

By: Pickett, McClendon, Harper-Brown, et al.

H.B. No. 2589

Substitute the following for H.B. No. 2589:

By: McClendon

C.S.H.B. No. 2589

A BILL TO BE ENTITLED

AN ACT

relating to transportation planning and funding allocations.

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

SECTION 1. Sections 201.051(a) and (b), Transportation Code, are amended to read as follows:

(a) The Texas Transportation Commission consists of five members, of which:

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

(2) one is appointed by the lieutenant governor; and

(3) one is appointed by the governor with the advice and consent of the senate from a list provided by the speaker of the house of representatives.

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

SECTION 2. Sections 201.105(a) and (b), Transportation Code, are amended to read as follows:

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

(b) The [~~In determining a district's boundaries, the~~] commission shall align the districts' boundaries along the

1 boundaries of regional planning commissions created under Chapter  
2 391, Local Government Code, and consider all costs and benefits,  
3 including highway activity in determining [~~and~~] the number of  
4 employees required for the proposed districts [~~district~~].

5 SECTION 3. Chapter 201, Transportation Code, is amended by  
6 adding Subchapter F-1 to read as follows:

7 SUBCHAPTER F-1. OVERSIGHT

8 Sec. 201.451. LEGISLATIVE OVERSIGHT COMMITTEE ON  
9 TRANSPORTATION. (a) In this section, "committee" means the  
10 legislative oversight committee on transportation.

11 (b) The committee is composed of 10 members as follows:

12 (1) the chair of the Senate Committee on Finance;

13 (2) the chair of the House Committee on  
14 Appropriations;

15 (3) the chair of the Senate Committee on  
16 Transportation and Homeland Security;

17 (4) the chair of the House Committee on  
18 Transportation;

19 (5) three additional members of the senate appointed  
20 by the lieutenant governor; and

21 (6) three additional members of the house of  
22 representatives appointed by the speaker of the house of  
23 representatives.

24 (c) The committee shall monitor:

25 (1) the implementation of:

26 (A) the statewide transportation program and  
27 budget; and

1                   (B) the transportation allocation funding  
2 formulas;

3                   (2) the transportation transparency program;

4                   (3) the development of performance measures under  
5 Section 201.675(a); and

6                   (4) other tasks assigned by the lieutenant governor  
7 and the speaker of the house of representatives.

8                   (d) This section expires August 31, 2013.

9                   Sec. 201.452. INSPECTOR GENERAL. (a) The commission shall  
10 appoint an inspector general who reports to the commission.

11                   (b) The inspector general shall:

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

14                   (2) evaluate the efficiency of the department's  
15 administrative practices and performance, including business plan  
16 performance measures, relationships with metropolitan planning  
17 organizations, performance of department districts and offices,  
18 and the need for standardization;

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

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

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

25                   (6) evaluate compliance with applicable laws and  
26 legislative intent; and

27                   (7) evaluate the efficient use of available funding,

1 personnel, equipment, and office space.

2 (c) Notwithstanding Subsection (a), the legislative  
3 oversight committee on transportation under Section 201.451 shall  
4 appoint the inspector general under this section. If appointed  
5 under this subsection, the inspector general is subject to removal  
6 for good cause by the commission. If the supreme court of this  
7 state determines that an appointment under this subsection violates  
8 Section 1, Article II, or Section 12, Article IV, Texas  
9 Constitution, the commission shall appoint the inspector general  
10 from a list provided by the legislative oversight committee on  
11 transportation. This subsection expires August 31, 2013.

12 Sec. 201.453. COOPERATION AND COORDINATION WITH STATE  
13 AUDITOR. (a) An inspector general's review does not take  
14 precedence over the state auditor's review.

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

18 (c) In addition to the authority in Chapter 321, Government  
19 Code, the state auditor is entitled to access all information  
20 maintained by the inspector general, including vouchers,  
21 electronic data, internal records, and other information.

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

25 Sec. 201.454. FINAL REVIEW REPORTS. (a) The inspector  
26 general shall prepare a final report for each review conducted  
27 under Section 201.452. The final report must include:

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

3           (2) a description of any findings in connection with a  
4 review conducted under Section 201.452.

