

By: Isett, Pickett, Harper-Brown

H.B. No. 300

Substitute the following for H.B. No. 300:

By: Pickett

C.S.H.B. No. 300

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the continuation and functions of the Texas Department
3 of Transportation, including the governance of the department and
4 the transfer of certain functions of the department to the Texas
5 Department of Motor Vehicles and the office of the governor;
6 providing penalties.

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

8 ARTICLE 1. GENERAL COMMISSION AND DEPARTMENT PROVISIONS

9 SECTION 1.01. Sections 201.051(a), (b), (f), (g), (h), and
10 (j), Transportation Code, are amended to read as follows:

11 (a) The Texas Transportation Commission consists of five
12 members, of whom:

13 (1) three are appointed by the governor with the
14 advice and consent of the senate;

15 (2) one is appointed by the governor with the advice
16 and consent of the senate, selected from a list of individuals
17 provided by the speaker of the house of representatives; and

18 (3) one is appointed by the lieutenant governor.

19 (b) The members shall be appointed to reflect the diverse
20 geographic regions and population groups of this state. One member
21 appointed by the governor under Subsection (a)(1) must reside in a
22 rural area.

23 (f) An officer, employee, or paid consultant of a Texas
24 trade association in the field of road construction or maintenance,

1 aviation, or outdoor advertising is not eligible for appointment as
2 ~~[or a Texas trade association of automobile dealers may not be]~~ a
3 member of the commission.

4 (g) The spouse of an officer, manager, or paid consultant of
5 a Texas trade association in the field of road construction or
6 maintenance, aviation, or outdoor advertising is not eligible for
7 appointment as ~~[or a Texas association of automobile dealers may~~
8 ~~not be]~~ a member of the commission.

9 (h) A person required to register as a lobbyist under
10 Chapter 305, Government Code, because of the person's activities
11 for compensation on behalf of a profession related to the operation
12 of the department is not eligible for appointment ~~[may not serve]~~ as
13 a member of the commission.

14 (j) In this section, "Texas trade association" means a
15 ~~[nonprofit,~~ cooperative~~]~~ and voluntarily joined statewide
16 association of business or professional competitors in this state
17 designed to assist its members and its industry or profession in
18 dealing with mutual business or professional problems and in
19 promoting their common interest.

20 SECTION 1.02. Section 201.053(a), Transportation Code, is
21 amended to read as follows:

22 (a) The governor ~~[periodically]~~ shall designate one
23 commissioner as the chair of the commission, who shall serve as
24 presiding officer of the commission.

25 SECTION 1.03. Section 201.056, Transportation Code, is
26 amended to read as follows:

27 Sec. 201.056. COMPENSATION. A member of the commission is

1 entitled to compensation as provided by the General Appropriations
2 Act. [~~If compensation for members is not provided by that Act, each~~
3 ~~member is entitled to reimbursement for actual and necessary~~
4 ~~expenses incurred in performing functions as a member of the~~
5 ~~commission.~~]

6 SECTION 1.04. Section 201.057(a), Transportation Code, is
7 amended to read as follows:

8 (a) It is a ground for removal from the commission if a
9 commissioner:

10 (1) does not have at the time of taking office
11 [~~appointment~~] or maintain during service on the commission the
12 qualifications required by Section 201.051;

13 (2) violates a prohibition provided by Section
14 201.051;

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

18 (4) is absent from more than half of the regularly
19 scheduled commission meetings that the commissioner is eligible to
20 attend during a calendar year, unless the absence is excused by
21 majority vote of the commission.

22 SECTION 1.05. Section 201.058, Transportation Code, is
23 amended to read as follows:

24 Sec. 201.058. INFORMATION ON QUALIFICATIONS AND CONDUCT.
25 The department shall provide to the members of the commission, as
26 often as necessary, information concerning the members'
27 qualifications for office [~~under Subchapter B~~] and their

1 responsibilities under applicable laws relating to standards of
2 conduct for state officers.

3 SECTION 1.06. Section 201.105, Transportation Code, is
4 amended by amending Subsections (a) and (b) and adding Subsections
5 (h) and (i) to read as follows:

6 (a) The commission shall divide the state into [~~not more~~
7 ~~than 25~~] districts for the purpose of the performance of the
8 department's duties.

9 (b) Except as provided in Subsection (h) [In determining a
10 district's boundaries], the commission shall align the districts'
11 boundaries along the boundaries of regional planning commissions
12 created under Chapter 391, Local Government Code, and shall
13 consider all costs and benefits, including highway activity in
14 determining [and] the number of employees required for the proposed
15 districts [district].

16 (h) In establishing district boundaries under Subsection
17 (b), the commission may vary from the boundaries of a regional
18 planning commission created under Chapter 391, Local Government
19 Code, to the extent it determines necessary to avoid:

20 (1) significant adverse economic impact on local
21 communities caused by the closing of one or more existing
22 department offices;

23 (2) significant cost inefficiencies caused by the
24 realignment of existing district boundaries; or

25 (3) significant disruptions to the existing workforce
26 of one or more districts.

27 (i) If the commission varies from the boundaries of a

1 regional planning commission as authorized by Subsection (h), the
2 commission shall send a report explaining the variances to:

- 3 (1) the Legislative Budget Board;
- 4 (2) the governor;
- 5 (3) the chair of the House Transportation Committee;
- 6 (4) the chair of the Senate Transportation and
7 Homeland Security Committee;
- 8 (5) the chair of the Senate Finance Committee; and
- 9 (6) the chair of the House Appropriations Committee.

10 SECTION 1.07. Subchapter C, Chapter 201, Transportation
11 Code, is amended by adding Sections 201.117 and 201.118 to read as
12 follows:

13 Sec. 201.117. TECHNOLOGICAL SOLUTIONS. The commission
14 shall implement a policy requiring the department to use
15 appropriate technological solutions to improve the department's
16 ability to perform its functions. The policy must ensure that the
17 public is able to interact with the department on the Internet.

18 Sec. 201.118. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE
19 RESOLUTION PROCEDURES. (a) The commission shall develop and
20 implement a policy to encourage the use of:

- 21 (1) negotiated rulemaking procedures under Chapter
22 2008, Government Code, for the adoption of department rules; and
- 23 (2) appropriate alternative dispute resolution
24 procedures under Chapter 2009, Government Code, to assist in the
25 resolution of internal and external disputes under the department's
26 jurisdiction.

27 (b) The department's procedures relating to alternative

1 dispute resolution must conform, to the extent possible, to any
2 model guidelines issued by the State Office of Administrative
3 Hearings for the use of alternative dispute resolution by state
4 agencies.

5 (c) The commission shall designate a trained person to:

6 (1) coordinate the implementation of the policy
7 adopted under Subsection (a);

8 (2) serve as a resource for any training needed to
9 implement the procedures for negotiated rulemaking or alternative
10 dispute resolution; and

11 (3) collect data concerning the effectiveness of those
12 procedures, as implemented by the department.

13 SECTION 1.08. Sections 201.202(a) and (c), Transportation
14 Code, are amended to read as follows:

15 (a) The commission shall organize the department into
16 divisions to accomplish the department's functions and the duties
17 assigned to it, including divisions for:

18 (1) aviation;

19 (2) highways and roads;

20 (3) public transportation; and

21 (4) rail transportation [~~motor vehicle titles and~~
22 ~~registration~~].

23 (c) A [~~In appointing a~~] person designated by the commission
24 as the department's chief financial officer must report directly to
25 the commission [~~to supervise a function previously performed by the~~
26 ~~former State Department of Highways and Public Transportation,~~
27 ~~Texas Department of Aviation, or Texas Turnpike Authority,~~

1 ~~preference shall be given to a person employed in a similar position~~
2 ~~in that former agency].~~

3 SECTION 1.09. Section 201.204, Transportation Code, is
4 amended to read as follows:

5 Sec. 201.204. SUNSET PROVISION. The Texas Department of
6 Transportation is subject to Chapter 325, Government Code (Texas
7 Sunset Act). Unless continued in existence as provided by that
8 chapter, the department is abolished September 1, 2013 [~~2009~~].

9 SECTION 1.10. Subchapter D, Chapter 201, Transportation
10 Code, is amended by adding Sections 201.210, 201.211, 201.212, and
11 201.213 to read as follows:

12 Sec. 201.210. COMPLIANCE CERTIFICATION. (a) Not later
13 than September 1 of each year, each member of the commission, the
14 director, and the department's chief financial officer shall
15 certify in writing that the commission member, the director, or the
16 officer, as applicable:

17 (1) is responsible for establishing and maintaining
18 the department's internal controls;

19 (2) has evaluated the effectiveness of those controls;

20 (3) has presented conclusions about the effectiveness
21 of the department's internal controls and applicable reporting
22 requirements; and

23 (4) has effectively complied with all applicable
24 legislative mandates.

25 (b) The members of the commission, the director, and the
26 department's chief financial officer shall submit the
27 certifications required by Subsection (a) to the governor, the

1 lieutenant governor, the speaker of the house of representatives,
2 the chair of the standing committee of each house of the legislature
3 with primary jurisdiction over transportation matters, and the
4 transportation legislative oversight committee created under
5 Chapter 205.

6 (c) The transportation legislative oversight committee
7 shall recommend to the 82nd Legislature appropriate penalties for
8 failure to submit the certifications required by Subsection (a).
9 This subsection expires January 1, 2012.

10 Sec. 201.211. LEGISLATIVE LOBBYING. (a) In addition to the
11 prohibition in Section 556.006, Government Code, a member of the
12 commission or a department employee may not use money under the
13 department's control or engage in an activity to influence the
14 passage or defeat of legislation.

15 (b) A violation of Subsection (a) is grounds for dismissal
16 of an employee.

17 (c) This section does not prohibit a member of the
18 commission or department employee from using state resources to:

19 (1) provide public information or information
20 responsive to a request; or

21 (2) communicate with officers and employees of the
22 federal government in pursuit of federal appropriations.

23 Sec. 201.212. ETHICS AFFIRMATION AND HOTLINE. (a) A
24 department employee shall annually affirm the employee's adherence
25 to the ethics policy adopted under Section 572.051(c), Government
26 Code.

27 (b) The department shall establish and operate a telephone

1 line to be known as the Ethics Hotline that enables a person to call
2 the hotline number, anonymously or not anonymously, to report an
3 alleged violation of the ethics policy adopted under Section
4 572.051(c), Government Code.

5 Sec. 201.213. LEGISLATIVE APPROPRIATIONS REQUEST.
6 Department staff shall deliver the department's legislative
7 appropriations request to the commission in an open meeting not
8 later than the 30th day before the commission adopts the
9 legislative appropriations request for submission to the
10 Legislative Budget Board.

11 SECTION 1.11. Section 201.301(a), Transportation Code, is
12 amended to read as follows:

13 (a) The commission shall elect an executive director for the
14 department. ~~[The director must be a registered professional~~
15 ~~engineer in this state and experienced and skilled in~~
16 ~~transportation planning, development, construction, and~~
17 ~~maintenance.]~~

18 SECTION 1.12. Section 201.404(b), Transportation Code, is
19 amended to read as follows:

20 (b) The director or the director's designee shall develop a
21 system of annual performance evaluations that are based on
22 documented employee performance. All merit pay for department
23 employees must be based on the system established under this
24 subsection. If an annual performance evaluation indicates that an
25 employee's performance is unsatisfactory, the commission and
26 director shall consider whether the employee should be terminated.
27 The annual performance evaluations developed under this subsection

1 must include the evaluation of an employee's:

2 (1) professionalism;

3 (2) diligence; and

4 (3) responsiveness to directives and requests from the
5 commission and the legislature.

6 SECTION 1.13. Subchapter H, Chapter 201, Transportation
7 Code, is amended by adding Section 201.6041 to read as follows:

8 Sec. 201.6041. DELEGATION OF ENVIRONMENTAL REVIEW TO LOCAL
9 TOLL PROJECT ENTITY. (a) In this section, "local toll project
10 entity" means:

11 (1) a county under Chapter 284;

12 (2) a regional tollway authority under Chapter 366; or

13 (3) a regional mobility authority under Chapter 370.

14 (b) To the extent permitted by law, the department shall, on
15 request by a local toll project entity, delegate to the entity all
16 responsibility for obtaining environmental review required for a
17 project to be developed and constructed by the entity. If authority
18 is delegated under this section:

19 (1) the local toll project entity's environmental
20 documents, environmental studies, and public involvement
21 activities must comply with state procedures;

22 (2) the local toll project entity must provide the
23 environmental documentation to the department; and

24 (3) the environmental documents must meet the approval
25 of the United States Department of Transportation, Federal Highway
26 Administration, if the project requires the approval of that
27 agency.

1 SECTION 1.14. Section 201.802, Transportation Code, is
2 amended to read as follows:

3 Sec. 201.802. PUBLIC ACCESS TO COMMISSION [~~AND TO~~
4 ~~DEPARTMENT PROGRAMS~~]. [~~(a)~~] The commission shall develop and
5 implement policies that provide the public with a reasonable
6 opportunity to appear before the commission and speak on any issue
7 under the jurisdiction of the department [~~commission~~].

8 [~~(b) The director shall prepare and maintain a written plan~~
9 ~~that describes the manner in which a person who does not speak~~
10 ~~English or who has a physical, mental, or developmental disability~~
11 ~~is provided reasonable access to the department's programs.~~

12 [~~(c) The department shall comply with each applicable law of~~
13 ~~the United States or this state that relates to program or facility~~
14 ~~accessibility.]~~

15 SECTION 1.15. Subchapter K, Chapter 201, Transportation
16 Code, is amended by adding Section 201.910 to read as follows:

17 Sec. 201.910. MEMORIAL MARKERS FOR CERTAIN PEACE OFFICERS
18 AND SPECIAL INVESTIGATORS KILLED IN LINE OF DUTY. (a) The
19 commission by rule shall allow the placement, along state highway
20 right-of-way, of privately funded memorials honoring peace
21 officers and special investigators who were killed in the line of
22 duty and were not troopers of the Department of Public Safety.

23 (b) The rules adopted under Subsection (a) must be
24 substantially identical to commission rules relating to the
25 placement of privately funded memorials honoring Department of
26 Public Safety troopers killed in the line of duty.

27 (c) In this section:

1 (1) "Peace officer" has the meaning assigned by
2 Article 2.12, Code of Criminal Procedure.

3 (2) "Special investigator" has the meaning assigned by
4 Article 2.122, Code of Criminal Procedure.

5 SECTION 1.16. Section 201.0545, Transportation Code, is
6 repealed.

7 SECTION 1.17. (a) Subtitle A, Title 6, Transportation
8 Code, is amended by adding Chapter 205 to read as follows:

9 CHAPTER 205. TRANSPORTATION LEGISLATIVE OVERSIGHT COMMITTEE

10 Sec. 205.001. DEFINITION. In this chapter, "committee"
11 means the Transportation Legislative Oversight Committee.

12 Sec. 205.002. ESTABLISHMENT; COMPOSITION. (a) The
13 Transportation Legislative Oversight Committee is established to
14 provide objective research, analysis, and recommendations on the
15 operation and needs of the state transportation system.

16 (b) The committee is composed of six members as follows:

17 (1) the chair of the Senate Committee on
18 Transportation and Homeland Security;

19 (2) the chair of the House Committee on
20 Transportation;

21 (3) two members of the senate appointed by the
22 lieutenant governor; and

23 (4) two members of the house of representatives
24 appointed by the speaker of the house of representatives.

25 (c) An appointed member of the committee serves at the
26 pleasure of the appointing official.

27 Sec. 205.003. PRESIDING OFFICER; TERM. (a) The lieutenant

1 governor and the speaker of the house of representatives shall
2 appoint the presiding officer of the committee on an alternating
3 basis.

4 (b) The presiding officer of the committee serves a two-year
5 term that expires February 1 of each odd-numbered year.

6 Sec. 205.004. POWERS AND DUTIES. (a) The committee shall:

7 (1) monitor the department's planning, programming,
8 and funding of the state transportation system;

9 (2) conduct an in-depth analysis of the state
10 transportation system that includes:

11 (A) an assessment of the cost-effectiveness of
12 the use of state, local, and private funds in the transportation
13 system;

14 (B) an identification of critical problems in the
15 transportation system, such as funding constraints; and

16 (C) a determination of the long-range needs of
17 the transportation system;

18 (3) recommend to the legislature:

19 (A) strategies to solve the problems identified
20 under Subdivision (2)(B); and

21 (B) policy priorities to address the long-range
22 needs determined under Subdivision (2)(C); and

23 (4) advise and assist the legislature in developing
24 plans, programs, and proposed legislation to improve the
25 effectiveness of the state transportation system.

26 (b) The committee has all other powers and duties provided
27 to a special committee by:

1 (1) Subchapter B, Chapter 301, Government Code;

2 (2) the rules of the senate and the house of
3 representatives; and

4 (3) policies of the senate and house committees on
5 administration.

6 (c) Notwithstanding any other provision of this chapter,
7 the committee may not recommend specific projects or recommend
8 funding for specific projects.

9 Sec. 205.005. REVIEW OF RESEARCH PROGRAM. (a) The
10 department shall present the department's entire research program
11 to the committee for review and comment before adopting or
12 implementing the program.

13 (b) The committee shall review and comment on the
14 department's research program, including each of the individual
15 research projects and activities. The review of a proposed
16 research project must take into consideration the purpose of the
17 project, the proposed start and ending dates for the project, and
18 the cost of the project.

19 (c) The department shall provide to the committee quarterly
20 updates and an annual summary on the progress of the department's
21 research projects and activities.

22 (d) The committee may request the results of any of the
23 department's research projects, including draft reports from the
24 department or the contracted entities performing the research.

25 (e) A university transportation research program in this
26 state may:

27 (1) perform transportation research projects

1 requested by the committee; and

2 (2) initiate and propose transportation research
3 projects to the committee.

4 (f) The committee may request assistance from a university
5 transportation research program in this state in conducting
6 transportation research and in reviewing, evaluating, and
7 comparing elements of the state transportation system to the
8 transportation systems in other states to set needed benchmarks.

9 Sec. 205.006. CONTRACT WITH CONSULTING FIRM. (a) The
10 committee may contract with an outside management consulting firm
11 that is independent of the department to make recommendations
12 regarding an effective and efficient organizational structure for
13 the department, such as recommending appropriate performance
14 measurements and staffing levels for each major function of the
15 department including comparisons to best practices, after review
16 and analysis under Section 205.007.

17 (b) In performing its functions, the consulting firm shall
18 coordinate with the Legislative Budget Board, the state auditor's
19 office, and the department to minimize the duplication of efforts
20 and to perform cost effectively and in a timely manner.

21 (c) The committee shall:

22 (1) oversee the implementation of the recommendations
23 under this section with the goal of making the department more
24 efficient, transparent, and accountable, including through
25 reducing staff and streamlining processes; and

26 (2) assess the department's progress in implementing
27 the recommendations under this section and report on the progress

1 to the Senate Finance Committee and House Appropriations Committee
2 for consideration in establishing the department's budget as part
3 of the appropriations process.

4 Sec. 205.007. FUNCTIONS OF CONSULTING FIRM. The primary
5 functions of a management consulting firm the committee contracts
6 with under Section 205.006 include:

7 (1) evaluating the department's financial condition
8 and business practices;

9 (2) evaluating the department's administrative
10 practices and performance, including statewide transportation
11 planning, the department's relationship with metropolitan planning
12 organizations, as defined by Section 472.031, the performance of
13 the department's district and central offices, and the need for
14 standardization of the department's operations across the state;

15 (3) evaluating the current guidelines of metropolitan
16 planning organizations and all other transportation entities
17 within the state involved with project delivery or transportation
18 policy by identifying duplicative practices and providing
19 recommendations for better efficiency and transparency;

20 (4) identifying ways to streamline all processes and
21 procedures of policy implementations of the department, including
22 the environmental process;

23 (5) examining and evaluating the use and benefits of
24 performance-based maintenance contracting by the department;

25 (6) examining and presenting recommendations on how to
26 maximize the department's use of multimodal solutions;

27 (7) analyzing the department's compliance with

1 applicable laws and legislative intent;

2 (8) examining the efficient use of the department's
3 available funding, personnel, equipment, and office space;

4 (9) evaluating the establishment in statute of a state
5 pavement quality goal of having 85 percent of state roads in good or
6 better condition; and

7 (10) considering significantly expanding the use of
8 the private sector for planning, design, and delivery of projects
9 and a commitment to excellence in project and program management.

10 Sec. 205.008. MEETINGS. The committee shall meet at the
11 call of the presiding officer.

12 Sec. 205.009. STAFF; AUTHORITY TO CONTRACT. The committee
13 may hire staff or may contract with universities or other suitable
14 entities to assist the committee in carrying out the committee's
15 duties. Funding to support the operation of the committee shall be
16 provided from funds appropriated to the department.

17 Sec. 205.010. REPORT. Not later than January 1 of each
18 odd-numbered year, the committee shall submit to the legislature a
19 report that contains the recommendations described by Section
20 205.004(a)(3).

21 (b) The speaker of the house of representatives and the
22 lieutenant governor shall appoint members to the Transportation
23 Legislative Oversight Committee under Chapter 205, Transportation
24 Code, as added by this section, not later than January 1, 2010.

25 (c) Notwithstanding Section 205.003, Transportation Code,
26 as added by this section, the lieutenant governor, not later than
27 January 15, 2010, shall appoint a presiding officer for the

1 Transportation Legislative Oversight Committee. The presiding
2 officer appointed by the lieutenant governor under this section
3 serves a one-year term that begins on February 1, 2010, and ends on
4 February 1, 2011.

5 (d) On the effective date of this Act:

6 (1) all employees of the Texas Department of
7 Transportation who primarily perform duties related to the
8 department's government and public affairs research section become
9 employees of the Transportation Legislative Oversight Committee
10 under Chapter 205, Transportation Code, as added by this section;
11 and

12 (2) all funds appropriated by the legislature to the
13 Texas Department of Transportation for purposes related to the
14 department's government and public affairs research section are
15 transferred to the Transportation Legislative Oversight Committee
16 under Chapter 205, Transportation Code, as added by this section.

17 SECTION 1.18. Subchapter Z, Chapter 311, Transportation
18 Code, is amended by adding Section 311.905 to read as follows:

19 Sec. 311.905. NOTICE OF TRANSPORTATION USER'S FEE BY
20 MUNICIPALITY. (a) A municipality that imposes a fee on the user of
21 a benefited property equal to the prorated annual cost of the
22 transportation system owned by the municipality that can reasonably
23 be attributed to the benefited property must provide notice to the
24 department and the user of the fee.

25 (b) The notice to the department shall be given to the
26 executive director by any commercially acceptable form of business
27 communication. The notice to the user required under Subsection

1 (a) is adequate if the fee amount is stated on monthly billing
2 statements to the user for metered utility service provided by the
3 municipality to the user.

4 ARTICLE 2. TRANSPORTATION PLANNING AND PROJECT DEVELOPMENT PROCESS

5 SECTION 2.01. Section 201.601, Transportation Code, is
6 amended to read as follows:

7 Sec. 201.601. STATEWIDE TRANSPORTATION PROGRAM AND BUDGET
8 [~~PLAN~~]. [~~(a)~~] The department shall develop a statewide
9 transportation program and budget under Subchapter H-1 [~~plan that~~
10 ~~contains all modes of transportation, including:~~

11 [~~(1) highways and turnpikes,~~

12 [~~(2) aviation,~~

13 [~~(3) mass transportation,~~

14 [~~(4) railroads and high-speed railroads; and~~

15 [~~(5) water traffic].~~

16 [~~(b) In developing the plan, the department shall seek~~
17 ~~opinions and assistance from other state agencies and political~~
18 ~~subdivisions that have responsibility for the modes of~~
19 ~~transportation listed by Subsection (a). As appropriate, the~~
20 ~~department and such an agency or political subdivision shall enter~~
21 ~~into a memorandum of understanding relating to the planning of~~
22 ~~transportation services.~~

23 [~~(c) The plan must include a component that is not~~
24 ~~financially constrained and identifies transportation improvements~~
25 ~~designed to relieve congestion. In developing this component of~~
26 ~~the plan, the department shall seek opinions and assistance from~~
27 ~~officials who have local responsibility for modes of transportation~~

1 ~~listed in Subsection (a).~~

2 ~~[(d) The plan shall include a component, published~~
3 ~~annually, that describes the evaluation of transportation~~
4 ~~improvements based on performance measures, such as indices~~
5 ~~measuring delay reductions or travel time improvements. The~~
6 ~~department shall consider the performance measures in selecting~~
7 ~~transportation improvements.]~~

8 SECTION 2.02. Chapter 201, Transportation Code, is amended
9 by adding Subchapter H-1 to read as follows:

10 SUBCHAPTER H-1. STATEWIDE TRANSPORTATION PLANNING AND FUNDING

11 ALLOCATION

12 Sec. 201.651. DEFINITIONS. In this subchapter:

13 (1) "Planning organization" means:

14 (A) a metropolitan planning organization;

15 (B) a rural planning organization; or

16 (C) for an area that is not in the boundaries of a
17 metropolitan planning organization, the department district that
18 serves the area.

19 (2) "Project cost" means the total cost of a
20 transportation project, including all costs associated with:

21 (A) planning;

22 (B) design;

23 (C) environmental assessment;

24 (D) right-of-way acquisition;

25 (E) construction;

26 (F) operations;

27 (G) maintenance;

1 (H) overruns; and

2 (I) change orders.

3 (3) "Region" means the area for which a planning
4 organization develops plans and receives funds under this
5 subchapter.

6 (4) "Rural planning organization" means a planning
7 organization created under Section 201.653.

8 (5) "Transportation official" means an official in a
9 state agency or political subdivision who has responsibility for
10 any of the following modes of transportation:

11 (A) aviation;

12 (B) high-speed rail;

13 (C) highways;

14 (D) toll roads;

15 (E) mass transportation;

16 (F) railroads; and

17 (G) water traffic.

18 (6) "Transportation project" means:

19 (A) the planning of, right-of-way acquisition
20 for, expansion of, improvement of, addition to, routine maintenance
21 of, contracted routine maintenance of, or contract maintenance of
22 a:

23 (i) bridge;

24 (ii) highway;

25 (iii) toll road or toll road system; or

26 (iv) railroad;

27 (B) a project that enhances the safety of a

1 roadway to the traveling public;

2 (C) an air quality improvement initiative;

3 (D) a transportation enhancement activity under
4 23 U.S.C. Section 133; or

5 (E) mass transportation.

6 Sec. 201.652. PURPOSE. It is in the interest of this state
7 to:

8 (1) encourage and promote the safe and efficient
9 management, operation, and development of surface transportation
10 systems that will serve the mobility needs of people and freight and
11 foster economic growth and development in rural and urbanized areas
12 of this state, while minimizing transportation-related fuel
13 consumption and air pollution through metropolitan, rural, and
14 statewide transportation planning processes identified in this
15 chapter; and

16 (2) encourage the continued improvement and evolution
17 of the metropolitan, rural, and statewide transportation planning
18 processes by planning organizations and public transit operators as
19 guided by the planning factors identified in state and federal law.

20 Sec. 201.653. RURAL PLANNING ORGANIZATIONS. (a) To carry
21 out the transportation planning process required by this
22 subchapter, a rural planning organization may be created to serve
23 an area that is located in the boundaries of a council of government
24 and outside the boundaries of a metropolitan planning organization
25 if the governing bodies of the units of local government in which at
26 least 75 percent of the population of the area resides each adopt a
27 resolution agreeing to the creation of the organization.

1 (b) A rural planning organization is governed by a board of
2 directors composed of local elected officials and the district
3 engineer of the department district in which the area is located.

4 (c) For a rural planning organization to be eligible to
5 receive funds from this state for transportation projects under
6 Section 201.668:

7 (1) at least 75 percent of the organization's board
8 members must be elected officials who are elected within the
9 boundaries of the rural planning organization; and

10 (2) only elected officials may be voting members of
11 the organization's board.

12 (d) A rural planning organization may be dissolved by
13 official action of its board.

14 (e) As soon as practicable after a rural planning
15 organization is created or dissolved, the organization shall send
16 notice of its creation or dissolution to the commission.

17 (f) The department may use money in the state highway fund
18 to fund the operations of a rural planning organization, subject to
19 Section 201.672(c).

20 (g) A rural planning organization shall develop
21 transportation plans and programs for its service area in
22 accordance with this subchapter.

23 (h) A rural planning organization may provide to the
24 commission recommendations concerning the selection of
25 transportation projects, systems, or programs to be undertaken in
26 the boundaries of the rural planning organization.

27 (i) In this section, "elected official" means the presiding

1 officer or a member of the governing body of a municipality, a
2 county judge, a county commissioner, a state representative, or a
3 state senator.

4 (j) If the rural planning organization does not provide
5 recommendations under Subsection (h), the department shall seek
6 input from the rural planning organization, municipal and county
7 officials, and transportation officials to determine the
8 transportation projects, systems, or programs to be undertaken in
9 the boundaries of the rural planning organization.

10 Sec. 201.654. CASH FLOW FORECAST. (a) On September 1 of
11 each odd-numbered year, the department's chief financial officer
12 shall issue a cash flow forecast for each method and category of
13 funding that covers a period of not less than the 10 years following
14 the date the forecast is issued.

15 (b) The forecast must identify all sources of funding
16 available for transportation projects, including bond proceeds.

17 (c) The first two years of the forecast must be based on the
18 appropriation of funds in the General Appropriations Act for the
19 department for that biennium.

20 Sec. 201.655. ALLOCATION AND DEPOSIT OF FUNDING. (a) The
21 commission shall use the cash flow forecast under Section 201.654
22 to allocate funding to the planning organizations in accordance
23 with Section 201.668.

24 (b) The funds shall be deposited into subaccounts for each
25 region in the state highway fund. The balance of the subaccount
26 shall be carried forward from year to year for the benefit of the
27 region.

1 Sec. 201.656. PLANNING ORGANIZATION 10-YEAR PLAN. (a)

2 Each planning organization shall develop a 10-year transportation
3 plan for the use of the funding allocated to the region.

4 (b) The first four years of the plan shall be developed to
5 meet the transportation improvement plan requirements of 23 U.S.C.
6 Section 135.

7 (c) The department shall compile the planning
8 organizations' project selections to develop the statewide
9 transportation plan in accordance with 23 U.S.C. Section 135.

10 Sec. 201.657. COORDINATION BETWEEN PLANNING ORGANIZATIONS
11 TO DEVELOP LONG-TERM PLANNING ASSUMPTIONS. Planning organizations
12 shall collaborate with one another and with the department to
13 develop mutually acceptable assumptions for the purposes of
14 long-range federal and state funding forecasts and use those
15 assumptions to guide long-term planning.

16 Sec. 201.658. PLANNING ORGANIZATION PROJECT SELECTION AND
17 PRIORITIZATION. (a) Each metropolitan planning organization and
18 rural planning organization shall, for the area in its boundaries,
19 select projects and order them in priority.

20 (b) For an area not located in the boundaries of a
21 metropolitan planning organization or rural planning organization,
22 the applicable department district shall:

23 (1) select projects and order them in priority with
24 input from municipal and county officials and transportation
25 officials; and

26 (2) submit the projects to the commission for final
27 approval.

1 (c) A metropolitan planning organization or rural planning
2 organization may delegate authority to select any category of
3 projects and order them in priority to the applicable department
4 district.

5 Sec. 201.659. PROCESS FOR DEVELOPING PLANS AND PROGRAMS.

6 The process for developing the plans and programs under this
7 subchapter must:

8 (1) provide for consideration of all modes of
9 transportation;

10 (2) be continuing, cooperative, and comprehensive to
11 the extent appropriate, based on the complexity of the
12 transportation problems to be addressed; and

13 (3) give consideration to statewide connectivity of
14 transportation services and infrastructure.

15 Sec. 201.660. PLANNING ORGANIZATION LONG-RANGE PLAN. (a)

16 A planning organization may also prepare and update periodically a
17 long-range transportation plan for its region.

18 (b) The first 10 years of the long-range plan shall be
19 identical to the plan developed under Section 201.656.

