~~] "Port security, transportation, or facility  
9 project" means a project that is necessary or convenient for the  
10 proper operation of a port and that will improve the security,  
11 movement, and intermodal transportation of cargo or passengers in  
12 commerce and trade.

13           SECTION 18.03. Section 55.002, Transportation Code, is  
14 amended to read as follows:

15           Sec. 55.002. [~~TEXAS~~] PORT [~~TRANSPORTATION AND ECONOMIC~~]  
16 DEVELOPMENT FUNDING. (a) From [~~Using only~~] money in the fund, the  
17 department shall fund:

18           (1) port security, transportation, or facility  
19 projects; and [~~or~~]

20           (2) port studies.

21           (b) The department may not fund a port security,  
22 transportation, or facility project unless an amount at least equal  
23 to the amount provided by the department is invested in the [~~a~~]  
24 project by a port authority or navigation district.

25           (c) Port security, transportation, or facility projects  
26 eligible for funding under this chapter include:

27           (1) construction or improvement of transportation

1 facilities within the jurisdiction of a port;

2 (2) the dredging or deepening of channels, turning  
3 basins, or harbors;

4 (3) the construction or improvement of wharves, docks,  
5 structures, jetties, piers, storage facilities, cruise terminals,  
6 or any facilities necessary or useful in connection with port  
7 transportation or economic development;

8 (4) the construction or improvement of facilities  
9 necessary or useful in providing port security;

10 (5) the acquisition of container cranes or other  
11 mechanized equipment used in the movement of cargo or passengers in  
12 international commerce;

13 (6) [~~(5)~~] the acquisition of land to be used for port  
14 purposes;

15 (7) [~~(6)~~] the acquisition, improvement, enlargement,  
16 or extension of existing port facilities; and

17 (8) [~~(7)~~] environmental protection projects that:

18 (A) are required as a condition of a state,  
19 federal, or local environmental permit or other form of [~~state~~]  
20 approval;

21 (B) are necessary for the acquisition of spoil  
22 disposal sites and improvements to existing and future spoil sites;  
23 or

24 (C) [~~that~~] result from the undertaking of  
25 eligible projects.

26 (d) The department, in consultation with the committee,  
27 shall review the list of projects recommended by the committee to

1 evaluate the economic benefit of each project. The commission  
2 [~~department~~], after receiving recommendations from [~~in~~  
3 ~~consultation with~~] the committee and from the department, shall  
4 approve projects or studies for funding based on its review.

5 SECTION 18.04. Section 55.004, Transportation Code, is  
6 amended to read as follows:

7 Sec. 55.004. AUDIT. The department may subject a project  
8 that receives money under this chapter to a final audit. [~~The~~  
9 ~~department may adopt rules and perform other acts necessary or~~  
10 ~~convenient to ensure that the final audits are conducted and that~~  
11 ~~any deficiency or questioned costs noted by the audit are~~  
12 ~~resolved.~~]

13 SECTION 18.05. Section 55.006, Transportation Code, is  
14 amended to read as follows:

15 Sec. 55.006. [~~TEXAS~~] PORT AUTHORITY [~~TRANSPORTATION AND~~  
16 ~~ECONOMIC DEVELOPMENT~~] ADVISORY COMMITTEE. (a) The committee  
17 [~~Texas Port Transportation and Economic Development Advisory~~  
18 ~~Committee~~] consists of seven members appointed by the commission.  
19 The members shall be appointed as follows:

20 (1) one member from the Port of Houston Authority [~~a~~  
21 ~~member of the governing body of each of the ports that are members~~  
22 ~~of the Texas Ports Association or their designees]; [~~and~~]~~

23 (2) three members who represent ports on the upper  
24 Texas coast; and [~~as a nonvoting member, the executive director or~~  
25 ~~the designee of the department]~~

26 (3) three members who represent ports on the lower  
27 Texas coast.

1           (b) A committee member serves at the pleasure of the  
2 commission [~~The committee shall develop bylaws under which it~~  
3 ~~operates. The bylaws must specify the procedure by which the~~  
4 ~~presiding officer of the committee is elected. A majority of voting~~  
5 ~~members constitutes a quorum sufficient to conduct meetings and~~  
6 ~~business of the committee. A vote of the majority of the voting~~  
7 ~~members present is sufficient for any action of the committee,~~  
8 ~~unless the bylaws of the committee require a greater vote for a~~  
9 ~~particular action].~~

10           (c) [~~The committee shall meet at the call of its presiding~~  
11 ~~officer, at the request of a majority of its membership, or at times~~  
12 ~~prescribed in its bylaws.] The committee must meet at least  
13 semiannually.~~

14           (d) A member is not entitled to compensation for service on  
15 the committee but is entitled to reimbursement for reasonable  
16 expenses the member incurs in performing committee duties.