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

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

11                   (1) the commission and the executive director;

12                   (2) the governor;

13                   (3) the lieutenant governor;

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

15                   (5) the state auditor; and

16                   (6) the appropriate legislative oversight committees.

17           SECTION 4. Section 201.601, Transportation Code, is amended  
18 to read as follows:

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

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

24                   ~~[(2) aviation,~~

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

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

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

1       ~~[(b) In developing the plan, the department shall seek~~  
2 ~~opinions and assistance from other state agencies and political~~  
3 ~~subdivisions that have responsibility for the modes of~~  
4 ~~transportation listed by Subsection (a). As appropriate, the~~  
5 ~~department and such an agency or political subdivision shall enter~~  
6 ~~into a memorandum of understanding relating to the planning of~~  
7 ~~transportation services.~~

8       ~~[(c) The plan must include a component that is not~~  
9 ~~financially constrained and identifies transportation improvements~~  
10 ~~designed to relieve congestion. In developing this component of~~  
11 ~~the plan, the department shall seek opinions and assistance from~~  
12 ~~officials who have local responsibility for modes of transportation~~  
13 ~~listed in Subsection (a).~~

14       ~~[(d) The plan shall include a component, published~~  
15 ~~annually, that describes the evaluation of transportation~~  
16 ~~improvements based on performance measures, such as indices~~  
17 ~~measuring delay reductions or travel time improvements. The~~  
18 ~~department shall consider the performance measures in selecting~~  
19 ~~transportation improvements.]~~

20       SECTION 5. Chapter 201, Transportation Code, is amended by  
21 adding Subchapter H-1 to read as follows:

22       SUBCHAPTER H-1. STATEWIDE TRANSPORTATION PLANNING AND FUNDING

23                               ALLOCATION

24       Sec. 201.651. DEFINITIONS. In this subchapter:

25               (1) "Planning organization" means:

26                               (A) a metropolitan planning organization; or

27                               (B) for an area that is not in the boundaries of a

1 metropolitan planning organization, the department district that  
2 serves the area.

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

- 5 (A) planning;
- 6 (B) design;
- 7 (C) environmental assessment;
- 8 (D) right-of-way acquisition;
- 9 (E) construction;
- 10 (F) operations;
- 11 (G) maintenance;
- 12 (H) overruns; and
- 13 (I) change orders.

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

17 (4) "Transportation official" means an official in a  
18 state agency or political subdivision who has responsibility for  
19 any of the following modes of transportation:

- 20 (A) aviation;
- 21 (B) high-speed rail;
- 22 (C) highways;
- 23 (D) toll roads;
- 24 (E) mass transportation;
- 25 (F) railroads; and
- 26 (G) water traffic.

27 (5) "Transportation project" means:

1           (A) the planning of, right-of-way acquisition  
2 for, expansion of, improvement of, addition to, routine maintenance  
3 of, contracted routine maintenance of, or contract maintenance of  
4 a:

5                   (i) bridge;

6                   (ii) highway;

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

8                   (iv) railroad;

9           (B) a project that enhances the safety of a  
10 roadway to the traveling public;

11                   (C) an air quality improvement initiative;

12                   (D) a transportation enhancement activity under  
13 23 U.S.C. Section 133; or

14                   (E) mass transportation.

15           Sec. 201.652. PURPOSE. It is in the interest of this state  
16 to:

17                   (1) encourage and promote the safe and efficient  
18 management, operation, and development of surface transportation  
19 systems that will serve the mobility needs of people and freight and  
20 foster economic growth and development in rural and urbanized areas  
21 of this state, while minimizing transportation-related fuel  
22 consumption and air pollution through metropolitan, rural, and  
23 statewide transportation planning processes identified in this  
24 chapter; and

25                   (2) encourage the continued improvement and evolution  
26 of the metropolitan, rural, and statewide transportation planning  
27 processes by metropolitan planning organizations, the department,



1 and public transit operators as guided by the planning factors  
2 identified in state and federal law.

3 Sec. 201.653. CASH FLOW FORECAST. (a) On September 1 of  
4 each odd-numbered year, the department's chief financial officer  
5 shall issue a cash flow forecast for each method and category of  
6 funding that covers a period of not less than the 10 years following  
7 the date the forecast is issued.