20 (c) Before approving a long-range transportation plan, a
21 planning organization shall provide to residents in its boundaries,
22 affected public agencies, and other interested parties a reasonable
23 opportunity to comment on the long-range transportation plan.

24 (d) A planning organization shall make each of its
25 long-range transportation plans readily available for public
26 review and shall deliver each plan to the commission at the times
27 and in the manner required by the commission.

1 Sec. 201.661. PARTICIPATION IN PLAN DEVELOPMENT. (a) In
2 developing a plan under this subchapter, a planning organization
3 shall seek the opinions and assistance of the appropriate
4 transportation officials.

5 (b) As appropriate, the department and a metropolitan
6 planning organization may enter into a memorandum of understanding
7 relating to the planning of transportation services.

8 (c) The department shall review the plans of each planning
9 organization to ensure compliance with the requirements of 23
10 U.S.C. Section 135, and provide assistance to a planning
11 organization to correct deficiencies.

12 Sec. 201.662. PLANS TO BE FINANCIALLY CONSTRAINED. A plan
13 under this subchapter must be financially constrained and identify
14 transportation projects and projects for any other mode of
15 transportation not included in Section 201.651(5).

16 Sec. 201.663. PLAN ADJUSTMENTS. The commission shall adopt
17 rules to allow a planning organization to move projects forward or
18 delay projects if there are additional or less funds available than
19 identified in the cash flow forecast under Section 201.654.
20 Adjustments to the plan may not be made more than semiannually,
21 unless there are substantial increases or decreases in available
22 funding.

23 Sec. 201.664. EVALUATION COMPONENT OF PLAN. A plan under
24 this subchapter shall include a component, published annually, that
25 describes the evaluation of transportation improvements based on
26 performance measures, such as indices that measure delay reductions
27 or travel time improvements. The planning organization shall

1 consider the performance measures in selecting transportation
2 improvements.

3 Sec. 201.665. DEPARTMENT'S STATEWIDE TRANSPORTATION
4 PROGRAM AND BUDGET. (a) The department shall use the planning
5 organizations' project lists to create the statewide
6 transportation program and budget. The statewide transportation
7 program and budget shall include at least:

8 (1) the department's operating budget;

9 (2) the official cash flow forecast under Section
10 201.654;

11 (3) the regions' allocations of funds;

12 (4) the projects selected by the planning organization
13 under Section 201.658; and

14 (5) the work plan required by Section 201.674.

15 (b) The statewide transportation program and budget shall
16 be complete and adopted not later than June 30 of each even-numbered
17 year. The commission shall adopt rules to create a process for
18 planning organizations to amend the plan from July 1 of each
19 even-numbered year until August 31 of the following year.
20 Amendments to the plan may only reorder projects identified in the
21 same region subject to Section 201.663.

22 Sec. 201.666. LENDING FUNDS BETWEEN PLANNING
23 ORGANIZATIONS. (a) The commission may adopt rules to allow a
24 planning organization to loan funds to another planning
25 organization at the lending organization's discretion. Funds may
26 be loaned under this section only to avoid the lapsing of federal
27 appropriations authority.

1 (b) The rules must allow the lending planning organization
2 to have a senior position with regard to any future allocated funds
3 of the borrowing planning organization.

4 (c) The lending planning organization may not charge
5 interest on funds borrowed by another planning organization that
6 exceed the current bond rate of outstanding state highway fund
7 bonds or in the absence of outstanding debt the prevailing market
8 rate for comparable municipal debt. The commission shall notify
9 all districts of that rate.

10 (d) A lending planning organization may not be penalized in
11 its performance measures if it successfully negotiates a loan with
12 another planning organization.

13 (e) The commission may be involved in the coordination of a
14 loan of funds under this section.

15 Sec. 201.667. ORGANIZATION OF STATEWIDE TRANSPORTATION
16 PROGRAM AND BUDGET. (a) The statewide transportation program and
17 budget shall be organized first by region, then by mode of
18 transportation, followed by the year of the project.

19 (b) The summary tables of the statewide transportation
20 program and budget shall summarize the statewide project cost by
21 mode and then by year and shall be made available online in
22 accordance with Section 201.807.

23 Sec. 201.668. TRANSPORTATION ALLOCATION FUNDING FORMULA.
24 (a) The commission shall adopt rules that create funding formulas
25 for transportation projects. In developing the formulas the
26 commission shall consider the input of planning organizations,
27 transportation officials, and county and municipal officials.

1 (b) All funds received by the department for highways,
2 including toll roads and toll road systems, that may be allocated in
3 this state's or the department's discretion shall be allocated by a
4 formula to each planning organization that is based on performance
5 measures and includes at least the following criteria:

6 (1) centerline miles;

7 (2) level of congestion;

8 (3) percentage of population below federal poverty
9 level;

10 (4) population;

11 (5) safety; and

12 (6) vehicle miles traveled.

13 (c) The commission shall allocate to the planning
14 organizations funding for the project costs of all transportation
15 projects. The commission shall adopt various formulas for the
16 different types of transportation projects, including funding for
17 statewide connectivity projects. The commission shall adopt rules
18 for all transportation formulas.

19 Sec. 201.669. USE OF ALLOCATED FUNDS. The funds allocated
20 to a planning organization under Section 201.668 may be used to:

21 (1) pay project costs, provide toll equity, or make
22 payments under a pass-through toll agreement, for transportation
23 projects selected by the planning organization;

24 (2) pay debt service;

25 (3) repay money borrowed from another region; or

26 (4) fund a planning organization's operations under
27 Section 201.672.

1 Sec. 201.670. SURPLUS REVENUE AND CONTRACT PAYMENTS NOT
2 ALLOCATED BY FORMULA. (a) Revenue from Sections 228.005,
3 228.0055, and 228.006 shall be allocated in accordance with
4 Subchapter B, Chapter 228.

5 (b) Funds associated with toll projects under Chapter 228
6 are not considered revenue allocated by a formula under Section
7 201.668.

8 Sec. 201.671. ENCUMBRANCE OF ALLOCATED FUNDS. (a) The
9 allocation of funds shall be encumbered in an amount equal to the
10 engineer's estimate of the project cost and reduced by the actual
11 project cost at the time payments associated with the project are
12 paid.

13 (b) If a planning organization elects to use bond proceeds
14 to advance a project, the allocation of funds shall be encumbered by
15 the annual cost of debt service and reduced when debt service
16 payments are paid.

17 Sec. 201.672. USE OF ALLOCATED FUNDS FOR OPERATING COSTS OF
18 PLANNING ORGANIZATION. (a) A metropolitan planning organization
19 operating in a transportation management area as defined by 23
20 U.S.C. Section 134(k) may use the allocated funds to pay for the
21 operations costs of the planning organization. The amount that may
22 be allocated to pay for the operations of the planning organization
23 may not exceed the lesser of \$10 million or 10 percent of the
24 planning organization's total funds.

25 (b) A metropolitan planning organization operating in an
26 area that is not a transportation management area may use the
27 allocated funds to pay for the operations costs of the planning

1 organization. The amount that may be allocated to pay for the
2 operations of the planning organization may not exceed the lesser
3 of \$3 million or 10 percent of the planning organization's total
4 funds.

5 (c) A rural planning organization may use the allocated
6 funds to pay for the operations costs of the planning organization.
7 The amount that may be allocated to pay for the operations of the
8 planning organization may not exceed the lesser of \$1 million or 10
9 percent of the planning organization's total allocated funds.

10 Sec. 201.673. COMMISSION EMERGENCY AND ECONOMIC
11 DEVELOPMENT FUNDS. (a) Notwithstanding Section 201.655(b), the
12 commission may annually set aside an amount of funds not to exceed
13 the lesser of 10 percent of the total funds allocated to all
14 districts or \$250 million for the purpose of addressing emergencies
15 or economic development opportunities that require transportation
16 infrastructure. The funds may be carried forward from year to year
17 but may not accumulate to more than \$1 billion.

18 (b) If the commission elects to set aside an amount of funds
19 under Subsection (a), the total amount of funds available for
20 allocation shall be reduced by the amount set aside before the
21 allocation of funds by the formula.

22 (c) The funds shall be encumbered in an amount equal to the
23 engineer's estimate of the project cost and reduced by the actual
24 project cost at the time payments associated with the project are
25 paid.

26 (d) The commission may use funds set aside under this
27 section for emergency and economic development opportunities that

1 require transportation infrastructure in the same manner a planning
2 organization may use money allocated under Section 201.669.

3 (e) If the commission elects to use bond proceeds to advance
4 a project, the funds shall be encumbered by the annual cost of debt
5 service and reduced when debt service payments are paid.

6 (f) The funds set aside under Subsection (a) may be used to
7 pay cost overruns and change orders only for projects selected by
8 the commission under this section.

9 (g) The commission may use the funds set aside under
10 Subsection (a) to make payments for projects funded in accordance
11 with Section 222.104 or to provide toll equity only if the
12 commission selects the projects using a competitive project
13 selection process.

14 Sec. 201.674. DEPARTMENT 10-YEAR BUSINESS WORK PLAN. On
15 completion of the 10-year transportation plan in Section 201.656,
16 the department shall use the prioritized lists of projects to
17 develop a proposed 10-year business work plan. The work plan shall
18 be adopted not later than August 31 of each even-numbered year and
19 include:

20 (1) a list of projects for which planning, permitting,
21 design, right-of-way acquisition, or construction work will be
22 conducted during the period;

23 (2) the state fiscal quarter in which key milestones
24 for each project will be reached, including environmental
25 clearance, completion of final engineering plans, completion of
26 right-of-way acquisition, letting to contract, and completion of
27 construction; and

1 (3) the funding allocated or estimated in each state
2 fiscal year for each category of work for each project.

3 Sec. 201.675. WORK PROGRAM. (a) Each department district
4 shall develop a consistently formatted work program based on the
5 department 10-year business work plan covering a period of four
6 years that contains all projects that the district proposes to
7 implement during that period.

8 (b) The department shall use the work program to:

9 (1) monitor the performance of the district; and

10 (2) evaluate the performance of district employees.

11 (c) The department shall publish the work program in
12 appropriate media and on the department's Internet website.

13 Sec. 201.676. STATEWIDE CONNECTIVITY PLAN AND PROJECTS. (a)
14 The department shall work with planning organizations to develop a
15 statewide connectivity plan.

16 (b) The department by rule shall:

17 (1) establish criteria for designating a project as a
18 statewide connectivity project; and

19 (2) develop benchmarks for evaluating the progress of
20 a statewide connectivity project and timelines for implementation
21 and construction of a statewide connectivity project.

22 (c) The department annually shall update the list of
23 projects that are designated as statewide connectivity projects.

24 (d) The commission shall adopt the statewide connectivity
25 plan.

26 Sec. 201.677. PAVEMENT MANAGEMENT INFORMATION SYSTEM. (a)
27 The department shall measure the condition of the pavement for each

1 highway under the jurisdiction of the department.

2 (b) The department shall establish a system that makes the
3 information collected under Subsection (a) available to the
4 planning organizations for use in determining transportation
5 projects.

6 Sec. 201.678. FINALIZED BIENNIAL PROJECT PLAN. In addition
7 to the plan required by Section 201.674 and other provisions of this
8 chapter, not later than August 31 of each odd-numbered year, the
9 department shall finalize a project plan for the period that begins
10 on September 1 of that year and ends on August 31 of the following
11 odd-numbered year. The plan must include:

12 (1) a project schedule with funding for each phase of
13 each project;

14 (2) a consultant acquisition plan with a schedule for
15 contract selections;

16 (3) a right-of-way acquisition plan; and

17 (4) a letting plan.

18 Sec. 201.679. PERFORMANCE MEASURES FOR BIENNIAL PROJECT
19 PLAN. (a) The department shall develop a set of performance
20 measures for the plan under Section 201.678 intended to measure:

21 (1) the execution of the work program;

22 (2) the efficiency and cost-effectiveness of its
23 business practices;

24 (3) the preservation of the system investment;

25 (4) the addition of new capacity to the system;

26 (5) safety initiatives; and

27 (6) utilization of minority, disadvantaged, and small

1 businesses.

2 (b) At a minimum, the performance measures adopted under
3 Subsection (a) must include:

4 (1) the percentage of projects for which environmental
5 clearance is obtained on or before the planned date;

6 (2) the number of engineering contracts or work orders
7 executed in contrast with the number planned;

8 (3) the average time between selection and execution
9 of a contract for engineering services;

10 (4) the number of right-of-way parcels acquired and
11 the number scheduled to be acquired;

12 (5) the percentage of projects for which right-of-way
13 acquisition is completed on or before the planned date;

14 (6) the percentage of parcels acquired through
15 negotiation;

16 (7) the percentage of negotiated parcels acquired for
17 an amount that does not exceed 120 percent of the initial department
18 offer;

19 (8) the total amount spent for right-of-way as a
20 percentage of the original estimated amount;

21 (9) the number of construction contracts entered into
22 in contrast with the number planned;

23 (10) the percentage of construction contracts
24 executed on or before the planned letting date;

25 (11) the total amount spent for construction contracts
26 as a percentage of the original estimated amount;

27 (12) for all construction contracts completed during

1 the state fiscal year, the percentage completed within 20 percent
2 of the original contract time;

3 (13) for all construction contracts completed during
4 the state fiscal year, the percentage completed within 10 percent
5 of the original contract price;

6 (14) construction contract adjustments as a
7 percentage of original contract price;

8 (15) the percentage of bridge structures on the state
9 highway system that have a rating of good or excellent;

10 (16) the percentage of bridge structures on the state
11 highway system that have a posted weight limitation;

12 (17) the number of bridge repair contracts let in
13 contrast with the number planned;

14 (18) the number of bridge replacement contracts let in
15 contrast with the number planned;

16 (19) the percentage of lane miles on the state highway
17 system that have a pavement condition rating of excellent or good;

18 (20) the number of lane miles on the state highway
19 system that were resurfaced in contrast with the number planned;

20 (21) the number of lane miles of capacity improvement
21 projects let in contrast with the number planned;

22 (22) of the federal funds subject to forfeiture at the
23 end of the state fiscal year, the percentage that was committed by
24 the department;

25 (23) the amounts of cash receipts and disbursements in
26 contrast with the forecasted amounts;

27 (24) the amount spent in connection with contracts

1 with minority business enterprises as a percentage of the amount
2 spent on all contracts;

3 (25) the number of construction contracts let in
4 contrast with the number let in previous state fiscal years;

5 (26) the peak hour travel congestion in the seven
6 largest metropolitan areas in contrast with previous state fiscal
7 years;

8 (27) the number of vehicle miles traveled in contrast
9 with previous state fiscal years; and

10 (28) the number of lane miles added as a percentage of
11 the number of previously existing lane miles.

12 (c) The department shall consult with the Transportation
13 Legislative Oversight Committee in developing the performance
14 measures under Chapter 205. This subsection expires August 31,
15 2013.

16 Sec. 201.680. PERFORMANCE REVIEW. Not later than December
17 1 of each odd-numbered year, the commission shall review the
18 performance of the department's duties under Section 201.678 and
19 make the review available to the public. The review must include a
20 report on the level of achievement of each performance measure
21 listed in Section 201.679(a), statewide and by department district,
22 and a status report on each major project under development.

23 SECTION 2.03. Subchapter J, Chapter 201, Transportation
24 Code, is amended by adding Sections 201.807, 201.808, and 201.809
25 to read as follows:

26 Sec. 201.807. PROJECT INFORMATION REPORTING SYSTEM. (a)
27 The department shall establish a project information reporting

1 system that makes available in a central location on the
2 department's Internet website easily accessible and searchable
3 information to enable the tracking of project development and the
4 expenditure of funds in the department's statewide transportation
5 program and budget. The project information reporting system shall
6 contain information about:

7 (1) each project, including:

8 (A) the status of the project;

9 (B) each source of funding for the project;

10 (C) benchmarks for evaluating the progress of the
11 project;

12 (D) timelines for completing the project;

13 (E) a list of the department employees
14 responsible for the project, including information to contact each
15 person on that list; and

16 (F) the results of the annual review required
17 under Subsection (e);

18 (2) each construction work zone for a project that has
19 a construction phase timeline that exceeds one month or the cost of
20 which exceeds \$5 million, including information about:

21 (A) the number of lanes that will remain open
22 during the project's construction phase;

23 (B) the location and duration of each lane
24 closure; and

25 (C) the expected and actual traffic delay
26 resulting from each lane closure;

27 (3) road maintenance projects, including:

1 (A) the criteria for designating a project as a
2 road maintenance project; and

3 (B) the condition of each road before the road
4 maintenance project; and

5 (4) the department's funds, including each source for
6 the department's funds and each expenditure made by the department
7 reported by each:

8 (A) department district;

9 (B) program funding category; and

10 (C) type of revenue, including revenue from a
11 comprehensive development agreement or a toll project.

12 (b) The department shall develop an interactive web-based
13 system for the tracking of planning organization allocations and
14 projects under Subchapter H-1. The planning organizations shall be
15 granted access to the system through a secure site to input
16 information regarding projects and the associated project costs.
17 The system shall provide the planning organization information
18 regarding the organization's allocation of funding for the region
19 and the federal and state requirements for each source of funding.

20 (c) In developing the project information reporting system,
21 the department shall collaborate with:

22 (1) the legislature;

23 (2) planning organizations, as defined by Section
24 201.651; and

25 (3) members of the public.

26 (d) The department shall make the statistical information
27 provided under this section available on the department's Internet

1 website in more than one downloadable electronic format.

2 (e) As a component of the project information reporting
3 system required by this section, the department shall conduct an
4 annual review of the benchmarks and timelines of each project
5 included in the department's statewide transportation program and
6 budget to determine the completion rates of the projects and
7 whether the projects were completed on time.

8 (f) The department shall continuously update the
9 information contained in the project information reporting system.

10 Sec. 201.808. TRANSPORTATION EXPENDITURE PRIORITIES. (a)
11 The department shall develop a process to identify and distinguish
12 between the transportation projects that are required to maintain
13 the state infrastructure and the transportation projects that would
14 improve the state infrastructure.

15 (b) The department shall establish a transportation
16 expenditure reporting system that makes available in a central
17 location on the department's Internet website easily accessible and
18 searchable information regarding the priorities of transportation
19 expenditures for the identified transportation projects.

20 (c) The department shall include in the transportation
21 expenditure reporting system:

22 (1) reports prepared by the department or an
23 institution of higher education that evaluate the effectiveness of
24 the department's expenditures on transportation projects;

25 (2) information about the condition of the pavement
26 for each highway under the jurisdiction of the department,
27 including:

1 (A) the international roughness index issued by
2 the United States Department of Transportation Federal Highway
3 Administration; and

4 (B) the percentage of pavement that the
5 department determines to be in good or better condition;

6 (3) the condition of bridges, including information
7 about:

8 (A) bridges that are structurally deficient or
9 functionally obsolete; and

10 (B) bridge deterioration scores;

11 (4) information about traffic congestion and traffic
12 delays, including:

13 (A) the locations of the worst traffic delays;

14 (B) the variable travel time for major streets
15 and highways in this state; and

16 (C) the effect of traffic congestion on motor
17 vehicle travel and motor carriers; and

18 (5) information about the number of traffic accidents,
19 injuries, and fatalities, including a list of the locations in each
20 department district for the highest number of traffic accidents,
21 injuries, or fatalities.

22 (d) The department shall provide the information made
23 available under Subsection (c) in a format that allows a person to
24 conduct electronic searches for information regarding a specific
25 county, highway under the jurisdiction of the department, or class
26 of road.

27 (e) Each department district or planning organization, as

1 that term is defined by Section 201.651, shall enter information
2 into the transportation expenditure reporting system, including
3 information about each project and the priority of each project.

4 (f) The transportation expenditure reporting system shall
5 allow a person to compare information produced by that system to
6 information produced by the project information reporting system.

7 Sec. 201.809. DEPARTMENT INFORMATION CONSOLIDATION. To the
8 extent practicable and to avoid duplication of reporting
9 requirements, the department may combine the reports required under
10 this subchapter with reports required under other provisions of
11 this code.

12 SECTION 2.04. Section 222.034(b), Transportation Code, is
13 amended to read as follows:

14 (b) The commission may vary from the distribution procedure
15 provided by Subsection (a) if it issues a ruling or minute order
16 identifying the variance and providing a particular justification
17 for the variance. If the commission intends to vary from the
18 distribution procedure, it must allocate the funding in accordance
19 with a formula adopted under Section 201.668.

20 SECTION 2.05. Section 222.105, Transportation Code, is
21 amended to read as follows:

22 Sec. 222.105. PURPOSES. The purposes of Sections 222.106
23 and 222.107 are to:

- 24 (1) promote public safety;
- 25 (2) facilitate the improvement, development, or
26 redevelopment of property;
- 27 (3) facilitate the movement of traffic; and

1 (4) enhance a local entity's ability to sponsor a
2 transportation project authorized under Section 222.104.

3 SECTION 2.06. Section 222.106, Transportation Code, is
4 amended by amending Subsections (b), (c), (g), (h), (i), (j), (k),
5 and (l) and adding Subsections (i-1) and (i-2) to read as follows:

6 (b) This section applies only to a municipality in which a
7 transportation project is to be developed [~~the governing body of~~
8 ~~which intends to enter into an agreement with the department~~] under
9 Section 222.104.

10 (c) If the governing body determines an area to be
11 unproductive and underdeveloped and that action under this section
12 will further the purposes stated in Section 222.105, the governing
13 body of the municipality by ordinance may designate a contiguous
14 geographic area in the jurisdiction of the municipality to be a
15 transportation reinvestment zone to promote a transportation
16 project [~~described by Section 222.104 that cultivates development~~
17 ~~or redevelopment of the area~~].

18 (g) The ordinance designating an area as a transportation
19 reinvestment zone must:

20 (1) describe the boundaries of the zone with
21 sufficient definiteness to identify with ordinary and reasonable
22 certainty the territory included in the zone;

23 (2) provide that the zone takes effect immediately on
24 passage of the ordinance;

25 (3) assign a name to the zone for identification, with
26 the first zone designated by a municipality designated as
27 "Transportation Reinvestment Zone Number One, (City or Town, as

1 applicable) of (name of municipality)," and subsequently
2 designated zones assigned names in the same form, numbered
3 consecutively in the order of their designation;

4 (4) designate the base year for purposes of
5 establishing the tax increment base of the municipality;

6 (5) establish an ad valorem tax increment account for
7 the zone; and

8 (6) ~~(5)~~ contain findings that promotion of the
9 transportation project will cultivate the improvement,
10 development, or redevelopment of the zone.

11 (h) From taxes collected on property in a zone, the
12 municipality shall pay into the tax increment account for the zone
13 ~~[an amount equal to]~~ the tax increment produced by the
14 municipality, less any amount allocated under previous agreements,
15 including agreements under Chapter 380, Local Government Code, or
16 Chapter 311, Tax Code.

17 (i) All or the portion specified by the municipality of the
18 money deposited to a tax increment account must be used to fund the
19 transportation project for which the zone was designated, as well
20 as aesthetic improvements within the zone. Any remaining money
21 deposited to the tax increment account may be used for other
22 purposes as determined by the municipality ~~[Money deposited to a~~
23 ~~tax increment account must be used to fund projects authorized~~
24 ~~under Section 222.104, including the repayment of amounts owed~~
25 ~~under an agreement entered into under that section].~~

26 (i-1) The governing body of a municipality may contract with
27 a public or private entity to develop, redevelop, or improve a

1 transportation project in a transportation reinvestment zone and
2 may pledge and assign all or a specified amount of money in the tax
3 increment account to that entity. After a pledge or assignment is
4 made, if the entity that received the pledge or assignment has
5 itself pledged or assigned that amount to secure bonds or other
6 obligations issued to obtain funding for the transportation
7 project, the governing body of the municipality may not rescind its
8 pledge or assignment until the bonds or other obligations secured
9 by the pledge or assignment have been paid or discharged.

10 (i-2) To accommodate changes in the limits of the project
11 for which a reinvestment zone was designated, the boundaries of a
12 zone may be amended at any time, except that property may not be
13 removed or excluded from a designated zone if any part of the tax
14 increment account has been assigned or pledged directly by the
15 municipality or through another entity to secure bonds or other
16 obligations issued to obtain funding of the project, and property
17 may not be added to a designated zone unless the governing body of
18 the municipality complies with Subsections (e) and (g).

19 (j) Except as provided by Subsections (i-1) and
20 [Subsection] (k), a transportation reinvestment zone terminates on
21 December 31 of the year in which the municipality completes
22 [complies with] a contractual requirement, if any, that included
23 the pledge or assignment of all or a portion of money deposited to a
24 tax increment account or the repayment of money owed under an [the]
25 agreement for development, redevelopment, or improvement of the
26 project for [under Section 222.104 in connection with] which the
27 zone was designated.

1 (k) A transportation reinvestment zone terminates on
2 December 31 of the 10th year after the year the zone was designated,
3 if before that date the municipality has not entered into a contract
4 described in Subsection (i-1) or otherwise not used the zone for the
5 purpose for which it was designated.

6 (l) Any surplus remaining in a tax increment account on
7 termination of a zone may be used for other purposes as determined
8 by [~~transportation projects of~~] the municipality [~~in or outside of~~
9 ~~the zone~~].

10 SECTION 2.07. The heading to Section 222.107,
11 Transportation Code, is amended to read as follows:

12 Sec. 222.107. COUNTY TRANSPORTATION REINVESTMENT ZONES [~~+~~
13 ~~TAX ABATEMENTS, ROAD UTILITY DISTRICTS~~].

14 SECTION 2.08. Section 222.107, Transportation Code, is
15 amended by amending Subsections (b), (c), (e), (f), (h), (i), (k),
16 and (l) and adding Subsections (h-1) and (k-1) to read as follows:

17 (b) This section applies only to a county in which a
18 transportation project is to be developed [~~the commissioners court~~
19 ~~of which intends to enter into a pass-through toll agreement with~~
20 ~~the department~~] under Section 222.104.

21 (c) The commissioners court of the county, after
22 determining that an area is unproductive and underdeveloped and
23 that action under this section would further the purposes described
24 by Section 222.105, by order or resolution may designate a
25 contiguous geographic area in the jurisdiction of the county to be a
26 transportation reinvestment zone to promote a transportation
27 project [~~described by Section 222.104 that cultivates development~~

1 ~~or redevelopment of the area]~~ and for the purpose of abating ad
2 valorem taxes or granting other relief from taxes imposed by the
3 county on real property located in the zone.

4 (e) Not later than the 30th day before the date the
5 commissioners court proposes to designate an area as a
6 transportation reinvestment zone under this section, the
7 commissioners court must hold a public hearing on the creation of
8 the zone, its benefits to the county and to property in the proposed
9 zone, and the abatement of ad valorem taxes or the grant of other
10 relief from ad valorem taxes imposed by the county on real property
11 located in the zone. At the hearing an interested person may speak
12 for or against the designation of the zone, its boundaries, or the
13 abatement of or the relief from county taxes on real property in the
14 zone. Not later than the seventh day before the date of the
15 hearing, notice of the hearing and the intent to create a zone must
16 be published in a newspaper having general circulation in the
17 county.

18 (f) The order or resolution designating an area as a
19 transportation reinvestment zone must:

20 (1) describe the boundaries of the zone with
21 sufficient definiteness to identify with ordinary and reasonable
22 certainty the territory included in the zone;

23 (2) provide that the zone takes effect immediately on
24 adoption of the order or resolution; ~~and~~

25 (3) assign a name to the zone for identification, with
26 the first zone designated by a county designated as "Transportation
27 Reinvestment Zone Number One, County of (name of county)," and

1 subsequently designated zones assigned names in the same form
2 numbered consecutively in the order of their designation; and

3 (4) designate the base year for purposes of
4 establishing the tax increment base of the county.

5 (h) The commissioners court by order or resolution may enter
6 into an agreement with the owner of any real property located in the
7 transportation reinvestment zone to abate all or a portion of the ad
8 valorem taxes or to grant other relief from the taxes imposed by the
9 county on the owner's property in an amount not to exceed the amount
10 calculated under Subsection (a)(1) for that year. All abatements
11 or other relief granted by the commissioners court in a
12 transportation reinvestment zone must be equal in rate. In the
13 alternative, the commissioners court by order or resolution may
14 elect to abate a portion of the ad valorem taxes or otherwise grant
15 relief from the taxes imposed by the county on all real property
16 located in the zone. In any ad valorem tax year, the total amount
17 of the taxes abated or the total amount of relief granted under this
18 section may not exceed the amount calculated under Subsection
19 (a)(1) for that year, less any amounts allocated under previous
20 agreements, including agreements under Chapter 381, Local
21 Government Code, or Chapter 312, Tax Code.

22 (h-1) To further the development of the transportation
23 project for which the transportation reinvestment zone was
24 designated, a county may assess all or part of the cost of the
25 transportation project against property within the zone. The
26 assessment against each property in the zone may be levied and
27 payable in installments in the same manner as provided by Sections

1 372.016-372.018, Local Government Code, provided that the
2 installments do not exceed the total amount of the tax abatement or
3 other relief granted under Subsection (h). The county may elect to
4 adopt and apply the provisions of Sections 372.015-372.020 and
5 372.023, Local Government Code, to the assessment of costs and
6 Sections 372.024-372.030, Local Government Code, to the issuance of
7 bonds by the county to pay the cost of a transportation project. The
8 commissioners court of the county may contract with a public or
9 private entity to develop, redevelop, or improve a transportation
10 project in the transportation reinvestment zone, including
11 aesthetic improvements, and may pledge and assign to that entity
12 all or a specified amount of the revenue the county receives from
13 installment payments of the assessments for the payment of the
14 costs of that transportation project. After a pledge or assignment
15 is made, if the entity that received the pledge or assignment has
16 itself pledged or assigned that amount to secure bonds or other
17 obligations issued to obtain funding for the transportation
18 project, the commissioners court of the county may not rescind its
19 pledge or assignment until the bonds or other obligations secured
20 by the pledge or assignment have been paid or discharged. Any
21 amount received from installment payments of the assessments not
22 pledged or assigned in connection with the transportation project
23 may be used for other purposes associated with the transportation
24 project or in the zone.

25 (i) In the alternative, to [~~To~~] assist the county in
26 developing a transportation project [~~authorized under Section~~
27 ~~222.104~~], if authorized by the commission under Chapter 441, a road

1 utility district may be formed under that chapter that has the same
2 boundaries as a transportation reinvestment zone created under this
3 section.

4 (k) A road utility district formed as provided by Subsection
5 (i) may enter into an agreement [~~with the county to assume the~~
6 ~~obligation, if any, of the county~~] to fund development of a project
7 [~~under Section 222.104~~] or to repay funds owed to the department
8 [~~under Section 222.104~~]. Any amount paid for this purpose is
9 considered to be an operating expense of the district. Any taxes
10 collected by the district that are not paid for this purpose may be
11 used for any district purpose.

12 (k-1) To accommodate changes in the limits of the project
13 for which a reinvestment zone was designated, the boundaries of a
14 zone may be amended at any time, except that property may not be
15 removed or excluded from a designated zone if any part of the
16 assessment has been assigned or pledged directly by the county or
17 through another entity to secure bonds or other obligations issued
18 to obtain funding of the project, and property may not be added to a
19 designated zone unless the governing body of the municipality
20 complies with Subsections (e) and (f).

21 (l) Except as provided by Subsection (m), a tax abatement
22 agreement entered into under Subsection (h), or an order or
23 resolution on the abatement of taxes or the grant of relief from
24 taxes under that subsection, terminates on December 31 of the year
25 in which the county completes any contractual requirement that
26 included the pledge or assignment of assessments [~~of money~~]
27 collected under this section.