17           (e) Section [~~Sections~~] 2110.002 [~~and 2110.008~~], Government  
18 Code, does [~~do~~] not apply to the committee.

19           SECTION 18.06. Section 55.007, Transportation Code, is  
20 amended to read as follows:

21           Sec. 55.007. DUTIES OF COMMITTEE. The committee shall:

22               (1) prepare a port mission plan;  
23               (2) review each project eligible to be funded under  
24 this chapter and make recommendations for approval or disapproval  
25 to the department;

26               (3) maintain trade data information that will assist  
27 ports in this state and international trade;

1 (4) annually prepare a list of projects that have been  
2 recommended by the committee, including:

3 (A) the recommended funding level for each  
4 project; and

5 (B) if staged implementation of the project is  
6 appropriate, the funding requirements for each stage; and

7 (5) advise the commission and the department on  
8 matters relating to port authorities [~~adopt rules for evaluating~~  
9 ~~projects that may be funded under this chapter, providing criteria~~  
10 ~~for the evaluation of the economic benefit of the project, measured~~  
11 ~~by the potential for the proposed project to increase:~~

12 [~~(A) cargo flow,~~

13 [~~(B) cruise passenger movement,~~

14 [~~(C) international commerce,~~

15 [~~(D) port revenues, and~~

16 [~~(E) the number of jobs for the port's local~~  
17 ~~community].~~

18 SECTION 18.07. Section 55.008, Transportation Code, is  
19 amended to read as follows:

20 Sec. 55.008. CAPITAL PROGRAM. (a) The committee shall  
21 prepare a two-year port capital program defining the goals and  
22 objectives of the committee concerning the development of port  
23 facilities and an intermodal transportation system. The port  
24 capital program must include projects or studies submitted to the  
25 committee by any [~~each~~] port [~~that is a member of the committee~~] and  
26 recommendations for:

27 (1) the construction of transportation facilities

1 connecting any port to another transportation mode; and

2 (2) the efficient, cost-effective development of  
3 transportation facilities or port facilities for the purpose of:

4 (A) enhancing international trade;

5 (B) enhancing security;

6 (C) promoting cargo flow;

7 (D) [~~(C)~~] increasing cruise passenger movements;

8 (E) [~~(D)~~] increasing port revenues; and

9 (F) [~~(E)~~] providing economic benefits to the  
10 state.

11 (b) The committee shall update the port capital program  
12 annually and shall submit the capital program not later than  
13 February 1 of each year to:

14 (1) the governor;

15 (2) the lieutenant governor;

16 (3) the speaker of the house of representatives; and

17 (4) the commission [~~department~~].

18 SECTION 18.08. Chapter 55, Transportation Code, is amended  
19 by adding Section 55.009 to read as follows:

20 Sec. 55.009. RULES. The commission shall adopt rules to  
21 implement this chapter.

22 SECTION 18.09. Chapter 53, Transportation Code, is  
23 repealed.

24 SECTION 18.10. This article takes effect immediately if  
25 this Act receives a vote of two-thirds of all the members elected to  
26 each house, as provided by Section 39, Article III, Texas  
27 Constitution. If this Act does not receive the vote necessary for



1 immediate effect, this article takes effect September 1, 2003.

2 ARTICLE 19. MISCELLANEOUS PROVISIONS

3 SECTION 19.01. Section 201.601, Transportation Code, is  
4 amended by adding Subsections (c) and (d) to read as follows:

5 (c) The plan must include a component that is not  
6 financially constrained and identifies transportation improvements  
7 designed to relieve congestion. In developing this component of  
8 the plan, the department shall seek opinions and assistance from  
9 officials who have local responsibility for modes of transportation  
10 listed in Subsection (a).

11 (d) The plan shall include a component, published annually,  
12 that describes the evaluation of transportation improvements based  
13 on performance measures, such as indices measuring delay reductions  
14 or travel time improvements. The department shall consider the  
15 performance measures in selecting transportation improvements.