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

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

13 Sec. 201.654. ALLOCATION AND DEPOSIT OF FUNDING. (a) The  
14 commission shall use the cash flow forecast under Section 201.653  
15 to allocate funding to the planning organizations in accordance  
16 with Section 201.666.

17 (b) The funds shall be deposited into subaccounts for each  
18 region in the state highway fund. The balance of the subaccount  
19 shall be carried forward from year to year for the benefit of the  
20 region.

21 Sec. 201.655. PLANNING ORGANIZATION 10-YEAR PLAN. (a)  
22 Each planning organization shall develop a 10-year transportation  
23 plan for the use of the funding allocated to the region.

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

27 (c) The department shall compile the planning

1 organizations' project selections to develop the statewide  
2 transportation plan in accordance with 23 U.S.C. Section 135.

3 Sec. 201.656. PLANNING ORGANIZATION PROJECT SELECTION AND  
4 PRIORITIZATION. (a) Each metropolitan planning organization  
5 shall, for the area in its boundaries, select projects and order  
6 them in priority.

7 (b) For an area not located in the boundaries of a  
8 metropolitan planning organization, the applicable department  
9 district shall:

10 (1) select projects and order them in priority with  
11 input from municipal and county officials and transportation  
12 officials; and

13 (2) submit the projects to the commission for final  
14 approval.

15 Sec. 201.657. PROCESS FOR DEVELOPING PLANS AND PROGRAMS.  
16 The process for developing the plans and programs under this  
17 subchapter must:

18 (1) provide for consideration of all modes of  
19 transportation;

20 (2) be continuing, cooperative, and comprehensive to  
21 the extent appropriate, based on the complexity of the  
22 transportation problems to be addressed; and

23 (3) give consideration to statewide connectivity of  
24 transportation services and infrastructure.

25 Sec. 201.658. PLANNING ORGANIZATION LONG-RANGE PLAN. (a)  
26 A planning organization may also prepare and update periodically a  
27 long-range transportation plan for its region.

1        (b) The first 10 years of the long-range plan shall be  
2 identical to the plan developed under Section 201.655.

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

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

11        Sec. 201.659. PARTICIPATION IN PLAN DEVELOPMENT. (a) In  
12 developing a plan under this subchapter, a planning organization  
13 shall seek the opinions and assistance of the appropriate  
14 transportation officials.

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

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

22        Sec. 201.660. PLANS TO BE FINANCIALLY CONSTRAINED. A plan  
23 under this subchapter must be financially constrained and identify  
24 transportation projects and projects for any other mode of  
25 transportation not included in Section 201.651(7).

26        Sec. 201.661. PLAN ADJUSTMENTS. The commission shall adopt  
27 rules to allow a planning organization to move projects forward or

1 delay projects if there are additional or less funds available than  
2 identified in the cash flow forecast under Section 201.653.  
3 Adjustments to the plan may not be made more than semiannually,  
4 unless there are substantial increases or decreases in available  
5 funding.

6 Sec. 201.662. EVALUATION COMPONENT OF PLAN. A plan under  
7 this subchapter shall include a component, published annually, that  
8 describes the evaluation of transportation improvements based on  
9 performance measures, such as indices that measure delay reductions  
10 or travel time improvements. The planning organization shall  
11 consider the performance measures in selecting transportation  
12 improvements.

13 Sec. 201.663. DEPARTMENT'S STATEWIDE TRANSPORTATION  
14 PROGRAM AND BUDGET. (a) The department shall use the planning  
15 organizations' project lists to create the statewide  
16 transportation program and budget. The statewide transportation  
17 program and budget shall include at least:

- 18 (1) the department's operating budget;  
19 (2) the official cash flow forecast under Section  
20 201.653;  
21 (3) the regions' allocations of funds;  
22 (4) the projects selected by the planning organization  
23 under Section 201.656; and  
24 (5) the work plan required by Section 201.673.