1 SECTION 2.09. Subchapter E, Chapter 222, Transportation
2 Code, is amended by adding Sections 222.108 and 222.109 to read as
3 follows:

4 Sec. 222.108. TRANSPORTATION REINVESTMENT ZONES FOR OTHER
5 TRANSPORTATION PROJECTS. (a) Notwithstanding the requirement in
6 Sections 222.106(b) and 222.107(b) that a transportation
7 reinvestment zone be established in connection with a project under
8 Section 222.104, a municipality or county may establish a
9 transportation reinvestment zone for any transportation project.
10 If all or part of the transportation project is subject to oversight
11 by the department, at the option of the governing body of the
12 municipality or county, the department shall delegate full
13 responsibility for the development, design, letting of bids, and
14 construction of the project, including project oversight and
15 inspection, to the municipality or county provided that the
16 commission or department may take any action that in its reasonable
17 judgment is necessary to comply with any federal requirement to
18 enable this state to receive federal-aid highway funds.

19 (b) A transportation project developed under Subsection (a)
20 that is on the state highway system must comply with state design
21 criteria unless the department grants an exception to the
22 municipality or county.

23 (c) In this section, "transportation project" has the
24 meaning assigned by Section 370.003.

25 Sec. 222.109. REDUCTION PROHIBITED. (a) A municipality or
26 county may not be penalized with a reduction in traditional
27 transportation funding because of the designation and use of a

1 transportation reinvestment zone under this chapter. Any funding
2 from the department identified for a project before the date that a
3 transportation reinvestment zone is designated may not be reduced
4 because the transportation reinvestment zone is designated in
5 connection with that project.

6 (b) The department may not reduce any allocation of
7 traditional transportation funding to any of its districts because
8 a district contains a municipality or county that contains a
9 transportation reinvestment zone designated under this chapter.

10 SECTION 2.10. (a) Section 223.041, Transportation Code, is
11 amended by adding Subsections (c), (d), (e), and (f) to read as
12 follows:

13 (c) Of the positions paid out of funds appropriated to the
14 department for the planning, design, and management of
15 transportation projects in the General Appropriations Act
16 (Strategy A.1.1., or its successor), the department may fill only
17 one of every five positions until staffing levels are reduced by 40
18 percent from the level existing as of August 31, 2009, or to a level
19 not to exceed 2,500 positions, with commensurate reductions in
20 associated administrative costs.

21 (d) The department shall report to the Legislative Budget
22 Board not later than September 1 of each year on the department's
23 progress in achieving the goal set by Subsection (c).

24 (e) The Legislative Budget Board may modify the
25 requirements of Subsection (c) if, after a study by the State
26 Council on Competitive Government, the board finds that it is not
27 possible for the department to obtain services from the private

1 sector on a cost-effective basis. A study conducted under this
2 section must:

3 (1) analyze the full costs of the department's total
4 plan/design/manage function, with indirect costs allocated in
5 proportion to chargeable salaries in a manner comparable to private
6 providers;

7 (2) analyze the department's historic costs of
8 procuring services from private sector providers, including the
9 costs of comprehensive project delivery services;

10 (3) review and analyze the costs that other public
11 entities have for procuring project delivery and engineering
12 services from private sector providers for large-scale
13 construction projects; and

14 (4) review and make recommendations regarding
15 engineering management practices used by other public entities that
16 could improve the efficiency of the department's project delivery
17 and engineering management system.

18 (f) If the Legislative Budget Board makes a request for a
19 study under Subsection (e), the costs of the study shall be paid by
20 the department through interagency contract. The study shall be
21 managed by the State Council on Competitive Government but may be
22 performed by an independent contractor.

23 SECTION 2.11. Section 222.053, Transportation Code, is
24 amended by amending Subsection (b) and adding Subsection (i) to
25 read as follows:

26 (b) Except as provided by Subsections [~~Subsection~~] (c) and
27 (i), the commission may require, request, or accept from a

1 political subdivision matching or other local funds,
2 rights-of-way, utility adjustments, additional participation,
3 planning, documents, or any other local incentives to make the most
4 efficient use of its highway funding.

5 (i) The commission may waive, from a political subdivision,
6 matching or other local funds, rights-of-way, utility adjustments,
7 additional participation, planning, documents, or any other local
8 incentives for a designated Texas Highway Trunk System project
9 located in:

- 10 (1) a county with a population of less than 5,000; or
11 (2) a county with a population of 5,000 or more but
12 less than 15,000 if the project is part of a high priority corridor
13 on the national highway system identified under Section 1105 of the
14 Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L.
15 No. 102-240) or other federal legislation.

16 SECTION 2.12. (a) Subchapter D, Chapter 472, Transportation
17 Code, is amended by adding Sections 472.0311 through 472.0316 and
18 472.035 through 472.046 to read as follows:

19 Sec. 472.0311. PURPOSE. (a) The metropolitan
20 transportation planning process described by this subchapter is
21 intended to:

22 (1) encourage and promote the safe and efficient
23 management, operation, and development of surface transportation
24 systems to serve the mobility needs of people and freight;

25 (2) foster economic growth and development in and
26 through urbanized areas of this state; and

27 (3) minimize transportation-related fuel consumption,

1 air pollution, and greenhouse gas emissions.

2 (b) To accomplish the objectives under Subsection (a),
3 metropolitan planning organizations shall develop, in cooperation
4 with this state and public transit operators, transportation plans
5 and programs for metropolitan areas in this state.

6 (c) The plans and programs for each metropolitan area must
7 provide for the development and integrated management and operation
8 of transportation systems and facilities, including pedestrian
9 walkways and bicycle transportation facilities that will function
10 as an intermodal transportation system for the metropolitan area.

11 (d) The process for developing plans and programs under this
12 subchapter shall provide for consideration of all modes of
13 transportation and be continuing, cooperative, and comprehensive,
14 to the degree appropriate, based on the complexity of the
15 transportation issues to be addressed.

16 (e) To ensure that the process is integrated with the
17 statewide planning process, metropolitan planning organizations
18 shall develop plans and programs that identify transportation
19 facilities that should function as an integrated metropolitan
20 transportation system and give emphasis to facilities that serve
21 important national, state, and regional transportation functions.

22 Sec. 472.0312. DESIGNATION AND BOUNDARIES. (a) A
23 metropolitan planning organization must be designated or
24 redesignated in accordance with, and its boundaries determined by,
25 23 U.S.C. Section 134.

26 (b) Each designated metropolitan planning organization
27 must be fully operational not later than the 180th day after the

1 date of its designation.

2 Sec. 472.0313. POLICY BOARD OFFICERS. (a) Each policy
3 board shall designate, at a minimum, a presiding officer, an
4 assistant presiding officer, and a secretary.

5 (b) The policy board shall select from among its members the
6 presiding officer and assistant presiding officer.

7 (c) The secretary of the policy board shall prepare meeting
8 minutes and maintain board records. The secretary may be a member of
9 the policy board, an employee of the metropolitan planning
10 organization, or any other individual.

11 Sec. 472.0314. OPEN MEETINGS. A policy board is subject to
12 Chapter 551, Government Code.

13 Sec. 472.0315. POLICY BOARD MEMBERSHIP AND VOTING
14 REQUIREMENTS; ELIGIBILITY FOR STATE ALLOCATION OF FUNDING. (a) To
15 be eligible to receive funds from this state for transportation
16 projects under Section 201.668:

17 (1) at least 75 percent of a metropolitan planning
18 organization's policy board members must be elected officials who
19 are elected in the boundaries of the metropolitan planning
20 organization; and

21 (2) only elected officials may be voting members of
22 the organization's policy board.

23 (b) A metropolitan planning organization that is not
24 eligible under Subsection (a) may redesignate the board so as to
25 become eligible to receive an allocation of funds under Section
26 201.668.

27 (c) In this section, "elected official" means the presiding

1 officer or a member of the governing body of a municipality, a
2 county judge, a county commissioner, a state representative, or a
3 state senator.

4 Sec. 472.0316. REPRESENTATION OF TRANSPORTATION-RELATED
5 ENTITIES. (a) In metropolitan areas in which authorities or other
6 agencies have been or may be created by law to perform
7 transportation functions and are performing transportation
8 functions that are not under the jurisdiction of a municipality or
9 county represented on the metropolitan planning organization, the
10 authorities or other agencies may be provided voting membership on
11 the policy board.

12 (b) In all other metropolitan planning organizations in
13 which transportation authorities or agencies are to be represented
14 by elected officials from a municipality or county, the
15 organization shall establish a process by which the collective
16 interests of such authorities or other agencies are expressed and
17 conveyed.

18 Sec. 472.035. POWERS, DUTIES, AND RESPONSIBILITIES. (a)
19 The powers, duties, and responsibilities of a metropolitan planning
20 organization are those specified in this subchapter or incorporated
21 in an interlocal agreement entered into to implement this
22 subchapter.

23 (b) Each metropolitan planning organization shall perform
24 all acts required by applicable federal or state law or rules that
25 are necessary to qualify for federal aid.

26 Sec. 472.036. PLANNING. (a) To the extent permitted by
27 state or federal law, a metropolitan planning organization shall:

1 (1) be involved in the planning and programming of
2 transportation facilities, including airports, intermunicipal and
3 high-speed rail lines, seaports, and intermodal facilities; and

4 (2) in cooperation with the department, develop:

5 (A) a long-range transportation plan as required
6 by Section 472.042;

7 (B) an annually updated transportation
8 improvement program as required by Section 472.043; and

9 (C) an annual unified planning work program as
10 required by Section 472.044.

11 (b) In developing the long-range transportation plan and
12 the transportation improvement program under Subsection (a), each
13 metropolitan planning organization shall consider projects and
14 strategies that will:

15 (1) support the economic vitality of the metropolitan
16 area, especially by enabling global competitiveness, productivity,
17 and efficiency;

18 (2) increase the safety and security of the
19 transportation system for motorized and nonmotorized users;

20 (3) increase the accessibility and mobility options
21 available to people and for freight;

22 (4) protect and enhance the environment, promote
23 energy conservation, and improve quality of life;

24 (5) enhance the integration and connectivity of the
25 transportation system, across and between modes, for people and
26 freight;

27 (6) promote efficient system management and

1 operation; and

2 (7) emphasize the preservation of the existing
3 transportation system.

4 (c) To provide recommendations to the department and local
5 governmental entities regarding transportation plans and programs,
6 each metropolitan planning organization shall:

7 (1) prepare a congestion management system for the
8 metropolitan area and cooperate with the department in the
9 development of any other transportation management system required
10 by state or federal law;

11 (2) assist the department in mapping transportation
12 planning boundaries required by state or federal law;

13 (3) assist the department in performing its duties
14 relating to access management, functional classification of roads,
15 and data collection;

16 (4) execute all agreements or certifications
17 necessary to comply with applicable state or federal law;

18 (5) represent all the jurisdictional areas in the
19 metropolitan area in the formulation of a transportation plan or
20 program required by this subchapter; and

21 (6) perform all other duties required by state or
22 federal law.

23 Sec. 472.037. TECHNICAL ADVISORY COMMITTEE. (a) Each
24 metropolitan planning organization shall appoint a technical
25 advisory committee whose members serve at the pleasure of the
26 metropolitan planning organization.

27 (b) The membership of the technical advisory committee must

1 include, if possible:

2 (1) planners;

3 (2) engineers;

4 (3) a representative of each political subdivision or
5 agency or department of a political subdivision that provides
6 transportation services, including, as applicable:

7 (A) a port authority, navigation district, or
8 public transit authority; or

9 (B) a county or municipal airport or transit
10 department;

11 (4) the superintendent of each school district in the
12 jurisdiction of the metropolitan planning organization or a person
13 designated by the superintendent; and

14 (5) other appropriate representatives of affected
15 local governments.

16 Sec. 472.038. SAFE ACCESS TO SCHOOLS. (a) In addition to any
17 other duty assigned to it by the metropolitan planning organization
18 or by state or federal law, the technical advisory committee is
19 responsible for considering safe access to schools in its review of
20 transportation project priorities, long-range transportation
21 plans, and transportation improvement programs and shall advise the
22 metropolitan planning organization on those issues.

23 (b) The technical advisory committee shall coordinate its
24 actions with local school boards and other local programs and
25 organizations in the metropolitan area that participate in school
26 safety activities, including locally established community traffic
27 safety teams.

1 (c) A school board must provide the appropriate
2 metropolitan planning organization with information concerning
3 future school sites and the coordination of transportation
4 services.

5 Sec. 472.039. EMPLOYEES. (a) Each metropolitan planning
6 organization shall employ:

7 (1) an executive or staff director who reports
8 directly to the organization's policy board for all matters
9 regarding the administration and operation of the metropolitan
10 planning organization; and

11 (2) any additional personnel the policy board
12 considers necessary.

13 (b) The executive or staff director and additional
14 personnel may be employed by the metropolitan planning organization
15 or by another governmental entity, including a county,
16 municipality, or regional planning organization that has a staff
17 services agreement with the metropolitan planning organization.

18 (c) A metropolitan planning organization may enter into a
19 contract with a local or state agency, private planning firm,
20 private engineering firm, or other public or private entity to
21 accomplish the metropolitan planning organization's transportation
22 planning and programming duties and administrative functions.

23 Sec. 472.040. TRAINING. (a) To enhance its members'
24 knowledge, effectiveness, and participation in the transportation
25 planning process, a metropolitan planning organization shall
26 provide training opportunities and funds for the organization's
27 members.

1 (b) Training of its policy board members may be conducted by
2 the metropolitan planning organization or through statewide or
3 federal training programs and initiatives that are specifically
4 designed to meet the needs of metropolitan planning organization
5 policy board members.

6 Sec. 472.041. COORDINATION WITH OTHER ENTITIES. A
7 metropolitan planning organization may join with any other
8 metropolitan planning organization or an individual political
9 subdivision to:

10 (1) coordinate activities; or

11 (2) achieve any federal or state transportation
12 planning or development goal or purpose consistent with federal or
13 state law.

14 Sec. 472.042. LONG-RANGE TRANSPORTATION PLAN. Each
15 metropolitan planning organization shall develop a long-range
16 transportation plan that addresses at least a 20-year period. The
17 plan must include both long-range and short-range strategies and
18 comply with all other state and federal requirements.

19 Sec. 472.043. TRANSPORTATION IMPROVEMENT PROGRAM. (a)
20 Each metropolitan planning organization shall develop annually a
21 list of project priorities and a transportation improvement
22 program. The prevailing principles to be considered by the
23 metropolitan planning organization when developing a list are:

24 (1) preserving the existing transportation
25 infrastructure;

26 (2) enhancing the economic competitiveness of this
27 state; and

1 (3) improving travel choices to ensure mobility.

2 (b) The transportation improvement program may be used to
3 initiate federally aided transportation facilities and
4 improvements and other transportation facilities and improvements,
5 including transit, rail, aviation, and port facilities.

6 (c) The transportation improvement program must be
7 consistent, to the maximum extent feasible, with comprehensive
8 plans of the political subdivisions the boundaries of which are in
9 the metropolitan area served by the metropolitan planning
10 organization.

11 Sec. 472.044. UNIFIED PLANNING WORK PROGRAM. (a) Each
12 metropolitan planning organization shall develop, in cooperation
13 with the department and public transit operators, a unified
14 planning work program that lists all planning tasks to be
15 undertaken during the program year.

16 (b) The unified planning work program must provide a
17 complete description of each planning task and an estimated budget
18 for that task and must comply with applicable state and federal law.

19 Sec. 472.045. APPLICATION OF FEDERAL LAW. (a) On
20 notification by an agency of the federal government that a
21 provision of this subchapter conflicts with a federal law or
22 regulation, the federal law or regulation takes precedence to the
23 extent of the conflict until the conflict is resolved.

24 (b) The department or a metropolitan planning organization
25 may take any action necessary to comply with federal laws and
26 regulations or to continue to remain eligible to receive federal
27 funds.

1 Sec. 472.046. PUBLICATION OF INFORMATION ON INTERNET
2 WEBSITE. A metropolitan planning organization shall publish
3 financial information on its Internet website, including
4 information regarding:

- 5 (1) budgeted annual revenues and expenditures;
6 (2) actual annual revenues and expenditures; and
7 (3) staffing levels.

8 (b) A metropolitan planning organization is not required to
9 designate officers in accordance with Section 472.0313,
10 Transportation Code, as added by this section, and a technical
11 advisory committee of a metropolitan planning organization is not
12 required to comply with Section 472.037, Transportation Code, as
13 added by this section, before January 1, 2010.

14 SECTION 2.13. Section 472.032, Transportation Code, is
15 amended to read as follows:

16 Sec. 472.032. VOTING PROXIES BY POLICY BOARD MEMBERS
17 PROHIBITED. (a) A policy board may not allow its members to vote by
18 proxy [~~provide in its bylaws for appointment of voting proxies by~~
19 ~~its members~~].

20 (b) [~~A proxy appointed under Subsection (a):~~
21 [~~(1) acts on behalf of and under the supervision of the~~
22 ~~policy board member who appointed the proxy,~~
23 [~~(2) must be appointed in writing, and~~
24 [~~(3) is authorized to vote for the policy board member~~
25 ~~who appointed the proxy to the extent the member has given the proxy~~
26 ~~the member's voting power.~~

27 [~~(c)~~] A legislative member of a policy board may not be

1 counted as absent at a meeting of the policy board during a
2 legislative session.

3 ~~[(d) A legislative member of a policy board may only appoint~~
4 ~~a proxy under Subsection (a) who is:~~

5 ~~[(1) the legislative member's employee or staff~~
6 ~~member;~~

7 ~~[(2) a person related to the member within the second~~
8 ~~degree by consanguinity, as determined under Subchapter B, Chapter~~
9 ~~573, Government Code, who is not required to register as a lobbyist~~
10 ~~under Chapter 305, Government Code;~~

11 ~~[(3) another legislative member of the policy board;~~
12 ~~or~~

13 ~~[(4) a locally elected official.]~~

14 ARTICLE 2A. INSPECTOR GENERAL

15 SECTION 2A.01. Chapter 201, Transportation Code, is amended
16 by adding Subchapter F-1 to read as follows:

17 SUBCHAPTER F-1. INSPECTOR GENERAL

18 Sec. 201.451. INSPECTOR GENERAL. (a) The commission shall
19 appoint an inspector general who reports to the commission.

20 (b) The inspector general shall:

21 (1) audit the department's financial condition and the
22 efficiency of its business practices;

23 (2) evaluate the efficiency of the department's
24 administrative practices and performance, including business plan
25 performance measures, relationships with metropolitan planning
26 organizations, performance of department districts and offices,
27 and the need for standardization;

1 (3) identify the need and opportunities for reductions
2 in staff and the need for a better or differently skilled workforce;

3 (4) study the implementation of and improvements to a
4 commitment-based budget or business plan based on outcomes;

5 (5) identify ways to streamline the environmental
6 approval process;

7 (6) evaluate compliance with applicable laws and
8 legislative intent; and

9 (7) evaluate the efficient use of available funding,
10 personnel, equipment, and office space.

11 (c) Notwithstanding Subsection (a), the Transportation
12 Legislative Oversight Committee under Chapter 205 shall appoint the
13 inspector general under this section. If appointed under this
14 subsection, the inspector general is subject to removal for good
15 cause by the commission. If the supreme court of this state
16 determines that an appointment under this subsection violates
17 Section 1, Article II, or Section 12, Article IV, Texas
18 Constitution, the commission shall appoint the inspector general
19 from a list provided by the Transportation Legislative Oversight
20 Committee. This subsection expires August 31, 2013.

21 Sec. 201.452. COOPERATION AND COORDINATION WITH STATE
22 AUDITOR. (a) An inspector general's review does not take
23 precedence over the state auditor's review.

24 (b) The inspector general may meet with the state auditor's
25 office to coordinate a review conducted under this subchapter,
26 share information, or schedule work plans.

27 (c) In addition to the authority in Chapter 321, Government

1 Code, the state auditor is entitled to access all information
2 maintained by the inspector general, including vouchers,
3 electronic data, internal records, and other information.

4 (d) Any information obtained or provided by the state
5 auditor under this section is confidential and not subject to
6 disclosure under Chapter 552, Government Code.

7 Sec. 201.453. FINAL REVIEW REPORTS. (a) The inspector
8 general shall prepare a final report for each review conducted
9 under Section 201.451. The final report must include:

10 (1) a summary of the activities performed by the
11 inspector general in conducting the review; and

12 (2) a description of any findings in connection with a
13 review conducted under Section 201.451.

14 (b) An inspector general's final reports are subject to
15 disclosure under Chapter 552, Government Code.

16 (c) Unless otherwise prohibited by this chapter or other
17 law, the inspector general shall deliver a copy of each final report
18 that concerns the implementation or administration of a state or
19 federally funded program to:

20 (1) the commission and the executive director;

21 (2) the governor;

22 (3) the lieutenant governor;

23 (4) the speaker of the house of representatives;

24 (5) the state auditor; and

25 (6) the appropriate legislative oversight committees.

26 SECTION 2A.02. The Texas Transportation Commission or the
27 Transportation Legislative Oversight Committee, as applicable,

1 shall appoint an inspector general as required by Section 201.451,
2 Transportation Code, as added by this Act, not later than December
3 1, 2009.

4 ARTICLE 3. PUBLIC INVOLVEMENT AND COMPLAINTS

5 SECTION 3.01. (a) Section 201.801, Transportation Code, is
6 amended to read as follows:

7 Sec. 201.801. [~~INFORMATION ABOUT DEPARTMENT,~~] COMPLAINTS.

8 (a) The department shall maintain a system to promptly and
9 efficiently act on complaints filed with the department. The
10 department shall maintain information about the parties to and the
11 subject matter of a complaint and a summary of the results of the
12 review or investigation of the complaint and the disposition of the
13 complaint.

14 (b) The department shall make information available
15 describing its procedures for complaint investigation and
16 resolution [~~prepare information of public interest describing the~~
17 ~~functions of the department and the department's procedures by~~
18 ~~which a complaint is filed with the department and resolved by the~~
19 ~~department. The department shall make the information available to~~
20 ~~the public and appropriate state agencies].~~

21 [~~(b) The commission by rule shall establish methods by which~~
22 ~~consumers and service recipients are notified of the department's~~
23 ~~name, mailing address, and telephone number for directing~~
24 ~~complaints to the department. The commission may provide for that~~
25 ~~notification.~~

26 [~~(1) on each registration form, application, or~~
27 ~~written contract for services of an individual or entity regulated~~

1 ~~by the department,~~

2 ~~[(2) on a sign prominently displayed in the place of~~
3 ~~business of each individual or entity regulated by the department,~~

4 ~~or~~

5 ~~[(3) in a bill for service provided by an individual or~~
6 ~~entity regulated by the department.]~~

7 (c) ~~[The department shall:~~

8 ~~[(1) keep an information file about each written~~
9 ~~complaint filed with the department that the department has the~~
10 ~~authority to resolve; and~~

11 ~~[(2) provide the person who filed the complaint, and~~
12 ~~each person or entity that is the subject of the complaint,~~
13 ~~information about the department's policies and procedures~~
14 ~~relating to complaint investigation and resolution.~~

15 ~~[(d)] The department[, at least quarterly and until final~~
16 ~~disposition of a written complaint that is filed with the~~
17 ~~department and that the department has the authority to resolve,]~~
18 shall periodically notify the parties to the complaint of its
19 status until final disposition unless the notice would jeopardize
20 an undercover investigation.

21 (d) The commission shall adopt rules applicable to each
22 division and district to establish a process to act on complaints
23 filed with the department ~~[(e) With regard to each complaint filed~~
24 ~~with the department, the department shall keep the following~~
25 ~~information:~~

26 ~~[(1) the date the complaint is filed,~~

27 ~~[(2) the name of the person filing the complaint,~~

1 ~~[(3) the subject matter of the complaint,~~

2 ~~[(4) a record of each person contacted in relation to~~
3 ~~the complaint,~~

4 ~~[(5) a summary of the results of the review or~~
5 ~~investigation of the complaint, and~~

6 ~~[(6) if the department takes no action on the~~
7 ~~complaint, an explanation of the reasons that no action was taken].~~

8 (e) The department shall develop a standard form for
9 submitting a complaint and make the form available on its Internet
10 website. The department shall establish a method to submit
11 complaints electronically.

12 (f) The department shall develop a method for analyzing the
13 sources and types of complaints and violations and establish
14 categories for the complaints and violations. The department shall
15 use the analysis to focus its information and education efforts on
16 specific problem areas identified through the analysis.

17 (g) The department shall:

18 (1) compile:

19 (A) detailed statistics and analyze trends on
20 complaint information, including:

21 (i) the nature of the complaints;

22 (ii) their disposition; and

23 (iii) the length of time to resolve
24 complaints; and

25 (B) complaint information on a district and a
26 divisional basis; and

27 (2) report the information on a monthly basis to the

1 division directors, office directors, and district engineers and on
2 a quarterly basis to the commissioner.

3 (b) The Texas Department of Transportation shall adopt
4 rules under Section 201.801, Transportation Code, as amended by
5 this section, not later than March 1, 2010.

6 SECTION 3.02. Subchapter J, Chapter 201, Transportation
7 Code, is amended by adding Section 201.811 to read as follows:

8 Sec. 201.811. PUBLIC INVOLVEMENT POLICY. (a) The
9 department shall develop and implement a policy for public
10 involvement that guides and encourages public involvement with the
11 department. The policy must:

12 (1) provide for the use of public involvement
13 techniques that target different groups and individuals;

14 (2) encourage continuous contact between the
15 department and persons outside the department throughout the
16 transportation decision-making process;

17 (3) require the department to make efforts toward:

18 (A) clearly tying public involvement to
19 decisions made by the department; and

20 (B) providing clear information to the public
21 about specific outcomes of public input; and

22 (4) apply to all public input with the department,
23 including input:

24 (A) on statewide transportation policy-making;

25 (B) in connection with the environmental process
26 relating to specific projects; and

27 (C) into the department's rulemaking procedures.

1 (b) The department shall document the ratio of positive
2 public input to negative public input regarding all environmental
3 impact statements as expressed by the public through the
4 department's public involvement process. The department shall:

5 (1) present this information to the commissioner in an
6 open meeting; and

7 (2) report this information on the department's
8 Internet website in a timely manner.

9 SECTION 3.03. (a) Section 228.004, Transportation Code, is
10 amended to read as follows:

11 Sec. 228.004. [~~PROMOTION OF~~] TOLL PROJECT INFORMATION.

12 (a) The department may, notwithstanding Chapter 2113, Government
13 Code, engage in marketing, advertising, and other activities to
14 provide information relating to the status of pending or ongoing
15 [~~promote the development and use of~~] toll projects and may enter
16 into contracts or agreements necessary to procure marketing,
17 advertising, or informational [~~other promotional~~] services from
18 outside service providers.

19 (b) This section does not authorize the department to engage
20 in marketing, advertising, or other activities for the purpose of
21 influencing public opinion about the use of toll roads or the use of
22 tolls as a financial mechanism.

23 (b) The change in law made by this section applies only to a
24 contract or agreement entered into or renewed under Section
25 228.004, Transportation Code, as amended by this section, on or
26 after the effective date of this Act. A contract or agreement
27 entered into or renewed under that section before the effective

1 date of this Act is governed by the law in effect immediately before
2 that date, and that law is continued in effect for that purpose.

3 SECTION 3.04. Section 228.201(a), Transportation Code, is
4 amended to read as follows:

5 (a) The [~~Except as provided by Section 228.2015, the~~]
6 department may not operate a nontolled state highway or a segment of
7 a nontolled state highway as a toll project, and may not transfer a
8 highway or segment to another entity for operation as a toll
9 project, unless:

10 (1) the commission by order designated the highway or
11 segment as a toll project before the contract to construct the
12 highway or segment was awarded;

13 (2) the highway or segment was open to traffic as a
14 turnpike project on or before September 1, 2005;

15 (3) the project was designated as a toll project in a
16 plan or program of a metropolitan planning organization on or
17 before September 1, 2005;

18 (4) the highway or segment is reconstructed so that
19 the number of nontolled lanes on the highway or segment is greater
20 than or equal to the number in existence before the reconstruction;

21 (5) a facility that has access, function, and control
22 devices similar to the converted highway or segment before
23 conversion is constructed adjacent to the highway or segment so
24 that the number of nontolled lanes on the converted highway or
25 segment and the adjacent facility together is greater than or equal
26 to the number in existence on the converted highway or segment
27 before the conversion; or

1 (6) subject to Subsection (b), the highway or segment
2 was open to traffic as a high-occupancy vehicle lane on May 1,
3 2005[~~or~~

4 ~~[(7) the commission converts the highway or segment to~~
5 ~~a toll facility by:~~

6 ~~[(A) making the determination required by~~
7 ~~Section 228.202,~~

8 ~~[(B) conducting the hearing required by Section~~
9 ~~228.203; and~~

10 ~~[(C) obtaining county and voter approval as~~
11 ~~required by Sections 228.207 and 228.208].~~

12 SECTION 3.05. Sections 228.202, 228.203, 228.207, and
13 228.208, Transportation Code, are repealed.

14 ARTICLE 4. CONTRACTING FUNCTIONS

15 SECTION 4.01. Subchapter A, Chapter 223, Transportation
16 Code, is amended by adding Section 223.017 to read as follows:

17 Sec. 223.017. DESIGN-BUILD CONTRACTS FOR NONTOLLED HIGHWAY
18 PROJECTS. (a) In this section, "design-build contract" means an
19 agreement with a private entity for the design and construction,
20 rehabilitation, expansion, or improvement of a highway project but
21 does not include the financing or operation of the highway.

22 (b) The department may enter into a design-build contract
23 for a nontolled highway project.

24 (c) Notwithstanding Section 223.0041, rules adopted under
25 this section must be consistent in all procedural aspects,
26 including limitations, with the design-build procedures for local
27 governmental entities under Subchapter J, Chapter 271, Local

1 Government Code.

2 (c-1) Money disbursed by the department for design-build
3 contracts under this section may not be included in the amount
4 required to be spent in a biennium for engineering and design
5 contracts under Section 223.041.

6 (d) The department shall adopt rules specifying the
7 conditions under which a design-build contract may be considered.

8 In developing rules the department must address:

9 (1) the size and complexity of an eligible project;

10 (2) the time constraints for delivery of an eligible
11 project;

12 (3) the level and training of the staff required to
13 manage an eligible project; and

14 (4) other factors the department considers important.

15 SECTION 4.02. (a) Subchapter E, Chapter 223,
16 Transportation Code, is amended by adding Section 223.211 to read
17 as follows:

18 Sec. 223.211. APPROVAL AND CERTIFICATION. A comprehensive
19 development agreement, including a facility agreement under a
20 comprehensive development agreement, under which a private entity
21 will operate a toll project or be entitled to receive revenue from
22 the project must be:

23 (1) reviewed by the attorney general for legal
24 sufficiency under Section 371.051, as added by Chapter 264 (S.B.
25 792), Acts of the 80th Legislature, Regular Session, 2007, and
26 signed by the attorney general, if approved;

27 (2) reviewed by the comptroller for financial

1 viability and signed and certified by the comptroller if approved;
2 and
3 (3) signed by the commissioner.

4 (b) The change in law made by Section 223.211,
5 Transportation Code, as added by this section, applies only to a
6 comprehensive development agreement entered into on or after the
7 effective date of this Act.

8 ARTICLE 5. REGULATION OF MOTOR VEHICLE DEALERS, SALVAGE VEHICLE
9 DEALERS, AND HOUSEHOLD GOODS CARRIERS

10 SECTION 5.01. (a) Section 643.153, Transportation Code, is
11 amended by amending Subsection (b) and adding Subsections (c), (h),
12 and (i) to read as follows:

13 (b) The department may adopt rules necessary to ensure that
14 a customer of a motor carrier transporting household goods is
15 protected from deceptive or unfair practices and unreasonably
16 hazardous activities. The rules must:

17 (1) establish a formal process for resolving a dispute
18 over a fee or damage;

19 (2) require a motor carrier to indicate clearly to a
20 customer whether an estimate is binding or nonbinding and disclose
21 the maximum price a customer could be required to pay;

22 (3) create a centralized process for making complaints
23 about a motor carrier that also allows a customer to inquire about a
24 carrier's complaint record; ~~and~~

25 (4) require a motor carrier transporting household
26 goods to list a place of business with a street address in this
27 state and the carrier's registration number issued under this

1 article in any print advertising published in this state; and

2 (5) require a motor carrier transporting household
3 goods to submit to the department, at the time of the original motor
4 carrier registration and at the renewal of the registration,
5 documentation on whether the motor carrier:

6 (A) regularly requests and obtains criminal
7 history record information on its employees under Chapter 145,
8 Civil Practice and Remedies Code; and

9 (B) uses the criminal history record information
10 to exclude from employment persons who have committed a serious
11 criminal offense.