16 SECTION 19.02. Section 222.103(h), Transportation Code, is  
17 amended to read as follows:

18 (h) Money granted by the department each [~~federal~~] fiscal  
19 year under this section may not exceed \$800 million [~~30 percent of~~  
20 ~~the obligation authority under the federal-aid highway program that~~  
21 ~~is distributed to this state in that year~~]. This limitation does  
22 not apply to money required to be repaid.

23 SECTION 19.03. Subchapter E, Chapter 548, Transportation  
24 Code, is amended by adding Section 548.257 to read as follows:

25 Sec. 548.257. LOST, STOLEN, OR DESTROYED CERTIFICATE. (a)  
26 If an inspection certificate is lost, stolen, or destroyed during  
27 the period during which the certificate is valid, the vehicle must

1 be reinspected and any applicable fee paid before a new certificate  
2 is issued, except that the vehicle is not subject to any emissions  
3 inspection. The replacement certificate is valid for the remaining  
4 period of validity of the original certificate.

5 (b) The department by rule shall specify the method for  
6 establishing that:

7 (1) the certificate has been lost, stolen, or  
8 destroyed; and

9 (2) the reinspection is within the period of validity  
10 of the lost, stolen, or destroyed certificate.

11 (c) As part of its rules under Subsection (b), the  
12 department shall adopt measures to ensure that the reinspection  
13 procedure provided by this section is not used fraudulently to  
14 avoid any required inspection.

15 SECTION 19.04. Section 544.007, Transportation Code, is  
16 amended by adding Subsection (i) to read as follows:

17 (i) An operator of a vehicle facing a traffic-control signal  
18 that does not display an indication in any of the signal heads shall  
19 stop as provided by Section 544.010 as if the intersection had a  
20 stop sign.

21 SECTION 19.05. Section 545.151(a), Transportation Code, is  
22 amended to read as follows:

23 (a) An operator approaching an intersection:

24 (1) shall stop, yield, and grant immediate use of the  
25 intersection:

26 (A) in obedience to an official traffic-control  
27 device, including a stop sign or yield right-of-way sign; or

1                   (B) if a traffic-control signal is present but  
2 does not display an indication in any of the signal heads; and

3                   (2) after stopping, may proceed when the intersection  
4 can be safely entered without interference or collision with  
5 traffic using a different street or roadway.

6                   SECTION 19.06. (a) Section 545.066(c), Transportation  
7 Code, is amended to read as follows:

8                   (c) An offense under this section is a misdemeanor  
9 punishable by a fine of not less than \$200 or more than \$1,000,  
10 except that the offense is:

11                   (1) a Class A misdemeanor if the person causes serious  
12 bodily injury to another; or

13                   (2) a state jail felony if the person has been  
14 previously convicted under Subdivision (1).

15                   (b) The change in law made by Section 545.066(c),  
16 Transportation Code, as amended by this section, applies only to an  
17 offense committed on or after the effective date of this Act. For  
18 purposes of this section, an offense is committed before the  
19 effective date of this Act if any element of the offense occurs  
20 before that date.

21                   (c) An offense committed before the effective date of this  
22 Act is covered by the law in effect when the offense was committed,  
23 and the former law is continued in effect for that purpose.

24                   SECTION 19.07. Chapter 551, Transportation Code, is amended  
25 by adding Subchapter D to read as follows:

26                   SUBCHAPTER D. NEIGHBORHOOD ELECTRIC VEHICLES AND MOTOR-ASSISTED

27   SCOOTERS

1       Sec. 551.301. DEFINITIONS. In this subchapter:

2               (1) "Neighborhood electric vehicle" means a vehicle  
3 subject to Federal Motor Vehicle Safety Standard 500 (49 C.F.R.  
4 Section 571.500).

5               (2) "Motor assisted scooter" means a self-propelled  
6 device with:

7                       (A) at least two wheels in contact with the  
8 ground during operation;

9                       (B) a braking system capable of stopping the  
10 device under typical operating conditions;

11                      (C) a gas or electric motor not exceeding 40  
12 cubic centimeters;

13                      (D) a deck designed to allow a person to stand or  
14 sit while operating the device; and

15                      (E) the ability to be propelled by human power  
16 alone.

17       Sec. 551.302. OPERATION ON ROADWAY. (a) A neighborhood  
18 electric vehicle or motor assisted scooter may be operated only on a  
19 street or highway for which the posted speed limit is 35 miles per  
20 hour or less. The vehicle may cross a road or street at an  
21 intersection where the road or street has a posted speed limit of  
22 more than 35 miles per hour.