25 (b) The statewide transportation program and budget shall  
26 be complete and adopted not later than June 30 of each even-numbered  
27 year. The commission shall adopt rules to create a process for

1 planning organizations to amend the plan from July 1 of each  
2 even-numbered year until August 31 of the following year.  
3 Amendments to the plan may only reorder projects identified in the  
4 same region subject to Section 201.661.

5 Sec. 201.664. LENDING FUNDS BETWEEN PLANNING  
6 ORGANIZATIONS. (a) The commission may adopt rules to allow a  
7 planning organization to loan funds to another planning  
8 organization at the lending organization's discretion. Funds may  
9 be loaned under this section only to avoid the lapsing of federal  
10 appropriations authority.

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

14 (c) The lending planning organization may not charge  
15 interest on funds borrowed by another planning organization that  
16 exceed the current bond rate of outstanding state highway fund  
17 bonds or in the absence of outstanding debt the prevailing market  
18 rate for comparable municipal debt. The commission shall notify  
19 all districts of that rate.

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

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

25 Sec. 201.665. ORGANIZATION OF STATEWIDE TRANSPORTATION  
26 PROGRAM AND BUDGET. (a) The statewide transportation program and  
27 budget shall be organized first by region, then by mode of

1 transportation, followed by the year of the project.

2 (b) The summary tables of the statewide transportation  
3 program and budget shall summarize the statewide project cost by  
4 mode and then by year and shall be made available online in  
5 accordance with Section 201.672.

6 Sec. 201.666. TRANSPORTATION ALLOCATION FUNDING FORMULA.

7 (a) The commission shall adopt rules that create funding formulas  
8 for transportation projects. In developing the formulas the  
9 commission shall consider the input of planning organizations,  
10 transportation officials, and county and municipal officials.

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

16 (1) centerline miles;

17 (2) level of congestion;

18 (3) percentage of population below federal poverty  
19 level;

20 (4) population;

21 (5) safety; and

22 (6) vehicle miles traveled.

23 (c) The commission shall allocate to the planning  
24 organizations funding for the project costs of all transportation  
25 projects. The commission shall adopt various formulas for the  
26 different types of transportation projects. The commission shall  
27 adopt rules for all transportation formulas.

1       Sec. 201.667. USE OF ALLOCATED FUNDS. The funds allocated  
2 to a planning organization under Section 201.666 may be used to:

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

6           (2) pay debt service;

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

8           (4) fund a planning organization's operations under  
9 Section 201.670.

10       Sec. 201.668. SURPLUS REVENUE AND CONTRACT PAYMENTS NOT  
11 ALLOCATED BY FORMULA. (a) Revenue from Sections 228.005,  
12 228.0055, and 228.006 shall be allocated in accordance with  
13 Subchapter B, Chapter 228.

14       (b) Funds associated with toll projects under Chapter 228  
15 are not considered revenue allocated by a formula under Section  
16 201.666.

17       Sec. 201.669. ENCUMBRANCE OF ALLOCATED FUNDS. (a) The  
18 allocation of funds shall be encumbered in an amount equal to the  
19 engineer's estimate of the project cost and reduced by the actual  
20 project cost at the time payments associated with the project are  
21 paid.

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

26       Sec. 201.670. USE OF ALLOCATED FUNDS FOR OPERATING COSTS OF  
27 PLANNING ORGANIZATION. (a) A metropolitan planning organization

1 operating in a transportation management area as defined by 23  
2 U.S.C. Section 134(k) may use the allocated funds to pay for the  
3 operations costs of the planning organization. The amount that may  
4 be allocated to pay for the operations of the planning organization  
5 may not exceed the lesser of \$10 million or 10 percent of the  
6 planning organization's total funds.

7 (b) A metropolitan planning organization operating in an  
8 area that is not a transportation management area may use the  
9 allocated funds to pay for the operations costs of the planning  
10 organization. The amount that may be allocated to pay for the  
11 operations of the planning organization may not exceed the lesser  
12 of \$3 million or 10 percent of the planning organization's total  
13 funds.