12 (c) The department shall make available to the public on the
13 department's Internet website the information received under
14 Subsection (b)(5) to allow members of the public to make an informed
15 choice when selecting a motor carrier to transport household goods.

16 (h) Subject to Subsection (i), the department may order a
17 motor carrier that transports household goods to pay a refund to a
18 customer as provided in an agreement resulting from an informal
19 settlement instead of or in addition to imposing an administrative
20 penalty under this chapter.

21 (i) The amount of a refund ordered as provided in an
22 agreement resulting from an informal settlement may not exceed the
23 amount the customer paid to the motor carrier for a service or the
24 amount the customer paid for an item damaged by the motor carrier,
25 without requiring an estimation of the actual cost of the damage.
26 The department may not require payment of other damages or estimate
27 harm in a refund order.

1 (b) The change in law made by Sections 643.153(h) and (i),
2 Transportation Code, as added by this section, applies only to an
3 agreement to transport household goods entered into on or after the
4 effective date of this Act. An agreement to transport household
5 goods entered into before the effective date of this Act is governed
6 by the law in effect immediately before that date, and that law is
7 continued in effect for that purpose.

8 SECTION 5.02. (a) Section 643.251(b), Transportation Code,
9 is amended to read as follows:

10 (b) Except as provided by this section, the amount of an
11 administrative penalty may not exceed \$5,000. If it is found that
12 the motor carrier knowingly committed the violation, the penalty
13 may not exceed \$15,000. [~~If it is found that the motor carrier~~
14 ~~knowingly committed multiple violations, the aggregate penalty for~~
15 ~~the multiple violations may not exceed \$30,000.] Each day a
16 violation continues or occurs is a separate violation for purposes
17 of imposing a penalty.~~

18 (b) The change in law made by this section to Section
19 643.251, Transportation Code, applies only to a violation committed
20 by a motor carrier on or after the effective date of this Act. For
21 purposes of this subsection, a violation was committed before the
22 effective date of this Act if any element of the violation was
23 committed before that date. A violation committed by a motor
24 carrier before the effective date of this Act is covered by the law
25 in effect on the date the violation was committed, and the former
26 law is continued in effect for that purpose.

27 SECTION 5.03. Subchapter F, Chapter 643, Transportation

1 Code, is amended by adding Sections 643.256 and 643.257 to read as
2 follows:

3 Sec. 643.256. SUMMARY SUSPENSION. (a) The department may
4 summarily suspend the registration of a motor carrier registered
5 under this chapter if the motor carrier's failure to comply with
6 this chapter or a rule adopted under this chapter is determined by
7 the department to constitute a continuing and imminent threat to
8 the public safety and welfare.

9 (b) To initiate a proceeding to take action under Subsection
10 (a), the department must serve notice on the motor carrier. The
11 notice must:

12 (1) state the grounds for summary suspension;

13 (2) be personally served on the motor carrier or sent
14 to the motor carrier by certified or registered mail, return
15 receipt requested, to the motor carrier's mailing address as it
16 appears in the department's records; and

17 (3) inform the motor carrier of the right to a hearing
18 on the suspension.

19 (c) The suspension is effective on the date notice is
20 personally served or received by mail. The motor carrier is
21 entitled to appeal the suspension in the manner provided by Section
22 643.2525 for the appeal of an order of the board.

23 Sec. 643.257. EMERGENCY CEASE AND DESIST ORDER. (a) If it
24 appears to the board that a motor carrier who is not registered to
25 transport household goods for compensation under Section 643.051 is
26 violating this chapter, a rule adopted under this chapter, or
27 another state statute or rule relating to the transportation of

1 household goods and the board determines that the unauthorized
2 activity constitutes a clear, imminent, or continuing threat to the
3 public health and safety, the board may:

4 (1) issue an emergency cease and desist order
5 prohibiting the motor carrier from engaging in the activity; and

6 (2) report the activity to a local law enforcement
7 agency or the attorney general for prosecution.

8 (b) An order issued under Subsection (a) must:

9 (1) be delivered on issuance to the motor carrier
10 affected by the order by personal delivery or registered or
11 certified mail, return receipt requested, to the motor carrier's
12 last known address;

13 (2) state the acts or practices alleged to be an
14 unauthorized activity and require the motor carrier immediately to
15 cease and desist from the unauthorized activity; and

16 (3) contain a notice that a request for hearing may be
17 filed under this section.

18 (c) A motor carrier against whom an emergency cease and
19 desist order is directed may request a hearing before the 11th day
20 after the date it is served on the motor carrier. If the motor
21 carrier does not request a hearing in that time, the order is final
22 and nonappealable as to that motor carrier. A request for a
23 hearing must:

24 (1) be in writing and directed to the board; and

25 (2) state the grounds for the request to set aside or
26 modify the order.

27 (d) On receiving a request for a hearing, the board shall

1 serve notice of the time and place of the hearing by personal
2 delivery or registered or certified mail, return receipt
3 requested. The hearing must be held not later than the 10th day
4 after the date the board receives the request for a hearing unless
5 the parties agree to a later hearing date. A hearing under this
6 subsection is subject to Chapter 2001, Government Code.

7 (e) After the hearing, the board shall affirm, modify, or
8 set aside wholly or partly the emergency cease and desist order. An
9 order affirming or modifying the emergency cease and desist order
10 is immediately final for purposes of enforcement and appeal.

11 (f) An order under this section continues in effect unless
12 the order is stayed by the board. The board may impose any
13 condition before granting a stay of the order.

14 (g) The board may release to the public a final cease and
15 desist order issued under this section or information regarding the
16 existence of the order if the board determines that the release
17 would enhance the effective enforcement of the order or will serve
18 the public interest.

19 (h) A violation of an order issued under this section
20 constitutes additional grounds for imposing an administrative
21 penalty under this chapter.

22 SECTION 5.04. Section 2301.654, Occupations Code, is
23 amended to read as follows:

24 Sec. 2301.654. PROBATION. If a suspension of a license is
25 probated, the board may:

26 (1) require the license holder to report regularly to
27 the board on matters that are the basis of the probation; [~~or~~]

- 1 (2) limit activities to those prescribed by the board;
2 or
3 (3) require the license holder to obtain specialized
4 training so that the license holder attains a degree of skill
5 satisfactory to the board in those areas that are the basis of the
6 probation.

7 SECTION 5.05. (a) Subchapter Q, Chapter 2301, Occupations
8 Code, is amended by adding Sections 2301.807 and 2301.808 to read as
9 follows:

10 Sec. 2301.807. ADMINISTRATIVE PENALTY. (a) The board may
11 impose an administrative penalty on a person licensed under this
12 chapter who violates this chapter or a rule or order adopted under
13 this chapter.

14 (b) The amount of an administrative penalty imposed under
15 this section may not exceed \$5,000. Each day a violation continues
16 or occurs is a separate violation for the purpose of imposing a
17 penalty. The amount of the penalty shall be based on:

18 (1) the seriousness of the violation, including the
19 nature, circumstances, extent, and gravity of the violation;

20 (2) the economic harm to property or the environment
21 caused by the violation;

22 (3) the history of previous violations;

23 (4) the amount necessary to deter a future violation;

24 (5) the threat to the public safety and welfare;

25 (6) efforts to correct the violation; and

26 (7) any other matter that justice may require.

27 (c) The board by rule shall adopt a schedule of

1 administrative penalties based on the criteria listed in Subsection
2 (b) for violations subject to an administrative penalty under this
3 section to ensure that the amount of a penalty imposed is
4 appropriate to the violation.

5 (d) The enforcement of an administrative penalty may be
6 stayed during the time the order is under judicial review if the
7 person pays the penalty to the clerk of the court or files a
8 supersedeas bond with the court in the amount of the penalty. A
9 person who cannot afford to pay the penalty or file the bond may
10 stay the enforcement by filing an affidavit in the manner required
11 by the Texas Rules of Civil Procedure for a party who cannot afford
12 to file security for costs, subject to the right of the board to
13 contest the affidavit as provided by those rules.

14 (e) The attorney general may sue to collect an
15 administrative penalty imposed under this section. In the suit the
16 attorney general may recover, on behalf of the state, the
17 reasonable expenses incurred in obtaining the penalty, including
18 investigation and court costs, reasonable attorney's fees, witness
19 fees, and other expenses.

20 (f) An administrative penalty collected under this section
21 shall be deposited in the general revenue fund.

22 (g) A proceeding to impose an administrative penalty under
23 this section is a contested case under Chapter 2001, Government
24 Code.

25 Sec. 2301.808. REFUND. (a) Subject to Subsection (b), the
26 board may order a motor vehicle dealer to pay a refund to a consumer
27 as provided in an agreement resulting from an informal settlement

1 instead of or in addition to imposing an administrative penalty
2 under this chapter.

3 (b) The amount of a refund ordered as provided in an
4 agreement resulting from an informal settlement may not exceed the
5 amount the consumer paid to the motor vehicle dealer. The board may
6 not require payment of other damages or estimate harm in a refund
7 order.

8 (b) Subchapter H, Chapter 2302, Occupations Code, is
9 amended by adding Section 2302.352 to read as follows:

10 Sec. 2302.352. ADMINISTRATIVE PENALTY. (a) The board may
11 impose an administrative penalty on a salvage vehicle dealer
12 licensed under this chapter who violates this chapter or a rule or
13 order adopted under this chapter.

14 (b) The amount of an administrative penalty imposed under
15 this section may not exceed \$5,000. Each day a violation continues
16 or occurs is a separate violation for the purpose of imposing a
17 penalty. The amount of the penalty shall be based on:

18 (1) the seriousness of the violation, including the
19 nature, circumstances, extent, and gravity of the violation;

20 (2) the economic harm to property or the environment
21 caused by the violation;

22 (3) the history of previous violations;

23 (4) the amount necessary to deter a future violation;

24 (5) the threat to the public safety and welfare;

25 (6) efforts to correct the violation; and

26 (7) any other matter that justice may require.

27 (c) The board by rule shall adopt a schedule of

1 administrative penalties based on the criteria listed in Subsection
2 (b) for violations subject to an administrative penalty under this
3 section to ensure that the amount of a penalty imposed is
4 appropriate to the violation.

5 (d) The enforcement of an administrative penalty may be
6 stayed during the time the order is under judicial review if the
7 person pays the penalty to the clerk of the court or files a
8 supersedeas bond with the court in the amount of the penalty. A
9 person who cannot afford to pay the penalty or file the bond may
10 stay the enforcement by filing an affidavit in the manner required
11 by the Texas Rules of Civil Procedure for a party who cannot afford
12 to file security for costs, subject to the right of the board to
13 contest the affidavit as provided by those rules.

14 (e) The attorney general may sue to collect an
15 administrative penalty imposed under this section. In the suit the
16 attorney general may recover, on behalf of the state, the
17 reasonable expenses incurred in obtaining the penalty, including
18 investigation and court costs, reasonable attorney's fees, witness
19 fees, and other expenses.

20 (f) An administrative penalty collected under this section
21 shall be deposited in the general revenue fund.

22 (g) A proceeding to impose an administrative penalty under
23 this section is a contested case under Chapter 2001, Government
24 Code.

25 (c) The change in law made by Section 2301.808, Occupations
26 Code, as added by this section, applies only to a motor vehicle
27 purchased or leased on or after the effective date of this Act. A

1 motor vehicle purchased or leased before the effective date of this
2 Act is governed by the law in effect immediately before that date,
3 and that law is continued in effect for that purpose.

4 ARTICLE 6. REGULATION OF OUTDOOR ADVERTISING

5 SECTION 6.01. Section 391.004, Transportation Code, is
6 amended to read as follows:

7 Sec. 391.004. TEXAS HIGHWAY BEAUTIFICATION FUND ACCOUNT.
8 The Texas highway beautification fund account is an account in the
9 general revenue fund. Money the commission receives under this
10 chapter shall be deposited to the credit of the Texas highway
11 beautification fund account. The commission shall use money in the
12 Texas highway beautification fund account to administer this
13 chapter and Chapter 394.

14 SECTION 6.02. (a) Subchapter A, Chapter 391,
15 Transportation Code, is amended by adding Section 391.006 to read
16 as follows:

17 Sec. 391.006. COMPLAINTS; RECORDS. (a) The department by
18 rule shall establish procedures for accepting and resolving written
19 complaints related to outdoor advertising under this chapter. The
20 rules must include:

21 (1) a process to make information available describing
22 its procedures for complaint investigation and resolution,
23 including making information about the procedures available on the
24 department's Internet website;

25 (2) a simple form for filing complaints with the
26 department;

27 (3) a system to prioritize complaints so that the most

1 serious complaints receive attention before less serious
2 complaints; and

3 (4) a procedure for compiling and reporting detailed
4 annual statistics about complaints.

5 (b) The department shall provide to each person who files a
6 written complaint with the department, and to each person who is the
7 subject of a complaint, information about the department's policies
8 and procedures relating to complaint investigation and resolution.

9 (c) The department shall keep an information file about each
10 written complaint filed with the department that the department has
11 authority to resolve. The department shall keep the following
12 information for each complaint for the purpose of enforcing this
13 chapter:

14 (1) the date the complaint is filed;

15 (2) the name of the person filing the complaint;

16 (3) the subject matter of the complaint;

17 (4) each person contacted in relation to the
18 complaint;

19 (5) a summary of the results of the review or
20 investigation of the complaint; and

21 (6) if the department does not take action on the
22 complaint, an explanation of the reasons that action was not taken.

23 (d) If a written complaint is filed with the department that
24 the department has authority to resolve, the department, at least
25 quarterly and until final disposition of the complaint, shall
26 notify the parties to the complaint of the status of the complaint
27 unless the notice would jeopardize an ongoing department

1 investigation.

2 (b) The Texas Transportation Commission shall adopt rules
3 under Section 391.006, Transportation Code, as added by this
4 section, not later than September 1, 2010.

5 SECTION 6.03. Subchapter A, Chapter 391, Transportation
6 Code, is amended by adding Section 391.007 to read as follows:

7 Sec. 391.007. REQUEST FOR HEARING. (a) If the department
8 revokes a permit issued under this chapter, denies the application
9 for a permit submitted under this chapter, or issues an
10 administrative penalty under this chapter, the department shall
11 send written notice by certified mail to the affected person.

12 (b) Not later than the 30th day after the date a person
13 receives notice under Subsection (a), the person may make a written
14 request to the commission for an administrative hearing to appeal:

15 (1) the denial of a permit application submitted under
16 this chapter;

17 (2) the revocation of a permit issued under this
18 chapter; or

19 (3) the imposition of an administrative penalty under
20 this chapter.

21 (c) If a person requests a hearing under this section, the
22 hearing shall be conducted by the State Office of Administrative
23 Hearings. Chapter 2001, Government Code, applies to a proceeding
24 under this chapter to the extent consistent with this chapter.

25 (d) The State Office of Administrative Hearings shall
26 consider the department's applicable substantive rules and
27 policies when conducting a hearing under this section.

1 (e) After a hearing conducted under this section, the
2 administrative law judge shall:

3 (1) make findings of fact and conclusions of law; and

4 (2) promptly issue a decision to the commission.

5 SECTION 6.04. Subchapter B, Chapter 391, Transportation
6 Code, is amended by adding Section 391.0331 to read as follows:

7 Sec. 391.0331. COSTS OF REMOVAL OF CERTAIN OUTDOOR
8 ADVERTISING IN MUNICIPALITY. If outdoor advertising located in a
9 municipality or in the extraterritorial jurisdiction of a
10 municipality that regulates outdoor advertising in its
11 extraterritorial jurisdiction is required to be removed because of
12 the widening, construction, or reconstruction of a road to which
13 this chapter applies and if relocation of the outdoor advertising
14 would be allowed under commission rules but is prohibited by
15 charter, ordinance, or a decision of the municipality, the
16 municipality shall pay just compensation to:

17 (1) the owner for the right, title leasehold, and
18 interest in the outdoor advertising; and

19 (2) the owner or, if appropriate, the lessee of the
20 real property on which the outdoor advertising is located for the
21 right to erect and maintain the outdoor advertising.

22 SECTION 6.05. Section 391.035(c), Transportation Code, is
23 amended to read as follows:

24 (c) A penalty collected under this section shall be
25 deposited to the credit of the Texas highway beautification [~~state~~
26 ~~highway~~] fund account if collected by the attorney general and to
27 the credit of the county road and bridge fund of the county in which

1 the violation occurred if collected by a district or county
2 attorney.

3 SECTION 6.06. Subchapter B, Chapter 391, Transportation
4 Code, is amended by adding Section 391.0355 to read as follows:

5 Sec. 391.0355. ADMINISTRATIVE PENALTY. (a) In lieu of a
6 suit to collect a civil penalty, the commission, after notice and an
7 opportunity for a hearing before the commission, may impose an
8 administrative penalty against a person who violates this chapter
9 or a rule adopted by the commission under this chapter. Each day a
10 violation continues is a separate violation.

11 (b) The amount of the administrative penalty may not exceed
12 the maximum amount of a civil penalty under Section 391.035.

13 (c) A proceeding under this section is a contested case
14 under Chapter 2001, Government Code.

15 (d) Judicial review of an appeal of an administrative
16 penalty imposed under this section is under the substantial
17 evidence rule.

18 (e) An administrative penalty collected under this section
19 shall be deposited to the credit of the Texas highway
20 beautification fund account.

21 SECTION 6.07. Section 391.063, Transportation Code, is
22 amended to read as follows:

23 Sec. 391.063. LICENSE FEE. The commission may set the
24 amount of a license fee according to a scale graduated by the number
25 of units of outdoor advertising and number of off-premise signs
26 under Chapter 394 owned by a license applicant.

27 SECTION 6.08. Section 391.064, Transportation Code, is

1 amended by adding Subsection (c) to read as follows:

2 (c) A person is not required to file with the commission a
3 surety bond for outdoor advertising under this chapter if the
4 person files with the commission a surety bond for an off-premise
5 sign under Chapter 394.

6 SECTION 6.09. Section 391.065(b), Transportation Code, is
7 amended to read as follows:

8 (b) For the efficient management and administration of this
9 chapter and to reduce the number of employees required to enforce
10 this chapter, the commission shall adopt rules for issuing
11 standardized forms that are for submission by license holders and
12 applicants and that provide for an accurate showing of the number,
13 location, or other information required by the commission for each
14 license holder's or applicant's outdoor advertising or off-premise
15 signs under Chapter 394.

16 SECTION 6.10. Section 391.066, Transportation Code, is
17 amended by adding Subsections (d) and (e) to read as follows:

18 (d) The commission may deny the renewal of a license
19 holder's license if the license holder has not complied with the
20 permit requirements of this chapter or Chapter 394.

21 (e) The commission by rule shall adopt procedures for the
22 suspension, revocation, or denial of a renewal of a license under
23 this section, or the assessment of an administrative penalty under
24 Section 391.0355. The procedures must ensure that the enforcement
25 action is appropriate for the violation for which it is taken. The
26 rules adopting the procedures must require the commission to
27 consider:

1 (1) the seriousness of the violation, including the
2 nature, circumstances, extent, and gravity of the violation;

3 (2) the economic harm to property or the environment
4 caused by the violation;

5 (3) the history of previous violations;

6 (4) for an administrative penalty, the amount
7 necessary to deter future violations;

8 (5) the threat to the public safety and welfare posed
9 by the violation;

10 (6) efforts to correct the violation; and

11 (7) any other matter that justice may require.

12 SECTION 6.11. Subchapter C, Chapter 391, Transportation
13 Code, is amended by adding Section 391.0661 to read as follows:

14 Sec. 391.0661. APPLICABILITY OF LICENSE. In addition to
15 authorizing a person to erect or maintain outdoor advertising, a
16 license issued under this chapter authorizes a person to erect or
17 maintain an off-premise sign under Chapter 394.

18 SECTION 6.12. Section 391.254(c), Transportation Code, is
19 amended to read as follows:

20 (c) A civil penalty collected by the attorney general under
21 this section shall be deposited to the credit of the Texas highway
22 beautification [~~state highway~~] fund account.

23 SECTION 6.13. Section 394.005, Transportation Code, is
24 amended to read as follows:

25 Sec. 394.005. DISPOSITION OF FEES. Money the commission
26 receives [~~A registration fee collected~~] under this chapter [~~Section~~
27 ~~394.048 by the commission~~] shall be deposited to the credit of the

1 Texas highway beautification [~~state highway~~] fund account.

2 SECTION 6.14. (a) Subchapter A, Chapter 394,
3 Transportation Code, is amended by adding Section 394.006 to read
4 as follows:

5 Sec. 394.006. COMPLAINTS; RECORDS. (a) The department by
6 rule shall establish procedures for accepting and resolving written
7 complaints related to signs under this chapter. The rules must
8 include:

9 (1) a process to make information available describing
10 its procedures for complaint investigation and resolution,
11 including making information about the procedures available on the
12 department's Internet website;

13 (2) a simple form for filing complaints with the
14 department;

15 (3) a system to prioritize complaints so that the most
16 serious complaints receive attention before less serious
17 complaints; and

18 (4) a procedure for compiling and reporting detailed
19 annual statistics about complaints.

20 (b) The department shall provide to each person who files a
21 written complaint with the department, and to each person who is the
22 subject of a complaint, information about the department's policies
23 and procedures relating to complaint investigation and resolution.

24 (c) The department shall keep an information file about each
25 written complaint filed with the department that the department has
26 authority to resolve. The department shall keep the following
27 information for each complaint for the purpose of enforcing this

1 chapter:

2 (1) the date the complaint is filed;

3 (2) the name of the person filing the complaint;

4 (3) the subject matter of the complaint;

5 (4) each person contacted in relation to the
6 complaint;

7 (5) a summary of the results of the review or
8 investigation of the complaint; and

9 (6) if the department does not take action on the
10 complaint, an explanation of the reasons that action was not taken.

11 (d) If a written complaint is filed with the department that
12 the department has authority to resolve, the department, at least
13 quarterly and until final disposition of the complaint, shall
14 notify the parties to the complaint of the status of the complaint
15 unless the notice would jeopardize an ongoing department
16 investigation.

17 (b) The Texas Transportation Commission shall adopt rules
18 under Section 394.006, Transportation Code, as added by this
19 section, not later than September 1, 2010.

20 SECTION 6.15. Subchapter A, Chapter 394, Transportation
21 Code, is amended by adding Section 394.007 to read as follows:

22 Sec. 394.007. COSTS FOR REMOVAL OF SIGNS IN CERTAIN
23 MUNICIPALITIES. If a sign located in a municipality or in the
24 extraterritorial jurisdiction of a municipality that regulates
25 signs in its extraterritorial jurisdiction is required to be
26 removed because of the widening, construction, or reconstruction of
27 a road to which this chapter applies and if relocation of the sign

1 would be allowed under commission rules but is prohibited by
2 charter, ordinance, or a decision of the municipality, the
3 municipality shall pay just compensation to:

4 (1) the owner for the right, title leasehold, and
5 interest in the sign; and

6 (2) the owner or, if appropriate, the lessee of the
7 real property on which the sign is located for the right to erect
8 and maintain the sign.

9 SECTION 6.16. The heading to Subchapter B, Chapter 394,
10 Transportation Code, is amended to read as follows:

11 SUBCHAPTER B. LICENSE AND PERMIT FOR OFF-PREMISE SIGN

12 SECTION 6.17. (a) Subchapter B, Chapter 394,
13 Transportation Code, is amended by adding Sections 394.0201,
14 394.0202, 394.0203, 394.0204, 394.0205, 394.0206, 394.0207,
15 394.027, 394.028, and 394.029 to read as follows:

16 Sec. 394.0201. ERECTING OFF-PREMISE SIGN WITHOUT LICENSE;
17 OFFENSE. (a) A person commits an offense if the person wilfully
18 erects or maintains an off-premise sign on a rural road without a
19 license under this subchapter.

20 (b) An offense under this section is a misdemeanor
21 punishable by a fine of not less than \$500 or more than \$1,000. Each
22 day of the proscribed conduct is a separate offense.

23 (c) A person is not required to obtain a license to erect or
24 maintain an on-premise sign.

25 Sec. 394.0202. ISSUANCE AND PERIOD OF LICENSE. (a) The
26 commission shall issue a license to a person who:

27 (1) files with the commission a completed application

1 form within the time specified by the commission;

2 (2) pays the appropriate license fee; and

3 (3) files with the commission a surety bond.

4 (b) A license may be issued for one year or longer.

5 (c) At least 30 days before the date on which a person's
6 license expires, the commission shall notify the person of the
7 impending expiration. The notice must be in writing and sent to the
8 person's last known address according to the records of the
9 commission.

10 Sec. 394.0203. LICENSE FEE. The commission may set the
11 amount of a license fee according to a scale graduated by the number
12 of off-premise signs and units of outdoor advertising under Chapter
13 391 owned by a license applicant.

14 Sec. 394.0204. SURETY BOND. (a) The surety bond required
15 of an applicant for a license under Section 394.0202 must be:

16 (1) in the amount of \$2,500 for each county in the
17 state in which the person erects or maintains an off-premise sign;
18 and

19 (2) payable to the commission for reimbursement for
20 removal costs of an off-premise sign that the license holder
21 unlawfully erects or maintains.

22 (b) A person may not be required to provide more than
23 \$10,000 in surety bonds.

24 (c) A person is not required to file with the commission a
25 surety bond for an off-premise sign under this chapter if the person
26 files with the commission a surety bond for outdoor advertising
27 under Chapter 391.

1 Sec. 394.0205. RULES; FORMS. (a) The commission may adopt
2 rules to implement Sections 394.0201(a), 394.0202, 394.0203,
3 394.0204, and 394.0206.

4 (b) For the efficient management and administration of this
5 chapter and to reduce the number of employees required to enforce
6 this chapter, the commission shall adopt rules for issuing
7 standardized forms that are for submission by license holders and
8 applicants and that provide for an accurate showing of the number,
9 location, or other information required by the commission for each
10 license holder's or applicant's off-premise signs or outdoor
11 advertising under Chapter 391.

12 Sec. 394.0206. REVOCATION OR SUSPENSION OF LICENSE; APPEAL.

13 (a) The commission may revoke or suspend a license issued under
14 this subchapter or place on probation a license holder whose
15 license is suspended if the license holder violates this chapter or
16 a rule adopted under this chapter. If the suspension of the license
17 is probated, the department may require the license holder to
18 report regularly to the commission on any matter that is the basis
19 of the probation.

20 (b) The judicial appeal of the revocation or suspension of a
21 license must be initiated not later than the 15th day after the date
22 of the commission's action.

23 (c) The commission may adopt rules for the reissuance of a
24 revoked or suspended license and may set fees for the reissuance.

25 (d) The commission may deny the renewal of a license
26 holder's existing license if the license holder has not complied
27 with the permit requirements of this chapter or Chapter 391.

1 (e) The commission by rule shall adopt procedures for the
2 suspension, revocation, or denial of a renewal of a license under
3 this section, or the assessment of an administrative penalty under
4 Section 394.082. The procedures must ensure that the enforcement
5 action is appropriate for the violation for which it is taken. The
6 rules adopting the procedures must require the commission to
7 consider:

8 (1) the seriousness of the violation, including the
9 nature, circumstances, extent, and gravity of the violation;

10 (2) the economic harm to property or the environment
11 caused by the violation;

12 (3) the history of previous violations;

13 (4) for an administrative penalty, the amount
14 necessary to deter future violations;

15 (5) the threat to the public safety and welfare posed
16 by the violation;

17 (6) efforts to correct the violation; and

18 (7) any other matter that justice may require.

19 Sec. 394.0207. APPLICABILITY OF LICENSE. In addition to
20 authorizing a person to erect or maintain an off-premise sign, a
21 license issued under this chapter authorizes a person to erect or
22 maintain outdoor advertising under Chapter 391.

23 Sec. 394.027. FEE AMOUNTS. The license and permit fees
24 required by this subchapter may not exceed an amount reasonably
25 necessary to cover the administrative costs incurred to enforce
26 this chapter.

27 Sec. 394.028. EXCEPTIONS FOR CERTAIN NONPROFIT

1 ORGANIZATIONS. (a) The combined license and permit fees under this
2 subchapter may not exceed \$10 for an off-premise sign erected and
3 maintained by a nonprofit organization in a municipality or a
4 municipality's extraterritorial jurisdiction if the sign relates
5 to or promotes only the municipality or a political subdivision
6 whose jurisdiction is wholly or partly concurrent with the
7 municipality.

8 (b) The nonprofit organization is not required to file a
9 bond as provided by Section 394.0202(a)(3).

10 Sec. 394.029. DENIAL OF PERMIT; APPEAL. The commission may
11 create a process by which an applicant may appeal a denial of a
12 permit under this subchapter.

13 (b) The change in law made by Section 394.0201,
14 Transportation Code, as added by this section, applies only to an
15 off-premise sign erected or for which a permit is issued or renewed
16 on or after the effective date of this Act. An off-premise sign for
17 which a permit is issued before the effective date of this Act is
18 covered by the law in effect when the permit was issued, and the
19 former law is continued in effect for that purpose.

20 SECTION 6.18. Section 394.050, Transportation Code, is
21 amended to read as follows:

22 Sec. 394.050. [~~BOARD OF~~] VARIANCE. The executive director
23 or a person designated by the executive director [~~commission shall~~
24 ~~provide for a board of variance that~~], in an appropriate case and
25 subject to an appropriate condition or safeguard, may make a
26 special exception to this chapter regarding a permit for an
27 off-premise outdoor sign on a rural road.

1 SECTION 6.19. Section 394.081(c), Transportation Code, is
2 amended to read as follows:

3 (c) A civil penalty collected under this section shall be
4 deposited to the credit of the Texas highway beautification [~~state~~
5 ~~highway~~] fund account if collected by the attorney general and to
6 the credit of the county road and bridge fund if collected by a
7 district or county attorney.

8 SECTION 6.20. Sections 394.082(a), (d), and (e),
9 Transportation Code, are amended to read as follows:

10 (a) In lieu of a suit to collect a civil penalty, the
11 commission, after notice and an opportunity for a hearing before
12 the commission, may impose an administrative penalty against a
13 person who [~~intentionally~~] violates this chapter or a rule adopted
14 by the commission under this chapter. Each day a violation
15 continues is a separate violation.

16 (d) Judicial review of an appeal of an administrative
17 penalty imposed under this section is under the substantial
18 evidence rule [~~by trial de novo~~].

19 (e) An administrative penalty collected under this section
20 shall be deposited to the credit of the Texas highway
21 beautification [~~state highway~~] fund account.

22 SECTION 6.21. Subchapter E, Chapter 394, Transportation
23 Code, is amended by adding Section 394.088 to read as follows:

24 Sec. 394.088. ADMINISTRATIVE HEARING. (a) If the
25 department denies a permit application submitted under this
26 chapter, or issues an administrative penalty under this chapter and
27 under a section other than Section 394.086, the department shall

1 send written notice by certified mail to the affected person.

2 (b) Not later than the 30th day after the date a person
3 receives notice under Subsection (a), that person may make a
4 written request to the commission for an administrative hearing to
5 appeal:

6 (1) the denial of a permit application submitted under
7 this chapter;

8 (2) the revocation of a permit issued under this
9 chapter; or

10 (3) the imposition of an administrative penalty under
11 this chapter.

12 (c) If a person requests a hearing under this section, the
13 hearing shall be conducted by the State Office of Administrative
14 Hearings. Chapter 2001, Government Code, applies to a proceeding
15 under this chapter to the extent consistent with this chapter.

16 (d) The State Office of Administrative Hearings shall
17 consider the department's applicable substantive rules and
18 policies when conducting a hearing under this section.

19 (e) After a hearing conducted under this section, the
20 administrative law judge shall:

21 (1) make findings of fact and conclusions of law; and

22 (2) promptly issue a decision to the commission.