23               (b) A person may operate a motor assisted scooter on a path  
24 set aside for the exclusive operation of bicycles or on a sidewalk.  
25 Except as otherwise provided by this section, a provision of this  
26 title applicable to the operation of a bicycle applies to the  
27 operation of a motor assisted scooter.

1        (c) A county or municipality may prohibit the operation of a  
2 neighborhood electric vehicle or motor assisted scooter on any  
3 street or highway if the governing body of the county or  
4 municipality determines that the prohibition is necessary in the  
5 interest of safety.

6        (d) The department may prohibit the operation of a  
7 neighborhood electric vehicle or motor assisted scooter on a  
8 highway if it determines that the prohibition is necessary in the  
9 interest of safety.

10       (e) A provision of this title applicable to a motor vehicle  
11 does not apply to a motor assisted scooter.

12       SECTION 19.08. (a) Section 681.001, Transportation Code,  
13 is amended by adding Subdivision (7) to read as follows:

14       (7) "Stand" or "standing" means to halt an occupied or  
15 unoccupied vehicle, other than temporarily while receiving or  
16 discharging passengers.

17       (b) Section 681.011, Transportation Code, is amended by  
18 amending Subsections (a)-(c), (e), and (m) to read as follows:

19       (a) A person commits an offense if:

20       (1) the person stands [~~parks~~] a vehicle on which are  
21 displayed license plates issued under Section 502.253 or 502.254 or  
22 a disabled parking placard in a parking space or area designated  
23 specifically for persons with disabilities by:

24                (A) a political subdivision; or

25                (B) a person who owns or controls private  
26 property used for parking as to which a political subdivision has  
27 provided for the application of this section under Subsection (f);

1 and

2 (2) the standing [~~parking~~] of the vehicle in that  
3 parking space or area is not authorized by Section 681.006,  
4 681.007, or 681.008.

5 (b) A person commits an offense if the person:

6 (1) stands [~~parks~~] a vehicle on which license plates  
7 issued under Section 502.253 or 502.254 are not displayed and a  
8 disabled parking placard is not displayed in a parking space or area  
9 designated specifically for individuals with disabilities by:

10 (A) a political subdivision; or

11 (B) a person who owns or controls private  
12 property used for parking as to which a political subdivision has  
13 provided for the application of this section under this Subsection  
14 (f); or

15 (2) stands [~~parks~~] a vehicle displaying a white on red  
16 shield disabled parking placard or license plates issued under  
17 Section 502.253 in a space designated under Section 681.009(e) for  
18 the exclusive use of vehicles displaying a white on blue shield  
19 disabled parking placard.

20 (c) A person commits an offense if the person stands [~~parks~~]  
21 a vehicle so that the vehicle blocks an architectural improvement  
22 designed to aid persons with disabilities, including an access  
23 aisle or curb ramp.

24 (e) In a prosecution under this section, it is presumed that  
25 the registered owner of the motor vehicle is the person who left  
26 [~~parked~~] the vehicle standing at the time and place the offense  
27 occurred.

1 (m) A person commits an offense if the person:

2 (1) stands [~~parks~~] a vehicle on which are displayed  
3 license plates issued under Section 502.253 or a disabled parking  
4 placard in a parking space or area for which this chapter creates an  
5 exemption from payment of a fee or penalty imposed by a governmental  
6 unit;

7 (2) does not have a disability;

8 (3) is not transporting a person with disability; and

9 (4) does not pay any applicable fee related to  
10 standing [~~parking~~] in the space or area imposed by a governmental  
11 unit or exceeds a limitation on the length of time for standing  
12 [~~parking~~] in the space or area.

13 (c) The change in law made by this section applies only to an  
14 offense committed on or after the effective date of this Act. For  
15 purposes of this section, an offense is committed before the  
16 effective date of this Act if any element of the offense occurs  
17 before that date.

18 (d) An offense committed before the effective date of this  
19 Act is governed by the law in effect when the offense was committed,  
20 and the former law is continued in effect for that purpose.

21 SECTION 19.09. Section 451.362, Transportation Code, is  
22 amended by amending Subsection (a) and adding Subsection (c) to  
23 read as follows:

24 (a) Notwithstanding other provisions of this chapter and  
25 except as provided by Subsection (c), the board, by order or  
26 resolution, may issue bonds that are secured by revenue or taxes of  
27 the authority if the bonds:

1 (1) have a term of not more than 12 months; and

2 (2) are payable only from revenue or taxes received on  
3 or after the date of their issuance and before the end of the fiscal  
4 year following the fiscal year in which the bonds are issued.