14 Sec. 201.671. COMMISSION EMERGENCY AND ECONOMIC  
15 DEVELOPMENT FUNDS. (a) Notwithstanding Section 201.654(b), the  
16 commission may annually set aside an amount of funds not to exceed  
17 the lesser of 10 percent of the total funds allocated to all  
18 districts or \$250 million for the purpose of addressing emergencies  
19 or economic development opportunities that require transportation  
20 infrastructure. The funds may be carried forward from year to year  
21 but may not accumulate to more than \$1 billion.

22 (b) If the commission elects to set aside an amount of funds  
23 under Subsection (a), the total amount of funds available for  
24 allocation shall be reduced by the amount set aside before the  
25 allocation of funds by the formula.

26 (c) The funds shall be encumbered in an amount equal to the  
27 engineer's estimate of the project cost and reduced by the actual



1 project cost at the time payments associated with the project are  
2 paid.

3 (d) The commission may use funds set aside under this  
4 section for emergency and economic development opportunities that  
5 require transportation infrastructure in the same manner a planning  
6 organization may use money allocated under Section 201.667.

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

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

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

18 Sec. 201.672. TRANSPORTATION TRANSPARENCY PROGRAM FOR  
19 PROJECTS AND ALLOCATIONS. (a) The department shall develop an  
20 interactive web-based system for the tracking of planning  
21 organization allocations and projects. The planning organizations  
22 shall be granted access to the system through a secure site to input  
23 information regarding projects and the associated project costs.

24 (b) The system shall provide the planning organization  
25 information regarding the organization's allocation of funding for  
26 the region and the federal and state requirements for each source of  
27 funding.

1       (c) The department shall assign a project number to each  
2 project that correlates to the region in which the project is  
3 located.

4       (d) The department shall develop standardized reports to  
5 assist district engineers and executive staff in tracking the  
6 efficiency of project development and to ensure the prudent use of  
7 funds by the planning organization.

8       (e) The system shall be linked to a publicly accessible  
9 website that enables the tracking of project development and the  
10 expenditure of funds. For each project the website must contain a  
11 map identifying the location of the project and a report that  
12 identifies the project, a general scope of work, the allocation of  
13 funds associated with the project, and a current report of  
14 expenditures.

15       (f) The website shall include mapping of projects by  
16 district to allow easy identification of projects in each district.

17       Sec. 201.673. DEPARTMENT 10-YEAR BUSINESS WORK PLAN. On  
18 completion of the 10-year transportation plan in Section 201.655,  
19 the department shall use the lists of projects to develop a proposed  
20 10-year business work plan. The work plan shall be adopted not  
21 later than August 31 of each even-numbered year and include:

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

25               (2) the state fiscal quarter in which key milestones  
26 for each project will be reached, including environmental  
27 clearance, completion of final engineering plans, completion of

1 right-of-way acquisition, letting to contract, and completion of  
2 construction; and

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

5 Sec. 201.674. FINALIZED BIENNIAL PROJECT PLAN. In addition  
6 to the plan required by Section 201.673 and other provisions of this  
7 chapter, not later than August 31 of each odd-numbered year, the  
8 department shall finalize a project plan for the period that begins  
9 on September 1 of that year and ends on August 31 of the following  
10 odd-numbered year. The plan must include:

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

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

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

16 (4) a letting plan.

17 Sec. 201.675. PERFORMANCE MEASURES FOR BIENNIAL PROJECT  
18 PLAN. (a) The department shall develop a set of performance  
19 measures for the plan under Section 201.674 intended to measure:

20 (1) the execution of the work program;

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

23 (3) the preservation of the system investment;

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

25 (5) safety initiatives; and

26 (6) utilization of minority, disadvantaged, and small  
27 businesses.

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

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

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

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

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

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

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

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

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

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

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

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

26           (12) for all construction contracts completed during  
27 the state fiscal year, the percentage completed within 20 percent

1 of the original contract time;

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

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

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

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

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

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

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

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

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

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

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

26 (24) the amount spent in connection with contracts  
27 with minority business enterprises as a percentage of the amount

1 spent on all contracts;

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

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

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

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

11 (c) The department shall consult with the legislative  
12 oversight committee on transportation under Section 201.451 in  
13 developing the performance measures under Subsection (a). This  
14 subsection expires August 31, 2013.

15 Sec. 201.676. PERFORMANCE REVIEW. Not later than December  
16 1 of each odd-numbered year, the commission shall review the  
17 performance of the department's activities described in Section  
18 201.674 and make the review available to the public. The review  
19 must include a report on the level of achievement of each  
20 performance measure listed in Section 201.675(a), statewide and by  
21 department district, and a status report on each major project  
22 under development.

23 SECTION 6. Section 222.034(b), Transportation Code, is  
24 amended to read as follows:

25 (b) The commission may vary from the distribution procedure  
26 provided by Subsection (a) if it issues a ruling or minute order  
27 identifying the variance and providing a particular justification

1 for the variance. If the commission intends to vary from the  
2 distribution procedure, it must allocate the funding in accordance  
3 with a formula adopted under Section 201.666.

4 SECTION 7. Subchapter D, Chapter 472, Transportation Code,  
5 is amended by adding Sections 472.0311 and 472.0312 to read as  
6 follows:

7 Sec. 472.0311. OPEN MEETINGS. A policy board is subject to  
8 Chapter 551, Government Code.

9 Sec. 472.0312. BOARD MEMBERSHIP AND VOTING REQUIREMENTS;  
10 ELIGIBILITY FOR STATE ALLOCATION OF FUNDING. (a) For a  
11 metropolitan planning organization to be eligible to receive funds  
12 from this state for transportation projects under Section 201.666:

13 (1) at least 75 percent of the organization's policy  
14 board members must be elected officials who are elected in the  
15 boundaries of the metropolitan planning organization; and

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

18 (b) A metropolitan planning organization that is not  
19 eligible under Subsection (a) may redesignate the board in  
20 compliance with the redesignation procedures in 23 U.S.C. Section  
21 134 to become eligible to receive an allocation of funds under  
22 Section 201.666.

23 (c) In this section, "elected official" means the presiding  
24 officer or a member of the governing body of a municipality, a  
25 county judge, a county commissioner, a state representative, or a  
26 state senator.

27 SECTION 8. Section 472.032, Transportation Code, is amended

1 to read as follows:

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

6           (b) [~~A proxy appointed under Subsection (a):~~

7                   [~~(1) acts on behalf of and under the supervision of the~~  
8 ~~policy board member who appointed the proxy;~~

9                   [~~(2) must be appointed in writing; and~~

10                   [~~(3) is authorized to vote for the policy board member~~  
11 ~~who appointed the proxy to the extent the member has given the proxy~~  
12 ~~the member's voting power.~~

13           [~~(c)~~] A legislative member of a policy board may not be  
14 counted as absent at a meeting of the policy board during a  
15 legislative session.

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

18                   [~~(1) the legislative member's employee or staff~~  
19 ~~member;~~

20                   [~~(2) a person related to the member within the second~~  
21 ~~degree by consanguinity, as determined under Subchapter B, Chapter~~  
22 ~~573, Government Code, who is not required to register as a lobbyist~~  
23 ~~under Chapter 305, Government Code;~~

24                   [~~(3) another legislative member of the policy board;~~  
25 ~~or~~

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

27           SECTION 9. (a) The terms of the members of the Texas



1 Transportation Commission serving on the effective date of this Act  
2 expire September 1, 2009, and members shall be appointed in  
3 accordance with Section 201.051, Transportation Code, as amended by  
4 this Act, for terms to begin September 1, 2009.

5 (b) As soon as practicable after appointment, members  
6 appointed under Subsection (a) of this section shall draw lots to  
7 determine whose terms will expire February 1, 2011, whose terms  
8 will expire February 1, 2013, and whose terms will expire February  
9 1, 2015.

10 SECTION 10. The Texas Transportation Commission or the  
11 legislative oversight committee on transportation, as applicable,  
12 shall appoint an inspector general as required by Section 201.452,  
13 Transportation Code, as added by this Act, not later than December  
14 1, 2009.

15 SECTION 11. This Act takes effect immediately if it  
16 receives a vote of two-thirds of all the members elected to each  
17 house, as provided by Section 39, Article III, Texas Constitution.  
18 If this Act does not receive the vote necessary for immediate  
19 effect, this Act takes effect September 1, 2009.