23 SECTION 6.22. Subtitle H, Title 6, Transportation Code, is
24 amended by adding Chapter 398 to read as follows:

25 CHAPTER 398. PROVISIONS GENERALLY APPLICABLE TO OUTDOOR SIGNS

26 Sec. 398.001. DEFINITION. In this chapter, "off-premise
27 sign" means an outdoor sign displaying advertising that pertains to

1 a business, person, organization, activity, event, place, service,
2 or product not principally located or primarily manufactured or
3 sold on the premises on which the sign is located.

4 Sec. 398.002. RIGHTS OF OWNER OF CERTAIN SIGNS. The rights
5 associated with an off-premise sign that is lawfully in existence
6 but no longer complies with current applicable laws and
7 regulations, including laws and regulations promulgated under
8 Chapters 391 and 394 of this code, and Chapter 216, Local Government
9 Code, vest in the owner of the off-premise sign. This section does
10 not abrogate or otherwise affect the property rights of a party in
11 an eminent domain proceeding.

12 SECTION 6.23. Section 391.065(c), Transportation Code, is
13 repealed.

14 ARTICLE 7. GREEN RIBBON PROJECT

15 SECTION 7.01. Subchapter I, Chapter 201, Transportation
16 Code, is amended by adding Section 201.708 to read as follows:

17 Sec. 201.708. EXPENDITURES FOR HIGHWAY LANDSCAPING. (a)
18 For each contract for a highway project that is located in an area
19 designated by the United States Environmental Protection Agency as
20 a nonattainment or near-nonattainment area under Section 107(d) of
21 the federal Clean Air Act (42 U.S.C. Section 7407), the department
22 shall allocate to the district or districts in which the project is
23 to be located one-half of one percent of the total amount to be
24 spent under the contract for construction, maintenance, and
25 improvement of the project to be used for landscaping improvements
26 for the project or other projects in the district or districts.

27 (b) Landscaping improvements may include:

1 (1) planting of indigenous or adapted trees and other
2 plants that are suitable for the climate in the area; and

3 (2) preparing the soil and installing irrigation
4 systems for the growth of trees and plants.

5 SECTION 7.02. Chapter 371, Transportation Code, as added by
6 Chapter 103 (H.B. 570), Acts of the 80th Legislature, Regular
7 Session, 2007, is amended by adding Subchapter C to read as follows:

8 SUBCHAPTER C. CONSTRUCTION, IMPROVEMENT, AND MAINTENANCE

9 Sec. 371.101. EXPENDITURES FOR TOLL PROJECT LANDSCAPING.

10 (a) For each contract for a toll project that is located in an area
11 designated by the United States Environmental Protection Agency as
12 a nonattainment or near-nonattainment area under Section 107(d) of
13 the federal Clean Air Act (42 U.S.C. Section 7407), the toll project
14 entity shall allocate to the district or districts in which the
15 project is to be located an amount equal to one-half of one percent
16 of the total amount to be spent under the contract for construction,
17 maintenance, and improvement of the project to be used for
18 landscaping improvements for the project or other projects in the
19 district or districts.

20 (b) Landscaping improvements may include:

21 (1) planting indigenous or adapted trees and other
22 plants that are suitable for the climate in the area; and

23 (2) preparing the soil and installing irrigation
24 systems for the growth of trees and plants.

25 ARTICLE 8. TEXAS DEPARTMENT OF MOTOR VEHICLES

26 PART 1. GENERAL PROVISIONS

27 SECTION 8.1.01. Title 7, Transportation Code, is amended by

1 adding Subtitle M to read as follows:

2 SUBTITLE M. TEXAS DEPARTMENT OF MOTOR VEHICLES

3 CHAPTER 1001. ORGANIZATION OF DEPARTMENT

4 SUBCHAPTER A. GENERAL PROVISIONS

5 Sec. 1001.001. DEFINITIONS. In this subtitle:

6 (1) "Board" means the board of the department.

7 (2) "Department" means the Texas Department of Motor
8 Vehicles.

9 Sec. 1001.002. CREATION OF DEPARTMENT; DUTIES. (a) The
10 department is created as an agency of this state.

11 (b) In addition to the other duties required of the Texas
12 Department of Motor Vehicles, the department shall administer and
13 enforce:

14 (1) Subtitle A;

15 (2) Subtitle E;

16 (3) Chapters 642, 643, 645, 646, and 648; and

17 (4) Chapters 2301 and 2302, Occupations Code.

18 Sec. 1001.003. COMPOSITION OF DEPARTMENT. The department
19 is composed of an executive director appointed by the board and
20 other employees required to efficiently implement:

21 (1) this subtitle;

22 (2) other applicable vehicle laws of this state; and

23 (3) other laws that grant jurisdiction to or are
24 applicable to the department.

25 Sec. 1001.004. DIVISIONS. The board shall organize the
26 department into divisions to accomplish the department's functions
27 and the duties assigned to it, including divisions for:

- 1 (1) administration;
- 2 (2) motor carriers;
- 3 (3) motor vehicles; and
- 4 (4) vehicle titles and registration.

5 Sec. 1001.005. ADVISORY COMMITTEES. (a) The board shall
6 establish separate advisory committees for the motor carrier, motor
7 vehicles, and vehicle titles and registration divisions to make
8 recommendations to the board or the executive director on the
9 operation of the applicable division. A committee has the
10 purposes, powers, and duties, including the manner of reporting its
11 work, prescribed by the board. A committee and each committee
12 member serves at the will of the board.

13 (b) The board shall appoint persons to each advisory
14 committee who:

15 (1) are selected from a list provided by the executive
16 director; and

17 (2) have knowledge about and interests in, and
18 represent a broad range of viewpoints about, the work of the
19 committee or applicable division.

20 (c) The advisory committee for the motor vehicles division
21 must include a member to represent motor vehicle manufacturers and
22 a member to represent the recreational vehicle industry.

23 (d) The advisory committee for the motor carrier division
24 must include a member to represent the motor transportation
25 industry.

26 (e) A member of an advisory committee may not be compensated
27 by the board or the department for committee service.

1 Sec. 1001.006. SUNSET PROVISION. The department is subject
2 to Chapter 325, Government Code (Texas Sunset Act). Unless
3 continued in existence as provided by that chapter, the department
4 is abolished September 1, 2015.

5 [Sections 1001.007-1001.020 reserved for expansion]

6 SUBCHAPTER B. BOARD OF DEPARTMENT OF MOTOR VEHICLES

7 Sec. 1001.021. BOARD. (a) The board consists of nine
8 members appointed by the governor with the advice and consent of the
9 senate.

10 (b) The membership of the board must include:

11 (1) three members who are persons who hold a dealer's
12 license issued under Chapter 2301, Occupations Code, of whom:

13 (A) two members must be franchised dealers of
14 different classes; and

15 (B) one member must be an independent dealer;

16 (2) one member who is a representative of a
17 manufacturer or distributor that holds a license issued under
18 Chapter 2301, Occupations Code;

19 (3) one member who is a tax assessor-collector;

20 (4) one member who is a representative of a law
21 enforcement agency of a county or municipality;

22 (5) one member who is a representative of the motor
23 carrier industry; and

24 (6) two members who are public members.

25 (c) A person may not be a public member of the board if the
26 person or the person's spouse:

27 (1) is registered, certified, or licensed by the

1 department;

2 (2) is employed by or participates in the management
3 of a business entity or other organization regulated by or
4 receiving money from the department;

5 (3) owns or controls, directly or indirectly, more
6 than a 10 percent interest in a business entity or other
7 organization regulated by or receiving money from the department;
8 or

9 (4) uses or receives a substantial amount of tangible
10 goods, services, or money from the department other than
11 compensation or reimbursement authorized by law for board
12 membership, attendance, or expenses.

13 Sec. 1001.022. TERMS. Members of the board serve staggered
14 six-year terms, with the terms of either one or two members expiring
15 February 1 of each odd-numbered year.

16 Sec. 1001.023. PRESIDING OFFICER OF BOARD. (a) The
17 governor shall designate a member of the board as the presiding
18 officer of the board to serve in that capacity at the pleasure of
19 the governor.

20 (b) The presiding officer shall:

21 (1) preside over board meetings, make rulings on
22 motions and points of order, and determine the order of business;

23 (2) create subcommittees, appoint board members to
24 subcommittees, and receive the reports of subcommittees to the
25 board as a whole; and

26 (3) appoint a member of the board to act in the
27 presiding officer's absence.

1 Sec. 1001.024. BOARD MEETINGS. The board shall hold
2 regular meetings at least quarterly or at the call of the presiding
3 officer. Board members shall attend the meetings of the board. The
4 presiding officer shall oversee the preparation of an agenda for
5 each meeting and ensure that a copy is provided to each board member
6 at least seven days before the meeting.

7 Sec. 1001.025. COMPENSATION. A member of the board is not
8 entitled to compensation, but each member is entitled to
9 reimbursement for actual and necessary expenses as provided by the
10 General Appropriations Act.

11 Sec. 1001.026. GROUNDS FOR REMOVAL. (a) It is a ground for
12 removal from the board that a board member:

13 (1) does not have at the time of taking office the
14 qualifications required by Section 1001.021;

15 (2) does not maintain during service on the board the
16 qualifications required by Section 1001.021;

17 (3) is ineligible for membership under Section
18 1001.021(c), 1007.002, or 1007.003;

19 (4) cannot, because of illness or disability,
20 discharge the member's duties for a substantial part of the member's
21 term; or

22 (5) is absent from more than half of the regularly
23 scheduled board meetings that the member is eligible to attend
24 during a calendar year without an excuse approved by a majority
25 vote of the board.

26 (b) The validity of an action of the board is not affected by
27 the fact that it is taken when a ground for removal of a board member

1 exists.

2 (c) If the executive director of the department has
3 knowledge that a potential ground for removal exists, the executive
4 director shall notify the presiding officer of the board of the
5 potential ground. The presiding officer shall then notify the
6 governor and the attorney general that a potential ground for
7 removal exists. If the potential ground for removal involves the
8 presiding officer, the executive director shall notify the next
9 highest ranking officer of the board, who shall then notify the
10 governor and the attorney general that a potential ground for
11 removal exists.

12 Sec. 1001.027. TRAINING ON DEPARTMENT AND CERTAIN LAWS
13 RELATING TO DEPARTMENT. (a) A person who is appointed to and
14 qualifies for office as a member of the board may not vote,
15 deliberate, or be counted as a member in attendance at a meeting of
16 the board until the person completes a training program that
17 complies with this section.

18 (b) The training program must provide the person with
19 information regarding:

20 (1) the legislation that created the department;

21 (2) the programs, functions, rules, and budget of the
22 department;

23 (3) the results of the most recent formal audit of the
24 department;

25 (4) the requirements of laws relating to open
26 meetings, public information, administrative procedure, and
27 conflicts of interest; and

1 (5) any applicable ethics policies adopted by the
2 department or the Texas Ethics Commission.

3 (c) A person appointed to the board is entitled to
4 reimbursement, as provided by the General Appropriations Act, for
5 the travel expenses incurred in attending the training program
6 regardless of whether the attendance at the program occurs before
7 or after the person qualifies for office.

8 Sec. 1001.028. TECHNOLOGICAL SOLUTIONS. The board shall
9 implement a policy requiring the department to use appropriate
10 technological solutions to improve the department's ability to
11 perform its functions. The policy must ensure that the public is
12 able to interact with the department on the Internet.

13 Sec. 1001.029. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE
14 RESOLUTION PROCEDURES. (a) The board shall develop and implement a
15 policy to encourage the use of:

16 (1) negotiated rulemaking procedures under Chapter
17 2008, Government Code, for the adoption of department rules; and

18 (2) appropriate alternative dispute resolution
19 procedures under Chapter 2009, Government Code, to assist in the
20 resolution of internal and external disputes under the department's
21 jurisdiction.

22 (b) The department's procedures relating to alternative
23 dispute resolution must conform, to the extent possible, to any
24 model guidelines issued by the State Office of Administrative
25 Hearings for the use of alternative dispute resolution by state
26 agencies.

27 (c) The board shall designate a trained person to:

1 (1) coordinate the implementation of the policy
2 adopted under Subsection (a);

3 (2) serve as a resource for any training needed to
4 implement the procedures for negotiated rulemaking or alternative
5 dispute resolution; and

6 (3) collect data concerning the effectiveness of those
7 procedures, as implemented by the department.

8 [Sections 1001.030-1001.040 reserved for expansion]

9 SUBCHAPTER C. PERSONNEL

10 Sec. 1001.041. DIVISION OF RESPONSIBILITIES. The board
11 shall develop and implement policies that clearly separate the
12 policymaking responsibilities of the board and the management
13 responsibilities of the executive director and the staff of the
14 department.

15 CHAPTER 1002. RULES

16 Sec. 1002.001. GENERAL RULEMAKING AUTHORITY. The board may
17 adopt any rules necessary and appropriate to implement the powers
18 and duties of the department under this code and other laws of this
19 state.

20 [Chapters 1003-1005 reserved for expansion]

21 CHAPTER 1006. PUBLIC ACCESS

22 Sec. 1006.001. PUBLIC COMMENT. The board shall develop and
23 implement policies that provide the public with a reasonable
24 opportunity to appear before the board and to speak on any issue
25 under the jurisdiction of the department.

26 Sec. 1006.002. COMPLAINT PROCEDURES. (a) The department
27 shall maintain a system to promptly and efficiently act on

1 complaints filed with the department. The department shall
2 maintain information about parties to the complaint, the subject
3 matter of the complaint, a summary of the results of the review or
4 investigation of the complaint, and its disposition.

5 (b) The department shall make information available
6 describing its procedures for complaint investigation and
7 resolution.

8 (c) The department shall periodically notify the complaint
9 parties of the status of the complaint until final disposition.

10 CHAPTER 1007. STANDARDS OF CONDUCT

11 Sec. 1007.001. APPLICATION OF LAW RELATING TO ETHICAL
12 CONDUCT. The board, the executive director, and each employee or
13 agent of the department is subject to the code of ethics and the
14 standard of conduct imposed by Chapter 572, Government Code, and
15 any other law regulating the ethical conduct of state officers and
16 employees.

17 Sec. 1007.002. CONFLICTS OF INTEREST. (a) In this section,
18 "Texas trade association" means a cooperative and voluntarily
19 joined statewide association of business or professional
20 competitors in this state designed to assist its members and its
21 industry or profession in dealing with mutual business or
22 professional problems and in promoting their common interest.

23 (b) A person may not be a member of the board and may not be a
24 department employee employed in a "bona fide executive,
25 administrative, or professional capacity," as that phrase is used
26 for purposes of establishing an exemption to the overtime
27 provisions of the federal Fair Labor Standards Act of 1938 (29

1 U.S.C. Section 201 et seq.) if:

2 (1) the person is an officer, employee, or paid
3 consultant of a Texas trade association in the motor vehicle or
4 motor carrier industry or of a tax assessor-collector or law
5 enforcement trade association; or

6 (2) the person's spouse is an officer, manager, or paid
7 consultant of a Texas trade association in the motor vehicle or
8 motor carrier industry or of a tax assessor-collector or law
9 enforcement trade association.

10 (c) A person may not be a member of the board or act as the
11 general counsel to the board or the department if the person is
12 required to register as a lobbyist under Chapter 305, Government
13 Code, because of the person's activities for compensation on behalf
14 of a profession related to the operation of the department.

15 Sec. 1007.003. LOBBYING ACTIVITIES. A person may not serve
16 as the executive director or act as the general counsel to the
17 department if the person is required to register as a lobbyist under
18 Chapter 305, Government Code, because of the person's activities
19 for compensation on behalf of an occupation related to the
20 operation of the department.

21 PART 2. TRANSFER OF DUTIES AND FUNCTIONS OF THE TEXAS DEPARTMENT OF
22 TRANSPORTATION

23 SUBPART A. GENERAL PROVISIONS AND ADMINISTRATION

24 SECTION 8.2A.01. Section 201.931(2), Transportation Code,
25 is amended to read as follows:

26 (2) "License" includes[+]

27 [~~(A) a permit issued by the department that~~

1 ~~authorizes the operation of a vehicle and its load or a combination~~
2 ~~of vehicles and load exceeding size or weight limitations;~~

3 ~~[(B) a motor carrier registration issued under~~
4 ~~Chapter 643;~~

5 ~~[(C) a vehicle storage facility license issued~~
6 ~~under Chapter 2303, Occupations Code;~~

7 ~~[(D)] a license or permit for outdoor advertising~~
8 ~~issued under Chapter 391 or 394[;~~

9 ~~[(E) a salvage vehicle dealer or agent license~~
10 ~~issued under Chapter 2302, Occupations Code;~~

11 ~~[(F) specially designated or specialized license~~
12 ~~plates issued under Subchapters E and F, Chapter 502; and~~

13 ~~[(G) an apportioned registration issued~~
14 ~~according to the International Registration Plan under Section~~
15 ~~502.054].~~

16 SUBPART B. STATE HIGHWAY TOLL PROJECTS

17 SECTION 8.2B.01. Sections 228.055(b) and (h),
18 Transportation Code, are amended to read as follows:

19 (b) The department may impose and collect the
20 administrative fee, so as to recover the cost of collecting the
21 unpaid toll, not to exceed \$100. The department shall send a
22 written notice of nonpayment to the registered owner of the vehicle
23 at that owner's address as shown in the vehicle registration
24 records of the Texas Department of Motor Vehicles [~~department~~] by
25 first class mail and may require payment not sooner than the 30th
26 day after the date the notice was mailed. The registered owner
27 shall pay a separate toll and administrative fee for each event of

1 nonpayment under Section 228.054.

2 (h) In this section, "registered owner" means the owner of a
3 vehicle as shown on the vehicle registration records of the Texas
4 Department of Motor Vehicles [~~department~~] or the analogous
5 department or agency of another state or country.

6 SECTION 8.2B.02. Section 228.056(b), Transportation Code,
7 is amended to read as follows:

8 (b) In the prosecution of an offense under Section
9 228.055(c), (d), or (e):

10 (1) it is presumed that the notice of nonpayment was
11 received on the fifth day after the date of mailing;

12 (2) a computer record of the Texas Department of Motor
13 Vehicles [~~department~~] of the registered owner of the vehicle is
14 prima facie evidence of its contents and that the defendant was the
15 registered owner of the vehicle when the underlying event of
16 nonpayment under Section 228.054 occurred; and

17 (3) a copy of the rental, lease, or other contract
18 document covering the vehicle on the date of the underlying event of
19 nonpayment under Section 228.054 is prima facie evidence of its
20 contents and that the defendant was the lessee of the vehicle when
21 the underlying event of nonpayment under Section 228.054 occurred.

22 SUBPART C. CAUSEWAYS, BRIDGES, TUNNELS, TURNPIKES, FERRIES, AND
23 HIGHWAYS IN CERTAIN COUNTIES

24 SECTION 8.2C.01. Sections 284.0701(b), (e), and (h),
25 Transportation Code, are amended to read as follows:

26 (b) The county may impose and collect the administrative
27 cost so as to recover the expense of collecting the unpaid toll, not

1 to exceed \$100. The county shall send a written notice of
2 nonpayment to the registered owner of the vehicle at that owner's
3 address as shown in the vehicle registration records of the Texas
4 Department of Motor Vehicles [~~department~~] by first-class mail not
5 later than the 30th day after the date of the alleged failure to pay
6 and may require payment not sooner than the 30th day after the date
7 the notice was mailed. The registered owner shall pay a separate
8 toll and administrative cost for each event of nonpayment under
9 Section 284.070.

10 (e) It is an exception to the application of Subsection (a)
11 or (c) if the registered owner of the vehicle transferred ownership
12 of the vehicle to another person before the event of nonpayment
13 under Section 284.070 occurred, submitted written notice of the
14 transfer to the Texas Department of Motor Vehicles [~~department~~] in
15 accordance with Section 520.023, and before the 30th day after the
16 date the notice of nonpayment is mailed, provides to the county the
17 name and address of the person to whom the vehicle was transferred.
18 If the former owner of the vehicle provides the required
19 information within the period prescribed, the county may send a
20 notice of nonpayment to the person to whom ownership of the vehicle
21 was transferred at the address provided by the former owner by
22 first-class mail before the 30th day after the date of receipt of
23 the required information from the former owner. The subsequent
24 owner of the vehicle for which the proper toll was not paid who is
25 mailed a written notice of nonpayment under this subsection and
26 fails to pay the proper toll and administrative cost within the time
27 specified by the notice of nonpayment commits an offense. The

1 subsequent owner shall pay a separate toll and administrative cost
2 for each event of nonpayment under Section 284.070. Each failure to
3 pay a toll or administrative cost under this subsection is a
4 separate offense.

5 (h) In this section, "registered owner" means the owner of a
6 vehicle as shown on the vehicle registration records of the Texas
7 Department of Motor Vehicles [~~department~~] or the analogous
8 department or agency of another state or country.

9 SUBPART D. CERTIFICATE OF TITLE ACT

10 SECTION 8.2D.01. Section 501.002(3), Transportation Code,
11 is amended to read as follows:

12 (3) "Department" means the Texas Department of Motor
13 Vehicles [~~Transportation~~].

14 SUBPART E. REGISTRATION OF VEHICLES

15 SECTION 8.2E.01. Section 502.001(3), Transportation Code,
16 is amended to read as follows:

17 (3) "Department" means the Texas Department of Motor
18 Vehicles [~~Transportation~~].

19 SECTION 8.2E.02. Sections 502.053(a) and (b),
20 Transportation Code, are amended to read as follows:

21 (a) The department [~~Texas Department of Transportation~~]
22 shall reimburse the Texas Department of Criminal Justice for the
23 cost of manufacturing license plates or registration insignia as
24 the license plates or insignia and the invoice for the license
25 plates or insignia are delivered to the department [~~Texas~~
26 ~~Department of Transportation~~].

27 (b) When manufacturing is started, the Texas Department of

1 Criminal Justice, the department [~~Texas Department of~~
2 ~~Transportation~~], and the comptroller, after negotiation, shall set
3 the price to be paid for each license plate or insignia. The price
4 must be determined from:

5 (1) the cost of metal, paint, and other materials
6 purchased;

7 (2) the inmate maintenance cost per day;

8 (3) overhead expenses;

9 (4) miscellaneous charges; and

10 (5) a previously approved amount of profit for the
11 work.

12 SUBPART F. DEALER'S AND MANUFACTURER'S VEHICLE LICENSE PLATES

13 SECTION 8.2F.01. Section 503.001(5), Transportation Code,
14 is amended to read as follows:

15 (5) "Department" means the Texas Department of Motor
16 Vehicles [~~Transportation~~].

17 SECTION 8.2F.02. Section 503.003, Transportation Code, is
18 amended to read as follows:

19 Sec. 503.003. DISPLAY OR SALE OF NONMOTORIZED VEHICLE OR
20 TRAILER. This chapter does not prohibit the display or sale of a
21 nonmotorized vehicle or trailer at a regularly scheduled vehicle or
22 boat show with multiple vendors in accordance with [~~commission~~]
23 rules of the board of the Texas Department of Motor Vehicles.

24 SECTION 8.2F.03. Section 503.009(c), Transportation Code,
25 is amended to read as follows:

26 (c) A decision or final order issued under this section is
27 final and may not be appealed, as a matter of right, to the board of

1 the Texas Department of Motor Vehicles [~~commission~~].

2 SECTION 8.2F.04. Sections 503.010 and 503.011,
3 Transportation Code, are amended to read as follows:

4 Sec. 503.010. TERM OF GENERAL DISTINGUISHING NUMBER,
5 LICENSE, OR LICENSE PLATE. Each general distinguishing number,
6 license, or license plate issued under this chapter is valid for the
7 period prescribed by the board of the Texas Department of Motor
8 Vehicles [~~commission~~].

9 Sec. 503.011. PRORATING FEES. If the board of the Texas
10 Department of Motor Vehicles [~~commission~~] prescribes the term of a
11 general distinguishing number, license, or license plate under this
12 chapter for a period other than one year, the board of the Texas
13 Department of Motor Vehicles [~~commission~~] shall prorate the
14 applicable annual fee required under this chapter as necessary to
15 reflect the term of the number, license, or license plate.

16 SECTION 8.2F.05. Section 503.031(a), Transportation Code,
17 is amended to read as follows:

18 (a) An applicant for a drive-a-way in-transit license must
19 submit to the board of the Texas Department of Motor Vehicles
20 [~~commission~~] an application containing the information required by
21 the board of the Texas Department of Motor Vehicles [~~commission~~].

22 SECTION 8.2F.06. Section 503.001(2), Transportation Code,
23 is repealed.

24 SUBPART G. MISCELLANEOUS PROVISIONS

25 SECTION 8.2G.01. Section 520.001, Transportation Code, is
26 amended to read as follows:

27 Sec. 520.001. DEFINITION. In this chapter, "department"

1 means the Texas Department of Motor Vehicles [~~Transportation~~].

2 SUBPART H. OPERATION OF BICYCLES, MOPEDS, AND PLAY VEHICLES

3 SECTION 8.2H.01. Section 551.302, Transportation Code, is
4 amended to read as follows:

5 Sec. 551.302. REGISTRATION. The Texas Department of Motor
6 Vehicles [~~Transportation~~] may adopt rules relating to the
7 registration and issuance of license plates to neighborhood
8 electric vehicles.

9 SUBPART I. MOTOR VEHICLE SAFETY RESPONSIBILITY ACT

10 SECTION 8.2I.01. Section 601.023, Transportation Code, is
11 amended to read as follows:

12 Sec. 601.023. PAYMENT OF STATUTORY FEES. The department
13 may pay:

14 (1) a statutory fee required by the Texas Department
15 of Motor Vehicles [~~Transportation~~] for a certified abstract or in
16 connection with suspension of a vehicle registration; or

17 (2) a statutory fee payable to the comptroller for
18 issuance of a certificate of deposit required by Section 601.122.

19 SECTION 8.2I.02. Section 601.451, Transportation Code, as
20 added by Chapter 892 (S.B. 1670), Acts of the 79th Legislature,
21 Regular Session, 2005, is amended to read as follows:

22 Sec. 601.451. DEFINITION. In this subchapter,
23 "implementing agencies" means:

24 (1) the department;

25 (2) the Texas Department of Motor Vehicles
26 [~~Transportation~~];

27 (3) the Texas Department of Insurance; and

1 (4) the Department of Information Resources.

2 SECTION 8.2I.03. Subchapter N, Chapter 601, Transportation
3 Code, as added by Chapter 1325 (H.B. 3588), Acts of the 78th
4 Legislature, Regular Session, 2003, is repealed.

5 SUBPART J. GENERAL PROVISIONS RELATING TO VEHICLE SIZE AND WEIGHT

6 SECTION 8.2J.01. Sections 621.001(2), (3), and (4),
7 Transportation Code, are amended to read as follows:

8 (2) "Board" [~~"Commission"~~] means the board of the
9 Texas Department of Motor Vehicles [~~Transportation Commission~~].

10 (3) "Department" means the Texas Department of Motor
11 Vehicles [~~Transportation~~].

12 (4) "Director" means the executive director of the
13 Texas Department of Motor Vehicles [~~Transportation~~].

14 SECTION 8.2J.02. Section 621.003(a), Transportation Code,
15 is amended to read as follows:

16 (a) The board [~~commission~~] by rule may authorize the
17 director to enter into with the proper authority of another state an
18 agreement that authorizes:

19 (1) the authority of the other state to issue on behalf
20 of the department to the owner or operator of a vehicle, or
21 combination of vehicles, that exceeds the weight or size limits
22 allowed by this state a permit that authorizes the operation or
23 transportation on a highway in this state of the vehicle or
24 combination of vehicles; and

25 (2) the department to issue on behalf of the authority
26 of the other state to the owner or operator of a vehicle, or
27 combination of vehicles, that exceeds the weight or size limits

1 allowed by that state a permit that authorizes the operation or
2 transportation on a highway of that state of the vehicle or
3 combination of vehicles.

4 SECTION 8.2J.03. Subchapter A, Chapter 621, Transportation
5 Code, is amended by adding Section 621.008 to read as follows:

6 Sec. 621.008. STUDY REGARDING OVERSIZE AND OVERWEIGHT
7 VEHICLES. (a) In this section, "division" means the motor carrier
8 division of the Texas Department of Motor Vehicles.

9 (b) The division and the Texas Department of Transportation
10 shall conduct a joint study to determine improvements to the
11 regulation of oversize and overweight vehicles.

12 (c) In conducting the study, the division and the Texas
13 Department of Transportation shall consider:

14 (1) prohibiting overweight vehicles or vehicle
15 combinations from traveling on state highways if the vehicle or
16 combination will cause damage to a road or bridge, based on the
17 weight or load specifications to which the road or bridge was built;

18 (2) requiring each applicant for a permit under
19 Chapter 623 to pay a graduated highway maintenance fee based on
20 weight and the amount of damage done by the permitted vehicle or
21 vehicle combination to roads and bridges;

22 (3) requiring each fee collected for an overweight or
23 oversize vehicle permit to be deposited in the state highway fund;
24 and

25 (4) eliminating all exemptions for overweight
26 vehicles.

27 (d) Not later than September 1, 2010, the division and the

1 Texas Department of Transportation shall report the results of the
2 study conducted under this section to the governor, the lieutenant
3 governor, the speaker of the house of representatives, and the
4 appropriate oversight committee of each house of the legislature.

5 (e) This section expires September 1, 2011.

6 SECTION 8.2J.04. Section 621.102, Transportation Code, is
7 amended to read as follows:

8 Sec. 621.102. BOARD'S [~~COMMISSION'S~~] AUTHORITY TO SET
9 MAXIMUM WEIGHTS. (a) The board [~~commission~~] may set the maximum
10 single axle weight, tandem axle weight, or gross weight of a
11 vehicle, or maximum single axle weight, tandem axle weight, or
12 gross weight of a combination of vehicles and loads, that may be
13 moved over a state highway or a farm or ranch road if the board
14 [~~commission~~] finds that heavier maximum weight would rapidly
15 deteriorate or destroy the road or a bridge or culvert along the
16 road. A maximum weight set under this subsection may not exceed the
17 maximum set by statute for that weight.

18 (b) The board [~~commission~~] must set a maximum weight under
19 this section by order entered in its minutes.

20 (c) The board [~~commission~~] must make the finding under this
21 section on an engineering and traffic investigation and in making
22 the finding shall consider the width, condition, and type of
23 pavement structures and other circumstances on the road.

24 (d) A maximum weight or load set under this section becomes
25 effective on a highway or road when appropriate signs giving notice
26 of the maximum weight or load are erected on the highway or road
27 under order of the board [~~commission~~].

1 (e) A vehicle operating under a permit issued under Section
2 623.011, 623.071, 623.094, 623.121, 623.142, 623.181, 623.192, or
3 623.212 may operate under the conditions authorized by the permit
4 over a road for which the board [~~commission~~] has set a maximum
5 weight under this section.

6 (f) For the purpose of this section, a farm or ranch road is
7 a state highway that is shown in the records of the board
8 [~~commission~~] to be a farm-to-market or ranch-to-market road.

9 (g) This section does not apply to a vehicle delivering
10 groceries, farm products, or liquefied petroleum gas.

11 SECTION 8.2J.05. The heading to Section 621.202,
12 Transportation Code, is amended to read as follows:

13 Sec. 621.202. BOARD'S [~~COMMISSION'S~~] AUTHORITY TO SET
14 MAXIMUM WIDTH.

15 SECTION 8.2J.06. Section 621.202(a), Transportation Code,
16 is amended to read as follows:

17 (a) To comply with safety and operational requirements of
18 federal law, the board [~~commission~~] by order may set the maximum
19 width of a vehicle, including the load on the vehicle, at eight feet
20 for a designated highway or segment of a highway if the results of
21 an engineering and traffic study that includes an analysis of
22 structural capacity of bridges and pavements, traffic volume,
23 unique climatic conditions, and width of traffic lanes support the
24 change.

25 SECTION 8.2J.07. Section 621.301(b), Transportation Code,
26 is amended to read as follows:

27 (b) The commissioners court may limit the maximum weights to

1 be moved on or over a county road, bridge, or culvert by exercising
2 its authority under this subsection in the same manner and under the
3 same conditions provided by Section 621.102 for the board
4 [~~commission~~] to limit maximum weights on highways and roads to
5 which that section applies.