5 (c) In an authority in which the principal municipality has  
6 a population of 1.5 million or more, bonds may have a term of not  
7 more than five years. The bonds are payable only from revenue on  
8 taxes received on or after the date of their issuance.

9 [ARTICLE 19A. RESERVED]

10 ARTICLE 19B. FINANCIAL RESPONSIBILITY REQUIREMENTS

11 SECTION 19B.01. Chapter 601, Transportation Code, is  
12 amended by adding Subchapter N to read as follows:

13 SUBCHAPTER N. DATABASE INTERFACE SYSTEM TO VERIFY

14 FINANCIAL RESPONSIBILITY

15 Sec. 601.450. FEASIBILITY STUDY. (a) The department and  
16 the Texas Department of Insurance shall jointly conduct a study on  
17 the feasibility, affordability, and practicability of using a  
18 database interface software system for verification of whether  
19 owners of motor vehicles have established financial responsibility  
20 as required by this chapter. The study must include consideration  
21 of an affirmative finding that the system:

22 (1) is likely to reduce the number of uninsured  
23 motorists in this state;

24 (2) operates reliably;

25 (3) is cost-effective;

26 (4) will sufficiently protect the privacy of the motor  
27 vehicle owners; and



1           (5) will sufficiently ensure the security and  
2 integrity of each database to which it is applied.

3           (b) Before July 1, 2004, the department and the Texas  
4 Department of Insurance shall complete the study and jointly issue  
5 an order stating a determination of whether the system should be  
6 implemented.

7           (c) If it is determined that the system should be  
8 implemented, the department may implement the system before January  
9 1, 2005, and this section expires January 1, 2005. The department  
10 is not required to carry out the other sections of this subchapter  
11 before the determination is made.

12           (d) If it is determined that the system should not be  
13 implemented, this subchapter expires on the date of issuance of the  
14 order stating the determination.

15           Sec. 601.451. IMPLEMENTATION OF SYSTEM; RULES. (a) The  
16 department may establish a database interface software system for  
17 verification of whether owners of motor vehicles have established  
18 financial responsibility.

19           (b) The department shall adopt rules to administer this  
20 subchapter.

21           Sec. 601.452. AGENT. (a) The department, under a  
22 competitive bidding procedure, may select an agent to develop,  
23 implement, operate, and maintain the system.

24           (b) The department and the Texas Department of Insurance  
25 shall jointly enter into a contract with the selected agent.

26           (c) A contract under this section may not have a term of more  
27 than 10 years.

1       Sec. 601.453. INFORMATION PROVIDED BY INSURANCE COMPANY;  
2 PRIVACY. (a) Each insurance company providing motor vehicle  
3 liability policies in this state shall allow a chosen agent  
4 sufficient access to its databases to allow the agent to carry out  
5 this subchapter, subject to the agent's contract with the  
6 department and the Texas Department of Insurance and rules adopted  
7 under this subchapter.

8       (b) The agent may have access only to information determined  
9 by the department and the Texas Department of Insurance to be  
10 necessary to carry out this subchapter.

11       (c) Information obtained under this subchapter is  
12 confidential. The agent may use the information only for a purpose  
13 authorized under this subchapter and may not use the information  
14 for a commercial purpose.

15       (d) A person commits an offense if the person knowingly uses  
16 information obtained under this subchapter for any purpose not  
17 authorized under this subchapter. An offense under this subsection  
18 is a Class B misdemeanor.

19       SECTION 19B.02. Section 502.104, Transportation Code, is  
20 amended to read as follows:

21       Sec. 502.104. DISPOSITION OF CERTAIN SPECIAL FEES. Each  
22 Monday a county assessor-collector shall send to the department an  
23 amount equal to collections for the preceding week for:

24               (1) each transfer fee collected under Section 502.175;  
25 and

26               (2) each fee collected under Section 502.169(b),  
27 502.1715, or 502.279.

1 SECTION 19B.03. Subchapter D, Chapter 502, Transportation  
2 Code, is amended by adding Section 502.1715 to read as follows:

3 Sec. 502.1715. ADDITIONAL FEE FOR MOTOR VEHICLE FINANCIAL  
4 RESPONSIBILITY VERIFICATION PROGRAM. (a) In addition to other  
5 fees imposed for registration of a motor vehicle, at the time of  
6 application for registration or renewal of registration of a motor  
7 vehicle for which the owner is required to submit evidence of  
8 financial responsibility under Section 502.153, the applicant  
9 shall pay a fee of \$1.

