

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 rebuilder 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.

President of the Senate

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.

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.

Secretary of the Senate

APPROVED: _____

Date

Governor