6 SECTION 8.2J.08. Section 621.352(a), Transportation Code,
7 is amended to read as follows:

8 (a) The board [~~commission~~] by rule may establish fees for
9 the administration of Section 621.003 in an amount that, when added
10 to the other fees collected by the department, does not exceed the
11 amount sufficient to recover the actual cost to the department of
12 administering that section. An administrative fee collected under
13 this section shall be sent to the comptroller for deposit to the
14 credit of the state highway fund and may be appropriated only to the
15 department for the administration of Section 621.003.

16 SECTION 8.2J.09. Section 621.356, Transportation Code, is
17 amended to read as follows:

18 Sec. 621.356. FORM OF PAYMENT. The board [~~commission~~] may
19 adopt rules prescribing the method for payment of a fee for a permit
20 issued by the department that authorizes the operation of a vehicle
21 and its load or a combination of vehicles and load exceeding size or
22 weight limitations. The rules may:

23 (1) authorize the use of electronic funds transfer or
24 a credit card issued by:

25 (A) a financial institution chartered by a state
26 or the federal government; or

27 (B) a nationally recognized credit organization

1 approved by the board [~~commission~~]; and

2 (2) require the payment of a discount or service
3 charge for a credit card payment in addition to the fee.

4 SUBPART K. SPECIAL PROVISIONS AND EXCEPTIONS FOR OVERSIZE OR
5 OVERWEIGHT VEHICLES

6 SECTION 8.2K.01. Section 622.001, Transportation Code, is
7 amended to read as follows:

8 Sec. 622.001. DEFINITION. In this chapter, "department"
9 means the Texas Department of Motor Vehicles [~~Transportation~~].

10 SECTION 8.2K.02. Section 622.101(a), Transportation Code,
11 is amended to read as follows:

12 (a) A single motor vehicle used exclusively to transport
13 chile pepper modules, seed cotton, cotton, cotton burrs, or
14 equipment used to transport or process chile pepper modules or
15 cotton, including a motor vehicle or burr spreader, may not be
16 operated on a highway or road if the vehicle is:

17 (1) wider than 10 feet and the highway has not been
18 designated by the board [~~commission~~] under Section 621.202;

19 (2) longer than 48 feet; or

20 (3) higher than 14 feet 6 inches.

21 SUBPART L. PERMITS FOR OVERSIZE OR OVERWEIGHT VEHICLES

22 SECTION 8.2L.01. Section 623.001, Transportation Code, is
23 amended by amending Subdivision (1) and adding Subdivision (4) to
24 read as follows:

25 (1) "Department" means the Texas Department of Motor
26 Vehicles [~~Transportation~~].

27 (4) "Board" means the board of the Texas Department of

1 Motor Vehicles.

2 SECTION 8.2L.02. Sections 623.012(a), (b), and (c),
3 Transportation Code, are amended to read as follows:

4 (a) An applicant for a permit under Section 623.011, other
5 than a permit to operate a vehicle loaded with timber or pulp wood,
6 wood chips, cotton, or agricultural products in their natural
7 state, shall file with the Texas Department of Transportation
8 [~~department~~]:

9 (1) a blanket bond; or

10 (2) an irrevocable letter of credit issued by a
11 financial institution the deposits of which are guaranteed by the
12 Federal Deposit Insurance Corporation.

13 (b) The bond or letter of credit must:

14 (1) be in the amount of \$15,000 payable to the Texas
15 Department of Transportation [~~department~~] and the counties of this
16 state;

17 (2) be conditioned that the applicant will pay the
18 Texas Department of Transportation [~~department~~] for any damage to a
19 state highway, and a county for any damage to a road or bridge of the
20 county, caused by the operation of the vehicle for which the permit
21 is issued at a heavier weight than the maximum weights authorized by
22 Subchapter B of Chapter 621 or Section 621.301; and

23 (3) provide that the issuer is to notify the Texas
24 Department of Transportation [~~department~~] and the applicant in
25 writing promptly after a payment is made by the issuer on the bond
26 or letter of credit.

27 (c) If an issuer of a bond or letter of credit pays under the

1 bond or letter of credit, the permit holder shall file with the
2 Texas Department of Transportation [~~department~~] before the 31st day
3 after the date on which the payment is made:

4 (1) a replacement bond or letter of credit in the
5 amount prescribed by Subsection (b) for the original bond or letter
6 of credit; or

7 (2) a notification from the issuer of the existing
8 bond or letter of credit that the bond or letter of credit has been
9 restored to the amount prescribed by Subsection (b).

10 SECTION 8.2L.03. Sections 623.016(a) and (b),
11 Transportation Code, are amended to read as follows:

12 (a) The Texas Department of Transportation [~~department~~] or
13 a county may recover on the bond or letter of credit required for a
14 permit issued under Section 623.011 only by a suit against the
15 permit holder and the issuer of the bond or letter of credit.

16 (b) Venue for a suit by the Texas Department of
17 Transportation [~~department~~] is in a district court in:

18 (1) the county in which the defendant resides;

19 (2) the county in which the defendant has its
20 principal place of business in this state if the defendant is a
21 corporation or partnership; or

22 (3) Travis County if the defendant is a corporation or
23 partnership that does not have a principal place of business in this
24 state.

25 SECTION 8.2L.04. Section 623.051, Transportation Code, is
26 amended to read as follows:

27 Sec. 623.051. CONTRACT ALLOWING OVERSIZE OR OVERWEIGHT

1 VEHICLE TO CROSS ROAD; SURETY BOND. (a) A person may operate a
2 vehicle that cannot comply with one or more of the restrictions of
3 Subchapter C of Chapter 621 or Section 621.101 to cross the width of
4 any road or highway under the jurisdiction of the Texas Department
5 of Transportation [~~department~~], other than a controlled access
6 highway as defined by Section 203.001, from private property to
7 other private property if the person contracts with the Texas
8 Transportation Commission [~~commission~~] to indemnify the Texas
9 Department of Transportation [~~department~~] for the cost of
10 maintenance and repair of the part of the highway crossed by the
11 vehicle.

12 (b) The Texas Transportation Commission [~~commission~~] shall
13 adopt rules relating to the forms and procedures to be used under
14 this section and other matters that the commission considers
15 necessary to carry out this section.

16 (c) To protect the safety of the traveling public, minimize
17 any delays and inconveniences to the operators of vehicles in
18 regular operation, and assure payment for the added wear on the
19 highways in proportion to the reduction of service life, the Texas
20 Transportation Commission [~~commission~~], in adopting rules under
21 this section, shall consider:

22 (1) the safety and convenience of the general
23 traveling public;

24 (2) the suitability of the roadway and subgrade on the
25 road or highway to be crossed, variation in soil grade prevalent in
26 the different regions of the state, and the seasonal effects on
27 highway load capacity, the highway shoulder design, and other

1 highway geometrics; and

2 (3) the state's investment in its highway system.

3 (d) Before exercising any right under a contract under this
4 section, a person must execute with a corporate surety authorized
5 to do business in this state a surety bond in an amount determined
6 by the Texas Transportation Commission [~~commission~~] to compensate
7 for the cost of maintenance and repairs as provided by this section.
8 The bond must be approved by the comptroller and the attorney
9 general and must be conditioned on the person fulfilling the
10 obligations of the contract.

11 SECTION 8.2L.05. Section 623.052(b), Transportation Code,
12 is amended to read as follows:

13 (b) Before a person may operate a vehicle under this
14 section, the person must:

15 (1) contract with the Texas Department of
16 Transportation [~~department~~] to indemnify the Texas Department of
17 Transportation [~~department~~] for the cost of the maintenance and
18 repair for damage caused by a vehicle crossing that part of the
19 highway; and

20 (2) execute an adequate surety bond to compensate for
21 the cost of maintenance and repair, approved by the comptroller and
22 the attorney general, with a corporate surety authorized to do
23 business in this state, conditioned on the person fulfilling each
24 obligation of the agreement.

25 SECTION 8.2L.06. Section 623.075(a), Transportation Code,
26 is amended to read as follows:

27 (a) Before the department may issue a permit under this

1 subchapter, the applicant shall file with the Texas Department of
2 Transportation [~~department~~] a bond in an amount set by the Texas
3 Department of Transportation [~~department~~], payable to the Texas
4 Department of Transportation [~~department~~], and conditioned that
5 the applicant will pay to the Texas Department of Transportation
6 [~~department~~] any damage that might be sustained to the highway
7 because of the operation of the equipment for which a permit is
8 issued.

9 SECTION 8.2L.07. Sections 623.076(b) and (c),
10 Transportation Code, are amended to read as follows:

11 (b) The board [~~Texas Transportation Commission~~] may adopt
12 rules for the payment of a fee under Subsection (a). The rules may:

13 (1) authorize the use of electronic funds transfer;

14 (2) authorize the use of a credit card issued by:

15 (A) a financial institution chartered by a state
16 or the United States; or

17 (B) a nationally recognized credit organization
18 approved by the board [~~Texas Transportation Commission~~]; and

19 (3) require the payment of a discount or service
20 charge for a credit card payment in addition to the fee prescribed
21 by Subsection (a).

22 (c) An application for a permit under Section 623.071(c)(3)
23 or (d) must be accompanied by the permit fee established by the
24 board [~~commission~~] for the permit, not to exceed \$7,000. Of each
25 fee collected under this subsection, the department shall send:

26 (1) the first \$1,000 to the comptroller for deposit to
27 the credit of the general revenue fund; and

1 (2) any amount in excess of \$1,000 to the comptroller
2 for deposit to the credit of the state highway fund.

3 SECTION 8.2L.08. Sections 623.145, 623.146, 623.195,
4 623.196, 623.232, and 623.239, Transportation Code, are amended to
5 read as follows:

6 Sec. 623.145. RULES; FORMS AND PROCEDURES; FEES. (a) The
7 board [~~Texas Transportation Commission~~] by rule shall provide for
8 the issuance of permits under this subchapter. The rules must
9 include each matter the board [~~commission~~] determines necessary to
10 implement this subchapter and:

11 (1) requirements for forms and procedures used in
12 applying for a permit;

13 (2) conditions with regard to route and time of
14 movement;

15 (3) requirements for flags, flaggers, and warning
16 devices;

17 (4) the fee for a permit; and

18 (5) standards to determine whether a permit is to be
19 issued for one trip only or for a period established by the board
20 [~~commission~~].

21 (b) In adopting a rule or establishing a fee, the board
22 [~~commission~~] shall consider and be guided by:

23 (1) the state's investment in its highway system;

24 (2) the safety and convenience of the general
25 traveling public;

26 (3) the registration or license fee paid on the
27 vehicle for which the permit is requested;

- 1 (4) the fees paid by vehicles operating within legal
2 limits;
- 3 (5) the suitability of roadways and subgrades on the
4 various classes of highways of the system;
- 5 (6) the variation in soil grade prevalent in the
6 different regions of the state;
- 7 (7) the seasonal effects on highway load capacity;
- 8 (8) the highway shoulder design and other highway
9 geometrics;
- 10 (9) the load capacity of the highway bridges;
- 11 (10) administrative costs;
- 12 (11) added wear on highways; and
- 13 (12) compensation for inconvenience and necessary
14 delays to highway users.

15 Sec. 623.146. VIOLATION OF RULE. A permit under this
16 subchapter is void on the failure of an owner or the owner's
17 representative to comply with a rule of the board [~~commission~~] or
18 with a condition placed on the permit, and immediately on the
19 violation, further movement over the highway of an oversize or
20 overweight vehicle violates the law regulating the size or weight
21 of a vehicle on a public highway.

22 Sec. 623.195. RULES; FORMS AND PROCEDURES; FEES. (a) The
23 board [~~Texas Transportation Commission~~] by rule shall provide for
24 the issuance of a permit under this subchapter. The rules must
25 include each matter the board [~~commission~~] determines necessary to
26 implement this subchapter and:

- 27 (1) requirements for forms and procedures used in

1 applying for a permit;

2 (2) conditions with regard to route and time of
3 movement;

4 (3) requirements for flags, flaggers, and warning
5 devices;

6 (4) the fee for a permit; and

7 (5) standards to determine whether a permit is to be
8 issued for one trip only or for a period established by the board
9 [~~commission~~].

10 (b) In adopting a rule or establishing a fee, the board
11 [~~commission~~] shall consider and be guided by:

12 (1) the state's investment in its highway system;

13 (2) the safety and convenience of the general
14 traveling public;

15 (3) the registration or license fee paid on the
16 vehicle for which the permit is requested;

17 (4) the fees paid by vehicles operating within legal
18 limits;

19 (5) the suitability of roadways and subgrades on the
20 various classes of highways of the system;

21 (6) the variation in soil grade prevalent in the
22 different regions of the state;

23 (7) the seasonal effects on highway load capacity;

24 (8) the highway shoulder design and other highway
25 geometrics;

26 (9) the load capacity of highway bridges;

27 (10) administrative costs;

- 1 (11) added wear on highways; and
2 (12) compensation for inconvenience and necessary
3 delays to highway users.

4 Sec. 623.196. VIOLATION OF RULE. A permit under this
5 subchapter is void on the failure of an owner or the owner's
6 representative to comply with a rule of the board [~~commission~~] or
7 with a condition placed on the permit, and immediately on the
8 violation, further movement over a highway of an oversize or
9 overweight vehicle violates the law regulating the size or weight
10 of a vehicle on a public highway.

11 Sec. 623.232. ISSUANCE OF PERMITS. The board [~~Texas~~
12 ~~Transportation Commission~~] may authorize the district to issue
13 permits for the movement of oversize or overweight vehicles
14 carrying cargo on state highways located in Victoria County.

15 Sec. 623.239. RULES. The board [~~Texas Transportation~~
16 ~~Commission~~] may adopt rules necessary to implement this subchapter.

17 SECTION 8.2L.09. Section 623.252(a), Transportation Code,
18 is amended to read as follows:

19 (a) The board [~~Texas Transportation Commission~~] may
20 authorize the county to issue permits for the movement of oversize
21 or overweight vehicles carrying cargo on state highways located in
22 Chambers County.

23 SECTION 8.2L.10. Section 623.259, Transportation Code, is
24 amended to read as follows:

25 Sec. 623.259. RULES. The board [~~Texas Transportation~~
26 ~~Commission~~] may adopt rules necessary to implement this subchapter.

1 is amended to read as follows:

2 (a) A person may not act as a motor transportation broker
3 unless the person provides a bond to the Texas Department of Motor
4 Vehicles [~~Transportation~~].

5 SUBPART Q. FOREIGN COMMERCIAL MOTOR TRANSPORTATION

6 SECTION 8.2Q.01. Section 648.002, Transportation Code, is
7 amended to read as follows:

8 Sec. 648.002. RULES. In addition to rules required by this
9 chapter, the Texas Department of Motor Vehicles [~~Transportation~~],
10 the Department of Public Safety, and the Texas Department of
11 Insurance may adopt other rules to carry out this chapter.

12 SUBPART R. ABANDONED MOTOR VEHICLES

13 SECTION 8.2R.01. Section 683.001(1), Transportation Code,
14 is amended to read as follows:

15 (1) "Department" means the Texas Department of Motor
16 Vehicles [~~Transportation~~].

17 SUBPART S. CONTRACTS FOR ENFORCEMENT OF CERTAIN ARREST WARRANTS

18 SECTION 8.2S.01. Section 702.001(1), Transportation Code,
19 is amended to read as follows:

20 (1) "Department" means the Texas Department of Motor
21 Vehicles [~~Transportation~~].

22 SUBPART T. PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM

23 SECTION 8.2T.01. Section 707.001(2), Transportation Code,
24 is amended to read as follows:

25 (2) "Owner of a motor vehicle" means the owner of a
26 motor vehicle as shown on the motor vehicle registration records of
27 the Texas Department of Motor Vehicles [~~Transportation~~] or the

1 analogous department or agency of another state or country.

2 SECTION 8.2T.02. Section 707.011(b), Transportation Code,
3 is amended to read as follows:

4 (b) Not later than the 30th day after the date the violation
5 is alleged to have occurred, the designated department, agency, or
6 office of the local authority or the entity with which the local
7 authority contracts under Section 707.003(a)(1) shall mail the
8 notice of violation to the owner at:

9 (1) the owner's address as shown on the registration
10 records of the Texas Department of Motor Vehicles [~~Transportation~~];
11 or

12 (2) if the vehicle is registered in another state or
13 country, the owner's address as shown on the motor vehicle
14 registration records of the department or agency of the other state
15 or country analogous to the Texas Department of Motor Vehicles
16 [~~Transportation~~].

17 SECTION 8.2T.03. Section 707.017, Transportation Code, is
18 amended to read as follows:

19 Sec. 707.017. ENFORCEMENT. If the owner of a motor vehicle
20 is delinquent in the payment of a civil penalty imposed under this
21 chapter, the county assessor-collector or the Texas Department of
22 Motor Vehicles [~~Transportation~~] may refuse to register a motor
23 vehicle alleged to have been involved in the violation.

24 SUBPART U. SALE OR LEASE OF MOTOR VEHICLES

25 SECTION 8.2U.01. Section 2301.002(9), Occupations Code, is
26 amended to read as follows:

27 (9) "Department" means the Texas Department of Motor

1 Vehicles [~~Transportation~~].

2 SECTION 8.2U.02. Section 2301.005(a), Occupations Code, is
3 amended to read as follows:

4 (a) A reference in law, including a rule, to the Texas Motor
5 Vehicle Commission or to the board means the board of the Texas
6 Department of Motor Vehicles, in matters concerning the governance
7 of the department of motor vehicles or the policymaking,
8 rulemaking, or adjudicative functions of the department. A
9 reference in law to the board is a reference to the director of the
10 motor vehicles division in matters concerning the administrative
11 functions of the division [~~director, except that a reference to the~~
12 ~~board means the commission if it is related to the adoption of~~
13 ~~rules~~].

14 SECTION 8.2U.03. Sections 2301.606(a), (b), and (c),
15 Occupations Code, are amended to read as follows:

16 (a) The board [~~director~~] under board rules shall conduct
17 hearings and issue final orders for the implementation and
18 enforcement of this subchapter. [~~An order issued by the director~~
19 ~~under this subchapter is considered a final order of the board.~~]

20 (b) In a hearing before the board [~~director~~] under this
21 subchapter, a manufacturer, converter, or distributor may plead and
22 prove as an affirmative defense to a remedy under this subchapter
23 that a nonconformity:

24 (1) is the result of abuse, neglect, or unauthorized
25 modification or alteration of the motor vehicle; or

26 (2) does not substantially impair the use or market
27 value of the motor vehicle.

1 (c) The board [~~director~~] may not issue an order requiring a
2 manufacturer, converter, or distributor to make a refund or to
3 replace a motor vehicle unless:

4 (1) the owner or a person on behalf of the owner has
5 mailed written notice of the alleged defect or nonconformity to the
6 manufacturer, converter, or distributor; and

7 (2) the manufacturer, converter, or distributor has
8 been given an opportunity to cure the alleged defect or
9 nonconformity.

10 SECTION 8.2U.04. Section 2301.002(33), Occupations Code,
11 is repealed.

12 SUBPART V. SALVAGE VEHICLE DEALERS

13 SECTION 8.2V.01. Sections 2302.001(2) and (3), Occupations
14 Code, are amended to read as follows:

15 (2) "Board" [~~"Commission"~~] means the board of the
16 Texas Department of Motor Vehicles [~~Transportation Commission~~].

17 (3) "Department" means the Texas Department of Motor
18 Vehicles [~~Transportation~~].

19 SECTION 8.2V.02. Section 2302.0015(b), Occupations Code,
20 is amended to read as follows:

21 (b) For the purpose of enforcing or administering this
22 chapter or Chapter 501 or 502, Transportation Code, a member of the
23 board [~~commission~~], an employee or agent of the board [~~commission~~]
24 or department, a member of the Public Safety Commission, an officer
25 of the Department of Public Safety, or a peace officer may at a
26 reasonable time:

27 (1) enter the premises of a business regulated under

1 one of those chapters; and

2 (2) inspect or copy any document, record, vehicle,
3 part, or other item regulated under one of those chapters.

4 SECTION 8.2V.03. The heading to Subchapter B, Chapter 2302,
5 Occupations Code, is amended to read as follows:

6 SUBCHAPTER B. BOARD [~~COMMISSION~~] POWERS AND DUTIES

7 SECTION 8.2V.04. Sections 2302.051, 2302.052, and
8 2302.053, Occupations Code, are amended to read as follows:

9 Sec. 2302.051. RULES AND ENFORCEMENT POWERS. The board
10 [~~commission~~] shall adopt rules as necessary to administer this
11 chapter and may take other action as necessary to enforce this
12 chapter.

13 Sec. 2302.052. DUTY TO SET FEES. The board [~~commission~~]
14 shall set application fees, license fees, renewal fees, and other
15 fees as required to implement this chapter. The board [~~commission~~]
16 shall set the fees in amounts reasonable and necessary to implement
17 and enforce this chapter.

18 Sec. 2302.053. RULES RESTRICTING ADVERTISING OR
19 COMPETITIVE BIDDING. (a) The board [~~commission~~] may not adopt a
20 rule under Section 2302.051 restricting advertising or competitive
21 bidding by a person who holds a license issued under this chapter
22 except to prohibit false, misleading, or deceptive practices by the
23 person.

24 (b) The board [~~commission~~] may not include in its rules to
25 prohibit false, misleading, or deceptive practices a rule that:

26 (1) restricts the use of any advertising medium;

27 (2) restricts the person's personal appearance or use

1 of the person's voice in an advertisement;

2 (3) relates to the size or duration of an
3 advertisement by the person; or

4 (4) restricts the use of a trade name in advertising by
5 the person.

6 SECTION 8.2V.05. Section 2302.108(b), Occupations Code, is
7 amended to read as follows:

8 (b) The board [~~commission~~] by rule shall establish the
9 grounds for denial, suspension, revocation, or reinstatement of a
10 license issued under this chapter and the procedures for
11 disciplinary action. A rule adopted under this subsection may not
12 conflict with a rule adopted by the State Office of Administrative
13 Hearings.

14 SECTION 8.2V.06. Section 2302.204, Occupations Code, is
15 amended to read as follows:

16 Sec. 2302.204. CASUAL SALES. This chapter does not apply to
17 a person who purchases fewer than three nonrepairable motor
18 vehicles or salvage motor vehicles from a salvage vehicle dealer,
19 an insurance company or salvage pool operator in a casual sale at
20 auction, except that:

21 (1) the board [~~commission~~] shall adopt rules as
22 necessary to regulate casual sales by salvage vehicle dealers,
23 insurance companies, or salvage pool operators and to enforce this
24 section; and

25 (2) a salvage vehicle dealer, insurance company, or
26 salvage pool operator who sells a motor vehicle in a casual sale
27 shall comply with those rules and Subchapter E, Chapter 501,

1 Transportation Code.

2 PART 3. CONFORMING AMENDMENTS PERTAINING TO TEXAS DEPARTMENT OF
3 TRANSPORTATION IN OTHER CODES

4 SUBPART A. BUSINESS & COMMERCE CODE

5 SECTION 8.3A.01. Section 51.003(b), Business & Commerce
6 Code, is amended to read as follows:

7 (b) In this chapter, "business opportunity" does not
8 include:

9 (1) the sale or lease of an established and ongoing
10 business or enterprise that has actively conducted business before
11 the sale or lease, whether composed of one or more than one
12 component business or enterprise, if the sale or lease represents
13 an isolated transaction or series of transactions involving a bona
14 fide change of ownership or control of the business or enterprise or
15 liquidation of the business or enterprise;

16 (2) a sale by a retailer of goods or services under a
17 contract or other agreement to sell the inventory of one or more
18 ongoing leased departments to a purchaser who is granted the right
19 to sell the goods or services within or adjoining a retail business
20 establishment as a department or division of the retail business
21 establishment;

22 (3) a transaction that is:

23 (A) regulated by the Texas Department of
24 Licensing and Regulation, the Texas Department of Insurance, the
25 Texas Real Estate Commission, or the director of the Motor Vehicle
26 Division of the Texas Department of Motor Vehicles
27 [~~Transportation~~]; and

1 (B) engaged in by a person licensed by one of
2 those agencies;

3 (4) a real estate syndication;

4 (5) a sale or lease to a business enterprise that also
5 sells or leases products, equipment, or supplies or performs
6 services:

7 (A) that are not supplied by the seller; and

8 (B) that the purchaser does not use with the
9 seller's products, equipment, supplies, or services;

10 (6) the offer or sale of a franchise as described by
11 the Petroleum Marketing Practices Act (15 U.S.C. Section 2801 et
12 seq.) and its subsequent amendments;

13 (7) the offer or sale of a business opportunity if the
14 seller:

15 (A) has a net worth of \$25 million or more
16 according to the seller's audited balance sheet as of a date not
17 earlier than the 13th month before the date of the transaction; or

18 (B) is at least 80 percent owned by another
19 person who:

20 (i) in writing unconditionally guarantees
21 performance by the person offering the business opportunity plan;
22 and

23 (ii) has a net worth of more than \$25
24 million according to the person's most recent audited balance sheet
25 as of a date not earlier than the 13th month before the date of the
26 transaction; or

27 (8) an arrangement defined as a franchise by 16 C.F.R.

1 Section 436.2(a) and its subsequent amendments if:

2 (A) the franchisor complies in all material
3 respects in this state with 16 C.F.R. Part 436 and each order or
4 other action of the Federal Trade Commission; and

5 (B) before offering for sale or selling a
6 franchise in this state, a person files with the secretary of state
7 a notice containing:

8 (i) the name of the franchisor;

9 (ii) the name under which the franchisor
10 intends to transact business; and

11 (iii) the franchisor's principal business
12 address.

13 SECTION 8.3A.02. Section 105.004(b), Business & Commerce
14 Code, is amended to read as follows:

15 (b) The Texas Department of Motor Vehicles [~~Transportation~~]
16 shall provide a notice that states the provisions of this chapter to
17 each person with a disability who is issued:

18 (1) license plates under Section 504.201,
19 Transportation Code; or

20 (2) a disabled parking placard under Section 681.004,
21 Transportation Code.

22 SUBPART B. CODE OF CRIMINAL PROCEDURE

23 SECTION 8.3B.01. Section 1(1), Article 42.22, Code of
24 Criminal Procedure, is amended to read as follows:

25 (1) "Department" means the Texas Department of Motor
26 Vehicles [~~Transportation~~].

27 SECTION 8.3B.02. Article 59.04(c), Code of Criminal

1 Procedure, is amended to read as follows:

2 (c) If the property is a motor vehicle, and if there is
3 reasonable cause to believe that the vehicle has been registered
4 under the laws of this state, the attorney representing the state
5 shall ask the Texas Department of Motor Vehicles [~~Transportation~~]
6 to identify from its records the record owner of the vehicle and any
7 interest holder. If the addresses of the owner and interest holder
8 are not otherwise known, the attorney representing the state shall
9 request citation be served on such persons at the address listed
10 with the Texas Department of Motor Vehicles [~~Transportation~~]. If
11 the citation issued to such address is returned unserved, the
12 attorney representing the state shall cause a copy of the notice of
13 the seizure and intended forfeiture to be posted at the courthouse
14 door, to remain there for a period of not less than 30 days. If the
15 owner or interest holder does not answer or appear after the notice
16 has been so posted, the court shall enter a judgment by default as
17 to the owner or interest holder, provided that the attorney
18 representing the state files a written motion supported by
19 affidavit setting forth the attempted service. An owner or
20 interest holder whose interest is forfeited in this manner shall
21 not be liable for court costs. If the person in possession of the
22 vehicle at the time of the seizure is not the owner or the interest
23 holder of the vehicle, notification shall be provided to the
24 possessor in the same manner specified for notification to an owner
25 or interest holder.

26 SUBPART C. FAMILY CODE

27 SECTION 8.3C.01. Section 157.316(b), Family Code, is

1 amended to read as follows:

2 (b) If a lien established under this subchapter attaches to
3 a motor vehicle, the lien must be perfected in the manner provided
4 by Chapter 501, Transportation Code, and the court or Title IV-D
5 agency that rendered the order of child support shall include in the
6 order a requirement that the obligor surrender to the court or Title
7 IV-D agency evidence of the legal ownership of the motor vehicle
8 against which the lien may attach. A lien against a motor vehicle
9 under this subchapter is not perfected until the obligor's title to
10 the vehicle has been surrendered to the court or Title IV-D agency
11 and the Texas Department of Motor Vehicles [~~Transportation~~] has
12 issued a subsequent title that discloses on its face the fact that
13 the vehicle is subject to a child support lien under this
14 subchapter.

15 SECTION 8.3C.02. Section 232.0022(a), Family Code, is
16 amended to read as follows:

17 (a) The Texas Department of Motor Vehicles [~~Transportation~~]
18 is the appropriate licensing authority for suspension or nonrenewal
19 of a motor vehicle registration under this chapter.

20 SECTION 8.3C.03. Section 232.014(b), Family Code, is
21 amended to read as follows:

22 (b) A fee collected by the Texas Department of Motor
23 Vehicles [~~Transportation~~] or the Department of Public Safety shall
24 be deposited to the credit of the state highway fund.

25 SECTION 8.3C.04. Section 264.502(b), Family Code, is
26 amended to read as follows:

27 (b) The members of the committee who serve under Subsections

1 (a)(1) through (3) shall select the following additional committee
2 members:

3 (1) a criminal prosecutor involved in prosecuting
4 crimes against children;

5 (2) a sheriff;

6 (3) a justice of the peace;

7 (4) a medical examiner;

8 (5) a police chief;

9 (6) a pediatrician experienced in diagnosing and
10 treating child abuse and neglect;

11 (7) a child educator;

12 (8) a child mental health provider;

13 (9) a public health professional;

14 (10) a child protective services specialist;

15 (11) a sudden infant death syndrome family service
16 provider;

17 (12) a neonatologist;

18 (13) a child advocate;

19 (14) a chief juvenile probation officer;

20 (15) a child abuse prevention specialist;

21 (16) a representative of the Department of Public
22 Safety; and

23 (17) a representative of the Texas Department of Motor
24 Vehicles [~~Transportation~~].

25 SUBPART D. FINANCE CODE

26 SECTION 8.3D.01. Section 306.001(9), Finance Code, is
27 amended to read as follows:

1 (9) "Qualified commercial loan":

2 (A) means:

3 (i) a commercial loan in which one or more
4 persons as part of the same transaction lends, advances, borrows,
5 or receives, or is obligated to lend or advance or entitled to
6 borrow or receive, money or credit with an aggregate value of:

7 (a) \$3 million or more if the
8 commercial loan is secured by real property; or

9 (b) \$250,000 or more if the commercial
10 loan is not secured by real property and, if the aggregate value of
11 the commercial loan is less than \$500,000, the loan documents
12 contain a written certification from the borrower that:

13 (1) the borrower has been
14 advised by the lender to seek the advice of an attorney and an
15 accountant in connection with the commercial loan; and

16 (2) the borrower has had the
17 opportunity to seek the advice of an attorney and accountant of the
18 borrower's choice in connection with the commercial loan; and

19 (ii) a renewal or extension of a commercial
20 loan described by Paragraph (A), regardless of the principal amount
21 of the loan at the time of the renewal or extension; and

22 (B) does not include a commercial loan made for
23 the purpose of financing a business licensed by the [~~Motor Vehicle~~
24 ~~Board of the~~] Texas Department of Motor Vehicles [~~Transportation~~]
25 under Section 2301.251(a), Occupations Code.

26 SECTION 8.3D.02. Section 348.001(10-a), Finance Code, is
27 amended to read as follows:

- 1 Board;
- 2 (2) Texas Board of Architectural Examiners;
- 3 (3) Texas Board of Chiropractic Examiners;
- 4 (4) State Board of Dental Examiners;
- 5 (5) Texas Board of Professional Engineers;
- 6 (6) Texas Funeral Service Commission;
- 7 (7) Texas Board of Professional Geoscientists;
- 8 (8) Department of State Health Services, except as
- 9 provided by Section 411.110, and agencies attached to the
- 10 department, including:
- 11 (A) Texas State Board of Examiners of Dietitians;
- 12 (B) Texas State Board of Examiners of Marriage
- 13 and Family Therapists;
- 14 (C) Midwifery Board;
- 15 (D) Texas State Perfusionist Advisory Committee
- 16 [~~Board of Examiners of Perfusionists~~];
- 17 (E) Texas State Board of Examiners of
- 18 Professional Counselors;
- 19 (F) Texas State Board of Social Worker Examiners;
- 20 (G) State Board of Examiners for Speech-Language
- 21 Pathology and Audiology;
- 22 (H) Advisory Board of Athletic Trainers;
- 23 (I) State Committee of Examiners in the Fitting
- 24 and Dispensing of Hearing Instruments;
- 25 (J) Texas Board of Licensure for Professional
- 26 Medical Physicists; and
- 27 (K) Texas Board of Orthotics and Prosthetics;

- 1 (9) Texas Board of Professional Land Surveying;
- 2 (10) Texas Department of Licensing and Regulation,
3 except as provided by Section 411.093;
- 4 (11) Texas Commission on Environmental Quality;
- 5 (12) Texas Board of Occupational Therapy Examiners;
- 6 (13) Texas Optometry Board;
- 7 (14) Texas State Board of Pharmacy;
- 8 (15) Texas Board of Physical Therapy Examiners;
- 9 (16) Texas State Board of Plumbing Examiners;
- 10 (17) Texas State Board of Podiatric Medical Examiners;
- 11 (18) Polygraph Examiners Board;
- 12 (19) Texas State Board of Examiners of Psychologists;
- 13 (20) Texas Real Estate Commission;
- 14 (21) Board of Tax Professional Examiners;
- 15 (22) Texas Department of Transportation;
- 16 (23) State Board of Veterinary Medical Examiners;
- 17 (24) Texas Department of Housing and Community
18 Affairs;
- 19 (25) secretary of state;
- 20 (26) state fire marshal;
- 21 (27) Texas Education Agency; ~~and~~
- 22 (28) Department of Agriculture; and
- 23 (29) Texas Department of Motor Vehicles.

24 SUBPART F. HEALTH AND SAFETY CODE

25 SECTION 8.3F.01. Section 382.209(e), Health and Safety
26 Code, is amended to read as follows:

- 27 (e) A vehicle is not eligible to participate in a low-income

1 vehicle repair assistance, retrofit, and accelerated vehicle
2 retirement program established under this section unless:

3 (1) the vehicle is capable of being operated;

4 (2) the registration of the vehicle:

5 (A) is current; and

6 (B) reflects that the vehicle has been registered
7 in the county implementing the program for the 12 months preceding
8 the application for participation in the program;

9 (3) the commissioners court of the county
10 administering the program determines that the vehicle meets the
11 eligibility criteria adopted by the commission, the Texas
12 Department of Motor Vehicles [~~Transportation~~], and the Public
13 Safety Commission;

14 (4) if the vehicle is to be repaired, the repair is
15 done by a repair facility recognized by the Department of Public
16 Safety, which may be an independent or private entity licensed by
17 the state; and

18 (5) if the vehicle is to be retired under this
19 subsection and Section 382.213, the replacement vehicle is a
20 qualifying motor vehicle.

21 SECTION 8.3F.02. Section 382.210(f), Health and Safety
22 Code, is amended to read as follows:

23 (f) In this section, "total cost" means the total amount of
24 money paid or to be paid for the purchase of a motor vehicle as set
25 forth as "sales price" in the form entitled "Application for Texas
26 Certificate of Title" promulgated by the Texas Department of Motor
27 Vehicles [~~Transportation~~]. In a transaction that does not involve

1 the use of that form, the term means an amount of money that is
2 equivalent, or substantially equivalent, to the amount that would
3 appear as "sales price" on the Application for Texas Certificate of
4 Title if that form were involved.

5 SECTION 8.3F.03. Section 461.017(a), Health and Safety
6 Code, is amended to read as follows:

7 (a) The Drug Demand Reduction Advisory Committee is
8 composed of the following members:

9 (1) five representatives of the public from different
10 geographic regions of the state who have knowledge and expertise in
11 issues relating to reducing drug demand and who are appointed by the
12 commissioner [~~executive director~~] of the Department of State Health
13 Services [~~Texas Commission on Alcohol and Drug Abuse~~]; and

14 (2) one representative of each of the following
15 agencies or offices who is appointed by the executive director or
16 commissioner of the agency or office and who is directly involved in
17 the agency's or office's policies, programs, or funding activities
18 relating to reducing drug demand:

19 (A) the criminal justice division of the
20 governor's office;

21 (B) the Criminal Justice Policy Council;

22 (C) the Department of Family and Protective [~~and~~
23 ~~Regulatory~~] Services;

24 (D) the Department of Public Safety of the State
25 of Texas;

26 (E) the Health and Human Services Commission;

27 (F) the Texas Alcoholic Beverage Commission;

1 (G) the Department of State Health Services
2 [~~Texas Commission on Alcohol and Drug Abuse~~];

3 (H) the Texas Council on Offenders with Mental
4 Impairments;

5 (I) the Texas Department of Criminal Justice;

6 (J) the [~~Texas Department of~~] Health and ~~+~~
7 [~~(K) the Texas Department of~~] Human Services
8 Commission;

9 (K) [~~(L)~~] the [~~Texas~~] Department of Aging and
10 Disability Services [~~Mental Health and Mental Retardation~~];

11 (L) [~~(M)~~] the Texas Education Agency;

12 (M) [~~(N)~~] the Texas Juvenile Probation
13 Commission;

14 (N) [~~(O)~~] the Texas Youth Commission;

15 (O) [~~(P)~~] the Department of Assistive and
16 Rehabilitative Services [~~Texas Rehabilitation Commission~~];

17 (P) [~~(Q)~~] the Texas Workforce Commission;

18 (Q) [~~(R)~~] the Texas Department of Motor Vehicles
19 [~~Transportation~~];

20 (R) [~~(S)~~] the comptroller of public accounts;
21 and

22 (S) [~~(T)~~] the adjutant general's department.

23 SUBPART G. HUMAN RESOURCES CODE

24 SECTION 8.3G.01. Section 22.041, Human Resources Code, is
25 amended to read as follows:

26 Sec. 22.041. THIRD-PARTY INFORMATION. Notwithstanding any
27 other provision of this code, the department may use information

1 obtained from a third party to verify the assets and resources of a
2 person for purposes of determining the person's eligibility and
3 need for medical assistance, financial assistance, or nutritional
4 assistance. Third-party information includes information obtained
5 from:

6 (1) a consumer reporting agency, as defined by Section
7 20.01, Business & Commerce Code;

8 (2) an appraisal district; or

9 (3) the Texas Department of Motor Vehicles
10 [~~Transportation's~~] vehicle registration record database.

11 SECTION 8.3G.02. Section 32.026(g), Human Resources Code,
12 is amended to read as follows:

13 (g) Notwithstanding any other provision of this code, the
14 department may use information obtained from a third party to
15 verify the assets and resources of a person for purposes of
16 determining the person's eligibility and need for medical
17 assistance. Third-party information includes information obtained
18 from:

19 (1) a consumer reporting agency, as defined by Section
20 20.01, Business & Commerce Code;

21 (2) an appraisal district; or

22 (3) the Texas Department of Motor Vehicles
23 [~~Transportation's~~] vehicle registration record database.

24 SUBPART H. LOCAL GOVERNMENT CODE

25 SECTION 8.3H.01. Section 130.006, Local Government Code, is
26 amended to read as follows:

27 Sec. 130.006. PROCEDURES FOR COLLECTION OF DISHONORED

1 CHECKS AND INVOICES. A county tax assessor-collector may establish
2 procedures for the collection of dishonored checks and credit card
3 invoices. The procedures may include:

4 (1) official notification to the maker that the check
5 or invoice has not been honored and that the receipt, registration,
6 certificate, or other instrument issued on the receipt of the check
7 or invoice is not valid until payment of the fee or tax is made;

8 (2) notification of the sheriff or other law
9 enforcement officers that a check or credit card invoice has not
10 been honored and that the receipt, registration, certificate, or
11 other instrument held by the maker is not valid; and

12 (3) notification to the Texas Department of Motor
13 Vehicles [~~Transportation~~], the comptroller of public accounts, or
14 the Department of Public Safety that the receipt, registration,
15 certificate, or other instrument held by the maker is not valid.

16 SECTION 8.3H.02. Section 130.007, Local Government Code, is
17 amended to read as follows:

18 Sec. 130.007. REMISSION TO STATE NOT REQUIRED; STATE
19 ASSISTANCE IN COLLECTION. (a) If a fee or tax is required to be
20 remitted to the comptroller or the Texas Department of Motor
21 Vehicles [~~Transportation~~] and if payment was made to the county tax
22 assessor-collector by a check that was not honored by the drawee
23 bank or by a credit card invoice that was not honored by the credit
24 card issuer, the amount of the fee or tax is not required to be
25 remitted, but the assessor-collector shall notify the appropriate
26 department of:

27 (1) the amount of the fee or tax;

1 (2) the type of fee or tax involved; and

2 (3) the name and address of the maker.

3 (b) The Texas Department of Motor Vehicles [~~Transportation~~]
4 and the comptroller shall assist the county tax assessor-collector
5 in collecting the fee or tax and may cancel or revoke any receipt,
6 registration, certificate, or other instrument issued in the name
7 of the state conditioned on the payment of the fee or tax.

8 SECTION 8.3H.03. Section 130.008, Local Government Code, is
9 amended to read as follows:

10 Sec. 130.008. LIABILITY OF TAX COLLECTOR FOR VIOLATIONS OF
11 SUBCHAPTER. If the comptroller or the Texas Department of Motor
12 Vehicles [~~Transportation~~] determines that the county tax
13 assessor-collector has accepted payment for fees and taxes to be
14 remitted to that department in violation of Section 130.004 or that
15 more than two percent of the fees and taxes to be received from the
16 assessor-collector are not remitted because of the acceptance of
17 checks that are not honored by the drawee bank or of credit card
18 invoices that are not honored by the credit card issuer, the
19 department may notify the assessor-collector that the
20 assessor-collector may not accept a check or credit card invoice
21 for the payment of any fee or tax to be remitted to that department.
22 A county tax assessor-collector who accepts a check or credit card
23 invoice for the payment of a fee or tax, after notice that the
24 assessor-collector may not receive a check or credit card invoice
25 for the payment of fees or taxes to be remitted to a department, is
26 liable to the state for the amount of the check or credit card
27 invoice accepted.

1 SECTION 8.3H.04. Section 130.009, Local Government Code, is
2 amended to read as follows:

3 Sec. 130.009. STATE RULES. The comptroller and the Texas
4 Department of Motor Vehicles [~~Transportation~~] may make rules
5 concerning the acceptance of checks or credit card invoices by a
6 county tax assessor-collector and for the collection of dishonored
7 checks or credit card invoices.

8 SUBPART I. OCCUPATIONS CODE

9 SECTION 8.3I.01. Section 554.009(c), Occupations Code, is
10 amended to read as follows:

11 (c) The board may register a vehicle with the Texas
12 Department of Motor Vehicles [~~Transportation~~] in an alias name only
13 for investigative personnel.

14 SUBPART J. PENAL CODE

15 SECTION 8.3J.01. Section 31.03(c), Penal Code, is amended
16 to read as follows:

17 (c) For purposes of Subsection (b):

18 (1) evidence that the actor has previously
19 participated in recent transactions other than, but similar to,
20 that which the prosecution is based is admissible for the purpose of
21 showing knowledge or intent and the issues of knowledge or intent
22 are raised by the actor's plea of not guilty;

23 (2) the testimony of an accomplice shall be
24 corroborated by proof that tends to connect the actor to the crime,
25 but the actor's knowledge or intent may be established by the
26 uncorroborated testimony of the accomplice;

27 (3) an actor engaged in the business of buying and

1 selling used or secondhand personal property, or lending money on
2 the security of personal property deposited with the actor, is
3 presumed to know upon receipt by the actor of stolen property (other
4 than a motor vehicle subject to Chapter 501, Transportation Code)
5 that the property has been previously stolen from another if the
6 actor pays for or loans against the property \$25 or more (or
7 consideration of equivalent value) and the actor knowingly or
8 recklessly:

9 (A) fails to record the name, address, and
10 physical description or identification number of the seller or
11 pledgor;

12 (B) fails to record a complete description of the
13 property, including the serial number, if reasonably available, or
14 other identifying characteristics; or

15 (C) fails to obtain a signed warranty from the
16 seller or pledgor that the seller or pledgor has the right to
17 possess the property. It is the express intent of this provision
18 that the presumption arises unless the actor complies with each of
19 the numbered requirements;

20 (4) for the purposes of Subdivision (3)(A),
21 "identification number" means driver's license number, military
22 identification number, identification certificate, or other
23 official number capable of identifying an individual;

24 (5) stolen property does not lose its character as
25 stolen when recovered by any law enforcement agency;

26 (6) an actor engaged in the business of obtaining
27 abandoned or wrecked motor vehicles or parts of an abandoned or

1 wrecked motor vehicle for resale, disposal, scrap, repair,
2 rebuilding, demolition, or other form of salvage is presumed to
3 know on receipt by the actor of stolen property that the property
4 has been previously stolen from another if the actor knowingly or
5 recklessly:

6 (A) fails to maintain an accurate and legible
7 inventory of each motor vehicle component part purchased by or
8 delivered to the actor, including the date of purchase or delivery,
9 the name, age, address, sex, and driver's license number of the
10 seller or person making the delivery, the license plate number of
11 the motor vehicle in which the part was delivered, a complete
12 description of the part, and the vehicle identification number of
13 the motor vehicle from which the part was removed, or in lieu of
14 maintaining an inventory, fails to record the name and certificate
15 of inventory number of the person who dismantled the motor vehicle
16 from which the part was obtained;

17 (B) fails on receipt of a motor vehicle to obtain
18 a certificate of authority, sales receipt, or transfer document as
19 required by Chapter 683, Transportation Code, or a certificate of
20 title showing that the motor vehicle is not subject to a lien or
21 that all recorded liens on the motor vehicle have been released; or

22 (C) fails on receipt of a motor vehicle to
23 immediately remove an unexpired license plate from the motor
24 vehicle, to keep the plate in a secure and locked place, or to
25 maintain an inventory, on forms provided by the Texas Department of
26 Motor Vehicles [~~Transportation~~], of license plates kept under this
27 paragraph, including for each plate or set of plates the license

1 plate number and the make, motor number, and vehicle identification
2 number of the motor vehicle from which the plate was removed;

3 (7) an actor who purchases or receives a used or
4 secondhand motor vehicle is presumed to know on receipt by the actor
5 of the motor vehicle that the motor vehicle has been previously
6 stolen from another if the actor knowingly or recklessly:

7 (A) fails to report to the Texas Department of
8 Motor Vehicles [~~Transportation~~] the failure of the person who sold
9 or delivered the motor vehicle to the actor to deliver to the actor
10 a properly executed certificate of title to the motor vehicle at the
11 time the motor vehicle was delivered; or

12 (B) fails to file with the county tax
13 assessor-collector of the county in which the actor received the
14 motor vehicle, not later than the 20th day after the date the actor
15 received the motor vehicle, the registration license receipt and
16 certificate of title or evidence of title delivered to the actor in
17 accordance with Subchapter D, Chapter 520, Transportation Code, at
18 the time the motor vehicle was delivered;

19 (8) an actor who purchases or receives from any source
20 other than a licensed retailer or distributor of pesticides a
21 restricted-use pesticide or a state-limited-use pesticide or a
22 compound, mixture, or preparation containing a restricted-use or
23 state-limited-use pesticide is presumed to know on receipt by the
24 actor of the pesticide or compound, mixture, or preparation that
25 the pesticide or compound, mixture, or preparation has been
26 previously stolen from another if the actor:

27 (A) fails to record the name, address, and

1 physical description of the seller or pledgor;

2 (B) fails to record a complete description of the
3 amount and type of pesticide or compound, mixture, or preparation
4 purchased or received; and

5 (C) fails to obtain a signed warranty from the
6 seller or pledgor that the seller or pledgor has the right to
7 possess the property; and

8 (9) an actor who is subject to Section 409, Packers and
9 Stockyards Act (7 U.S.C. Section 228b), that obtains livestock from
10 a commission merchant by representing that the actor will make
11 prompt payment is presumed to have induced the commission
12 merchant's consent by deception if the actor fails to make full
13 payment in accordance with Section 409, Packers and Stockyards Act
14 (7 U.S.C. Section 228b).

15 SECTION 8.3J.02. Section 31.11(b), Penal Code, is amended
16 to read as follows:

17 (b) It is an affirmative defense to prosecution under this
18 section that the person was:

19 (1) the owner or acting with the effective consent of
20 the owner of the property involved;

21 (2) a peace officer acting in the actual discharge of
22 official duties; or

23 (3) acting with respect to a number assigned to a
24 vehicle by the Texas Department of Transportation or the Texas
25 Department of Motor Vehicles, as applicable, and the person was:

26 (A) in the actual discharge of official duties as
27 an employee or agent of the department; or

1 (B) in full compliance with the rules of the
2 department as an applicant for an assigned number approved by the
3 department.

4 SUBPART K. TAX CODE

5 SECTION 8.3K.01. Section 21.02(d), Tax Code, is amended to
6 read as follows:

7 (d) A motor vehicle does not have taxable situs in a taxing
8 unit under Subsection (a)(1) if, on January 1, the vehicle:

9 (1) has been located for less than 60 days at a place
10 of business of a person who holds a wholesale motor vehicle auction
11 general distinguishing number issued by the Texas Department of
12 Motor Vehicles [~~Transportation~~] under Chapter 503, Transportation
13 Code, for that place of business; and

14 (2) is offered for resale.

15 SECTION 8.3K.02. Section 22.04(d), Tax Code, is amended to
16 read as follows:

17 (d) This section does not apply to a motor vehicle that on
18 January 1 is located at a place of business of a person who holds a
19 wholesale motor vehicle auction general distinguishing number
20 issued by the Texas Department of Motor Vehicles [~~Transportation~~]
21 under Chapter 503, Transportation Code, for that place of business,
22 and that:

23 (1) has not acquired taxable situs under Section
24 21.02(a)(1) in a taxing unit that participates in the appraisal
25 district because the vehicle is described by Section 21.02(d);

26 (2) is offered for sale by a dealer who holds a
27 dealer's general distinguishing number issued by the Texas

1 Department of Motor Vehicles [~~Transportation~~] under Chapter 503,
2 Transportation Code, and whose inventory of motor vehicles is
3 subject to taxation in the manner provided by Sections 23.121 and
4 23.122; or

5 (3) is collateral possessed by a lienholder and
6 offered for sale in foreclosure of a security interest.

7 SECTION 8.3K.03. Sections 23.121(a)(3), (11), and (14), Tax
8 Code, are amended to read as follows:

9 (3) "Dealer" means a person who holds a dealer's
10 general distinguishing number issued by the Texas Department of
11 Motor Vehicles [~~Transportation~~] under the authority of Chapter 503,
12 Transportation Code, or who is legally recognized as a motor
13 vehicle dealer pursuant to the law of another state and who complies
14 with the terms of Section 152.063(f). The term does not include:

15 (A) a person who holds a manufacturer's license
16 issued under Chapter 2301, Occupations Code [~~by the Motor Vehicle~~
17 ~~Board of the Texas Department of Transportation~~];

18 (B) an entity that is owned or controlled by a
19 person who holds a manufacturer's license issued under Chapter
20 2301, Occupations Code [~~by the Motor Vehicle Board of the Texas~~
21 ~~Department of Transportation~~]; or

22 (C) a dealer whose general distinguishing number
23 issued by the Texas Department of Motor Vehicles [~~Transportation~~]
24 under the authority of Chapter 503, Transportation Code, prohibits
25 the dealer from selling a vehicle to any person except a dealer.

26 (11) "Sales price" means the total amount of money
27 paid or to be paid for the purchase of a motor vehicle as set forth

1 as "sales price" in the form entitled "Application for Texas
2 Certificate of Title" promulgated by the Texas Department of Motor
3 Vehicles [~~Transportation~~]. In a transaction that does not involve
4 the use of that form, the term means an amount of money that is
5 equivalent, or substantially equivalent, to the amount that would
6 appear as "sales price" on the Application for Texas Certificate of
7 Title if that form were involved.

8 (14) "Towable recreational vehicle" means a
9 nonmotorized vehicle that is designed for temporary human
10 habitation for recreational, camping, or seasonal use and:

11 (A) is titled and registered with the Texas
12 Department of Motor Vehicles [~~Transportation~~] through the office of
13 the collector;

14 (B) is permanently built on a single chassis;

15 (C) contains one or more life support systems;

16 and

17 (D) is designed to be towable by a motor vehicle.

18 SECTION 8.3K.04. Sections 23.121(f), (g), and (h), Tax
19 Code, are amended to read as follows:

20 (f) The comptroller shall promulgate a form entitled
21 Dealer's Motor Vehicle Inventory Declaration. Except as provided
22 by Section 23.122(1) [~~of this code~~], not later than February 1 of
23 each year, or, in the case of a dealer who was not in business on
24 January 1, not later than 30 days after commencement of business,
25 each dealer shall file a declaration with the chief appraiser and
26 file a copy with the collector. For purposes of this subsection, a
27 dealer is presumed to have commenced business on the date of

1 issuance to the dealer of a dealer's general distinguishing number
2 as provided by Chapter 503, Transportation Code. Notwithstanding
3 the presumption created by this subsection, a chief appraiser may,
4 at his or her sole discretion, designate as the date on which a
5 dealer commenced business a date other than the date of issuance to
6 the dealer of a dealer's general distinguishing number. The
7 declaration is sufficient to comply with this subsection if it sets
8 forth the following information:

9 (1) the name and business address of each location at
10 which the dealer owner conducts business;

11 (2) each of the dealer's general distinguishing
12 numbers issued by the Texas Department of Motor Vehicles
13 [~~Transportation~~];

14 (3) a statement that the dealer owner is the owner of a
15 dealer's motor vehicle inventory; and

16 (4) the market value of the dealer's motor vehicle
17 inventory for the current tax year as computed under Section
18 23.121(b) [~~of this code~~].

19 (g) Under the terms provided by this subsection, the chief
20 appraiser may examine the books and records of the holder of a
21 general distinguishing number issued by the Texas Department of
22 Motor Vehicles [~~Transportation~~]. A request made under this
23 subsection must be made in writing, delivered personally to the
24 custodian of the records, at the location for which the general
25 distinguishing number has been issued, must provide a period not
26 less than 15 days for the person to respond to the request, and must
27 state that the person to whom it is addressed has the right to seek

1 judicial relief from compliance with the request. In a request made
2 under this section the chief appraiser may examine:

3 (1) the document issued by the Texas Department of
4 Motor Vehicles [~~Transportation~~] showing the person's general
5 distinguishing number;

6 (2) documentation appropriate to allow the chief
7 appraiser to ascertain the applicability of this section and
8 Section 23.122 [~~of this code~~] to the person;

9 (3) sales records to substantiate information set
10 forth in the dealer's declaration filed by the person.

11 (h) If a dealer fails to file a declaration as required by
12 this section, or if, on the declaration required by this section, a
13 dealer reports the sale of fewer than five motor vehicles in the
14 prior year, the chief appraiser shall report that fact to the Texas
15 Department of Motor Vehicles [~~Transportation~~] and the department
16 shall initiate termination proceedings. The chief appraiser shall
17 include with the report a copy of a declaration, if any, indicating
18 the sale by a dealer of fewer than five motor vehicles in the prior
19 year. A report by a chief appraiser to the Texas Department of
20 Motor Vehicles [~~Transportation~~] as provided by this subsection is
21 prima facie grounds for the cancellation of the dealer's general
22 distinguishing number under Section 503.038(a)(9), Transportation
23 Code, or for refusal by the Texas Department of Motor Vehicles
24 [~~Transportation~~] to renew the dealer's general distinguishing
25 number.

26 SECTION 8.3K.05. Section 23.123(c), Tax Code, is amended to
27 read as follows:

1 (c) Information made confidential by this section may be
2 disclosed:

3 (1) in a judicial or administrative proceeding
4 pursuant to a lawful subpoena;

5 (2) to the person who filed the declaration or
6 statement or to that person's representative authorized by the
7 person in writing to receive the information;

8 (3) to the comptroller or an employee of the
9 comptroller authorized by the comptroller to receive the
10 information;

11 (4) to a collector or chief appraiser;

12 (5) to a district attorney, criminal district attorney
13 or county attorney involved in the enforcement of a penalty imposed
14 pursuant to Section 23.121 or Section 23.122 [~~of this code~~];

15 (6) for statistical purposes if in a form that does not
16 identify specific property or a specific property owner;

17 (7) if and to the extent that the information is
18 required for inclusion in a public document or record that the
19 appraisal or collection office is required by law to prepare or
20 maintain; or

21 (8) to the Texas Department of Motor Vehicles
22 [~~Transportation~~] for use by that department in auditing compliance
23 of its licensees with appropriate provisions of applicable law.

24 SECTION 8.3K.06. Section 23.124(a)(11), Tax Code, is
25 amended to read as follows:

26 (11) "Sales price" means the total amount of money
27 paid or to be paid for the purchase of:

1 (A) a vessel, other than a trailer that is
2 treated as a vessel, as set forth as "sales price" in the form
3 entitled "Application for Texas Certificate of Number/Title for
4 Boat/Seller, Donor or Trader's Affidavit" promulgated by the Parks
5 and Wildlife Department;

6 (B) an outboard motor as set forth as "sales
7 price" in the form entitled "Application for Texas Certificate of
8 Title for an Outboard Motor/Seller, Donor or Trader's Affidavit"
9 promulgated by the Parks and Wildlife Department; or

10 (C) a trailer that is treated as a vessel as set
11 forth as "sales price" in the form entitled "Application for Texas
12 Certificate of Title" promulgated by the Texas Department of Motor
13 Vehicles [~~Transportation~~].

14 In a transaction involving a vessel, an outboard motor,
15 or a trailer that is treated as a vessel that does not involve the
16 use of one of these forms, the term means an amount of money that is
17 equivalent, or substantially equivalent, to the amount that would
18 appear as "sales price" on the Application for Texas Certificate of
19 Number/Title for Boat/Seller, Donor or Trader's Affidavit, the
20 Application for Texas Certificate of Title for an Outboard
21 Motor/Seller, Donor or Trader's Affidavit, or the Application for
22 Texas Certificate of Title if one of these forms were involved.

23 SECTION 8.3K.07. Section 113.011, Tax Code, is amended to
24 read as follows:

25 Sec. 113.011. LIENS FILED WITH TEXAS DEPARTMENT OF MOTOR
26 VEHICLES [~~TRANSPORTATION~~]. The comptroller shall furnish to the
27 Texas Department of Motor Vehicles [~~Transportation~~] each release of

1 a tax lien filed by the comptroller with that department.

2 SECTION 8.3K.08. Sections 152.0412(a) and (f), Tax Code,
3 are amended to read as follows:

4 (a) In this section, "standard presumptive value" means the
5 private-party transaction value of a motor vehicle, as determined
6 by the Texas Department of Motor Vehicles [~~Transportation~~] based on
7 an appropriate regional guidebook of a nationally recognized motor
8 vehicle value guide service, or based on another motor vehicle
9 guide publication that the department determines is appropriate if
10 a private-party transaction value for the motor vehicle is not
11 available from a regional guidebook described by this subsection.

12 (f) The Texas Department of Motor Vehicles [~~Transportation~~]
13 shall maintain information on the standard presumptive values of
14 motor vehicles as part of the department's registration and title
15 system. The department shall update the information at least
16 quarterly each calendar year and publish, electronically or
17 otherwise, the updated information.

18 SECTION 8.3K.09. Section 152.042, Tax Code, is amended to
19 read as follows:

20 Sec. 152.042. COLLECTION OF TAX ON METAL DEALER PLATES. A
21 person required to pay the tax imposed by Section 152.027 shall pay
22 the tax to the Texas Department of Motor Vehicles [~~Transportation~~],
23 and the department may not issue the metal dealer's plates until the
24 tax is paid.

25 SECTION 8.3K.10. Section 152.121(b), Tax Code, is amended
26 to read as follows:

27 (b) Taxes on metal dealer plates collected by the Texas

1 Department of Motor Vehicles [~~Transportation~~] shall be deposited by
2 the department in the state treasury in the same manner as are other
3 taxes collected under this chapter.

4 SECTION 8.3K.11. Section 162.001(52), Tax Code, is amended
5 to read as follows:

6 (52) "Registered gross weight" means the total weight
7 of the vehicle and carrying capacity shown on the registration
8 certificate issued by the Texas Department of Motor Vehicles
9 [~~Transportation~~].

10 PART 4. TRANSFERS OF CERTAIN POWERS, DUTIES, OBLIGATIONS, AND
11 RIGHTS OF ACTION

12 SECTION 8.4.01. (a) All powers, duties, obligations, and
13 rights of action of the Motor Carrier Division, the Motor Vehicle
14 Division, and the Vehicle Titles and Registration Division of the
15 Texas Department of Transportation are transferred to the Texas
16 Department of Motor Vehicles, and all powers, duties, obligations,
17 and rights of action of the Texas Transportation Commission in
18 connection or associated with those divisions of the Texas
19 Department of Transportation are transferred to the board of the
20 Texas Department of Motor Vehicles on December 1, 2009.

21 (b) In connection with the transfers required by Subsection
22 (a) of this section, the personnel, furniture, computers, other
23 property and equipment, files, and related materials used by the
24 Motor Carrier Division, the Motor Vehicle Division, and the Vehicle
25 Titles and Registration Division of the Texas Department of
26 Transportation are transferred to the Texas Department of Motor
27 Vehicles.

1 (c) The Texas Department of Motor Vehicles shall continue
2 any proceeding involving the Motor Carrier Division, the Motor
3 Vehicle Division, or the Vehicle Titles and Registration Division
4 of the Texas Department of Transportation that was brought before
5 the effective date of this Act in accordance with the law in effect
6 on the date the proceeding was brought, and the former law is
7 continued in effect for that purpose.

8 (d) A certificate, license, document, permit, registration,
9 or other authorization issued by the Motor Carrier Division, the
10 Motor Vehicle Division, or the Vehicle Titles and Registration
11 Division of the Texas Department of Transportation that is in
12 effect on the effective date of this Act remains valid for the
13 period for which it was issued unless suspended or revoked by the
14 Texas Department of Motor Vehicles.

15 (e) A rule adopted by the Texas Transportation Commission or
16 the director of the Texas Department of Transportation in
17 connection with or relating to the Motor Carrier Division, the
18 Motor Vehicle Division, or the Vehicle Titles and Registration
19 Division of that department continues in effect until it is amended
20 or repealed by the board of the Texas Department of Motor Vehicles.

21 (f) The unobligated and unexpended balance of any
22 appropriations made to the Texas Department of Transportation in
23 connection with or relating to the Motor Carrier Division, the
24 Motor Vehicle Division, and the Vehicle Titles and Registration
25 Division of that department for the state fiscal biennium ending
26 August 31, 2009, is transferred and reappropriated to the Texas
27 Department of Motor Vehicles for the purpose of implementing the

1 powers, duties, obligations, and rights of action transferred to
2 that department under Subsection (a) of this section.

3 SECTION 8.4.02. The Transportation Legislative Oversight
4 Committee shall oversee the coordination and collaboration between
5 the Texas Department of Transportation and the Texas Department of
6 Motor Vehicles during the transitions required by Section 8.4.01 of
7 this article.

8 PART 5. APPOINTMENT OF BOARD

9 SECTION 8.5.01. Not later than December 1, 2009, the
10 governor shall appoint the members of the board of the Texas
11 Department of Motor Vehicles in accordance with Subchapter B,
12 Chapter 1001, Transportation Code, as added by this article.

13 ARTICLE 9. RAIL TRANSPORTATION DIVISION

14 SECTION 9.01. Section 91.001, Transportation Code, is
15 amended by adding Subdivision (3-a) to read as follows:

16 (3-a) "Division" means the rail transportation
17 division of the department.

18 SECTION 9.02. Subchapter A, Chapter 91, Transportation
19 Code, is amended by adding Section 91.0041 to read as follows:

20 Sec. 91.0041. DUTIES OF RAIL TRANSPORTATION DIVISION. In
21 addition to any other duty imposed on the division, the division
22 shall:

23 (1) assure that rail transportation is an integral
24 part of the department's transportation planning process;

25 (2) coordinate and oversee rail projects that are
26 financed with money distributed by the department, including money
27 from the Texas rail relocation and improvement fund;

1 (3) develop and plan for improved passenger and
2 freight rail facilities and services in this state; and

3 (4) coordinate the efforts of the department, the
4 federal government, political subdivisions, and private entities
5 to continue the development of rail transportation facilities and
6 services in this state.

7 SECTION 9.03. Subtitle I, Title 5, Transportation Code, is
8 amended by adding Chapter 175 to read as follows:

9 CHAPTER 175. BORDER REGION HIGHER-SPEED RAIL AUTHORITIES

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 175.001. DEFINITIONS. In this chapter:

12 (1) "Authority" means a border region higher-speed
13 rail authority created under this chapter.

14 (2) "Authority property" means all property an
15 authority owns or leases under a long-term lease.

16 (3) "Board" means an authority's board of directors.

17 (4) "Border region" means the Texas-Louisiana border
18 region or the Texas-Mexico border region, as defined by Section
19 2056.002, Government Code.

20 (5) "Commission" means the Texas Transportation
21 Commission.

22 (6) "Department" means the Texas Department of
23 Transportation.

24 (7) "Director" means a board member.

25 (8) "Higher-speed rail" means the rail technology that
26 permits the operation of rolling stock between scheduled stops at
27 speeds greater than 70 miles per hour but less than 110 miles per

1 hour.

2 (9) "Higher-speed rail facility" means any property
3 necessary for the transportation of passengers and baggage between
4 points in a border region by higher-speed rail. The term includes
5 rolling stock, locomotives, stations, parking areas, and rail
6 lines.

7 (10) "System" means all of the higher-speed rail and
8 intermodal facilities leased or owned by or operated on behalf of an
9 authority.

10 [Sections 175.002-175.050 reserved for expansion]

11 SUBCHAPTER B. CREATION

12 Sec. 175.051. CREATION OF AUTHORITIES. The commission by
13 order may authorize the creation of an authority in each border
14 region for the purposes of financing, acquiring property for,
15 constructing, maintaining, operating, and improving a higher-speed
16 rail system in each border region.

17 [Sections 175.052-175.100 reserved for expansion]

18 SUBCHAPTER C. GOVERNANCE

19 Sec. 175.101. COMPOSITION OF BOARDS. (a) The governing
20 body of an authority in the Texas-Louisiana border region is a board
21 of seven directors consisting of:

22 (1) the county judges of the five most populous
23 counties in the region; and

24 (2) two directors selected by the county judges to
25 represent the remaining counties in the region.

26 (b) The governing body of an authority in the Texas-Mexico
27 border region is a board of 11 directors consisting of:

1 (1) the county judges of the seven most populous
2 counties in the region; and

3 (2) four directors selected by the county judges to
4 represent the remaining counties in the region.

5 Sec. 175.102. PRESIDING OFFICER. (a) The directors shall
6 elect one director as presiding officer.

7 (b) The presiding officer may select another director to
8 preside in the absence of the presiding officer.

9 Sec. 175.103. MEETINGS. The presiding officer shall call
10 at least one meeting of the board each year and may call other
11 meetings as the presiding officer determines are appropriate.

12 Sec. 175.104. COMPENSATION; REIMBURSEMENT. A director is
13 not entitled to compensation for serving as a director but is
14 entitled to reimbursement for reasonable expenses incurred while
15 serving as a director.

16 Sec. 175.105. RULES FOR PROCEEDINGS. The board shall adopt
17 rules for its proceedings and appoint an executive committee.

18 Sec. 175.106. EMPLOYEES. The board may employ and
19 compensate persons to carry out the powers and duties of the
20 authority.

21 Sec. 175.107. CONFLICTS OF INTEREST. Chapter 171, Local
22 Government Code, applies to a director.

23 [Sections 175.108-175.150 reserved for expansion]

24 SUBCHAPTER D. POWERS AND DUTIES OF AUTHORITY

25 Sec. 175.151. NATURE OF AUTHORITY. (a) An authority is a
26 public body and a political subdivision of the state exercising
27 public and essential governmental functions.

1 (b) An authority, in the exercise of powers under this
2 chapter, is performing only governmental functions and is a
3 governmental unit within the meaning of Chapter 101, Civil Practice
4 and Remedies Code.

5 Sec. 175.152. GENERAL POWERS OF AUTHORITY. An authority
6 has all the powers necessary or convenient to carry out the purposes
7 of this chapter.

8 Sec. 175.153. SUNSET REVIEW. An authority is subject every
9 12th year to review under Chapter 325, Government Code (Texas
10 Sunset Act).

11 Sec. 175.154. SUITS. (a) An authority may:

12 (1) sue and be sued;

13 (2) institute and prosecute suits without giving
14 security for costs; and

15 (3) appeal from a judgment without giving a
16 supersedeas or cost bond.

17 (b) An action at law or in equity against an authority must
18 be brought in the county in which a principal office of the
19 authority is located, except that in an eminent domain proceeding
20 involving an interest in land, suit must be brought in the county in
21 which the land is located.

22 Sec. 175.155. POWERS RELATED TO DISTRICT PROPERTY. An
23 authority may acquire by grant, purchase, gift, devise, lease, or
24 otherwise and may hold, use, sell, lease, or dispose of real and
25 personal property, licenses, patents, rights, and interests
26 necessary, convenient, or useful for the full exercise of its
27 powers.

1 Sec. 175.156. GENERAL AUTHORITY OVER HIGHER-SPEED RAIL
2 FACILITIES. An authority may acquire, construct, develop, own,
3 operate, maintain, and improve intermodal and higher-speed rail
4 facilities to connect political subdivisions in the applicable
5 border region.

6 Sec. 175.157. USE AND ALTERATION OF PROPERTY OF ANOTHER
7 POLITICAL SUBDIVISION. (a) For a purpose described by Section
8 175.156, as necessary or useful in the construction,
9 reconstruction, repair, maintenance, operation, and improvement of
10 the system, and with the consent of a municipality, county, or other
11 political subdivision, an authority may:

12 (1) use streets, alleys, roads, highways, and other
13 public ways of the municipality, county, or other political
14 subdivision; and

15 (2) relocate, raise, reroute, change the grade of, or
16 alter, at the authority's expense, the construction of any publicly
17 owned or privately owned street, alley, highway, road, railroad,
18 electric line or facility, telegraph or telephone property and
19 facility, pipeline or facility, conduit or facility, and other
20 property.

21 (b) An authority may not use or alter:

22 (1) a road or highway that is part of the state highway
23 system without the permission of the commission; or

24 (2) a railroad without permission of the railroad.

25 Sec. 175.158. ACQUISITION OF PROPERTY. (a) An authority
26 may purchase any interest in real property to acquire, construct,
27 operate, or improve a higher-speed rail facility on terms and at a

1 price to which the authority and the owner agree.

2 (b) The governing body of a municipality, a county, any
3 other political subdivision, or a public agency may convey the
4 title or the rights and easements to any property needed by an
5 authority for its purposes in connection with the acquisition,
6 construction, operation, or improvement of the system.

7 Sec. 175.159. EMINENT DOMAIN. (a) An authority may
8 exercise the power of eminent domain to acquire:

9 (1) real property in fee simple; or

10 (2) an interest in real property less than fee simple
11 in, on, under, or above land, including an easement, right-of-way,
12 or right of use of airspace or subsurface space.

13 (b) The power of eminent domain under this section does not
14 apply to:

15 (1) land under the jurisdiction of the department; or

16 (2) a rail line owned by a common carrier or
17 municipality.

18 (c) To the extent possible, an authority shall use existing
19 rail or intermodal transportation corridors for the alignment of
20 its system.

21 (d) An eminent domain proceeding is begun by the board's
22 adoption of a resolution declaring that the authority's acquisition
23 of the property or interest described in the resolution:

24 (1) is a public necessity; and

25 (2) is necessary and proper for the construction,
26 extension, improvement, or development of higher-speed rail
27 facilities and is in the public interest.

1 (e) The resolution is conclusive evidence of the public
2 necessity of the proposed acquisition and that the real property or
3 interest in property is necessary for public use.

4 (f) With the consent of the property owner, instead of
5 paying for real property with a single fixed payment, an authority
6 may pay the owner in the form of:

7 (1) an intangible legal right to receive a percentage
8 of identified fees related to the applicable segment of the system;
9 or

10 (2) an exclusive or nonexclusive right to use or
11 operate a part of the system.

12 Sec. 175.160. AGREEMENTS WITH OTHER ENTITIES FOR JOINT USE.

13 An authority may:

14 (1) make agreements with a public utility, private
15 utility, communication system, common carrier, state agency, or
16 transportation system for the joint use of facilities,
17 installations, or properties inside or outside the border region;
18 and

19 (2) establish through routes and joint fares.

20 Sec. 175.161. RULES. To protect the health, safety, and
21 general welfare of residents of the border region and people who use
22 the authority's services, an authority may adopt rules to govern
23 the operation of the authority, its employees, the system, service
24 provided by the authority, and any other necessary matter
25 concerning its purposes, including rules relating to health,
26 safety, alcohol or beverage service, food service, and telephone
27 and utility services.

1 Sec. 175.162. JOINT OWNERSHIP AGREEMENTS. An authority may
2 enter into a joint ownership agreement with any person.

3 Sec. 175.163. COMPENSATION FOR USE OF SYSTEM FACILITIES.

4 (a) An authority shall establish and maintain reasonable and
5 nondiscriminatory rates or other compensation for the use of the
6 facilities of the system acquired, constructed, operated,
7 regulated, or maintained by the authority.

8 (b) Together with grants received by the authority, the
9 rates or other compensation must be sufficient to produce revenues
10 adequate to:

11 (1) pay all expenses necessary for the operation and
12 maintenance of the properties and facilities of the authority;

13 (2) pay the interest on and principal of bonds issued
14 by the authority and payable in whole or in part from the revenues,
15 as they become due and payable; and

16 (3) comply with the terms of an agreement made with the
17 holders of bonds or with any person in their behalf.

18 Sec. 175.164. AGREEMENTS GENERALLY. An authority may make
19 contracts, leases, and agreements with, and accept grants and loans
20 from, the United States, this state, agencies and political
21 subdivisions of this state or another state of the United States,
22 the United Mexican States, or a state of the United Mexican States,
23 and other persons and entities and may perform any act necessary for
24 the full exercise of the powers vested in it.

25 Sec. 175.165. INTERLOCAL AGREEMENTS WITH COMMISSION. The
26 commission may enter into an interlocal agreement with an authority
27 under which the authority may exercise a power or duty of the

1 commission for the development and efficient operation of an
2 intermodal corridor in the applicable border region.

3 Sec. 175.166. ACQUISITION OF ROLLING STOCK AND OTHER
4 PROPERTY. An authority may acquire rolling stock or other property
5 under conditional sales contracts, leases, equipment trust
6 certificates, or any other form of contract or trust agreement.

7 Sec. 175.167. LIMIT ON POWER. A revenue bond indenture may
8 limit the exercise of the powers granted by this subchapter, and a
9 limit applies as long as the revenue bonds issued under the
10 indenture are outstanding and unpaid.

11 Sec. 175.168. RULES GOVERNING SYSTEM AND ROUTINGS. An
12 authority by resolution may adopt rules governing the use,
13 operation, and maintenance of the system and may determine all
14 routings and change them as the board considers advisable.

15 Sec. 175.169. OPERATION OR USE CONTRACTS. (a) An authority
16 may:

17 (1) lease all or part of the higher-speed rail
18 facilities to an operator; or

19 (2) contract for the use or operation of all or part of
20 the higher-speed rail facilities by an operator.

21 (b) To the maximum extent practicable, an authority shall
22 encourage the participation of private enterprise in the operation
23 of higher-speed rail facilities.

24 (c) The term of an operating contract under this section may
25 not exceed 20 years.

26 Sec. 175.170. RAIL TRANSPORTATION SERVICES AGREEMENTS WITH
27 OTHER POLITICAL SUBDIVISIONS. An authority may contract with a

1 county or other political subdivision of this state for the
2 authority to provide higher-speed rail transportation services to
3 an area outside the border region on the terms and conditions to
4 which the parties agree.

5 [Sections 175.171-175.200 reserved for expansion]

6 SUBCHAPTER E. FINANCIAL PROVISIONS

7 Sec. 175.201. PURCHASE OF ADDITIONAL INSURED PROVISIONS.

8 An authority may purchase an additional insured provision to any
9 liability insurance contract.

10 Sec. 175.202. FISCAL YEAR. Unless the board changes the
11 fiscal year, the fiscal year of an authority ends September 30.

12 Sec. 175.203. ANNUAL BUDGET. (a) Before beginning the
13 operation of higher-speed rail facilities, the board shall adopt an
14 annual operating budget specifying the authority's anticipated
15 revenues and expenses for the remainder of the fiscal year. The
16 board shall adopt an operating budget for each succeeding fiscal
17 year.

18 (b) The board shall hold a public hearing before adopting a
19 budget other than the initial budget. Notice of each hearing must
20 be published at least seven days before the date of the hearing in a
21 newspaper of general circulation in each county in the applicable
22 border region.

23 (c) A budget may be amended at any time if notice of the
24 proposed amendment is given in the notice of the meeting.

25 (d) An expenditure that is not budgeted may not be made.

26 Sec. 175.204. RETIREMENT BENEFITS. An authority is
27 eligible to participate in the Texas County and District Retirement

1 System.

2 Sec. 175.205. DEPOSITORY. (a) The board by resolution
3 shall name one or more banks for the deposit of authority funds.

4 (b) Authority funds are public funds and may be invested in
5 securities permitted by Chapter 2256, Government Code.

6 (c) To the extent funds of an authority are not insured by
7 the Federal Deposit Insurance Corporation or its successor, they
8 shall be collateralized in the manner provided for county funds.

9 Sec. 175.206. AGREEMENTS RELATED TO FOREIGN AND DOMESTIC
10 CURRENCY. (a) To provide tax benefits to another party that are
11 available with respect to property under the laws of a foreign
12 country or to encourage private investment with a transportation
13 authority in the United States, and notwithstanding any other
14 provision of this chapter, an authority may enter into and execute,
15 as it considers appropriate, contracts, agreements, notes,
16 security agreements, conveyances, bills of sale, deeds, leases as
17 lessee or lessor, and currency hedges, swap transactions, or
18 agreements relating to foreign and domestic currency.

19 (b) The agreements or instruments may have the terms,
20 maturities, duration, provisions as to governing law, indemnities,
21 and other provisions that are approved by the board.

22 (c) In connection with any transaction authorized by this
23 section, the authority shall deposit in trust, escrow, or similar
24 arrangement cash or lawful investments or securities, or shall
25 enter into one or more payment agreements, financial guarantees, or
26 insurance contracts that, by their terms, including interest to be
27 earned on any cash or securities, are sufficient in amount to pay

1 when due all amounts required to be paid by the authority as rent
2 over the full term of the transaction plus any optional purchase
3 price due under the transaction. A counterparty to a payment
4 agreement, financial guarantee, or insurance contract under this
5 subsection must have either a corporate credit or debt rating in any
6 form, a claims-paying ability, or a rating for financial strength
7 of "AA" or better by Moody's Investors Service, Inc., or by Standard
8 & Poor's Corporation or "A-" or better by BEST's rating system.

9 (d) A certification in advance by an independent financial
10 expert, banker, or certified public accountant, who is not an
11 employee of the authority, certifying compliance with this
12 requirement constitutes conclusive evidence of compliance.
13 Property sold, acquired, or otherwise transferred under this
14 section is considered for all purposes to be property owned and held
15 by the authority and used for public purposes.

16 [Sections 175.207-175.300 reserved for expansion]

17 SUBCHAPTER F. BONDS

18 Sec. 175.301. REVENUE BONDS. An authority may issue
19 revenue bonds and notes in amounts the board considers necessary or
20 appropriate for the acquisition, purchase, construction,
21 reconstruction, repair, equipping, improvement, or extension of
22 the authority's higher-speed rail facilities.

23 Sec. 175.302. SECURITY FOR PAYMENT OF BONDS. (a) To secure
24 the payment of a bond or note, an authority may:

25 (1) encumber and pledge all or any part of the revenues
26 of its higher-speed rail facilities;

27 (2) mortgage and encumber all or part of the property

1 of the higher-speed rail facilities and any thing pertaining to
2 them that is acquired or to be acquired; and

3 (3) prescribe the terms and provisions of the bond or
4 note in any manner not inconsistent with this chapter.

5 (b) Unless prohibited by the resolution or indenture
6 relating to outstanding bonds or notes, an authority may encumber
7 separately any item of property.

8 Sec. 175.303. BONDS AND NOTES AS AUTHORIZED INVESTMENTS AND
9 SECURITY FOR DEPOSITS OF PUBLIC FUNDS. (a) Bonds and notes are
10 legal and authorized investments for:

- 11 (1) a bank;
12 (2) a trust company;
13 (3) a savings and loan association; and
14 (4) an insurance company.

15 (b) The bonds and notes are:
16 (1) eligible to secure the deposit of public funds of
17 this state or a municipality, county, school district, or other
18 political corporation or subdivision of this state; and

19 (2) lawful and sufficient security for the deposits to
20 the extent of the principal amount or market value of the bonds and
21 notes, whichever is less.

22 Sec. 175.304. AWARDING CONSTRUCTION OR PURCHASE CONTRACTS.

23 (a) A contract in the amount of more than \$15,000 for the
24 construction of improvements or the purchase of material,
25 machinery, equipment, supplies, or any other property other than
26 real property may be let only through competitive bidding after
27 notice is published, at least 15 days before the date set for

1 receiving bids, in a newspaper of general circulation in each
2 county in the applicable border region.

3 (b) The board may adopt rules governing the taking of bids
4 and the awarding of contracts.

5 (c) This section does not apply to:

6 (1) personal or professional services;

7 (2) the acquisition of an existing rail transportation
8 system; or

9 (3) a contract with a common carrier to construct
10 lines or to operate higher-speed rail service on lines wholly or
11 partly owned by the carrier.

12 [Sections 175.305-175.350 reserved for expansion]

13 SUBCHAPTER G. TAXES

14 Sec. 175.351. TAX EXEMPTION. Authority property, material
15 purchases, revenues, and income and the interest on a bond or note
16 issued by an authority are exempt from all taxes imposed by this
17 state or a political subdivision of this state.

18 Sec. 175.352. SALES AND USE TAX IMPOSED. A sales and use
19 tax is imposed on items sold on authority property.

20 Sec. 175.353. TAX RATE. The sales and use tax imposed under
21 Section 175.352 shall be imposed at the rate of the highest
22 combination of local sales and use taxes imposed at the time of the
23 authority's creation in any local governmental jurisdiction in the
24 applicable border region.

25 Sec. 175.354. ABOLITION OF OTHER TAXES. All other local
26 sales and use taxes that would otherwise be imposed on authority
27 property are abolished by the imposition of the tax under Section

1 175.352.

2 Sec. 175.355. DUTY OF COMPTROLLER. The comptroller shall:

3 (1) administer, collect, and enforce the tax imposed
4 under Section 175.352; and

5 (2) remit to the authority the local sales and use tax
6 collected on the authority's property.

7 Sec. 175.356. APPLICABILITY OF TAX CODE. Chapter 321, Tax
8 Code, governs the computation, administration, governance, and use
9 of the tax except as inconsistent with this chapter.

10 Sec. 175.357. NOTICE TO COMPTROLLER. (a) An authority
11 shall notify the comptroller in writing by registered or certified
12 mail of the authority's creation and of its intent to impose the
13 sales and use tax under Section 175.352.

14 (b) The authority shall provide to the comptroller all
15 information required to implement the tax, including:

16 (1) an adequate map showing the property boundaries of
17 the authority; and

18 (2) a certified copy of the resolution of the
19 authority board adopting the tax.

20 (c) Not later than the 30th day after the date the
21 comptroller receives the notice, map, and other information, the
22 comptroller shall inform the authority of whether the comptroller
23 is prepared to administer the tax.

24 Sec. 175.358. NOTICE TO LOCAL GOVERNMENTS. At the same time
25 an authority notifies the comptroller under Section 175.357, the
26 authority shall:

27 (1) notify each affected local governmental unit of

1 the authority's creation; and

2 (2) provide each with an adequate map showing the
3 property boundaries of the authority.

4 Sec. 175.359. ACQUISITION OF ADDITIONAL TERRITORY SUBJECT
5 TO TAX. (a) Not later than the 30th day after the date an authority
6 adds territory to the authority, the authority shall notify the
7 comptroller and each affected local governmental unit of the
8 addition.

9 (b) The authority must include with each notification:

10 (1) an adequate map showing the new boundaries of the
11 authority; and

12 (2) the date the additional territory was added.

13 (c) Not later than the 30th day after the date the
14 comptroller receives the notice under this section, the comptroller
15 shall inform the authority of whether the comptroller is prepared
16 to administer the tax imposed under Section 175.352 in the
17 additional territory.

18 Sec. 175.360. EFFECTIVE DATE OF TAX. A tax imposed under
19 Section 175.352 or the abolition of a tax under Section 175.354
20 takes effect on the first day of the first complete calendar quarter
21 that occurs after the expiration of the first complete calendar
22 quarter that occurs after the date the comptroller receives a
23 notice of the action as required by this subchapter.

24 ARTICLE 10. ELECTRONIC SIGNS

25 SECTION 10.01. Chapter 544, Transportation Code, is amended
26 by adding Section 544.013 to read as follows:

27 Sec. 544.013. CHANGEABLE MESSAGE SIGN SYSTEM. (a) In this

1 section, "changeable message sign" means a sign that conforms to
2 the manual and specifications adopted under Section 544.001. The
3 term includes a dynamic message sign.

4 (b) The Texas Department of Transportation shall actively
5 manage a system of changeable message signs located on highways
6 under the jurisdiction of that department to mitigate traffic
7 congestion by providing current information to the traveling
8 public, including information about:

9 (1) traffic incidents;

10 (2) weather conditions, including severe weather
11 advisories;

12 (3) an abducted child for whom the statewide alert
13 system authorized by Subchapter L, Chapter 411, Government Code,
14 has been activated;

15 (4) a missing senior citizen for whom a statewide
16 silver alert authorized by Subchapter M, Chapter 411, Government
17 Code, has been activated;

18 (5) the availability of gas, food, lodging, or
19 pharmacy services or other relevant information during an
20 evacuation or after an order declaring a state of disaster under
21 Chapter 418, Government Code;

22 (6) road construction; and

23 (7) alternative routes.

24 (c) Not later than June 1, 2010, the department shall
25 explore implementing a system of changeable message signs along
26 designated evacuation routes. This subsection expires September 1,
27 2011.

1 ARTICLE 11. AUTOMOBILE BURGLARY AND THEFT PREVENTION AUTHORITY

2 SECTION 11.01. Section 1(3), Article 4413(37), Revised
3 Statutes, is amended to read as follows:

4 (3) "Office" [~~"Department"~~] means the office of the
5 governor [~~Texas Department of Transportation~~].

6 SECTION 11.02. Section 2, Article 4413(37), Revised
7 Statutes, is amended to read as follows:

8 Sec. 2. ESTABLISHMENT OF AUTHORITY. The Automobile Burglary
9 and Theft Prevention Authority is established in the office of the
10 governor [~~Texas Department of Transportation~~]. The authority is
11 not an advisory body to the governor [~~Texas Department of~~
12 ~~Transportation~~].

13 SECTION 11.03. Sections 3(h) and (l), Article 4413(37),
14 Revised Statutes, are amended to read as follows:

15 (h) If a person [~~the director~~] has knowledge that a
16 potential ground for removal exists, the person [~~director~~] shall
17 notify the presiding officer of the authority of the potential
18 ground. The presiding officer shall then notify the governor and
19 the attorney general that a potential ground for removal exists. If
20 the potential ground for removal involves the presiding officer,
21 the person [~~director~~] shall notify the next highest officer of the
22 authority, who shall notify the governor and the attorney general
23 that a potential ground for removal exists.

24 (l) The governor's [~~director or the director's~~] designee
25 shall provide to members of the authority, as often as necessary,
26 information regarding their qualifications for office under this
27 article and their responsibilities under applicable laws relating

1 to standards of conduct for state officers.

2 SECTION 11.04. Section 5(d), Article 4413(37), Revised
3 Statutes, is amended to read as follows:

4 (d) The training program required by Subsection (c) must
5 provide information to the person regarding:

6 (1) the enabling legislation that created the
7 authority and its policymaking body to which the member is
8 appointed to serve;

9 (2) the programs operated by the authority;

10 (3) the role and functions of the authority;

11 (4) the rules of the authority [~~and the department~~];

12 (5) the current budget for the authority;

13 (6) the results of the most recent formal audit of the
14 authority;

15 (7) the requirements of the:

16 (A) open meetings law, Chapter 551, Government
17 Code;

18 (B) open records law, Chapter 552, Government
19 Code; and

20 (C) administrative procedure law, Chapter 2001,
21 Government Code;

22 (8) the requirements of the conflict-of-interest laws
23 and other laws relating to public officials; and

24 (9) any applicable ethics policies adopted by the
25 office [~~department~~] or the Texas Ethics Commission.

26 SECTION 11.05. Sections 6(c), (d), (e), (f), and (g),
27 Article 4413(37), Revised Statutes, are amended to read as follows:

1 (c) The authority may use only staff of the office
2 [~~department~~] and may delegate authority to the staff as needed.

3 (d) Not later than April 1 of each year, the authority shall
4 report on its activities to the governor, the lieutenant governor,
5 and the speaker of the house of representatives.

6 (e) The authority may be provided various services only by
7 or through the office [~~department~~] as needed to carry out its
8 purposes, powers, and duties. These services may include, but are
9 not limited to, legal services not provided by the attorney
10 general, fiscal services, administrative services, and personnel
11 services. Except as provided by this section, the authority may
12 enter into contracts in its own name and on its own behalf with
13 recipients of grants for purposes of this article.

14 (f) The office [~~department~~] shall provide personnel and
15 services to the authority as agreed by the authority and the office
16 [~~department~~].

17 (g) The authority shall, in coordination with the office
18 [~~department~~], develop and implement policies that clearly separate
19 the policymaking responsibilities of the authority and the
20 management responsibilities of the office [~~department~~].

21 SECTION 11.06. Section 8(a), Article 4413(37), Revised
22 Statutes, as amended by Chapters 308 (H.B. 1887) and 927 (H.B.
23 3225), Acts of the 80th Legislature, Regular Session, 2007, is
24 reenacted and amended to read as follows:

25 (a) Money appropriated to the office [~~department~~] for
26 authority purposes shall be used by the authority to pay the office
27 [~~department~~] for administrative costs and to achieve the purposes

1 of this article, including:

2 (1) establishing and funding the motor vehicle
3 registration program required by Section 9 of this article;

4 (2) providing financial support to law enforcement
5 agencies for economic motor vehicle theft enforcement teams;

6 (3) providing financial support to law enforcement
7 agencies, local prosecutors, judicial agencies, and neighborhood,
8 community, business, and nonprofit organizations for programs
9 designed to reduce the incidence of economic motor vehicle theft;

10 (4) conducting educational programs designed to
11 inform motor vehicle owners of methods of preventing motor vehicle
12 burglary or theft;

13 (5) providing equipment, for experimental purposes,
14 to assist motor vehicle owners in preventing motor vehicle burglary
15 or theft; and

16 (6) establishing a uniform program to prevent stolen
17 motor vehicles from entering Mexico.

18 SECTION 11.07. Section 8(c), Article 4413(37), Revised
19 Statutes, is amended to read as follows:

20 (c) The cost of personnel and services provided to the
21 authority by the office [~~department~~] and by the attorney general
22 may be paid only from appropriations made for authority purposes.
23 Appropriations made for authority purposes may not be used for any
24 other purpose.

25 SECTION 11.08. Section 9(e), Article 4413(37), Revised
26 Statutes, is amended to read as follows:

27 (e) The Department of Public Safety [~~department~~] shall

1 issue to the owner of a motor vehicle registered under this section
2 a decal or other appropriate identifying marker to be affixed to the
3 motor vehicle to indicate that the motor vehicle is registered with
4 the program.

5 SECTION 11.09. Section 1(4), Article 4413(37), Revised
6 Statutes, is repealed.

7 SECTION 11.10. (a) In connection with the establishment by
8 this Act of the Automobile Burglary and Theft Prevention Authority
9 in the office of the governor and with the transfer by this Act of
10 the duty to provide personnel and services to the Automobile
11 Burglary and Theft Prevention Authority from the Texas Department
12 of Transportation to the office of the governor, the personnel,
13 furniture, computers, other property and equipment, files, and
14 related materials used by the Automobile Burglary and Theft
15 Prevention Authority are transferred to the office of the governor.

16 (b) The unobligated and unexpended balance of any
17 appropriations made to the Texas Department of Transportation in
18 connection with or relating to the Automobile Burglary and Theft
19 Prevention Authority for the state fiscal biennium ending August
20 31, 2009, is transferred and reappropriated to the office of the
21 governor for the purpose of allowing the authority to continue to
22 exercise its powers, duties, and obligations under the auspices of
23 that office.

24 ARTICLE 12. STATE FINANCING OF PUBLIC TRANSPORTATION

25 SECTION 12.01. Subchapter A, Chapter 456, Transportation
26 Code, is amended by adding Section 456.009 to read as follows:

27 Sec. 456.009. ALLOCATION OF FUNDS. (a) The commission

1 shall adopt rules to allocate funds to designated recipients under
2 this chapter.

3 (b) Subject to Subsection (c), of the total amount of money
4 allocated under this chapter, the commission may not distribute:

5 (1) less than 90 percent of the total amount allocated
6 under the formula program provided by Subchapter B; and

7 (2) more than 10 percent of the total amount allocated
8 under the discretionary program provided by Subchapter C.

9 (c) The rules established by the commission under this
10 section must include a provision ensuring that no recipient of
11 state funding under Subchapter B or C receives an amount of funding
12 allocated under those subchapters that is less than the total
13 amount of state funding received under those subchapters in the
14 state fiscal year beginning September 1, 2004.

15 ARTICLE 13. MEMORANDA OF UNDERSTANDING

16 SECTION 13.01. (a) The board of the Texas Department of
17 Motor Vehicles and the Texas Transportation Commission by rule
18 shall adopt or revise a joint memorandum of understanding to
19 coordinate the Texas Department of Motor Vehicles' and the Texas
20 Department of Transportation's information systems to allow for the
21 sharing of information so that each department may effectively and
22 efficiently perform the functions and duties assigned to it.

23 (b) The Texas Department of Motor Vehicles and the Texas
24 Department of Transportation shall implement the joint memorandum
25 of understanding using existing personnel and resources.

26 (c) Otherwise confidential information shared under the
27 memorandum of understanding remains subject to the same

1 confidentiality requirements and legal restrictions on access to
2 the information that are imposed by law on the department that
3 originally obtained or collected the information.

4 (d) Information may be shared under the memorandum of
5 understanding without the consent of the person who is the subject
6 of the information.

7 SECTION 13.02. In addition to the memorandum of
8 understanding required by Section 13.01 of this article, the board
9 of the Texas Department of Motor Vehicles and the Texas
10 Transportation Commission by rule may adopt or revise one or more
11 other joint memoranda of understanding as considered necessary or
12 appropriate to effectuate the transfer of the powers and duties of
13 the Texas Department of Transportation to the Texas Department of
14 Motor Vehicles under this Act.

15 ARTICLE 14. EFFECTIVE DATE

16 SECTION 14.01. This Act takes effect September 1, 2009.