10 (b) Prior to August 31, 2005, fees collected under this  
11 subchapter shall be deposited to the credit of the state highway  
12 fund. Subject to appropriation, the money shall be used by the  
13 Department of Public Safety to:

14 (1) support the Department of Public Safety's  
15 reengineering of the driver's license system to provide for the  
16 issuance by the Department of Public Safety of a driver's license or  
17 personal identification certificate, not to include use of  
18 biometric information; and

19 (2) establish and maintain a system to support the  
20 driver responsibility program under Chapter 708.

21 (c) On or after August 31, 2005, fees collected under this  
22 section shall be deposited to the credit of the state highway fund.  
23 Subject to appropriation, the money may be used by the Department of  
24 Public Safety, the Texas Department of Insurance, and the  
25 department to carry out Subchapter N, Chapter 601.

26 (d) The Department of Public Safety and the Texas Department  
27 of Insurance shall adopt rules and develop forms necessary to

1 administer this section.

2 ARTICLE 20. GENERAL PROVISIONS; EFFECTIVE DATE

3 SECTION 20.01. Money required to be deposited to a specific  
4 fund or account by a change in law made by this Act is exempt from  
5 Section 403.095, Government Code.

6 SECTION 20.02. (a) The comptroller shall establish the  
7 Texas mobility fund debt service account as a dedicated account  
8 within the general revenue fund.

9 (b) Notwithstanding Sections 780.002(a) and (b), Health and  
10 Safety Code, as added by this Act, of the money allocated to the  
11 undedicated portion of the general revenue fund by Section  
12 780.002(a), Health and Safety Code, as added by this Act, other than  
13 money that may only be appropriated to the Department of Public  
14 Safety, in fiscal year 2004 the comptroller shall deposit that  
15 money to the credit of the Texas mobility fund debt service account,  
16 which is subject to the provisions of Subsection (d).

17 (c) Notwithstanding Section 542.4031(g)(1), Transportation  
18 Code, as added by this Act, of the money allocated to the  
19 undedicated portion of the general revenue fund in Section  
20 542.4031(g)(1), Transportation Code, in fiscal year 2004 the  
21 comptroller shall deposit that money to the credit of the Texas  
22 mobility fund debt service account, which is subject to the  
23 provisions of Subsection (d).

24 (d) Funds deposited to the Texas mobility fund debt service  
25 account pursuant to Subsections (b) and (c) may be transferred to  
26 the Texas mobility fund upon certification by the Texas  
27 Transportation Commission to the comptroller that a payment is due

1 under an obligation pursuant to Section 49-k, Article 3, Texas  
2 Constitution. Funds in the Texas mobility fund debt service  
3 account are not appropriated in the state fiscal year ending August  
4 31, 2004.

5 (e) Notwithstanding Sections 521.058, 521.313(c),  
6 521.3466(e), 521.427, 522.029(i), 524.051(c), 548.508, 644.153(i),  
7 and 724.046(c), Transportation Code, as added by this Act, to the  
8 extent that those sections allocate funds to the Texas mobility  
9 fund, in fiscal year 2004 the comptroller shall deposit those funds  
10 to the credit of the general revenue fund instead of to the credit  
11 of the Texas mobility fund.

12 SECTION 20.03. Any new court cost created by this Act takes  
13 effect September 1, 2003. Section 51.607, Government Code, as  
14 added by Senate Bill 325, 78th Legislature, Regular Session, does  
15 not apply to court costs imposed under this Act.

16 SECTION 20.04. Except as otherwise provided by this Act,  
17 this Act takes effect September 1, 2003.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 3588 was passed by the House on May 10, 2003, by the following vote: Yeas 137, Nays 3, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3588 on May 30, 2003, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 3588 on June 1, 2003, by the following vote: Yeas 146, Nays 0, 1 present, not voting; and that the House adopted S.C.R. No. 65 authorizing certain corrections in H.B. No. 3588 on June 2, 2003, by a non-record vote.

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Chief Clerk of the House

H.B. No. 3588

I certify that H.B. No. 3588 was passed by the Senate, with amendments, on May 28, 2003, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 3588 on June 1, 2003, by the following vote: Yeas 31, Nays 0; and that the Senate adopted S.C.R. No. 65 authorizing certain corrections in H.B. No. 3588 on June 1, 2003.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor