

1-1 By: Krusee, et al. (Senate Sponsor - Ogden) H.B. No. 3588  
1-2 (In the Senate - Received from the House May 12, 2003;  
1-3 May 13, 2003, read first time and referred to Committee on  
1-4 Infrastructure Development and Security; May 24, 2003, reported  
1-5 adversely, with favorable Committee Substitute by the following  
1-6 vote: Yeas 5, Nays 0; May 24, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3588 By: Ogden

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the construction, acquisition, financing, maintenance,  
1-11 management, operation, ownership, and control of transportation  
1-12 facilities and the progress, improvement, policing, and safety of  
1-13 transportation in the state; imposing criminal penalties.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 ARTICLE 1. TRANS-TEXAS CORRIDOR

1-16 SECTION 1.01. Subtitle B, Title 6, Transportation Code, is  
1-17 amended by adding Chapter 227 to read as follows:

1-18 CHAPTER 227. TRANS-TEXAS CORRIDOR

1-19 SUBCHAPTER A. GENERAL PROVISIONS

1-20 Sec. 227.001. DEFINITIONS. In this chapter:

1-21 (1) "Bond" has the meaning assigned by Title 9,  
1-22 Government Code.

1-23 (2) "Construction" includes extension, expansion, and  
1-24 improvement.

1-25 (3) "Credit agreement" has the meaning assigned by  
1-26 Title 9, Government Code.

1-27 (4) "Facility" means:

1-28 (A) a state highway;

1-29 (B) a turnpike;

1-30 (C) a freight or passenger railroad, including a  
1-31 commuter railroad, intercity railroad, and high-speed railroad;

1-32 (D) a public utility facility; or

1-33 (E) any structure that is reasonably necessary  
1-34 for the effective operation of a method of transportation,  
1-35 including an intermodal transfer or staging area, weigh station,  
1-36 inspection station, rest area, service station, restaurant, train  
1-37 or bus station, warehouse, freight interchange, switching yard,  
1-38 maintenance yard, and pipeline pumping station.

1-39 (5) "Fee" includes any charge, toll, rent, lease  
1-40 payment, user fee, franchise fee, percentage fee, license fee,  
1-41 fare, tariff, or other consideration received in return for the use  
1-42 of:

1-43 (A) property that is part of the Trans-Texas  
1-44 Corridor;

1-45 (B) a facility on the Trans-Texas Corridor; or

1-46 (C) a service that is offered in connection with  
1-47 the Trans-Texas Corridor.

1-48 (6) "Operation" includes maintenance and repair.

1-49 (7) "Public utility facility" means:

1-50 (A) a water, wastewater, natural gas, or  
1-51 petroleum pipeline or facility;

1-52 (B) an electric transmission or distribution  
1-53 facility; or

1-54 (C) telecommunications infrastructure,  
1-55 including fiber optic cable, conduit, and wireless communications  
1-56 facilities.

1-57 (8) "Trans-Texas Corridor" means the statewide system  
1-58 of facilities designated by the commission under this chapter.

1-59 (9) "Turnpike" has the meaning assigned to turnpike  
1-60 project under Section 361.001.

1-61 Sec. 227.002. RULES. The commission may adopt rules and the  
1-62 department may implement procedures and forms as necessary or  
1-63 convenient to implement and administer this chapter.

2-1 Sec. 227.003. APPLICABILITY. (a) All laws governing the  
2-2 financing, design, construction, maintenance, or operation of a  
2-3 highway in the state highway system apply to the financing, design,  
2-4 construction, maintenance, or operation of a highway under this  
2-5 chapter unless in conflict with this chapter.

2-6 (b) All laws governing the financing, design, construction,  
2-7 maintenance, or operation of a turnpike by the department apply to  
2-8 the financing, design, construction, maintenance, or operation of a  
2-9 turnpike under this chapter unless in conflict with this chapter.

2-10 (c) This chapter does not apply to real or personal  
2-11 property, facilities, funding, projects, operations, construction,  
2-12 or a project plan of a transportation authority created under  
2-13 Chapter 451 or 452, unless the commission or its designee has signed  
2-14 a written agreement with the transportation authority specifying  
2-15 the terms and conditions under which the transportation authority  
2-16 may participate in the Trans-Texas Corridor.

2-17 [Sections 227.004-227.010 reserved for expansion]

2-18 SUBCHAPTER B. ESTABLISHMENT

2-19 Sec. 227.011. DESIGNATION. The commission shall designate  
2-20 facilities for the Trans-Texas Corridor.

2-21 Sec. 227.012. ROUTE SELECTION. The commission shall  
2-22 consider the following criteria when selecting a route for a  
2-23 segment of the Trans-Texas Corridor:

- 2-24 (1) current and projected traffic patterns;
- 2-25 (2) the safety of motorists;
- 2-26 (3) potential risks to persons from spills or  
2-27 accidents of any kind;
- 2-28 (4) environmental effects, including the effect on air  
2-29 quality;
- 2-30 (5) current and projected economic development;
- 2-31 (6) the current and projected need for additional  
2-32 transportation options; and
- 2-33 (7) system connectivity.

2-34 Sec. 227.013. PUBLIC PARTICIPATION. Before designating a  
2-35 route for a segment of the Trans-Texas Corridor, the department  
2-36 shall hold at least one public hearing in each county through which  
2-37 the segment may pass.

2-38 Sec. 227.014. ESTABLISHMENT OF DISCRETE SYSTEMS. (a) If  
2-39 the commission determines that the mobility needs of this state  
2-40 would be most efficiently and economically met by jointly operating  
2-41 two or more facilities as one operational and financial enterprise,  
2-42 it may create a system composed of those facilities. The commission  
2-43 may create more than one system and may combine two or more systems  
2-44 into one system. The commission may finance, construct, and  
2-45 operate an additional facility as an expansion of a system if the  
2-46 commission determines that the facility would most efficiently and  
2-47 economically be constructed and operated if it were a part of the  
2-48 system and that the addition will benefit the system. A system may  
2-49 only include facilities located wholly or partly within the  
2-50 territory of:

- 2-51 (1) a metropolitan planning organization; or
  - 2-52 (2) two adjacent department districts.
- 2-53 (b) The revenue of a system must be accounted for separately  
2-54 and may not be commingled with the revenue of a facility that is not  
2-55 a part of the system.

2-56 Sec. 227.015. LOCATION OF FACILITIES. Notwithstanding any  
2-57 other law, including Chapter 181, Utilities Code, Chapter 402,  
2-58 Local Government Code, and Section 49.220, Water Code, the  
2-59 department may:

- 2-60 (1) specify the location of any facility on the  
2-61 Trans-Texas Corridor; and
- 2-62 (2) direct the time and manner of construction or  
2-63 operation of any facility on the Trans-Texas Corridor.

2-64 [Sections 227.016-227.020 reserved for expansion]

2-65 SUBCHAPTER C. DEVELOPMENT AND OPERATION

2-66 Sec. 227.021. AUTHORITY OF DEPARTMENT. (a) The department  
2-67 may:

- 2-68 (1) construct or operate any facility as part of the  
2-69 Trans-Texas Corridor; or

3-1                   (2) authorize a governmental or private entity to  
 3-2 construct or operate a facility that is part of the Trans-Texas  
 3-3 Corridor.

3-4                   (b) A governmental entity may only construct or operate a  
 3-5 facility that is located in the geographic area within which that  
 3-6 entity is authorized to operate.

3-7                   (c) Subject to Section 227.029, the department may grant or  
 3-8 deny access to the Trans-Texas Corridor. The department may not  
 3-9 discriminate unreasonably among users or potential users of a  
 3-10 facility.

3-11                   (d) The department may not directly provide  
 3-12 telecommunications services to the public.

3-13                   Sec. 227.022. PARTICIPATION BY OTHER ENTITIES. (a) A toll  
 3-14 or non-toll highway on the Trans-Texas Corridor that is constructed  
 3-15 or operated by another entity shall be part of the state highway  
 3-16 system. This subsection applies even if the entity constructing or  
 3-17 operating the highway is not independently authorized to construct  
 3-18 or operate a highway that is part of the state highway system.

3-19                   (b) If the department authorizes another governmental  
 3-20 entity to construct or operate a facility on the Trans-Texas  
 3-21 Corridor, that entity has each power of the department under this  
 3-22 chapter with respect to that facility, including the right to  
 3-23 collect fees, except that:

3-24                   (1) any property acquired by the entity shall be held  
 3-25 in the name of the state; and

3-26                   (2) the entity may not file a declaration of taking and  
 3-27 obtain early possession of real property.

3-28                   (c) If the department authorizes another governmental  
 3-29 entity to construct or operate a facility on the Trans-Texas  
 3-30 Corridor, that entity is liable for a claim relating to the  
 3-31 Trans-Texas Corridor only to the extent that the department would  
 3-32 be liable if it were constructing or operating the facility.

3-33                   Sec. 227.023. PARTICIPATION BY PRIVATE ENTITIES. (a) To  
 3-34 the maximum extent practical and economical, the department shall  
 3-35 encourage the participation of private entities in the planning,  
 3-36 design, construction, and operation of facilities.

3-37                   (b) The department shall contract with a private entity to  
 3-38 operate a railroad using rail facilities owned by the department  
 3-39 and may not use department employees to operate a railroad. The  
 3-40 department may maintain a rail facility directly or through a  
 3-41 private entity.

3-42                   (c) To the extent and in the manner that the department may  
 3-43 enter into comprehensive development agreements under Chapter 361  
 3-44 with regard to turnpikes, the department may enter into  
 3-45 comprehensive development agreements under this chapter with  
 3-46 regard to facilities on the Trans-Texas Corridor. All provisions  
 3-47 of Chapter 361 relating to comprehensive development agreements for  
 3-48 turnpikes apply to comprehensive development agreements for  
 3-49 facilities under this chapter, including provisions relating to the  
 3-50 confidentiality of information. Claims arising under an  
 3-51 comprehensive development agreement are subject to Section  
 3-52 201.112.

3-53                   Sec. 227.024. HIGHWAYS. A highway, including a turnpike,  
 3-54 on the Trans-Texas Corridor is a part of the state highway system.

3-55                   Sec. 227.025. VEHICLE SIZE AND WEIGHT LIMITS. (a) The  
 3-56 commission may authorize the operation of a vehicle that exceeds  
 3-57 the height, length, or gross weight limitations of Subchapter C,  
 3-58 Chapter 621, on a segment of a highway on the Trans-Texas Corridor  
 3-59 if supported by an engineering and traffic study that includes an  
 3-60 analysis of the structural capacity of bridges and pavements,  
 3-61 current and projected traffic patterns and volume, and potential  
 3-62 effects on public safety.

3-63                   (b) This section does not authorize the operation of a  
 3-64 vehicle that exceeds a maximum axle weight authorized by Chapter  
 3-65 621, 622, or 623.

3-66                   Sec. 227.026. ACQUISITION OF PERSONAL PROPERTY. (a) The  
 3-67 department may acquire personal property, except rolling stock,  
 3-68 under a conditional sales contract, lease, equipment trust  
 3-69 certificate, or other form of contract or trust agreement for use in

4-1 connection with a facility.

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

4-5 (c) The department may enter into agreements with a public  
 4-6 or private utility, the owner or operator of a communications  
 4-7 system, utility common carrier, or transportation system, or  
 4-8 another entity for the common use of a public utility facility.

4-9 Sec. 227.027. ENVIRONMENTAL REVIEW. (a) The department  
 4-10 shall conduct or approve each environmental evaluation or study  
 4-11 required for an activity associated with the Trans-Texas Corridor.

4-12 (b) The commission may allocate responsibilities for  
 4-13 conducting environmental evaluations or studies or preparing  
 4-14 environmental documentation among entities involved in the  
 4-15 construction or operation of any facility of the Trans-Texas  
 4-16 Corridor.

4-17 Sec. 227.028. ENVIRONMENTAL MITIGATION. (a) The  
 4-18 department may acquire, maintain, hold, restore, enhance, develop,  
 4-19 or redevelop property for the purpose of mitigating a past,  
 4-20 present, or future adverse environmental effect arising from the  
 4-21 construction or operation of any part of the Trans-Texas Corridor  
 4-22 without regard to whether the need for mitigation is established  
 4-23 for a particular project.

4-24 (b) The department may contract with a governmental or  
 4-25 private entity to maintain, control, hold, restore, enhance,  
 4-26 develop, or redevelop property for the mitigation of a past,  
 4-27 present, or future adverse environmental effect arising from the  
 4-28 construction or operation of any part of the Trans-Texas Corridor  
 4-29 without regard to whether the need for mitigation has already been  
 4-30 established for a particular project.

4-31 (c) If authorized by the applicable regulatory authority,  
 4-32 the department may pay a sum of money to an appropriate governmental  
 4-33 or private entity instead of acquiring or managing property for the  
 4-34 mitigation of a past, present, or future adverse environmental  
 4-35 effect arising from construction or operation of any part of the  
 4-36 Trans-Texas Corridor without regard to whether the need for  
 4-37 mitigation has already been established for a particular project.

4-38 Sec. 227.029. RELOCATION OF EXISTING FACILITIES. (a) The  
 4-39 department may construct a grade separation at an intersection of a  
 4-40 Trans-Texas Corridor facility with another facility and may change  
 4-41 the line or grade of a facility to accommodate the facility to the  
 4-42 design of a grade separation. The department shall pay the cost of  
 4-43 a grade separation and any damage incurred in changing a line or  
 4-44 grade of a facility.

4-45 (b) If the department finds it necessary to change the  
 4-46 location of a portion of a facility, it shall reconstruct the  
 4-47 facility at the location the department determines to be most  
 4-48 favorable. The reconstructed facility must be of substantially the  
 4-49 same type and in as good condition as the original facility. The  
 4-50 department shall determine and pay the cost of the reconstruction  
 4-51 and any damage incurred in changing the location of a facility.

4-52 (c) This section does not apply to the conversion of any  
 4-53 highway that is a part of the state highway system to a highway of  
 4-54 the Trans-Texas Corridor.

4-55 Sec. 227.030. UNAUTHORIZED USE. The department may remove  
 4-56 unauthorized personal property, including a vehicle, from the  
 4-57 Trans-Texas Corridor without notice and at the owner's expense.  
 4-58 Removed property may be stored until claimed by the owner. If a  
 4-59 removed motor vehicle is not claimed by the owner within 72 hours  
 4-60 after the date and time of removal, it shall be considered abandoned  
 4-61 within the meaning of Chapter 683. The department and its employees  
 4-62 are not liable for damage to property that is removed from the  
 4-63 Trans-Texas Corridor under this section.

4-64 Sec. 227.031. EXCLUSIVE LANES. The department may dedicate  
 4-65 one or more lanes of a highway on the Trans-Texas Corridor to the  
 4-66 exclusive use of designated classes of vehicles.

4-67 [Sections 227.032-227.040 reserved for expansion]

4-68 SUBCHAPTER D. RIGHT-OF-WAY ACQUISITION

4-69 Sec. 227.041. POWERS AND PROCEDURES. (a) Except as

5-1 otherwise provided by this subchapter, the commission has the same  
 5-2 powers and duties relating to the condemnation and acquisition of  
 5-3 real property for a facility of the Trans-Texas Corridor that the  
 5-4 commission and the department have relating to the condemnation or  
 5-5 purchase of real property under Subchapter D, Chapter 361, and  
 5-6 Section 361.233 for a turnpike project. The commission may  
 5-7 purchase an option to purchase property that the commission is  
 5-8 considering for possible use as part of the Trans-Texas Corridor  
 5-9 even if it has not been finally decided that the Trans-Texas  
 5-10 Corridor will be located on that property. Property may be  
 5-11 purchased along alternative potential routes for the Trans-Texas  
 5-12 Corridor even if only one of those potential routes will be selected  
 5-13 as the final route.

5-14 (b) An interest in real property or a property right is  
 5-15 necessary or convenient for the construction or operation of a  
 5-16 facility if it is located in or contiguous to an existing or planned  
 5-17 segment of the Trans-Texas Corridor and if its acquisition will  
 5-18 further the primary purposes of the Trans-Texas Corridor. Primary  
 5-19 purposes include:

5-20 (1) providing right-of-way or a location for a  
 5-21 facility;

5-22 (2) providing land for mitigation of adverse  
 5-23 environmental effects;

5-24 (3) providing buffer zones for scenic or safety  
 5-25 purposes;

5-26 (4) allowing for possible future expansion of any  
 5-27 facility; and

5-28 (5) generating revenue, directly or indirectly, for  
 5-29 use in constructing or operating the Trans-Texas Corridor in ways  
 5-30 that directly benefit users of the Trans-Texas Corridor.

5-31 (c) Unless in conflict with this chapter, all laws governing  
 5-32 the acquisition of right-of-way for a state highway apply to the  
 5-33 acquisition of right-of-way for the Trans-Texas Corridor. Sections  
 5-34 203.056, 203.057, and 203.058 apply to an acquisition by the  
 5-35 department from a state agency. Compensation to a state agency  
 5-36 under those sections shall be reasonable and may take the form of a  
 5-37 single payment, a participation payment under Section 227.042, or  
 5-38 both a single payment and a participation payment.

5-39 Sec. 227.042. CORRIDOR PARTICIPATION PAYMENT FOR REAL  
 5-40 PROPERTY. (a) As an alternative to paying for an interest in real  
 5-41 property or a real property right with a single fixed payment, the  
 5-42 department may, with the owner's consent, pay the owner by means of  
 5-43 a corridor participation payment.

5-44 (b) A right to receive a corridor participation payment  
 5-45 under this section is subordinate to any right to receive a fee as  
 5-46 payment on the principal of or interest on a bond that is issued for  
 5-47 the construction of the applicable segment of the Trans-Texas  
 5-48 Corridor.

5-49 (c) In this section, "corridor participation payment" means  
 5-50 an intangible legal right to receive a percentage of one or more  
 5-51 identified fees related to a segment of the Trans-Texas Corridor.

5-52 Sec. 227.043. PURCHASE AND LEASEBACK. The department may  
 5-53 acquire real property for the Trans-Texas Corridor and immediately  
 5-54 lease it back to the former owner for a fixed or indefinite term.

5-55 Sec. 227.044. RIGHT OF ENTRY TO PROPERTY WITH PUBLIC  
 5-56 UTILITY FACILITY. To ensure the safety and convenience of the  
 5-57 public, the department shall, when entering any real property,  
 5-58 water, or premises on which is located a public utility facility:

5-59 (1) comply with applicable industry standard safety  
 5-60 codes and practices; and

5-61 (2) give the owner or operator of the facility not less  
 5-62 than 10 days' notice before entering the real property, water, or  
 5-63 premises.

5-64 Sec. 227.045. OTHER GOVERNMENTAL ENTITIES. If the  
 5-65 department authorizes another governmental entity to construct or  
 5-66 operate a segment of or a facility on the Trans-Texas Corridor, that  
 5-67 entity has all the powers and duties of the department under this  
 5-68 subchapter, except that the entity:

5-69 (1) may only construct or operate a facility that is

6-1 located in the geographic area within which that entity is  
 6-2 authorized to operate; and

6-3 (2) may not file a declaration of taking and obtain  
 6-4 early possession of real property.

6-5 Sec. 227.046. COST OF RELOCATING PUBLIC UTILITY FACILITY.

6-6 (a) A telecommunications utility or a telecommunications utility  
 6-7 holding a certificate of convenience and necessity, certificate of  
 6-8 authority, or service provider certificate of authority shall  
 6-9 recover from the department its reasonable costs to relocate a  
 6-10 public utility facility to accommodate the development or  
 6-11 construction of the Trans-Texas Corridor.

6-12 (b) An owner of a public utility facility is not obligated  
 6-13 to relocate the utility facility on the Trans-Texas Corridor if the  
 6-14 owner determines that another location is feasible.

6-15 (c) If a public utility facility is located on the  
 6-16 Trans-Texas Corridor, the department shall grant the owner  
 6-17 reasonable access to operate and maintain the utility facility in  
 6-18 accordance with industry standard safety codes and practices.

6-19 (d) Relocation of facilities pursuant to this section is  
 6-20 subject to the department's reasonable regulations pertaining to  
 6-21 public health, safety, and welfare.

6-22 [Sections 227.047-227.060 reserved for expansion]

6-23 SUBCHAPTER E. FINANCING

6-24 Sec. 227.061. PERMISSIBLE SOURCES OF FUNDING. Subject to  
 6-25 Section 227.062, the department may use any available source of  
 6-26 funding in acquiring property for, constructing, and operating the  
 6-27 Trans-Texas Corridor, including:

6-28 (1) an appropriation from the state highway fund for  
 6-29 construction or maintenance of highways;

6-30 (2) a fee;

6-31 (3) proceeds from a bond secured by fees;

6-32 (4) proceeds from an obligation secured by the Texas  
 6-33 Mobility Fund;

6-34 (5) a donation, in kind or in cash;

6-35 (6) a private investment;

6-36 (7) money transferred from the state infrastructure  
 6-37 bank;

6-38 (8) a contribution from or contractual obligation of a  
 6-39 governmental entity; and

6-40 (9) a loan, grant, or reimbursement from the federal  
 6-41 government, subject to Section 227.062.

6-42 Sec. 227.062. LIMITATIONS ON DEPARTMENT FINANCIAL  
 6-43 PARTICIPATION. (a) Each fiscal year, the total amount disbursed by  
 6-44 the department out of the state highway fund for the following  
 6-45 activities on the Trans-Texas Corridor may not exceed 20 percent of  
 6-46 the obligation authority under the federal-aid highway program that  
 6-47 is distributed to this state in that year:

6-48 (1) acquisition of right of way;

6-49 (2) initial construction of toll and nontoll highways;  
 6-50 and

6-51 (3) grading and bed preparation for non-highway  
 6-52 facilities.

6-53 (b) The limitation under Subsection (a) does not apply to:

6-54 (1) money spent for:

6-55 (A) feasibility studies, environmental studies,  
 6-56 and preliminary engineering conducted before the initial  
 6-57 construction of a facility; or

6-58 (B) operation and maintenance of a facility;

6-59 (2) the proceeds of bonds or other public securities  
 6-60 issued to pay the cost of a facility deposited to the credit of the  
 6-61 state highway fund;

6-62 (3) revenue attributable to a facility deposited to  
 6-63 the credit of the state highway fund;

6-64 (4) loans deposited to the credit of the state highway  
 6-65 fund; or

6-66 (5) contributions from a public or private entity that  
 6-67 are deposited to the credit of the state highway fund.

6-68 (c) Each fiscal year, the total amount disbursed by the  
 6-69 department out of state and federal funds shall not exceed \$25

7-1 million for the construction or purchase of non-highway facilities  
 7-2 on the Trans-Texas Corridor. This subsection does not apply to  
 7-3 funds derived from the issuance of bonds, private investment,  
 7-4 donations, the Federal Transit Administration, or the Federal  
 7-5 Railroad Administration. This subsection also does not apply to  
 7-6 activities that are subject to the limitation in subsection (a).

7-7 (d) The commission may not disburse money out of the state  
 7-8 highway fund for the initial construction of a facility of the  
 7-9 Trans-Texas Corridor unless the commission finds that the  
 7-10 disbursement will reduce traffic congestion to an extent that is  
 7-11 comparable to the reduction in traffic congestion that would likely  
 7-12 be achieved by spending the same amount of money on the project that  
 7-13 is the most reasonable alternative. This subsection does not apply  
 7-14 to the disbursement of money out of the state highway fund for  
 7-15 environmental studies or for the acquisition of right of way.

7-16 (e) The commission may not disburse money from the state  
 7-17 highway fund or the Texas mobility fund to construct a portion of  
 7-18 the Trans-Texas Corridor unless it would replace or supplement a  
 7-19 project identified in the department's unified transportation  
 7-20 program or a transportation corridor identified in the statewide  
 7-21 transportation plan.

7-22 (f) The commission may not authorize the construction of  
 7-23 rail facilities unless it finds that the construction will reduce  
 7-24 congestion and improve mobility.

7-25 Sec. 227.063. FINANCING OF FACILITIES AND SYSTEMS. (a) The  
 7-26 commission and the department have the same powers and duties  
 7-27 relating to the financing of a facility or a system established  
 7-28 under Section 227.014 as the commission and the department have  
 7-29 under Subchapter E, Chapter 361, relating to the financing of a  
 7-30 turnpike project.

7-31 (b) The powers held by the commission and the department  
 7-32 include the powers to:

7-33 (1) authorize the issuance of bonds to pay all or part  
 7-34 of the cost of a facility or system or to pay for all or part of the  
 7-35 cost of a facility or system that will become a part of another  
 7-36 system;

7-37 (2) impose a toll or other fee for the use of a  
 7-38 facility or system; and

7-39 (3) obtain from another source the fees and other  
 7-40 revenue necessary to pay all or part of the principal and interest  
 7-41 on bonds issued under this chapter.

7-42 (c) For purposes of this section, a reference in Subchapter  
 7-43 E, Chapter 361 to:

7-44 (1) a turnpike project means a facility or system; and

7-45 (2) revenue includes a fee established under this  
 7-46 chapter.

7-47 Sec. 227.064. LOANS AND OTHER FUNDING. The department may  
 7-48 borrow money from the United States or use money in the state  
 7-49 infrastructure bank created under Subchapter D, Chapter 222, to  
 7-50 fund the construction or operation of a facility under this  
 7-51 chapter. Money borrowed under this section may be evidenced by the  
 7-52 issuance of bonds.

7-53 [Sections 227.065-227.080 reserved for expansion]

#### 7-54 SUBCHAPTER F. REVENUE

7-55 Sec. 227.081. FEES. (a) Notwithstanding any other law,  
 7-56 including Chapters 161, 162, 163, and 181, Utilities Code, Chapter  
 7-57 402, Local Government Code, and Chapter 49, Water Code, and except  
 7-58 as provided in Subsection (e), the department may require a person,  
 7-59 including a governmental or private entity, to pay a fee as a  
 7-60 condition of using any part of the Trans-Texas Corridor.

7-61 (b) The commission may establish fees to be imposed by the  
 7-62 department under this chapter. Fees may be set as absolute amounts,  
 7-63 as a percentage of revenue, as a percentage of actual use or  
 7-64 throughput, as a designated portion or percentage of initial  
 7-65 facility funding, or on any other reasonable basis. Subject to  
 7-66 approval by a body having jurisdiction and authority to establish a  
 7-67 tariff, the commission may establish joint fees and divisions of  
 7-68 fees.

7-69 (c) A fee may exceed the department's costs, but the

8-1 commission may not establish a fee that is prohibitive or that  
 8-2 discriminates unreasonably among users or potential users of a  
 8-3 facility.

8-4 (d) In establishing a fee or the amount of a fee under this  
 8-5 section, the commission shall consider:

8-6 (1) the acquisition cost of the property being used;  
 8-7 (2) if applicable, the value of the property being  
 8-8 transported or of the service being offered;

8-9 (3) any cost to the department or to the public  
 8-10 occasioned by the use, including environmental effects;

8-11 (4) comparable fees set by the competitive  
 8-12 marketplace; and

8-13 (5) the desirable effects of full use of the  
 8-14 Trans-Texas Corridor on the state's economy and its residents.

8-15 (e) If a public road is replaced or eliminated by the  
 8-16 Trans-Texas Corridor and a facility used the right-of-way of that  
 8-17 road under Chapter 161, 162, 163, or 181, Utilities Code, Chapter  
 8-18 402, Local Government Code, or Chapter 49, Water Code, the  
 8-19 department may not require the owner of that facility to pay a fee  
 8-20 as a condition of using a segment of the Trans-Texas Corridor for  
 8-21 the location of a replacement facility.

8-22 (f) The department may not require the owner of a public  
 8-23 utility facility to pay a fee as a condition of crossing the  
 8-24 Trans-Texas Corridor.

8-25 Sec. 227.082. LEASE OF PROPERTY OR RIGHTS. (a) The  
 8-26 department may lease property on the Trans-Texas Corridor to any  
 8-27 public or private entity. A lease may be for a term not longer than  
 8-28 50 years.

8-29 (b) The department may grant a franchise to use or operate a  
 8-30 facility on the Trans-Texas Corridor. A franchise under this  
 8-31 section may be granted for a term not longer than 50 years.

8-32 (c) The department may grant an exclusive or nonexclusive  
 8-33 license to access or use any portion of the Trans-Texas Corridor for  
 8-34 any purpose. A license granted under this section may be for a  
 8-35 definite or indefinite term. The department may not grant an  
 8-36 exclusive license to access or use a highway on the Trans-Texas  
 8-37 Corridor.

8-38 (d) Property may be leased or a franchise or license granted  
 8-39 for any purpose, including use as a facility and use for unrelated  
 8-40 commercial, industrial, or agricultural purposes.

8-41 (e) In return for a lease, franchise, or license, the  
 8-42 department may accept anything of value as consideration,  
 8-43 including:

8-44 (1) a cash payment;  
 8-45 (2) installment payments;  
 8-46 (3) one or more payments based on percentages of use or  
 8-47 throughput; and

8-48 (4) an interest in real or personal property, or an  
 8-49 intangible legal right.

8-50 Sec. 227.083. DISPOSITION OF FEES. To the extent that it is  
 8-51 not dedicated to another purpose by the constitution, by statute,  
 8-52 or by contract, revenue received by the department under this  
 8-53 chapter shall be deposited to the credit of the state highway fund  
 8-54 and may be used for any purpose authorized by this chapter.  
 8-55 Subchapter D, Chapter 316, Government Code, and Section 403.095,  
 8-56 Government Code, do not apply to revenue received under this  
 8-57 chapter.

8-58 SECTION 1.02. Subchapter H, Chapter 545, Transportation  
 8-59 Code, is amended by adding Section 545.3531 to read as follows:

8-60 Sec. 545.3531. AUTHORITY OF TEXAS TRANSPORTATION  
 8-61 COMMISSION TO ESTABLISH SPEED LIMITS ON TRANS-TEXAS CORRIDOR. (a)  
 8-62 Notwithstanding Section 545.352, the Texas Transportation  
 8-63 Commission, by order recorded in its minutes and except as provided  
 8-64 by Subsection (d), may determine and declare on a highway segment of  
 8-65 the Trans-Texas Corridor designated under Chapter 227 a reasonable  
 8-66 and safe prima facie speed limit in excess of a prima facie speed  
 8-67 limit established by Section 545.352.

8-68 (b) In determining whether a prima facie speed limit is  
 8-69 reasonable and safe, the commission shall conduct an engineering



9-1 and traffic investigation and shall consider the width and  
9-2 condition of the pavement, the usual traffic on the highway  
9-3 segment, the suitability of existing safety features, and other  
9-4 circumstances.

9-5 (c) A prima facie speed limit that is declared by the  
9-6 commission under this section is effective when the department  
9-7 erects signs giving notice of the new limit. A new limit that is  
9-8 enacted under this section is effective at all times or at other  
9-9 times as determined.

9-10 (d) The commission may not:  
9-11 (1) modify the rules established by Section  
9-12 545.351(b); or  
9-13 (2) establish a speed limit of more than 85 miles per  
9-14 hour.

9-15 (e) The commission, in conducting the engineering and  
9-16 traffic investigation specified by Subsection (b), shall follow the  
9-17 "Procedures for Establishing Speed Zones" as adopted by the  
9-18 commission.

9-19 SECTION 1.03. This article takes effect immediately if this  
9-20 Act receives a vote of two-thirds of all the members elected to each  
9-21 house, as provided by Section 39, Article III, Texas Constitution.  
9-22 If this Act does not receive the vote necessary for immediate  
9-23 effect, this article takes effect September 1, 2003.

9-24 ARTICLE 2. REGIONAL MOBILITY AUTHORITIES

9-25 SECTION 2.01. Subtitle G, Title 6, Transportation Code, is  
9-26 amended by adding Chapter 370 to read as follows:

9-27 CHAPTER 370. REGIONAL MOBILITY AUTHORITIES

9-28 SUBCHAPTER A. GENERAL PROVISIONS

9-29 Sec. 370.001. SHORT TITLE. This chapter may be cited as the  
9-30 Regional Mobility Authority Act.

9-31 Sec. 370.002. DEFINITIONS. In this chapter:

9-32 (1) "Authority" means a regional mobility authority  
9-33 organized under this chapter or under Section 361.003, as that  
9-34 section existed before September 1, 2003.

9-35 (2) "Board" means the board of directors of an  
9-36 authority.

9-37 (3) "Bond" includes a bond, certificate, note, or  
9-38 other obligation of an authority authorized by this chapter,  
9-39 another statute, or the Texas Constitution.

9-40 (4) "Bond proceeding" includes a bond resolution and a  
9-41 bond indenture authorized by the bond resolution, a credit  
9-42 agreement, loan agreement, or other agreement entered into in  
9-43 connection with the bond or the payments to be made under the  
9-44 agreement, and any other agreement between an authority and another  
9-45 person providing security for the payment of a bond.

9-46 (5) "Bond resolution" means an order or resolution of  
9-47 a board authorizing the issuance of a bond.

9-48 (6) "Bondholder" means the owner of a bond and  
9-49 includes a trustee acting on behalf of an owner of a bond under the  
9-50 terms of a bond indenture.

9-51 (7) "Governmental entity" means a political  
9-52 subdivision of the state, including a municipality or a county, a  
9-53 political subdivision of a county, a group of adjoining counties, a  
9-54 district organized or operating under Section 52, Article III, or  
9-55 Section 59, Article XVI, Texas Constitution, the department, a rail  
9-56 district, a transit authority, a nonprofit corporation, including a  
9-57 transportation corporation, that is created under Chapter 431, or  
9-58 any other public entity or instrumentality.

9-59 (8) "Highway" means a road, highway, farm-to-market  
9-60 road, or street under the supervision of the state or a political  
9-61 subdivision of this state.

9-62 (9) "Public utility facility" means:

9-63 (A) a water, wastewater, natural gas, or  
9-64 petroleum pipeline or facility;

9-65 (B) an electric transmission or distribution  
9-66 facility; or

9-67 (C) telecommunications infrastructure,  
9-68 including fiber optic cable, conduit, and wireless communications  
9-69 facilities.

10-1 (10) "Revenue" means fares, fees, rents, tolls, and  
 10-2 other money received by an authority from the ownership or  
 10-3 operation of a transportation project.

10-4 (11) "Surplus revenue" means revenue that exceeds:  
 10-5 (A) an authority's debt service requirements for  
 10-6 a transportation project, including the redemption or purchase  
 10-7 price of bonds subject to redemption or purchase as provided in the  
 10-8 applicable bond proceedings;

10-9 (B) coverage requirements of a bond indenture for  
 10-10 a transportation project;

10-11 (C) costs of operation and maintenance for a  
 10-12 transportation project;

10-13 (D) cost of repair, expansion, or improvement of  
 10-14 a transportation project;

10-15 (E) funds allocated for feasibility studies; and

10-16 (F) necessary reserves as determined by the  
 10-17 authority.

10-18 (12) "System" means a transportation project or a  
 10-19 combination of transportation projects designated as a system by  
 10-20 the board under Section 370.034.

10-21 (13) "Transportation project" means:

10-22 (A) a turnpike project;

10-23 (B) a system;

10-24 (C) a roadway with a functional classification  
 10-25 greater than a local road or rural minor collector;

10-26 (D) a ferry;

10-27 (E) a pedestrian or bicycle facility;

10-28 (F) an air quality improvement initiative; and

10-29 (G) if applicable, projects and programs listed  
 10-30 in the most recently approved state implementation plan for the  
 10-31 area covered by the authority, including an early action compact.

10-32 (14) "Turnpike project" means a highway of any number  
 10-33 of lanes, with or without grade separations, owned or operated by an  
 10-34 authority under this chapter and any improvement, extension, or  
 10-35 expansion to that highway, including:

10-36 (A) an improvement to relieve traffic congestion  
 10-37 or promote safety;

10-38 (B) a bridge, tunnel, overpass, underpass,  
 10-39 interchange, service road, ramp, entrance plaza, approach, or  
 10-40 tollhouse;

10-41 (C) an administration, storage, or other  
 10-42 building the authority considers necessary for the operation of a  
 10-43 turnpike project;

10-44 (D) a parking area or structure, rest stop, park,  
 10-45 and other improvement or amenity the authority considers necessary,  
 10-46 useful, or beneficial for the operation of a turnpike project; and

10-47 (E) a property right, easement, or interest the  
 10-48 authority acquires to construct or operate the turnpike project.

10-49 Sec. 370.003. CONSTRUCTION COSTS DEFINED. (a) The cost of  
 10-50 acquisition, construction, improvement, extension, or expansion of  
 10-51 a transportation project under this chapter includes the cost of:

10-52 (1) the actual acquisition, construction,  
 10-53 improvement, extension, or expansion of the transportation  
 10-54 project;

10-55 (2) the acquisition of real property, rights-of-way,  
 10-56 property rights, easements, and other interests in real property;

10-57 (3) machinery and equipment;

10-58 (4) interest payable before, during, and for not more  
 10-59 than three years after acquisition, construction, improvement,  
 10-60 extension, or expansion as provided in the bond proceedings;

10-61 (5) traffic estimates, revenue estimates, engineering  
 10-62 and legal services, plans, specifications, surveys, appraisals,  
 10-63 construction cost estimates, and other expenses necessary or  
 10-64 incidental to determining the feasibility of the acquisition,  
 10-65 construction, improvement, extension, or expansion;

10-66 (6) necessary or incidental administrative, legal,  
 10-67 and other expenses;

10-68 (7) compliance with laws, regulations, and  
 10-69 administrative rulings, including any costs associated with

11-1 necessary environmental mitigation measures;  
 11-2 (8) financing; and  
 11-3 (9) expenses related to the initial operation of the  
 11-4 transportation project.

11-5 (b) Costs attributable to a transportation project and  
 11-6 incurred before the issuance of bonds to finance the transportation  
 11-7 project may be reimbursed from the proceeds of sale of the bonds.

11-8 [Sections 370.005-370.030 reserved for expansion]

11-9 SUBCHAPTER B. CREATION AND POWERS OF REGIONAL MOBILITY AUTHORITIES

11-10 Sec. 370.031. CREATION OF A REGIONAL MOBILITY AUTHORITY.

11-11 (a) At the request of one or more counties, the commission by order  
 11-12 may authorize the creation of a regional mobility authority for the  
 11-13 purposes of constructing, maintaining, and operating  
 11-14 transportation projects in a region of this state. An authority is  
 11-15 governed in accordance with Subchapter F.

11-16 (b) An authority may not be created without the approval of  
 11-17 the commission under Subsection (a).

11-18 Sec. 370.0315. ADDITION AND WITHDRAWAL OF COUNTIES. (a)

11-19 One or more counties may petition the commission for approval to  
 11-20 become part of an existing authority. The commission may approve  
 11-21 the petition only if:

11-22 (1) the board has agreed to the addition; and

11-23 (2) the commission finds that the affected political  
 11-24 subdivisions in the county or counties will be adequately  
 11-25 represented on the board.

11-26 (b) One or more counties may petition the commission for  
 11-27 approval to withdraw from an authority. The commission may approve  
 11-28 the petition only if:

11-29 (1) the authority has no bonded indebtedness; or

11-30 (2) the authority has debt other than bonded  
 11-31 indebtedness, but the board has agreed to the withdrawal.

11-32 (c) A county may not become part of an authority or withdraw  
 11-33 from an authority without the approval of the commission.

11-34 Sec. 370.032. NATURE OF REGIONAL MOBILITY AUTHORITY. (a)

11-35 An authority is a body politic and corporate and a political  
 11-36 subdivision of this state.

11-37 (b) An authority is a governmental unit as that term is  
 11-38 defined in Section 101.001, Civil Practice and Remedies Code.

11-39 (c) The exercise by an authority of the powers conferred by  
 11-40 this chapter in the acquisition, design, financing, construction,  
 11-41 operation, and maintenance of a transportation project or system  
 11-42 is:

11-43 (1) in all respects for the benefit of the people of  
 11-44 the counties in which an authority operates and of the people of  
 11-45 this state, for the increase of their commerce and prosperity, and  
 11-46 for the improvement of their health, living conditions, and public  
 11-47 safety; and

11-48 (2) an essential governmental function of the state.

11-49 (d) The operations of an authority are governmental, not  
 11-50 proprietary, functions.

11-51 Sec. 370.033. GENERAL POWERS. (a) An authority, through  
 11-52 its board, may:

11-53 (1) adopt rules for the regulation of its affairs and  
 11-54 the conduct of its business;

11-55 (2) adopt an official seal;

11-56 (3) study, evaluate, design, finance, acquire,  
 11-57 construct, maintain, repair, and operate transportation projects,  
 11-58 individually or as one or more systems, provided that a  
 11-59 transportation project that is subject to Subpart C, 23 C.F.R. Part  
 11-60 450, is:

11-61 (A) included in the plan approved by the  
 11-62 applicable metropolitan planning organization; and

11-63 (B) consistent with the statewide transportation  
 11-64 program and the statewide transportation improvement plan;

11-65 (4) acquire, hold, and dispose of property in the  
 11-66 exercise of its powers and the performance of its duties under this  
 11-67 chapter;

11-68 (5) enter into contracts or operating agreements with  
 11-69 a similar authority, another governmental entity, or an agency of

12-1 the United States;

12-2 (6) enter into contracts or agreements necessary or  
 12-3 incidental to its powers and duties under this chapter;

12-4 (7) cooperate and work directly with property owners  
 12-5 and governmental entities and officials to support an activity  
 12-6 required to promote or develop a transportation project;

12-7 (8) employ and set the compensation and benefits of  
 12-8 administrators, consulting engineers, attorneys, accountants,  
 12-9 construction and financial experts, superintendents, managers,  
 12-10 full-time and part-time employees, agents, consultants, and other  
 12-11 persons as the authority considers necessary or useful, except that  
 12-12 the compensation and benefits of the authority's chief executive  
 12-13 officer may not exceed the compensation and benefits of the  
 12-14 department's executive director unless higher compensation and  
 12-15 benefits are approved by the commission;

12-16 (9) notwithstanding Sections 221.003 and 222.031 and  
 12-17 subject to Subsection (e), apply for, directly or indirectly  
 12-18 receive and spend loans, gifts, grants, and other contributions for  
 12-19 any purpose of this chapter, including the construction of a  
 12-20 transportation project, and receive and spend contributions of  
 12-21 money, property, labor, or other things of value;

12-22 (10) adopt and enforce rules not inconsistent with  
 12-23 this chapter for the use of any transportation project, including  
 12-24 tolls, fares, or other user fees, speed and weight limits, and  
 12-25 traffic and other public safety rules, provided that an authority  
 12-26 must consider the same factors that the commission must consider in  
 12-27 altering a prima facie speed limit, except that an order of the  
 12-28 commission may supercede a speed limit established by an authority;

12-29 (11) enter into leases with a public or private party  
 12-30 governing the party's use of all or any portion of a transportation  
 12-31 project;

12-32 (12) borrow money from or enter into a loan agreement  
 12-33 or other arrangement with the state infrastructure bank; and

12-34 (13) do all things necessary or appropriate to carry  
 12-35 out the powers and duties expressly granted or imposed by this  
 12-36 chapter.

12-37 (b) Except as provided by this subsection, property that is  
 12-38 a part of a transportation project of an authority is not subject to  
 12-39 condemnation or the exercise of the power of eminent domain by any  
 12-40 person, including a governmental entity. The department may  
 12-41 condemn property that is a part of a transportation project of an  
 12-42 authority if the property is needed for the construction,  
 12-43 reconstruction, or expansion of a state highway or rail facility.

12-44 (c) An authority may sue and be sued and plead and be  
 12-45 impleaded in its own name.

12-46 (d) An authority shall adopt written procedures governing  
 12-47 its procurement of goods and services that are consistent with  
 12-48 general laws applicable to the authority.

12-49 (e) An authority may not apply for federal highway funds  
 12-50 without the approval of the department.

12-51 Sec. 370.034. ESTABLISHMENT OF TRANSPORTATION SYSTEMS. (a)  
 12-52 If an authority determines that the traffic needs of the counties in  
 12-53 which it operates and the traffic needs of the surrounding region  
 12-54 could be most efficiently and economically met by jointly operating  
 12-55 two or more transportation projects as one operational and  
 12-56 financial enterprise, it may create a system made up of those  
 12-57 transportation projects. An authority may create more than one  
 12-58 system and may combine two or more systems into one system. An  
 12-59 authority may finance, acquire, construct, and operate additional  
 12-60 transportation projects as additions to or expansions of a system  
 12-61 if the authority determines that the transportation project could  
 12-62 most efficiently and economically be acquired or constructed if it  
 12-63 were a part of the system and that the addition will benefit the  
 12-64 system.

12-65 (b) The revenue of a system shall be accounted for  
 12-66 separately and may not be commingled with the revenue of a  
 12-67 transportation project that is not a part of the system or with the  
 12-68 revenue of another system.

12-69 Sec. 370.035. TRANSFER OF A SEGMENT OF THE STATE HIGHWAY

13-1 SYSTEM. (a) The commission by order may transfer a segment of the  
13-2 state highway system, whether tolled or not, to an authority if:

13-3 (1) the commission determines that the proposed  
13-4 transfer is an integral part of the region's overall plan to improve  
13-5 mobility in the region;

13-6 (2) the authority agrees to assume all liability and  
13-7 responsibility for the maintenance and operation of the segment of  
13-8 the highway after its transfer; and

13-9 (3) the proposed transfer is approved by the  
13-10 commissioners court of each county in which the segment of highway  
13-11 is located.

13-12 (b) The commission may only make a transfer under this  
13-13 section if the commission determines that the transfer is the most  
13-14 feasible and economic means to accomplish necessary expansions,  
13-15 extensions, or improvements of the transferred segment of the  
13-16 highway. Tolls may not be collected by an authority from a  
13-17 transferred segment of highway except to finance the expansion,  
13-18 extension, operation, and maintenance of that highway.

13-19 (c) An authority shall reimburse the commission for the cost  
13-20 of a transferred segment of highway unless the commission  
13-21 determines that the transfer will result in a substantial net  
13-22 benefit to the state, the department, and the traveling public that  
13-23 equals or exceeds that cost.

13-24 (d) In computing the cost of the segment of highway, the  
13-25 commission shall:

13-26 (1) include the total amount spent by the department  
13-27 for the original construction of the highway, including the costs  
13-28 associated with the preliminary engineering and design engineering  
13-29 for plans, specifications, and estimates, the acquisition of  
13-30 necessary rights-of-way, and actual construction of the segment and  
13-31 all necessary appurtenant facilities; and

13-32 (2) consider the anticipated future costs of  
13-33 expanding, improving, maintaining, operating, or extending the  
13-34 segment to be incurred by the authority and not by the department if  
13-35 the segment is transferred.

13-36 (e) The commission may, at the time a segment of highway is  
13-37 transferred, remove the segment from the state highway system.  
13-38 After a transfer, the commission has no liability, responsibility,  
13-39 or duty for the maintenance or operation of the segment of highway.

13-40 (f) Before transferring a segment of highway that is part of  
13-41 the state highway system under this section, the commission shall  
13-42 conduct a public hearing at which interested persons shall be  
13-43 allowed to speak on the proposed transfer. Notice of the hearing  
13-44 must be published in the Texas Register, one or more newspapers of  
13-45 general circulation in the counties in which the turnpike project  
13-46 is located, and a newspaper, if any, published in the counties of  
13-47 the applicable authority.

13-48 (g) The commission shall adopt rules to implement this  
13-49 section. The rules shall include criteria and guidelines for the  
13-50 approval of a transfer.

13-51 (h) An authority shall adopt rules providing criteria and  
13-52 guidelines for approval of the transfer under this section.

13-53 (i) The commission may not transfer the Queen Isabella  
13-54 Causeway in Cameron County to an authority under this section.

13-55 Sec. 370.036. TRANSFER OF BONDED TURNPIKE PROJECT TO  
13-56 DEPARTMENT. (a) An authority may transfer to the department a  
13-57 turnpike project of the authority that has outstanding bonded  
13-58 indebtedness if the commission:

13-59 (1) agrees to the transfer; and

13-60 (2) agrees to assume the outstanding bonded  
13-61 indebtedness.

13-62 (b) The commission may assume the outstanding bonded  
13-63 indebtedness only if the assumption:

13-64 (1) is not prohibited under the terms of an existing  
13-65 trust agreement or indenture securing bonds or other obligations  
13-66 issued by the commission for another project;

13-67 (2) does not prevent the commission from complying  
13-68 with covenants of the commission under an existing trust agreement  
13-69 or indenture; and

14-1 (3) does not cause a rating agency maintaining a  
 14-2 rating on outstanding obligations of the commission to lower the  
 14-3 existing rating.

14-4 (c) If the commission agrees to the transfer under  
 14-5 Subsection (a), the authority shall convey the turnpike project and  
 14-6 any real property acquired to construct or operate the turnpike  
 14-7 project to the department.

14-8 (d) At the time of a conveyance under this section, the  
 14-9 commission shall designate the turnpike project as part of the  
 14-10 state highway system. After the designation, the authority has no  
 14-11 liability, responsibility, or duty to maintain or operate the  
 14-12 transferred turnpike project.

14-13 Sec. 370.037. TRANSFER OF FERRY CONNECTING STATE HIGHWAYS.

14-14 (a) The commission by order may transfer a ferry operated under  
 14-15 Section 342.001 to an authority if:

14-16 (1) the commission determines that the proposed  
 14-17 transfer is an integral part of the region's overall plan to improve  
 14-18 mobility in the region; and

14-19 (2) the authority:  
 14-20 (A) agrees to the transfer; and  
 14-21 (B) agrees to assume all liability and  
 14-22 responsibility for the maintenance and operation of the ferry on  
 14-23 its transfer.

14-24 (b) An authority shall reimburse the commission for the cost  
 14-25 of a transferred ferry unless the commission determines that the  
 14-26 transfer will result in a substantial net benefit to the state, the  
 14-27 department, and the traveling public that equals or exceeds that  
 14-28 cost.

14-29 (c) In computing the cost of the ferry, the commission  
 14-30 shall:

14-31 (1) include the total amount spent by the department  
 14-32 for the original construction of the ferry, including the costs  
 14-33 associated with the preliminary engineering and design engineering  
 14-34 for plans, specifications, and estimates, the acquisition of  
 14-35 necessary rights-of-way, and actual construction of the ferry and  
 14-36 all necessary appurtenant facilities; and

14-37 (2) consider the anticipated future costs of  
 14-38 expanding, improving, maintaining, or operating the ferry to be  
 14-39 incurred by the authority and not by the department if the ferry is  
 14-40 transferred.

14-41 (d) The commission shall, at the time the ferry is  
 14-42 transferred, remove the ferry from the state highway system. After  
 14-43 a transfer, the commission has no liability, responsibility, or  
 14-44 duty for the maintenance or operation of the ferry.

14-45 (e) Before transferring a ferry that is a part of the state  
 14-46 highway system under this section, the commission shall conduct a  
 14-47 public hearing at which interested persons shall be allowed to  
 14-48 speak on the proposed transfer. Notice of the hearing must be  
 14-49 published in the Texas Register, one or more newspapers of general  
 14-50 circulation in the counties in which the ferry is located, and a  
 14-51 newspaper, if any, published in the counties of the applicable  
 14-52 authority.

14-53 (f) The commission shall adopt rules to implement this  
 14-54 section. The rules must include criteria and guidelines for the  
 14-55 approval of a transfer of a ferry.

14-56 (g) An authority shall adopt rules establishing criteria  
 14-57 and guidelines for approval of the transfer of a ferry under this  
 14-58 section.

14-59 (h) An authority may temporarily charge a toll for use of a  
 14-60 ferry transferred under this section to pay the costs necessary for  
 14-61 an expansion of the ferry. An authority may permanently charge a  
 14-62 toll for use of ferry facilities that are an expansion of the ferry  
 14-63 transferred under this section.

14-64 (i) The commission may not transfer a ferry under this  
 14-65 section if the ferry is located in a municipality with a population  
 14-66 of 5,000 or less unless the city council of the municipality  
 14-67 approves the transfer.

14-68 Sec. 370.038. COMMISSION RULES. (a) The commission shall  
 14-69 adopt rules that:

15-1 (1) govern the creation of an authority;  
 15-2 (2) govern the commission's approval of a project  
 15-3 under Section 370.182 and other commission approvals required by  
 15-4 this chapter;

15-5 (3) establish design and construction standards for a  
 15-6 transportation project that will connect with a highway in the  
 15-7 state highway system or a department rail facility;

15-8 (4) establish minimum audit and reporting  
 15-9 requirements and standards; and

15-10 (5) establish minimum ethical standards for authority  
 15-11 directors and employees.

15-12 (b) The commission shall appoint a rules advisory committee  
 15-13 to advise the department and the commission on the development of  
 15-14 the commission's initial rules required by this section. The  
 15-15 committee must include one or more members representing an existing  
 15-16 authority, if applicable. Chapter 2110, Government Code, does not  
 15-17 apply to the committee. This subsection expires on the date the  
 15-18 commission adopts initial rules under this section.

15-19 [Sections 370.039-370.070 reserved for expansion]

15-20 SUBCHAPTER C. FEASIBILITY OF REGIONAL TRANSPORTATION

15-21 PROJECTS

15-22 Sec. 370.071. EXPENDITURES FOR FEASIBILITY STUDIES. (a)  
 15-23 An authority may pay the expenses of studying the cost and  
 15-24 feasibility and any other expenses relating to the preparation and  
 15-25 issuance of bonds for a proposed transportation project by:

15-26 (1) using legally available revenue derived from an  
 15-27 existing transportation project;

15-28 (2) borrowing money and issuing bonds or entering into  
 15-29 a loan agreement payable out of legally available revenue  
 15-30 anticipated to be derived from the operation of an existing  
 15-31 transportation project; or

15-32 (3) pledging to the payment of the bonds or a loan  
 15-33 agreement legally available revenue anticipated to be derived from  
 15-34 the operation of transportation projects or revenue legally  
 15-35 available to the authority from another source.

15-36 (b) Money spent under this section for a proposed  
 15-37 transportation project must be reimbursed to the transportation  
 15-38 project from which the money was spent from the proceeds of bonds  
 15-39 issued for the acquisition and construction of the proposed  
 15-40 transportation project.

15-41 (c) The use of any money of a transportation project to  
 15-42 study the feasibility of another transportation project or used to  
 15-43 repay any money used for that purpose does not constitute an  
 15-44 operating expense of the transportation project producing the  
 15-45 revenue and may be paid only from the surplus money of the  
 15-46 transportation project as determined by the authority.

15-47 Sec. 370.072. FEASIBILITY STUDY FUND. (a) An authority may  
 15-48 maintain a feasibility study fund. The fund is a revolving fund  
 15-49 held in trust by a banking institution chosen by the authority and  
 15-50 shall be kept separate from the money for a transportation project.

15-51 (b) An authority may transfer an amount from a surplus fund  
 15-52 established for a transportation project to the authority's  
 15-53 feasibility study fund if the remainder of the surplus fund after  
 15-54 the transfer is not less than any minimum amount required by the  
 15-55 bond proceedings to be retained for that transportation project.

15-56 (c) Money in the feasibility study fund may be used only to  
 15-57 pay the expenses of studying the cost and feasibility and any other  
 15-58 expenses relating to:

15-59 (1) the preparation and issuance of bonds for the  
 15-60 acquisition and construction of a proposed transportation project;

15-61 (2) the financing of the improvement, extension, or  
 15-62 expansion of an existing transportation project; and

15-63 (3) private participation, as authorized by law, in  
 15-64 the financing of a proposed transportation project, the refinancing  
 15-65 of an existing transportation project or system, or the  
 15-66 improvement, extension, or expansion of a transportation project.

15-67 (d) Money spent under Subsection (c) for a proposed  
 15-68 transportation project must be reimbursed from the proceeds of  
 15-69 revenue bonds issued for, or other proceeds that may be used for,

16-1 the acquisition, construction, improvement, extension, expansion,  
 16-2 or operation of the transportation project.

16-3 (e) For a purpose described by Subsection (c), an authority  
 16-4 may borrow money and issue promissory notes or other  
 16-5 interest-bearing evidences of indebtedness payable out of its  
 16-6 feasibility study fund, pledging money in the fund or to be placed  
 16-7 in the fund.

16-8 Sec. 370.073. FEASIBILITY STUDY BY MUNICIPALITY, COUNTY,  
 16-9 OTHER GOVERNMENTAL ENTITY, OR PRIVATE GROUP. (a) One or more  
 16-10 municipalities, counties, or other governmental entities, a  
 16-11 combination of municipalities, counties, and other governmental  
 16-12 entities, or a private group or combination of individuals in this  
 16-13 state may pay all or part of the expenses of studying the cost and  
 16-14 feasibility and any other expenses relating to:

16-15 (1) the preparation and issuance of bonds for the  
 16-16 acquisition or construction of a proposed transportation project by  
 16-17 an authority;

16-18 (2) the improvement, extension, or expansion of an  
 16-19 existing transportation project of the authority; or

16-20 (3) the use of private participation under applicable  
 16-21 law in connection with the acquisition, construction, improvement,  
 16-22 expansion, extension, maintenance, repair, or operation of a  
 16-23 transportation project by an authority.

16-24 (b) Money spent under Subsection (a) for a proposed  
 16-25 transportation project is reimbursable without interest and with  
 16-26 the consent of the authority to the person paying the expenses  
 16-27 described in Subsection (a) out of the proceeds from revenue bonds  
 16-28 issued for or other proceeds that may be used for the acquisition,  
 16-29 construction, improvement, extension, expansion, maintenance,  
 16-30 repair, or operation of the transportation project.

16-31 [Sections 370.074-370.110 reserved for expansion]

16-32 SUBCHAPTER D. TRANSPORTATION PROJECT FINANCING

16-33 Sec. 370.111. FINANCING OF PROJECTS AND SYSTEMS. (a) An  
 16-34 authority has the same powers and duties relating to the financing  
 16-35 of a transportation project or a system established under Section  
 16-36 370.034 as a regional tollway authority has under Subchapter D,  
 16-37 Chapter 366, relating to the financing of a turnpike project or  
 16-38 system.

16-39 (b) The powers held by an authority include the powers to:

16-40 (1) by bond resolution, authorize the issuance of  
 16-41 bonds to pay all or part of the cost of a transportation project, to  
 16-42 refund any bonds previously issued for the transportation project,  
 16-43 or to pay for all or part of the cost of a transportation project  
 16-44 that will become a part of another system;

16-45 (2) impose a toll, fee, fare, or other charge for the  
 16-46 use of a transportation project or system; and

16-47 (3) obtain from another source the revenue necessary  
 16-48 to pay all or part of the principal and interest on bonds issued  
 16-49 under this chapter.

16-50 (c) For purposes of this section, a reference in Subchapter  
 16-51 D, Chapter 366 to:

16-52 (1) a turnpike project means a transportation project;

16-53 (2) an authority or board means an authority and board  
 16-54 described in this chapter; and

16-55 (3) revenue includes a fee, fare, or other usage  
 16-56 charge established under this chapter.

16-57 [Sections 370.112-370.160 reserved for expansion]

16-58 SUBCHAPTER E. ACQUISITION, CONSTRUCTION, AND OPERATION OF  
 16-59 TRANSPORTATION PROJECTS

16-60 Sec. 370.161. JURISDICTION. An authority may acquire,  
 16-61 construct, operate, maintain, expand, or extend a transportation  
 16-62 project only in a county that is a part of the authority.

16-63 Sec. 370.162. POWERS AND PROCEDURES OF AUTHORITY IN  
 16-64 ACQUIRING PROPERTY. (a) An authority may construct or improve a  
 16-65 transportation project on real property, including a right-of-way  
 16-66 acquired by the authority or provided to the authority for that  
 16-67 purpose by the commission, a political subdivision of this state,  
 16-68 or any other governmental entity.

16-69 (b) Except as provided by this chapter, an authority has the



17-1 same powers and may use the same procedures as the commission in  
 17-2 acquiring property.

17-3 Sec. 370.163. ACQUISITION OF PROPERTY. (a) Except as  
 17-4 otherwise provided by this subchapter, the governing body of a  
 17-5 regional mobility authority has the same powers and duties that the  
 17-6 commission and the department have under Subchapter D, Chapter 361,  
 17-7 and Section 361.233 relating to the condemnation or purchase of  
 17-8 real property, except that the governing body of the regional  
 17-9 mobility authority may acquire real property by the exercise of the  
 17-10 power of condemnation only if the real property is located in a  
 17-11 county that is part of the regional mobility authority, or if the  
 17-12 real property is not located within a county that is part of the  
 17-13 regional mobility authority, the governing body of the regional  
 17-14 mobility authority may acquire the real property by the exercise of  
 17-15 the power of condemnation only with the approval of the county  
 17-16 commissioners court of the county in which the real property is  
 17-17 located. Notwithstanding Section 361.135(a), the concurrence of  
 17-18 the commission is not a prerequisite to the exercise of the power of  
 17-19 condemnation by the governing body of the regional mobility  
 17-20 authority. Notwithstanding Section 361.132(d), an authority may  
 17-21 not acquire property to provide a location for an ancillary  
 17-22 facility unless the authority determines that the ancillary  
 17-23 facility will directly benefit users of the transportation project.  
 17-24 An authority may not file a declaration of taking and obtain early  
 17-25 possession of real property.

17-26 (b) An authority's acquisition of any property of the  
 17-27 commission under this or another section of this chapter or an  
 17-28 authority's relocation, rerouting, disruption, or alteration of a  
 17-29 facility of the commission is considered a conversion of a state  
 17-30 highway system under Section 370.035 and is subject to each  
 17-31 requirement, condition, or limitation provided by that section.

17-32 (c) The authority granted under this section does not  
 17-33 include the authority to condemn a bridge connecting this state to  
 17-34 the United Mexican States that is owned by a county or municipality.

17-35 Sec. 370.164. PARTICIPATION PAYMENT FOR REAL PROPERTY. (a)  
 17-36 As an alternative to paying for an interest in real property or a  
 17-37 real property right with a single fixed payment, the authority may,  
 17-38 with the owner's consent, pay the owner by means of a participation  
 17-39 payment.

17-40 (b) A right to receive a participation payment under this  
 17-41 section is subordinate to any right to receive a fee as payment on  
 17-42 the principal of or interest on a bond that is issued for the  
 17-43 construction of the applicable segment.

17-44 (c) In this section, "participation payment" means an  
 17-45 intangible legal right to receive a percentage of one or more  
 17-46 identified fees related to a segment constructed by the authority.

17-47 Sec. 370.165. SEVERANCE OF REAL PROPERTY. (a) If a  
 17-48 transportation project of an authority severs a property owner's  
 17-49 real property, the authority shall pay:

17-50 (1) the value of the property acquired; and  
 17-51 (2) the damages, if any, to the remainder of the  
 17-52 owner's property caused by the severance, including damages caused  
 17-53 by the inaccessibility of one tract from the other.

17-54 (b) At its option, an authority may negotiate for and  
 17-55 purchase the severed real property or any part of the severed real  
 17-56 property if the authority and the property owner agree on terms for  
 17-57 the purchase. An authority may sell and dispose of severed real  
 17-58 property that it determines is not necessary or useful to the  
 17-59 authority. Severed property must be appraised before being offered  
 17-60 for sale by the authority.

17-61 Sec. 370.166. ACQUISITION OF RIGHTS IN PUBLIC REAL  
 17-62 PROPERTY. (a) An authority may use real property, including  
 17-63 submerged land, streets, alleys, and easements, owned by this state  
 17-64 or a local government that the authority considers necessary for  
 17-65 the construction or operation of a transportation project.

17-66 (b) This state or a local government having charge of public  
 17-67 real property may consent to the use of the property for a  
 17-68 transportation project.

17-69 (c) Except as provided by Section 370.035, this state or a

18-1 local government may convey, grant, or lease to an authority real  
 18-2 property, including highways and other real property devoted to  
 18-3 public use and rights or easements in real property, that may be  
 18-4 necessary or convenient to accomplish a purpose of the authority,  
 18-5 including the construction or operation of a transportation  
 18-6 project. A conveyance, grant, or lease under this section may be  
 18-7 made without advertising, court order, or other action other than  
 18-8 the normal action of this state or local government necessary for a  
 18-9 conveyance, grant, or lease.

18-10 (d) This section does not deprive the School Land Board of  
 18-11 the power to execute a lease for the development of oil, gas, and  
 18-12 other minerals on state-owned real property adjoining a  
 18-13 transportation project or in tidewater limits. A lease may provide  
 18-14 for directional drilling from the adjoining property or tidewater  
 18-15 area.

18-16 (e) This section does not affect the obligation of the  
 18-17 authority under another law to compensate this state for acquiring  
 18-18 or using property owned by or on behalf of this state. An  
 18-19 authority's use of property owned by or on behalf of this state is  
 18-20 subject to any covenants, conditions, restrictions, or limitations  
 18-21 affecting that property.

18-22 Sec. 370.167. COMPENSATION FOR AND RESTORATION OF PUBLIC  
 18-23 PROPERTY. (a) Except as provided by Section 370.035, an authority  
 18-24 may not pay compensation for public real property, parkways,  
 18-25 streets, highways, alleys, or reservations it takes, other than:

18-26 (1) a park, playground, or designated environmental  
 18-27 preserve;

18-28 (2) property owned by or on behalf of this state that  
 18-29 under law requires compensation to this state for the use or  
 18-30 acquisition of the property; or

18-31 (3) as provided by this chapter.

18-32 (b) Public property damaged in the exercise of a power  
 18-33 granted by this chapter shall be restored or repaired and placed in  
 18-34 its original condition as nearly as practicable.

18-35 (c) An authority has full easements and rights-of-way  
 18-36 through, across, under, and over any property owned by the state or  
 18-37 any local government that are necessary or convenient to construct,  
 18-38 acquire, or efficiently operate a transportation project or system  
 18-39 under this chapter. This subsection does not affect the obligation  
 18-40 of the authority under other law to compensate this state for the  
 18-41 use or acquisition of an easement or right-of-way on property owned  
 18-42 by or on behalf of this state. An authority's use of property owned  
 18-43 by or on behalf of this state is subject to any covenants,  
 18-44 conditions, restrictions, or limitations affecting that property.  
 18-45 This subsection does not apply to property owned by a school  
 18-46 district.

18-47 Sec. 370.168. PUBLIC UTILITY FACILITIES. (a) An authority  
 18-48 may adopt rules for the installation, construction, operation,  
 18-49 maintenance, repair, renewal, relocation, or removal of a public  
 18-50 utility facility in, on, along, over, or under a transportation  
 18-51 project.

18-52 (b) If an authority determines it is necessary that a public  
 18-53 utility facility located in, on, along, over, or under a  
 18-54 transportation project be relocated in the transportation project,  
 18-55 removed from the transportation project, or carried along or across  
 18-56 the transportation project by grade separation, the owner or  
 18-57 operator of the facility shall relocate or remove the facility in  
 18-58 accordance with the requirements of the authority and in a manner  
 18-59 that does not impede the design, financing, construction,  
 18-60 operation, or maintenance of the transportation project.

18-61 (c) The authority, as a part of the cost of the  
 18-62 transportation project or the cost of operating the transportation  
 18-63 project, shall pay the cost of the relocation, removal, or grade  
 18-64 separation of a public utility facility under Subsection (a),  
 18-65 including the cost of:

18-66 (1) installation of the facility in a new location;

18-67 (2) damages incurred by the utility to its facilities  
 18-68 and services;

18-69 (3) interests in real property and other rights

19-1 acquired to accomplish the relocation or removal; and

19-2 (4) maintenance of grade separation structures.

19-3 (d) The authority may reduce the total costs to be paid by  
 19-4 the authority under Subsection (c) by 10 percent for each 30-day  
 19-5 period or portion of a 30-day period by which the relocation or  
 19-6 removal exceeds the reasonable limit specified by the authority  
 19-7 unless the failure of the owner or operator of the facility to  
 19-8 timely relocate or remove the facility results directly from:

19-9 (1) a material action or inaction of the authority; or  
 19-10 (2) conditions beyond the reasonable control of the  
 19-11 owner or operator of the facility, including:

19-12 (A) an act of God; or

19-13 (B) a labor shortage or strike.

19-14 (e) If an owner or operator of a public utility facility  
 19-15 does not timely relocate or remove the facility as required by  
 19-16 Subsection (b), the authority may do so at the expense of the owner  
 19-17 or operator. If the authority relocates or removes a facility under  
 19-18 this subsection the authority shall relocate or remove the facility  
 19-19 in a safe manner that:

19-20 (1) complies with applicable law; and

19-21 (2) attempts to minimize the disruption of utility  
 19-22 service.

19-23 (f) The owner or operator of a public utility facility  
 19-24 relocated or removed under Subsection (e) shall reimburse the  
 19-25 authority for the expenses incurred for the relocation or removal  
 19-26 of the facility, except that the owner or operator is not required  
 19-27 to reimburse the authority if the failure of the owner or operator  
 19-28 to timely relocate or remove the facility was the direct result of  
 19-29 circumstances beyond the control of the owner or operator.

19-30 (g) Not later than 60 days before relocating or removing a  
 19-31 public utility facility under Subsection (e), an authority shall  
 19-32 provide to the utility:

19-33 (1) written notice of the department's determination  
 19-34 that the facility must be removed;

19-35 (2) a final plan for relocation of the facility; and

19-36 (3) reasonable terms and conditions for the relocation  
 19-37 or removal of the facility.

19-38 (h) Subchapter C, Chapter 181, Utilities Code, applies to  
 19-39 the erection, construction, maintenance, and operation of a line or  
 19-40 pole owned by an electric utility, as that term is defined by  
 19-41 Section 181.041, Utilities Code, over, under, across, on, and along  
 19-42 a transportation project or system constructed by an authority. An  
 19-43 authority has the powers and duties delegated to the commissioners  
 19-44 court by that subchapter.

19-45 (i) Subchapter B, Chapter 181, Utilities Code, applies to  
 19-46 the laying and maintenance of facilities used for conducting gas by  
 19-47 a gas utility, as that term is defined by Section 181.021, Utilities  
 19-48 Code, through, under, along, across, and over a transportation  
 19-49 project or system constructed by an authority except as otherwise  
 19-50 provided by this section. An authority has the power and duties  
 19-51 delegated to the commissioners court by that subchapter.

19-52 Sec. 370.169. REVENUE. (a) An authority may impose tolls,  
 19-53 fees, fares, or other charges for the use of each of its  
 19-54 transportation projects and the different parts or sections of each  
 19-55 of its transportation projects.

19-56 (b) Tolls, fees, fares, or other charges must be set at  
 19-57 rates or amounts so that the aggregate of tolls, fees, fares, or  
 19-58 other charges from an authority's transportation project, together  
 19-59 with other revenue of the transportation project:

19-60 (1) provides revenue sufficient to pay:

19-61 (A) the cost of maintaining, repairing, and  
 19-62 operating the transportation project; and

19-63 (B) the principal of and interest on any bonds  
 19-64 issued for the transportation project as those bonds become due and  
 19-65 payable; and

19-66 (2) creates reserves for a purpose listed under  
 19-67 Subdivision (1).

19-68 (c) Tolls, fees, fares, or other usage charges are not  
 19-69 subject to supervision or regulation by any agency of this state or

20-1 another governmental entity.

20-2 (d) Revenue derived from tolls, fees, and fares, and other  
 20-3 revenue derived from a transportation project for which bonds are  
 20-4 issued, other than any part necessary to pay the cost of  
 20-5 maintenance, repair, and operation and to provide reserves for  
 20-6 those costs as provided in the bond proceedings, shall be set aside  
 20-7 at regular intervals as provided in the bond resolution or trust  
 20-8 agreement in a sinking fund that is pledged to and charged with the  
 20-9 payment of:

20-10 (1) interest on the bonds as it becomes due;  
 20-11 (2) principal of the bonds as it becomes due;  
 20-12 (3) necessary charges of paying agents for paying  
 20-13 principal and interest;

20-14 (4) the redemption price or the purchase price of  
 20-15 bonds retired by call or purchase as provided in the bond  
 20-16 proceedings; and

20-17 (5) any amounts due under credit agreements.

20-18 (e) Use and disposition of money deposited to the credit of  
 20-19 the sinking fund is subject to the bond proceedings.

20-20 (f) To the extent permitted under the applicable bond  
 20-21 proceedings, revenue from one transportation project of an  
 20-22 authority may be used to pay the cost of another transportation  
 20-23 project of the authority.

20-24 (g) An authority may not use revenue from a transportation  
 20-25 project in a manner not authorized by this chapter. Except as  
 20-26 provided by this chapter, revenue derived from a transportation  
 20-27 project may not be applied for a purpose or to pay a cost other than  
 20-28 a cost or purpose that is reasonably related to or anticipated to be  
 20-29 for the benefit of a transportation project.

20-30 (h) An authority may not require the owner of a public  
 20-31 utility facility to pay a fee as a condition of placing a facility  
 20-32 across the rights-of-way.

20-33 Sec. 370.171. USE OF SURPLUS REVENUE. (a) Each year, if an  
 20-34 authority determines that it has surplus revenue from  
 20-35 transportation projects, it shall reduce tolls, spend the surplus  
 20-36 revenue on other transportation projects in the counties of the  
 20-37 authority in accordance with Subsection (b), or deposit the surplus  
 20-38 revenue to the credit of the Texas Mobility Fund.

20-39 (b) Consistent with other law and commission rule, an  
 20-40 authority may spend surplus revenue on other transportation  
 20-41 projects by:

20-42 (1) constructing a transportation project located  
 20-43 within the counties of the authority;

20-44 (2) assisting in the financing of a toll or toll-free  
 20-45 transportation project of another governmental entity; or

20-46 (3) with the approval of the commission, constructing  
 20-47 a toll or toll-free transportation project and, on completion of  
 20-48 the project, transferring the project to another governmental  
 20-49 entity if:

20-50 (A) the other governmental entity authorizes the  
 20-51 authority to construct the project and agrees to assume all  
 20-52 liability and responsibility for the maintenance and operation of  
 20-53 the project on its transfer; and

20-54 (B) the project is constructed in compliance with  
 20-55 all laws applicable to the governmental entity.

20-56 Sec. 370.172. EXEMPTION FROM TAXATION OR ASSESSMENT. (a)  
 20-57 An authority is exempt from taxation of or assessments on:

20-58 (1) a transportation project or system;

20-59 (2) property the authority acquires or uses under this  
 20-60 chapter for a transportation project or system; or

20-61 (3) income from property described by Subdivision (1)  
 20-62 or (2).

20-63 (b) An authority is exempt from payment of development fees,  
 20-64 utility connection fees, assessments, and service fees imposed or  
 20-65 assessed by any governmental entity or any property owners' or  
 20-66 homeowners' association.

20-67 Sec. 370.173. ACTIONS AFFECTING EXISTING ROADS. (a) An  
 20-68 authority may construct a grade separation at an intersection of a  
 20-69 transportation project with a railroad or highway and change the

21-1 line or grade of a highway to accommodate the design of the grade  
 21-2 separation. The action may not affect a segment of the state  
 21-3 highway system without the department's consent. The authority  
 21-4 shall pay the cost of a grade separation and any damage incurred in  
 21-5 changing a line or grade of a railroad or highway as part of the cost  
 21-6 of the transportation project.

21-7 (b) If feasible, an authority shall provide access to  
 21-8 properties previously abutting a county road or other public road  
 21-9 that is taken for a transportation project and shall pay abutting  
 21-10 property owners the expenses or any resulting damages for a denial  
 21-11 of access to the road.

21-12 (c) If an authority changes the location of a segment of a  
 21-13 county road as part of its development of a transportation project,  
 21-14 the authority shall, on the request of the county, reconstruct that  
 21-15 segment of the road at a location that the authority determines, in  
 21-16 its discretion, restores the utility of the road. The  
 21-17 reconstruction and its associated costs are in furtherance of a  
 21-18 transportation project.

21-19 Sec. 370.174. FAILURE OR REFUSAL TO PAY TURNPIKE PROJECT  
 21-20 TOLL; OFFENSE; ADMINISTRATIVE PENALTY. (a) The operator of a  
 21-21 vehicle, other than an authorized emergency vehicle as defined by  
 21-22 Section 541.201, that is driven or towed through a toll collection  
 21-23 facility of a turnpike project shall pay the proper toll. The  
 21-24 operator of a vehicle who drives or tows a vehicle through a toll  
 21-25 collection facility and does not pay the proper toll commits an  
 21-26 offense. An offense under this subsection is a misdemeanor  
 21-27 punishable by a fine not to exceed \$250.

21-28 (b) The authority has the same powers and duties relating to  
 21-29 collecting unpaid tolls and administrative fees as the commission  
 21-30 and the department have under Subchapter G, Chapter 361, including  
 21-31 the power or duty to:

21-32 (1) impose and collect an administrative fee to  
 21-33 recover the cost of collecting the unpaid toll;

21-34 (2) send a written notice of nonpayment to a person  
 21-35 that is liable for payment under Subchapter G, Chapter 361, and  
 21-36 collect the unpaid toll and administrative fee from that person;  
 21-37 and

21-38 (3) use automated enforcement technology to enforce  
 21-39 toll violations, including license plate identification  
 21-40 photography and video surveillance.

21-41 (c) The registered owner, lessee, or transferee of a vehicle  
 21-42 for which the proper toll was not paid who is mailed a written  
 21-43 notice of nonpayment under this section and fails to pay the proper  
 21-44 toll and administrative fee within the time specified by the notice  
 21-45 of nonpayment commits an offense. Each failure to pay a toll or  
 21-46 administrative fee under this section is a separate offense. An  
 21-47 offense under this subsection is a misdemeanor punishable by a fine  
 21-48 not to exceed \$250.

21-49 (d) Proof of an offense may be established under the same  
 21-50 conditions as under Subchapter G, Chapter 361. Defenses and  
 21-51 exceptions to liability available to a person under Subchapter G,  
 21-52 Chapter 361 are available to person subject to this section.

21-53 (e) The court in which a person is convicted of an offense  
 21-54 under this section shall also collect the proper toll and  
 21-55 administrative fee and forward the toll and fee to the authority.

21-56 Sec. 370.175. CONTROLLED ACCESS TO TURNPIKE PROJECTS. An  
 21-57 authority by order may:

21-58 (1) designate the location of and establish, limit,  
 21-59 and control the entrances and exits of each turnpike as the  
 21-60 authority considers necessary or desirable to ensure the proper  
 21-61 operation and maintenance of the project; and

21-62 (2) prohibit entrance to each project at any place not  
 21-63 designated.

21-64 Sec. 370.176. PROMOTION OF TRANSPORTATION PROJECT. An  
 21-65 authority may promote the use of a transportation project,  
 21-66 including a project that it operates on behalf of another entity, by  
 21-67 appropriate means, including advertising or marketing as the  
 21-68 authority determines appropriate.

21-69 Sec. 370.177. OPERATION OF TRANSPORTATION PROJECT. (a) An

22-1 authority shall operate a transportation project with employees of  
 22-2 the authority or by using services contracted under Subsection (b)  
 22-3 or (c).

22-4 (b) An authority may enter into an agreement with one or  
 22-5 more persons to provide, on terms and conditions approved by the  
 22-6 authority, personnel and services to design, construct, operate,  
 22-7 maintain, expand, enlarge, or extend the transportation project of  
 22-8 the authority.

22-9 (c) An authority may contract with any state or local  
 22-10 government for the services of peace officers of that agency.

22-11 Sec. 370.178. AUDIT. (a) An authority shall have a  
 22-12 certified public accountant audit the authority's books and  
 22-13 accounts at least annually. The cost of the audit may be treated as  
 22-14 part of the cost of construction or operation of a transportation  
 22-15 project.

22-16 (b) The commission may initiate an independent audit of the  
 22-17 authority or any of its activities at any time the commission  
 22-18 considers appropriate. An audit under this subsection shall be  
 22-19 conducted at the expense of the department.

22-20 Sec. 370.179. DISADVANTAGED BUSINESSES. (a) Consistent  
 22-21 with general law, an authority shall:

22-22 (1) set goals for the award of contracts to  
 22-23 disadvantaged businesses and attempt to meet the goals;

22-24 (2) attempt to identify disadvantaged businesses that  
 22-25 provide or have the potential to provide supplies, materials,  
 22-26 equipment, or services to the authority; and

22-27 (3) give disadvantaged businesses full access to the  
 22-28 authority's contract bidding process, inform the businesses about  
 22-29 the process, offer the businesses assistance concerning the  
 22-30 process, and identify barriers to the businesses' participation in  
 22-31 the process.

22-32 (b) This section does not exempt an authority from  
 22-33 competitive bidding requirements provided by other law.

22-34 Sec. 370.180. PROCUREMENT. An authority shall adopt rules  
 22-35 governing the award of contracts for goods and services. An  
 22-36 authority may procure goods and services, including materials,  
 22-37 engineering, design, construction, operations, maintenance, and  
 22-38 other goods and services, through any procedure authorized by law  
 22-39 for special districts. Procurement of professional services is  
 22-40 governed by Chapter 2254, Government Code.

22-41 Sec. 370.181. CONTRACTS WITH GOVERNMENTAL ENTITIES. (a) An  
 22-42 authority may not construct, maintain, or operate a transportation  
 22-43 project that another governmental entity has determined to be a  
 22-44 project under Chapter 284, 366, or 452 unless the governmental  
 22-45 entity and the authority enter into a written agreement specifying  
 22-46 the terms and conditions under which the project shall be  
 22-47 undertaken.

22-48 (b) An authority may not receive or be paid revenue derived  
 22-49 by another governmental entity operating under Chapter 284, 366, or  
 22-50 452 unless the governmental entity and the authority enter into a  
 22-51 written agreement specifying the terms and conditions under which  
 22-52 the revenue shall be received by or paid to the authority.

22-53 Sec. 370.182. PROJECT APPROVAL. (a) An authority may not  
 22-54 begin construction of a transportation project without the approval  
 22-55 of the commission.

22-56 (b) The commission by rule shall establish procedures and  
 22-57 criteria for an approval under this section. The rules must require  
 22-58 the commission to consider a request for project approval not later  
 22-59 than the 60th day after the date the department receives all  
 22-60 information reasonably necessary to review the request.

22-61 (c) This section expires September 1, 2011.

22-62 Sec. 370.183. ENVIRONMENTAL REVIEW OF AUTHORITY PROJECTS.  
 22-63 (a) An authority shall adopt rules for environmental review of a  
 22-64 transportation project that is not subject to review under the  
 22-65 National Environmental Policy Act (42 U.S.C. Section 4321 et seq.),  
 22-66 as amended. The rules must:

22-67 (1) specify the types of projects for which a public  
 22-68 hearing is required;

22-69 (2) establish procedures for public comment on the

23-1 environmental review, including a procedure for requesting a public  
 23-2 hearing on an environmental review for which a public hearing is not  
 23-3 required; and

23-4 (3) require:

23-5 (A) an evaluation of any direct or indirect  
 23-6 environmental effect of the project;

23-7 (B) an analysis of project alternatives; and

23-8 (C) a written report that briefly explains the  
 23-9 authority's review of the project and that specifies any mitigation  
 23-10 measures on environmental harm on which the project is conditioned.

23-11 (b) An environmental review of a project must be conducted  
 23-12 before the authority may approve the location or alignment of the  
 23-13 project.

23-14 (c) The authority shall consider the results of the  
 23-15 environmental review in executing its duties.

23-16 (d) The authority shall coordinate with the Texas  
 23-17 Commission on Environmental Quality and the Parks and Wildlife  
 23-18 Department in the preparation of an environmental review.

23-19 Sec. 370.184. DEPARTMENT MAINTENANCE AND OPERATION. (a)  
 23-20 If requested by an authority, the department may agree to assume all  
 23-21 or part of the duty to maintain or operate a turnpike project or  
 23-22 ferry of the authority.

23-23 (b) The authority shall reimburse the department for  
 23-24 necessary costs of maintaining or operating the turnpike project or  
 23-25 ferry as agreed by the department and the authority.

23-26 (c) Money received by the department under Subsection (b)  
 23-27 shall be deposited to the credit of the state highway fund and is  
 23-28 exempt from the application of Sections 403.095 and 404.071,  
 23-29 Government Code.

23-30 (d) If the department assumes all of the duty to maintain or  
 23-31 operate a turnpike project or ferry under Subsection (a), the  
 23-32 authority is not liable for damages resulting from the maintenance  
 23-33 or operation of the turnpike project or ferry.

23-34 (e) An agreement under this section is not a joint  
 23-35 enterprise for purposes of liability.

23-36 Sec. 370.185. PROPERTY OF RAPID TRANSIT AUTHORITIES. An  
 23-37 authority may not condemn or purchase real property of a rapid  
 23-38 transit authority operating pursuant to Chapter 451 that was  
 23-39 confirmed before July 1, 1985, and in which the principal  
 23-40 municipality has a population of less than 750,000, unless the  
 23-41 authority has entered into a written agreement with the rapid  
 23-42 transit authority specifying the terms and conditions under which  
 23-43 the condemnation or the purchase of the real property will take  
 23-44 place.

23-45 [Sections 370.186-370.250 reserved for expansion]

23-46 SUBCHAPTER F. GOVERNANCE

23-47 Sec. 370.251. BOARD OF DIRECTORS. (a) The governing body  
 23-48 of an authority is a board of directors consisting of  
 23-49 representatives of each county in which a transportation project of  
 23-50 the authority is located or is proposed to be located. The  
 23-51 commissioners court of each county that initially forms the  
 23-52 authority shall appoint at least two directors to the board.  
 23-53 Additional directors may be appointed to the board at the time of  
 23-54 initial formation by agreement of the counties creating the  
 23-55 authority to ensure fair representation of political subdivisions  
 23-56 in the counties of the authority that will be affected by a  
 23-57 transportation project of the authority, provided that the number  
 23-58 of directors must be an odd number. The commissioners court of a  
 23-59 county that is subsequently added to the authority shall appoint at  
 23-60 least one additional director to the board. The governor shall  
 23-61 appoint one director to the board who shall serve as the presiding  
 23-62 officer of the board and shall appoint an additional director to the  
 23-63 board if an appointment is necessary to maintain an odd number of  
 23-64 directors on the board.

23-65 (b) Unless the commissioners courts of the counties of the  
 23-66 authority unanimously agree otherwise, the commissioners court of  
 23-67 each county of an authority that contains an operating  
 23-68 transportation project of the authority shall appoint one  
 23-69 additional director.

24-1 (c) Directors serve staggered six-year terms, with the  
 24-2 terms of no more than one-third of the directors expiring on  
 24-3 February 1 of each odd-numbered year.

24-4 (d) One director appointed to the initial board of an  
 24-5 authority by the commissioners court of a county shall be  
 24-6 designated by the court to serve a term of two years and one  
 24-7 director designated to serve a term of four years. If one or more  
 24-8 directors are subsequently appointed to the board, the directors  
 24-9 other than the subsequent appointees shall determine the length of  
 24-10 the appointees' terms, to comply with Subsection (c).

24-11 (e) If a vacancy occurs on the board, the appointing  
 24-12 authority shall promptly appoint a successor to serve for the  
 24-13 unexpired portion of the term.

24-14 (f) All appointments to the board shall be made without  
 24-15 regard to race, color, disability, sex, religion, age, or national  
 24-16 origin.

24-17 (g) The following individuals are ineligible to serve as a  
 24-18 director:

24-19 (1) an elected official;  
 24-20 (2) a person who is not a resident of a county within  
 24-21 the geographic area of the authority;

24-22 (3) a department employee;  
 24-23 (4) an employee of a governmental entity any part of  
 24-24 which is located within the geographic boundaries of the authority;  
 24-25 and

24-26 (5) a person owning an interest in real property that  
 24-27 will be acquired for an authority project, if it is known at the  
 24-28 time of the person's proposed appointment that the property will be  
 24-29 acquired for the authority project.

24-30 (h) Each director has equal status and may vote.

24-31 (i) The vote of a majority attending a board meeting is  
 24-32 necessary for any action taken by the board. If a vacancy exists on  
 24-33 a board, the majority of directors serving on the board is a quorum.

24-34 (j) The commission may refuse to authorize the creation of  
 24-35 an authority if the commission determines that the proposed board  
 24-36 will not fairly represent political subdivisions in the counties of  
 24-37 the authority that will be affected by the creation of the  
 24-38 authority.

24-39 Sec. 370.252. BOARD COMPOSITION PROPOSAL BY TURNPIKE  
 24-40 AUTHORITY. If a county in which a turnpike authority under Chapter  
 24-41 366 operates or a county owning or operating a toll project under  
 24-42 Chapter 284 is part of an authority, the turnpike authority or the  
 24-43 county may submit to the commission a proposed structure for the  
 24-44 board and a method of appointment to the board:

24-45 (1) at the creation of the authority if the county is a  
 24-46 county that initially forms an authority;

24-47 (2) when a new county is added to the authority; and

24-48 (3) when the county is initially added to the  
 24-49 authority.

24-50 Sec. 370.253. PROHIBITED CONDUCT FOR DIRECTORS AND  
 24-51 EMPLOYEES. (a) A director or employee of an authority may not:

24-52 (1) accept or solicit any gift, favor, or service  
 24-53 that:

24-54 (A) might reasonably influence the director or  
 24-55 employee in the discharge of an official duty; or

24-56 (B) the director or employee knows or should know  
 24-57 is being offered with the intent to influence the director's or  
 24-58 employee's official conduct;

24-59 (2) accept other employment or engage in a business or  
 24-60 professional activity that the director or employee might  
 24-61 reasonably expect would require or induce the director or employee  
 24-62 to disclose confidential information acquired by reason of the  
 24-63 official position;

24-64 (3) accept other employment or compensation that could  
 24-65 reasonably be expected to impair the director's or employee's  
 24-66 independence of judgment in the performance of the director's or  
 24-67 employee's official duties;

24-68 (4) make personal investments that could reasonably be  
 24-69 expected to create a substantial conflict between the director's or



25-1 employee's private interest and the interest of the authority;  
 25-2 (5) intentionally or knowingly solicit, accept, or  
 25-3 agree to accept any benefit for having exercised the director's or  
 25-4 employee's official powers or performed the director's or  
 25-5 employee's official duties in favor of another; or

25-6 (6) have a personal interest in an agreement executed  
 25-7 by the authority.

25-8 (b) A person is not eligible to serve as a director or chief  
 25-9 administrative officer of an authority if the person or the  
 25-10 person's spouse:

25-11 (1) is employed by or participates in the management  
 25-12 of a business entity or other organization, other than a  
 25-13 governmental entity, that is regulated by or receives funds from  
 25-14 the authority or the department;

25-15 (2) directly or indirectly owns or controls more than  
 25-16 a 10 percent interest in a business or other organization that is  
 25-17 regulated by or receives funds from the authority or the  
 25-18 department;

25-19 (3) uses or receives a substantial amount of tangible  
 25-20 goods, services, or funds from the authority or the department; or

25-21 (4) is required to register as a lobbyist under  
 25-22 Chapter 305, Government Code, because of the person's activities  
 25-23 for compensation on behalf of a profession related to the operation  
 25-24 of the authority or the department.

25-25 (c) A person is not eligible to serve as a director or chief  
 25-26 administrative officer of an authority if the person is an officer,  
 25-27 employee, or paid consultant of a Texas trade association in the  
 25-28 field of road construction or maintenance, public transportation,  
 25-29 or aviation, or if the person's spouse is an officer, manager, or  
 25-30 paid consultant of a Texas trade association in the field of road  
 25-31 construction or maintenance, public transportation, or aviation.

25-32 (d) In this section, "Texas trade association" means a  
 25-33 nonprofit, cooperative, and voluntarily joined association of  
 25-34 business or professional competitors in this state designed to  
 25-35 assist its members and its industry or profession in dealing with  
 25-36 mutual business or professional problems and in promoting their  
 25-37 common interests.

25-38 (e) A person is not ineligible to serve as a director or  
 25-39 chief administrative officer of an authority if the person has  
 25-40 received funds from the department for acquisition of highway  
 25-41 right-of-way unless the acquisition was for a project of the  
 25-42 authority.

25-43 Sec. 370.254. REMOVAL OF DIRECTOR. (a) It is a ground for  
 25-44 removal of a director from the board if the director:

25-45 (1) did not have at the time of appointment the  
 25-46 qualifications required by Section 370.251;

25-47 (2) at the time of appointment or at any time during  
 25-48 the director's term, is ineligible under Section 370.251 or 370.253  
 25-49 to serve as a director;

25-50 (3) cannot discharge the director's duties for a  
 25-51 substantial part of the term for which the director is appointed  
 25-52 because of illness or disability; or

25-53 (4) is absent from more than half of the regularly  
 25-54 scheduled board meetings that the director is eligible to attend  
 25-55 during a calendar year.

25-56 (b) The validity of an action of the board is not affected by  
 25-57 the fact that it is taken when a ground for removal of a director  
 25-58 exists.

25-59 (c) If the chief administrative officer of the authority has  
 25-60 knowledge that a potential ground for removal exists, that person  
 25-61 shall notify the presiding officer of the board of the ground. The  
 25-62 presiding officer shall then notify the person that appointed the  
 25-63 director that a potential ground for removal exists.

25-64 Sec. 370.255. COMPENSATION OF DIRECTOR. Each director is  
 25-65 entitled to reimbursement for the director's actual expenses  
 25-66 necessarily incurred in the performance of the director's duties.  
 25-67 A director is not entitled to any additional compensation for the  
 25-68 director's services.

25-69 Sec. 370.256. EVIDENCE OF AUTHORITY ACTIONS. Actions of an

26-1 authority are the actions of its board and may be evidenced in any  
26-2 legal manner, including a board resolution.

26-3 Sec. 370.257. PUBLIC ACCESS. An authority shall:

26-4 (1) make and implement policies that provide the  
26-5 public with a reasonable opportunity to appear before the board to  
26-6 speak on any issue under the jurisdiction of the authority; and

26-7 (2) prepare and maintain a written plan that describes  
26-8 how an individual who does not speak English or who has a physical,  
26-9 mental, or developmental disability may be provided reasonable  
26-10 access to the authority's programs.

26-11 Sec. 370.258. INDEMNIFICATION. (a) An authority shall  
26-12 indemnify its directors or officers for necessary expenses and  
26-13 costs, including attorney's fees, incurred by the directors or  
26-14 officers in connection with any claim asserted against the  
26-15 directors or officers in their respective capacities as directors  
26-16 or officers.

26-17 (b) This section applies to a current or former director or  
26-18 officer of the authority.

26-19 Sec. 370.259. PURCHASE OF LIABILITY INSURANCE. (a) An  
26-20 authority shall insure its officers and employees from liability  
26-21 arising from the use, operation, or maintenance of equipment that  
26-22 is used or may be used in connection with the laying out,  
26-23 construction, or maintenance of the authority's transportation  
26-24 projects.

26-25 (b) Insurance coverage under this section must be provided  
26-26 by the purchase of a policy of liability insurance from a reliable  
26-27 insurance company authorized to do business in this state. The form  
26-28 of the policy must be approved by the commissioner of insurance.

26-29 (c) This section is not a waiver of immunity of the  
26-30 authority or the counties in an authority from liability for the  
26-31 torts or negligence of an officer or employee of an authority.

26-32 (d) In this section, "equipment" includes an automobile,  
26-33 motor truck, trailer, motor grader, roller, tractor, tractor power  
26-34 mower, and other power equipment.

26-35 Sec. 370.260. CERTAIN CONTRACTS AND SALES PROHIBITED. A  
26-36 director, agent, or employee of an authority may not:

- 26-37 (1) contract with the authority; or
- 26-38 (2) be directly or indirectly interested in:
  - 26-39 (A) a contract with the authority; or
  - 26-40 (B) the sale of property to the authority.

26-41 Sec. 370.261. STRATEGIC PLANS AND ANNUAL REPORTS. (a) An  
26-42 authority shall make a strategic plan for its operations. A  
26-43 majority of the commissioners courts of the counties of the  
26-44 authority shall by concurrent resolution determine the types of  
26-45 information required to be included in the strategic plan. Each  
26-46 even-numbered year, an authority shall issue a plan covering the  
26-47 succeeding five fiscal years, beginning with the next odd-numbered  
26-48 fiscal year.

26-49 (b) Not later than March 31 of each year, an authority shall  
26-50 file with the commissioners court of each county of the authority a  
26-51 written report on the authority's activities describing all  
26-52 transportation revenue bond issuances anticipated for the coming  
26-53 year, the financial condition of the authority, all project  
26-54 schedules, and the status of the authority's performance under the  
26-55 most recent strategic plan. At the invitation of a commissioners  
26-56 court of a county of the authority, representatives of the board and  
26-57 the administrative head of an authority shall appear before the  
26-58 commissioners court to present the report and receive questions and  
26-59 comments.

26-60 (c) The authority shall give notice to the commissioners  
26-61 court of each county of the authority not later than the 90th day  
26-62 before the date of issuance of revenue bonds.

26-63 [Sections 370.262-370.300 reserved for expansion]

26-64 SUBCHAPTER G. PARTICIPATION IN FINANCING, CONSTRUCTION, AND  
26-65 OPERATION OF TRANSPORTATION PROJECTS

26-66 Sec. 370.301. DEPARTMENT CONTRIBUTIONS TO TURNPIKE  
26-67 PROJECTS. (a) The department may agree with an authority to  
26-68 provide for or contribute to the payment of costs of financial or  
26-69 engineering and traffic feasibility studies and the design,

27-1 financing, acquisition, construction, operation, or maintenance of  
 27-2 a turnpike project or system on terms agreed on by the commission or  
 27-3 department, as applicable, and the authority. The agreement may  
 27-4 not be inconsistent with the rights of the bondholders or persons  
 27-5 operating the turnpike project under a lease or other contract.

27-6 (b) The department may use its engineering and other  
 27-7 personnel, including consulting engineers and traffic engineers,  
 27-8 to conduct feasibility studies under Subsection (a).

27-9 (c) An obligation or expense incurred by the commission or  
 27-10 department under this section is a part of the cost of the turnpike  
 27-11 project for which the obligation or expense was incurred. The  
 27-12 commission or department may require money contributed by the  
 27-13 commission or department under this section to be repaid from tolls  
 27-14 or other revenue of the turnpike project on which the money was  
 27-15 spent. Money repaid as required by the commission or department  
 27-16 shall be deposited to the credit of the fund from which the  
 27-17 contribution was made. Money deposited as required by this section  
 27-18 is exempt from the application of Section 403.095, Government Code.

27-19 (d) The commission or department may use federal money for  
 27-20 any purpose described by this chapter.

27-21 (e) The commission may grant or loan department money to an  
 27-22 authority for the acquisition of land for or the construction,  
 27-23 maintenance, or operation of a turnpike project. The commission  
 27-24 may require the authority to repay money provided under this  
 27-25 section from toll revenue or other sources on terms established by  
 27-26 the commission.

27-27 (f) Money repaid as required by the commission shall be  
 27-28 deposited to the credit of the fund from which the money was  
 27-29 provided. Money deposited as required by this section is exempt  
 27-30 from the application of Section 403.095, Government Code.

27-31 Sec. 370.302. AGREEMENTS BETWEEN AUTHORITY AND LOCAL  
 27-32 GOVERNMENTAL ENTITIES. (a) A governmental entity may, consistent  
 27-33 with the Texas Constitution, issue bonds, notes, or other  
 27-34 obligations or enter into and make payments under agreements with  
 27-35 an authority to acquire, construct, maintain, or operate a  
 27-36 transportation project, including agreements to pay the principal  
 27-37 of, and interest on, bonds, notes, or other obligations issued by  
 27-38 the authority and make payments under any related credit  
 27-39 agreements. The entity may impose and collect taxes to pay the  
 27-40 interest on the bonds and to provide a sinking fund for the  
 27-41 redemption of the bonds.

27-42 (b) In addition to the powers provided by Subsection (a), a  
 27-43 governmental entity may, to the extent constitutionally permitted,  
 27-44 agree with an authority to issue bonds, notes, or other  
 27-45 obligations, create a taxing district or an entity to promote  
 27-46 economic development, fund public improvements to promote economic  
 27-47 development, or enter into and make payments under an agreement to  
 27-48 acquire, construct, maintain, or operate any portion of a  
 27-49 transportation project of the authority. An agreement may include  
 27-50 a means for a local governmental entity to provide funds for a  
 27-51 transportation project that benefits the governmental entity to be  
 27-52 developed by the authority.

27-53 (c) To make payments under an agreement under Subsection  
 27-54 (b), to pay the interest on bonds issued under Subsection (b), or to  
 27-55 provide a sinking fund for the bonds or the agreement, a  
 27-56 governmental entity may:

27-57 (1) pledge revenue from any available source,  
 27-58 including annual appropriations;

27-59 (2) impose and collect taxes; or

27-60 (3) pledge revenue and impose and collect taxes.

27-61 (d) The term of an agreement under this section may not  
 27-62 exceed 40 years.

27-63 (e) An election required to authorize action under this  
 27-64 subchapter must be held in conformity with Chapter 1251, Government  
 27-65 Code, or other law applicable to the governmental entity. This  
 27-66 subsection does not expand or contract a governmental entity's  
 27-67 authority to guarantee debt without an election.

27-68 (f) The governing body of any governmental entity issuing  
 27-69 bonds, notes, or other obligations or entering into agreements

28-1 under this section may exercise the authority granted to the  
 28-2 governing body of an issuer with regard to issuance of obligations  
 28-3 under Chapter 1371, Government Code.

28-4 Sec. 370.303. ADDITIONAL AGREEMENTS OF AUTHORITY. An  
 28-5 authority may enter into any agreement necessary or convenient to  
 28-6 achieve the purposes of this subchapter.

28-7 Sec. 370.304. HIGHWAY IMPROVEMENT CONTRACTS. An authority  
 28-8 shall award all highway improvement contracts through a competitive  
 28-9 bidding process to the low bidder.

28-10 Sec. 370.305. OWNERSHIP OF TRANSPORTATION PROJECTS. (a) A  
 28-11 transportation project that is the subject of a development  
 28-12 agreement with a private entity, including the facilities acquired  
 28-13 or constructed on the project, is public property and belongs to the  
 28-14 authority that entered into the agreement.

28-15 (b) An authority may enter into an agreement that provides  
 28-16 for the lease of rights-of-way, the granting of easements, the  
 28-17 issuance of franchises, licenses, or permits, or any lawful uses to  
 28-18 enable a private entity to construct, operate, and maintain a  
 28-19 transportation project, including supplemental facilities. At the  
 28-20 termination of the agreement, the transportation project,  
 28-21 including the facilities, must be in a state of proper maintenance  
 28-22 as determined by the authority and shall be returned to the  
 28-23 authority in satisfactory condition at no further cost.

28-24 Sec. 370.306. PERFORMANCE AND PAYMENT BONDS AND SECURITY.  
 28-25 Notwithstanding Chapter 2253, Government Code, an authority shall  
 28-26 require any party to an agreement to operate or maintain a  
 28-27 transportation project to provide performance and payment bonds or  
 28-28 other forms of security in amounts considered by the authority to be  
 28-29 adequate to protect the authority and to assure performance of all  
 28-30 obligations to the authority and to subcontractors providing  
 28-31 materials or labor for a transportation project.

28-32 [Sections 370.307-370.330 reserved for expansion]

#### 28-33 SUBCHAPTER H. DISSOLUTION OF AUTHORITY

28-34 Sec. 370.331. VOLUNTARY DISSOLUTION. (a) An authority may  
 28-35 not be dissolved unless the dissolution is approved by the  
 28-36 commission.

28-37 (b) A board may submit a request to the commission for  
 28-38 approval to dissolve.

28-39 (c) The commission may approve a request to dissolve only  
 28-40 if:

28-41 (1) all debts, obligations, and liabilities of the  
 28-42 authority have been paid and discharged or adequate provision has  
 28-43 been made for the payment of all debts, obligations, and  
 28-44 liabilities;

28-45 (2) there are no suits pending against the authority,  
 28-46 or adequate provision has been made for the satisfaction of any  
 28-47 judgment, order, or decree that may be entered against it in any  
 28-48 pending suit; and

28-49 (3) the authority has commitments from other  
 28-50 governmental entities to assume jurisdiction of all authority  
 28-51 transportation facilities.

28-52 Sec. 370.332. INVOLUNTARY DISSOLUTION. (a) The commission  
 28-53 by order may require an authority to dissolve if the commission  
 28-54 determines that the authority has not substantially complied with  
 28-55 the requirements of a commission rule or an agreement between the  
 28-56 department and the authority.

28-57 (b) The commission may not require dissolution unless:

28-58 (1) the conditions described in Sections  
 28-59 370.331(c)(1) and (2) have been met; and

28-60 (2) the holders of any indebtedness have evidenced  
 28-61 their agreement to the dissolution.

28-62 SECTION 2.02. Section 361.003, Transportation Code, is  
 28-63 repealed.

28-64 SECTION 2.03. (a) This article takes effect immediately if  
 28-65 this Act receives a vote of two-thirds of all members elected to  
 28-66 each house, as provided by Section 39, Article III, Texas  
 28-67 Constitution. If this Act does not receive the vote necessary for  
 28-68 immediate effect, this article takes effect September 1, 2003.

28-69 (b) This article does not affect the term of a member of the

board of directors of a regional mobility authority serving on the effective date of this article.

ARTICLE 3. ADVANCE ACQUISITION OF PROPERTY

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

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

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

SUBCHAPTER F. ADVANCE ACQUISITION OF PROPERTY

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

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

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

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

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

ARTICLE 4. RAIL FACILITIES

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

SUBTITLE A. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 91. RAIL FACILITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 91.001. DEFINITIONS. In this chapter:

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

(2) "Construction" includes design, planning, and preliminary studies.

(3) "Department" means the Texas Department of Transportation.

(4) "Maintenance facility" includes: (A) a workshop; (B) a service, storage, security, or personnel facility; and

(C) equipment for a facility described by Paragraph (A) or (B).

(5) "Operation" includes policing.

(6) "Rail facility" means real or personal property, or any interest in that property, that is determined to be necessary or convenient for the provision of a freight or passenger rail facility or system, including commuter rail, intercity rail, and high-speed rail. The term includes all property or interests necessary or convenient for the acquiring, providing, using, or equipping of a rail facility or system, including rights-of-way, trackwork, train controls, stations, and maintenance facilities.

(7) "Revenue" includes a charge, toll, rent, payment, user fee, franchise fee, license fee, fare, tariff, and other consideration:

(A) received in return for the use of: (i) a rail facility; or (ii) a service offered in connection with the operation of a rail facility; or (B) resulting from a sale or conveyance of a rail facility.

30-1 (8) "Right-of-way" means a strip of land of a length  
 30-2 and width determined by the commission to be required, necessary,  
 30-3 or convenient for the provision of a rail facility or system and the  
 30-4 space over, under, or on the land where trackwork is to be located.

30-5 (9) "Station" means a passenger or freight service  
 30-6 building, terminal, station, ticketing facility, waiting area,  
 30-7 platform, concession, elevator, escalator, facility for  
 30-8 handicapped access, access road, parking facility for passengers,  
 30-9 baggage handling facility, or local maintenance facility, together  
 30-10 with any interest in real property necessary or convenient for  
 30-11 those items.

30-12 (10) "Surplus revenue" means:

30-13 (A) revenue that exceeds the department's debt  
 30-14 service requirements, coverage requirements of any bond indenture,  
 30-15 costs of operation and maintenance, and cost of expansion or  
 30-16 improvement of a rail facility or system; and

30-17 (B) reserves and reserve funds maintained by the  
 30-18 department under this chapter.

30-19 (11) "Trackwork" means track, track beds, track bed  
 30-20 preparation, ties, rail fasteners, slabs, rails, emergency  
 30-21 crossovers, setout tracks, storage tracks, drains, fences,  
 30-22 ballast, switches, bridges, and structures.

30-23 (12) "Train controls" includes:

30-24 (A) signals, lights, and other signaling;

30-25 (B) interlocking equipment;

30-26 (C) speed monitoring equipment;

30-27 (D) braking systems;

30-28 (E) central traffic control facilities; and

30-29 (F) communication systems.

30-30 Sec. 91.002. PUBLIC PURPOSE. The following functions are  
 30-31 public and governmental functions, exercised for a public purpose,  
 30-32 and matters of public necessity:

30-33 (1) the acquisition, financing, construction,  
 30-34 operation, and maintenance of a rail facility under this chapter;

30-35 (2) the sale, lease, or license of a rail facility to a  
 30-36 rail operator and other public or private persons under this  
 30-37 chapter; and

30-38 (3) the exercise of any other power granted under this  
 30-39 chapter to the commission and the department.

30-40 Sec. 91.003. RULES. The commission may adopt rules and the  
 30-41 department may adopt procedures and prescribe forms necessary to  
 30-42 implement this chapter.

30-43 Sec. 91.004. GENERAL POWERS. The department may:

30-44 (1) plan and make policies for the location,  
 30-45 construction, maintenance, and operation of a rail facility or  
 30-46 system in this state;

30-47 (2) acquire, finance, construct, maintain, and  
 30-48 subject to Section 91.005, operate a passenger or freight rail  
 30-49 facility, individually or as one or more systems;

30-50 (3) for the purpose of acquiring or financing a rail  
 30-51 facility or system, accept a grant or loan from a:

30-52 (A) department or agency of the United States;

30-53 (B) department, agency, or political subdivision  
 30-54 of this state; or

30-55 (C) public or private person;

30-56 (4) contract with a public or private person to  
 30-57 finance, construct, maintain, or operate a rail facility under this  
 30-58 chapter; or

30-59 (5) perform any act necessary to the full exercise of  
 30-60 the department's powers under this chapter.

30-61 Sec. 91.005. RELIANCE ON PRIVATE ENTITIES. The department  
 30-62 shall contract with a private entity to operate a railroad using  
 30-63 facilities owned by the department and may not use department  
 30-64 employees to operate a railroad. The department may maintain a  
 30-65 railroad facility directly or through a private entity. The  
 30-66 department may not own rolling stock.

30-67 Sec. 91.006. COOPERATION OF STATE AGENCIES AND POLITICAL  
 30-68 SUBDIVISIONS. Within available resources, an agency or political  
 30-69 subdivision of this state shall cooperate with and assist the

department in exercising its powers and duties under this chapter.

Sec. 91.007. NOTIFICATION OF INTENT TO ABANDON OR DISCONTINUE SERVICE. On receipt of notice of intent to abandon or discontinue rail service served under 49 C.F.R. Section 1152.20, as amended, the department shall coordinate with the governing body of a municipality, county, or rural rail transportation district in which all or a segment of the line is located to determine whether:

(1) the department should acquire the rail facility to which the notice relates; or

(2) any other actions should be taken to provide for continued rail transportation service.

[Sections 91.008-91.030 reserved for expansion]

SUBCHAPTER B. ACQUISITION AND DEVELOPMENT OF RAIL FACILITIES

Sec. 91.031. ESTABLISHMENT OF RAIL SYSTEMS. (a) If the commission determines that the provision of rail transportation services would be most efficiently and economically met by jointly operating two or more rail facilities as one operational and financial enterprise, it may create a system composed of those facilities.

(b) The commission may create more than one system and may combine two or more systems into one system.

(c) The department may finance, acquire, construct, and operate additional rail facilities as additions to and expansions of the system if the commission determines that the facility would most efficiently and economically be acquired and constructed if it were a part of the system and that the addition will benefit the system.

(d) The revenue of a system shall be accounted for separately and may not be commingled with the revenue of a rail facility that is not part of the system.

Sec. 91.032. ACQUISITION OF RAIL FACILITIES. (a) The commission may authorize the department to acquire an existing rail facility at a location and on a route the commission determines to be feasible and viable for rail transportation service.

(b) The department may enter into an agreement with the owner of an operating railroad for the acquisition or use of a rail facility on terms the department considers to be in the best interest of the state.

Sec. 91.033. ENVIRONMENTAL REVIEW. (a) The department shall conduct or approve all environmental evaluations or studies required for the construction, maintenance, or operation of a rail facility.

(b) The commission may adopt rules to allocate responsibility for conducting an environmental evaluation or study or preparing environmental documentation among entities involved in the construction, maintenance, or operation of a rail facility under this chapter.

Sec. 91.034. ENVIRONMENTAL MITIGATION. (a) The department may acquire, maintain, hold, restore, enhance, develop, or redevelop property for the purpose of mitigating a past, present, or future adverse environmental effect arising from the construction, maintenance, or operation of a rail facility without regard to whether the need for mitigation has already been established for a particular project.

(b) The department may contract with a governmental or private entity to maintain, control, hold, restore, enhance, develop, or redevelop property for the mitigation of a past, present, or future adverse environmental effect arising from the construction, maintenance, or operation of a rail facility without regard to whether the need for mitigation has already been established for a particular project.

(c) If authorized by the applicable regulatory authority, the department may pay an amount of money to an appropriate governmental or private entity instead of acquiring or managing property for the mitigation of a past, present, or future adverse environmental effect arising from construction, maintenance, or operation of a rail facility without regard to whether the need for mitigation has already been established for a particular project.

Sec. 91.035. USE OF FACILITIES BELONGING TO PUBLIC OR

32-1 PRIVATE ENTITY. (a) The department, for the purpose of acquiring,  
32-2 constructing, maintaining, and operating freight or passenger rail  
32-3 facilities and systems in this state, may:

32-4 (1) use a street, alley, road, highway, or other  
32-5 public way of a municipality, county, or other political  
32-6 subdivision with the consent of that political subdivision; and

32-7 (2) at the expense of the department, relocate, raise,  
32-8 reroute, or change the grade of the construction of a street, alley,  
32-9 highway, road, railroad, electric line and facility, telegraph and  
32-10 telephone property and facility, pipeline and facility, conduit and  
32-11 facility, and other properties, whether publicly or privately  
32-12 owned, as necessary or useful in the construction, maintenance, and  
32-13 operation of a rail facility or system.

32-14 (b) The department shall provide reasonable notice to the  
32-15 owner of the applicable facility of the need for the alteration  
32-16 under Subsection (a)(2) and allow that owner the opportunity to  
32-17 complete the alteration.

32-18 Sec. 91.036. EXPENDITURE OF FUNDS. Subject to Section  
32-19 91.071(b), the department may receive, accept, and expend funds  
32-20 from this state, a federal agency, or other public or private source  
32-21 for:

32-22 (1) rail planning;  
32-23 (2) studies to determine the viability of a rail  
32-24 facility for rail transportation service;

32-25 (3) studies to determine the necessity for the  
32-26 department's acquisition or construction of a rail facility; and

32-27 (4) the acquisition, construction, maintenance, or  
32-28 operation of a rail facility under this chapter, including the  
32-29 assessment and remediation of environmental contamination existing  
32-30 in or on a rail facility.

32-31 Sec. 91.037. CONTRACTS WITH GOVERNMENTAL ENTITIES. This  
32-32 chapter does not apply to real or personal property, facilities,  
32-33 funding, projects, operations, construction, or a project plan of a  
32-34 transportation authority created under Chapter 451 or 452, unless  
32-35 the commission or its designee has signed a written agreement with  
32-36 the transportation authority specifying the terms and conditions  
32-37 under which the transportation authority may participate.

32-38 [Sections 91.038-91.050 reserved for expansion]

32-39 SUBCHAPTER C. CONTRACTS

32-40 Sec. 91.051. AWARDING OF CONTRACTS. Unless otherwise  
32-41 provided by this subchapter, a contract made by the department for  
32-42 the construction, maintenance, or operation of a rail facility must  
32-43 be let by a competitive bidding procedure in which the contract is  
32-44 awarded to the lowest responsible bidder that complies with the  
32-45 department's criteria.

32-46 Sec. 91.052. AGREEMENTS TO CONSTRUCT, MAINTAIN, AND OPERATE  
32-47 RAIL FACILITIES. The department may enter into an agreement with a  
32-48 public entity, including a political subdivision of this state, to  
32-49 permit the entity, independently or jointly with the department, to  
32-50 acquire, construct, maintain, or operate a rail facility or system.

32-51 Sec. 91.053. SMALL AND DISADVANTAGED BUSINESSES. (a) The  
32-52 department shall:

32-53 (1) set goals for the award of contracts to small and  
32-54 disadvantaged businesses and attempt to meet the goals;

32-55 (2) attempt to identify small and disadvantaged  
32-56 businesses that provide or have the potential to provide supplies,  
32-57 materials, equipment, or services to the department; and

32-58 (3) give small and disadvantaged businesses full  
32-59 access to the department's contract bidding process and other  
32-60 contracting processes, inform the businesses about those  
32-61 processes, offer the businesses assistance concerning those  
32-62 processes, and identify barriers to the businesses' participation  
32-63 in those processes.

32-64 (b) This section does not exempt the department from  
32-65 competitive bidding requirements imposed by other law.

32-66 [Sections 91.054-91.070 reserved for expansion]

32-67 SUBCHAPTER D. FINANCING OF RAIL FACILITIES

32-68 Sec. 91.071. PERMISSIBLE SOURCES OF FUNDING. (a) The  
32-69 department may use any legally permissible source of funding in



33-1 acquiring, constructing, maintaining, and operating a rail  
 33-2 facility or system, including:

33-3 (1) appropriations from the state highway fund that  
 33-4 are not dedicated for another purpose by Section 7-a or 7-b, Article  
 33-5 VIII, Texas Constitution;

33-6 (2) proceeds from bonds secured by the Texas Mobility  
 33-7 Fund;

33-8 (3) donations, whether in kind or in cash; and

33-9 (4) loans from the state infrastructure bank.

33-10 (b) Each fiscal year, the total amount disbursed by the  
 33-11 department out of federal and state funds shall not exceed \$12.5  
 33-12 million. This subsection does not apply to:

33-13 (1) disbursements for the acquisition or construction  
 33-14 of rail lines on the Trans-Texas Corridor;

33-15 (2) the acquisition of abandoned rail facilities  
 33-16 described in Section 91.007;

33-17 (3) funding derived from the issuance of bonds,  
 33-18 private investment, donations, and grants or loans from the Federal  
 33-19 Railroad Administration or Federal Transit Administration; and

33-20 (4) grading and bed preparation.

33-21 Sec. 91.072. FINANCING OF RAIL FACILITIES AND SYSTEMS. (a)  
 33-22 The commission and the department have the same powers and duties  
 33-23 relating to the financing of a rail facility or a system established  
 33-24 under Section 91.031 as the commission and the department have  
 33-25 under Subchapter E, Chapter 361, relating to the financing of a  
 33-26 turnpike project.

33-27 (b) The powers held by the commission and the department  
 33-28 include the power to:

33-29 (1) authorize the issuance of bonds to pay all or part  
 33-30 of the cost of acquiring, constructing, maintaining, or operating a  
 33-31 rail facility or system;

33-32 (2) impose fees, rents, and other charges for the use  
 33-33 of a rail facility or system; and

33-34 (3) obtain from another source the fees and other  
 33-35 revenue necessary to pay all or part of the principal and interest  
 33-36 on bonds issued under this chapter.

33-37 (c) For purposes of this section, a reference in Subchapter  
 33-38 E, Chapter 361 to:

33-39 (1) a turnpike project means a rail facility or  
 33-40 system; and

33-41 (2) revenue includes a fee, rent, or other usage  
 33-42 charge established under this chapter or other money received under  
 33-43 Sections 91.073 and 91.074.

33-44 Sec. 91.073. GRANTS AND LOANS. The department may apply  
 33-45 for, accept, and expend money from grants, loans, or reimbursements  
 33-46 for any purpose of this chapter, including paying for the cost of  
 33-47 the acquisition, construction, maintenance, and operation of a rail  
 33-48 facility or system.

33-49 Sec. 91.074. REVENUE. (a) The department may require a  
 33-50 person, including any public or private entity, to pay a fee as a  
 33-51 condition of using any part of a rail facility or system.

33-52 (b) The department shall establish and maintain rents or  
 33-53 other compensation for the use of rail facilities or systems in an  
 33-54 amount that is, together with other revenue of the department  
 33-55 received under this chapter, sufficient to enable the department to  
 33-56 comply with the requirements of Section 91.072.

33-57 (c) The department may contract with a person for the use of  
 33-58 all or part of a rail facility or system or may lease or sell all or  
 33-59 part of a rail facility or system, including all or any part of the  
 33-60 right-of-way adjoining trackwork, for any purpose, including  
 33-61 placing on the adjoining right-of-way a storage or transfer  
 33-62 facility, warehouse, garage, parking facility, telecommunication  
 33-63 line or facility, restaurant, or gas station.

33-64 (d) The department shall not unreasonably discriminate in  
 33-65 deciding who may use any part of a rail facility or system.

33-66 (e) All revenue received by the department under this  
 33-67 chapter:

33-68 (1) shall be deposited to the credit of the state  
 33-69 highway fund and may be used for any purpose authorized by this

chapter; and  
 (2) is exempt from the application of Section 403.095,  
 Government Code.

[Sections 91.075-91.090 reserved for expansion]

SUBCHAPTER E. ACQUISITION AND DISPOSAL OF PROPERTY

Sec. 91.091. ACQUISITION OF REAL PROPERTY. (a) The  
commission may authorize the department to acquire in the name of  
the state a right-of-way, a property right, or other interest in  
real property determined to be necessary or convenient for the  
department's acquisition, construction, maintenance, or operation  
of rail facilities.

(b) The commission may authorize the department to acquire  
property by any method, including purchase and condemnation.  
Property may be purchased under any terms determined by the  
department to be in the best interest of the state.

(c) Property may be purchased along alternative potential  
routes for a rail facility even if only one of those potential  
routes will ultimately be chosen as the final route.

Sec. 91.092. PROPERTY NECESSARY OR CONVENIENT FOR RAIL  
FACILITIES. Property necessary or convenient for the department's  
acquisition, construction, maintenance, or operation of rail  
facilities includes an interest in real property or a property  
right the commission determines is necessary or convenient to  
provide:

(1) right-of-way for a location for:

(A) a rail facility; or

(B) the future expansion of a rail facility;

(2) land for mitigation of adverse environmental  
effects;

(3) buffer zones for scenic or safety purposes; and

(4) revenue for use in acquiring, constructing,  
maintaining, or operating a rail facility or system, including  
revenue received under a contract described by Section 91.074(c).

Sec. 91.093. RIGHT OF ENTRY. (a) To acquire property  
necessary or convenient for a rail facility, the department may  
enter any premises or real property, including a body of water, to  
make a survey, geotechnical evaluation, sounding, or examination.

(b) An entry under Subsection (a) is not:

(1) a trespass; or

(2) an entry under a pending condemnation procedure.

(c) The department shall make reimbursements for actual  
damages that result from an entry under Subsection (a).

Sec. 91.094. CONVEYANCE OF PROPERTY BELONGING TO POLITICAL  
SUBDIVISION OR PUBLIC AGENCY. The governing body of a  
municipality, county, political subdivision, or public agency may,  
without advertisement, convey the title to or a right in property  
determined to be necessary or convenient by the department under  
this subchapter.

Sec. 91.095. DISPOSAL OF PROPERTY. The department may  
sell, convey, or otherwise dispose of any rights or other interests  
in real property acquired under this subchapter that the commission  
determines are no longer needed for department purposes.

[Sections 91.096-91.100 reserved for expansion]

SUBCHAPTER F. OPERATION AND USE OF RAIL FACILITIES

Sec. 91.101. CONTRACTS FOR RAIL TRANSPORTATION SERVICES.  
The department may contract with a county or other political  
subdivision of the state for the department to provide rail  
transportation services on terms agreed to by the parties.

Sec. 91.102. CONTRACTS WITH RAIL OPERATORS. (a) The  
department may lease all or part of a rail facility or system to a  
rail operator. The department may contract with a rail operator for  
the use or operation of all or part of a rail facility or system.

(b) The department shall encourage to the maximum extent  
practical the participation of private enterprise in the operation  
of rail facilities and systems.

(c) A lease agreement shall provide for the department's  
monitoring of a rail operator's service and performance.

(d) The department may enter into an agreement with a rail  
operator to sell all or any part of state-owned rail facilities on

35-1 terms the department considers to be in the best interest of the  
 35-2 state.

35-3 Sec. 91.103. JOINT USE OF RAIL FACILITIES. The department  
 35-4 may:

35-5 (1) enter into an agreement with a rail operator,  
 35-6 public utility, private utility, communication system, common  
 35-7 carrier, or transportation system for the common use of its  
 35-8 facilities, installations, or properties; and

35-9 (2) establish through routes, joint fares, and,  
 35-10 subject to approval of a tariff-regulating body having  
 35-11 jurisdiction, divisions of tariffs.

35-12 Sec. 91.104. ROUTINGS. The department may determine  
 35-13  routings for rail facilities acquired, constructed, or operated by  
 35-14 the department under this chapter.

35-15 Sec. 91.105. PLACEMENT OF UTILITY FACILITIES, LINES, AND  
 35-16 EQUIPMENT. (a) A utility has the same right to place its  
 35-17 facilities, lines, or equipment in, over, or across right-of-way  
 35-18 that is part of a state-owned rail facility as the utility has with  
 35-19 respect to the right-of-way of a state highway under Chapter 181,  
 35-20 Utilities Code. A utility shall notify the department of the  
 35-21 utility's intention to exercise authority over right-of-way that is  
 35-22 part of state-owned rail facilities.

35-23 (b) On receipt of notice under Subsection (a), the  
 35-24 department may designate the location in the right-of-way where the  
 35-25 utility may place its facilities, lines, or equipment.

35-26 (c) The department may require a utility to relocate the  
 35-27 utility's facilities, lines, or equipment, at the utility's  
 35-28 expense, to allow for the expansion or relocation of rail  
 35-29 facilities owned by the state. The department shall pay for the  
 35-30 cost of the relocation if the utility has a compensable property  
 35-31 interest in the land occupied by the facility to be relocated. If a  
 35-32 utility facility is replaced, the cost of replacement is limited to  
 35-33 an amount equal to the cost of replacing the facility with a  
 35-34 comparable facility, less the net salvage value of the replaced  
 35-35 facility.

35-36 (d) A utility may use and operate a facility required to be  
 35-37 relocated under this section at the new location for the same period  
 35-38 and on the same terms as the utility had the right to do at the  
 35-39 previous location of the facility.

35-40 SECTION 4.02. Section 2, Chapter 1244, Acts of the 77th  
 35-41 Legislature, Regular Session, 2001 (Article 6550c-2, Vernon's  
 35-42 Texas Civil Statutes), is repealed.

35-43 SECTION 4.03. This article takes effect immediately if this  
 35-44 Act receives a vote of two-thirds of all the members elected to each  
 35-45 house, as provided by Section 39, Article III, Texas Constitution.  
 35-46 If this Act does not receive the vote necessary for immediate  
 35-47 effect, this article takes effect September 1, 2003.

35-48 ARTICLE 5. ISSUANCE OF BONDS AND OTHER PUBLIC SECURITIES

35-49 SECTION 5.01. Subchapter A, Chapter 222, Transportation  
 35-50 Code, is amended by adding Section 222.003 to read as follows:

35-51 Sec. 222.003. ISSUANCE OF BONDS SECURED BY STATE HIGHWAY  
 35-52 FUND. (a) The commission may issue bonds and other public  
 35-53 securities secured by a pledge of and payable from revenue  
 35-54 deposited to the credit of the state highway fund.

35-55 (b) The aggregate principal amount of the bonds and other  
 35-56 public securities that are issued may not exceed \$10 billion. The  
 35-57 commission may only issue bonds or other public securities in an  
 35-58 aggregate principal amount of not more than \$1 billion each year.

35-59 (c) Proceeds from the sale of bonds and other public  
 35-60 securities issued under this section shall be used to fund state  
 35-61 highway improvement projects. Proceeds may be used only to  
 35-62 provide:

35-63 (1) funding for projects that:

35-64 (A) allow the department to draw down additional  
 35-65 federal-aid highway funds;

35-66 (B) are eligible for expedited contracting under  
 35-67 Subchapter C, Chapter 223;

35-68 (C) facilitate, for the purpose of reducing  
 35-69 unemployment or underemployment, the retention of businesses in

36-1 this state or the ability to provide an incentive for new businesses  
 36-2 to locate in this state;

36-3 (D) reduce accidents or correct or improve  
 36-4 hazardous locations on the state highway system;

36-5 (E) are included in the Texas Highway Trunk  
 36-6 System; or

36-7 (2) short-term financing of turnpike project costs  
 36-8 that are incurred before the project is open to traffic and begins  
 36-9 generating revenue, if the commission determines that issuing  
 36-10 short-term bonds will reduce total project costs.

36-11 (d) In this section, "Texas Highway Trunk System" means a  
 36-12 rural network of four-lane or better divided roadways that will  
 36-13 serve as a principal connector of all Texas cities with over 20,000  
 36-14 population, as well as major ports and points of entry.

36-15 (e) Of the aggregate principal amount of bonds and other  
 36-16 public securities that may be issued under this section, the  
 36-17 commission shall issue bonds or other public securities in an  
 36-18 aggregate principal amount of \$2 billion to fund projects eligible  
 36-19 under Subsection (c)(4). The commission by rule shall prescribe  
 36-20 criteria for selecting projects eligible for funding under this  
 36-21 section. In establishing criteria for projects eligible under  
 36-22 Subsection (c)(4), the commission shall consider accident data,  
 36-23 traffic volume, pavement geometry, and other conditions that can  
 36-24 create or exacerbate hazardous roadway conditions.

36-25 (f) The proceeds of bonds and other public securities issued  
 36-26 under this section may not be used for any purpose other than any  
 36-27 costs related to the bonds and other public securities and the  
 36-28 purposes for which revenues are dedicated under Section 7-a,  
 36-29 Article VIII, Texas Constitution. The proceeds of bonds and other  
 36-30 public securities issued under this section may not be used for the  
 36-31 construction of a state highway or other facility on the  
 36-32 Trans-Texas Corridor. For purposes of this section, the  
 36-33 "Trans-Texas Corridor" means the statewide system of multimodal  
 36-34 facilities under the jurisdiction of the department that is  
 36-35 designated by the commission, notwithstanding the name given to  
 36-36 that corridor.

36-37 (g) The commission may enter into credit agreements, as  
 36-38 defined by Chapter 1371, Government Code, relating to the bonds and  
 36-39 other public securities authorized by this section. The agreements  
 36-40 may be secured by and payable from the same sources as the bonds and  
 36-41 other public securities.

36-42 (h) All laws affecting the issuance of bonds and other  
 36-43 public securities by governmental entities, including Chapters  
 36-44 1201, 1202, 1204, 1207, 1231, and 1371, Government Code, apply to  
 36-45 the issuing of bonds and other public securities and the entering  
 36-46 into of credit agreements under this section.

36-47 (i) The proceeds of bonds and other public securities issued  
 36-48 under this section may be used to:

36-49 (1) finance other funds relating to the public  
 36-50 security, including debt service reserve and contingency; and

36-51 (2) pay the cost or expense of the issuance of the  
 36-52 public security.

36-53 (j) Bonds and other public securities and credit agreements  
 36-54 authorized by this section may not have a principal amount or terms  
 36-55 that, at the time the bonds or other public securities are issued or  
 36-56 the agreements entered into, are expected by the commission to  
 36-57 cause annual expenditures with respect to the obligations to exceed  
 36-58 10 percent of the amount deposited to the credit of the state  
 36-59 highway fund in the immediately preceding year.

36-60 (k) Bonds and other public securities issued under this  
 36-61 section may be sold in such manner and subject to such terms and  
 36-62 provisions as set forth in the order authorizing their issuance,  
 36-63 and such bonds and other public securities must mature not later  
 36-64 than 20 years after their dates of issuance, subject to any  
 36-65 refundings or renewals.

36-66 (l) The comptroller shall withdraw from the state highway  
 36-67 fund and forward at the direction of the commission to another  
 36-68 person the amounts as determined by the commission to permit timely  
 36-69 payment of:

37-1 (1) the principal of and interest on the bonds and  
 37-2 other public securities that mature or become due; and

37-3 (2) any cost related to the bonds and other public  
 37-4 securities that become due, including payments under credit  
 37-5 agreements.

37-6 (m) The commission may not fund a project unless the  
 37-7 commission makes a formal finding by minute order that the funding  
 37-8 of the project will satisfy the requirements of Subsection (c).

37-9 SECTION 5.02. This article takes effect on the date on which  
 37-10 the constitutional amendment proposed by the 78th Legislature,  
 37-11 Regular Session, 2003, that authorizes the legislature to provide  
 37-12 for the issuance of bonds and other public securities secured by the  
 37-13 state highway fund for highway improvement projects takes effect.  
 37-14 If that amendment is not approved by the voters, this article has no  
 37-15 effect.

#### ARTICLE 6. PASS-THROUGH TOLLS

37-16 SECTION 6.01. Subchapter E, Chapter 222, Transportation  
 37-17 Code, is amended by adding Section 222.104 to read as follows:

37-18 Sec. 222.104. PASS-THROUGH TOLLS. (a) In this section,  
 37-19 "pass-through toll" means a per vehicle fee or a per vehicle mile  
 37-20 fee that is determined by the number of vehicles using a highway.

37-21 (b) The department may enter into an agreement with a public  
 37-22 or private entity that provides for the payment of pass-through  
 37-23 tolls to the public or private entity as reimbursement for the  
 37-24 construction, maintenance, or operation of a toll or nontoll  
 37-25 facility on the state highway system by the public or private  
 37-26 entity.

37-27 (c) The department may enter into an agreement with a  
 37-28 regional mobility authority, a regional tollway authority, or a  
 37-29 county acting under Chapter 284 that provides for the payment of  
 37-30 pass-through tolls to the authority or county as compensation for  
 37-31 the payment of all or a portion of the costs of maintaining a state  
 37-32 highway or a portion of a state highway converted to a toll facility  
 37-33 of the authority or county that the department estimates it would  
 37-34 have incurred if the highway had not been converted.

37-35 (d) The department may use any available funds for the  
 37-36 purpose of making a pass-through toll payment under this section.

37-37 (e) The commission may adopt rules necessary to implement  
 37-38 this section. Rules adopted under this subsection may establish  
 37-39 criteria for:

37-40 (1) determining the amount of pass-through tolls to be  
 37-41 paid under this section; and

37-42 (2) allocating the risk that traffic volume will be  
 37-43 higher or lower than the parties to an agreement under this section  
 37-44 anticipated in entering the agreement.

37-45 SECTION 6.02. This article takes effect immediately if this  
 37-46 Act receives a vote of two-thirds of all the members elected to each  
 37-47 house, as provided by Section 39, Article III, Texas Constitution.  
 37-48 If this Act does not receive the vote necessary for immediate  
 37-49 effect, this article takes effect September 1, 2003.

#### ARTICLE 7. CONVERSION OF NONTOLL STATE HIGHWAY

37-50 SECTION 7.01. Subchapter A, Chapter 284, Transportation  
 37-51 Code, is amended by adding Section 284.009 to read as follows:

37-52 Sec. 284.009. CONVEYANCE OF STATE HIGHWAY TO COUNTY. (a)  
 37-53 The commission may convey a nontoll state highway or a segment of a  
 37-54 nontoll state highway, including real property acquired to  
 37-55 construct or operate the highway, to a county for operation and  
 37-56 maintenance as a project under this chapter if:

37-57 (1) the proposed conveyance is approved by the  
 37-58 commissioners court of each county within which the highway is  
 37-59 located;

37-60 (2) the commission determines that the proposed  
 37-61 conveyance will improve overall mobility in the region or is the  
 37-62 most feasible and economic means of accomplishing necessary  
 37-63 improvements to the highway;

37-64 (3) any funds paid by the department for the  
 37-65 construction, maintenance, and operation of the conveyed highway  
 37-66 are repaid to the department; and

37-67 (4) the county agrees to assume all liability and  
 37-68   
 37-69

38-1 responsibility for the maintenance and operation of the conveyed  
 38-2 highway on its conveyance.

38-3 (b) The commission may only make a conveyance under this  
 38-4 section if the commission determines that the conveyance is the  
 38-5 most feasible and economic means to accomplish necessary  
 38-6 expansions, extensions, or improvements of the conveyed segment of  
 38-7 the highway. Tolls may not be collected by an authority from a  
 38-8 conveyed segment of highway except to finance the expansion,  
 38-9 extension, operation, and maintenance of that highway segment.

38-10 (c) A county that receives a nontoll state highway or a  
 38-11 segment of a nontoll state highway under Subsection (a) may own,  
 38-12 operate, and maintain the highway as a pooled project under Section  
 38-13 284.065.

38-14 (d) The commission shall, at the time of a conveyance,  
 38-15 remove the highway or segment of highway from the state highway  
 38-16 system. After a conveyance, the department has no liability,  
 38-17 responsibility, or duty for the maintenance or operation of the  
 38-18 highway or segment.

38-19 (e) The commission may waive all or a portion of an amount  
 38-20 due under Subsection (a)(2) if it finds that the conveyance will  
 38-21 result in substantial net benefits to the state, the department,  
 38-22 and the traveling public that equal or exceed the amount of payment  
 38-23 waived.

38-24 (f) Before conveying a nontoll state highway or a segment of  
 38-25 a nontoll state highway under this section, the commission shall  
 38-26 conduct a public hearing to receive comments from interested  
 38-27 persons concerning the proposed conveyance. Notice of the hearing  
 38-28 shall be published in the Texas Register and in one or more  
 38-29 newspapers of general circulation in any county in which the  
 38-30 highway or segment is located.

38-31 (g) The commission shall adopt rules implementing this  
 38-32 section, including criteria and guidelines for approval of a  
 38-33 conveyance of a highway or segment.

38-34 (h) Funds received by the department under this section:

38-35 (1) shall be deposited to the credit of the state  
 38-36 highway fund; and

38-37 (2) are exempt from the application of Section  
 38-38 403.095, Government Code.

38-39 SECTION 7.02. Section 362.0041, Transportation Code, is  
 38-40 amended by amending Subsections (a), (c), and (d) and adding  
 38-41 Subsections (e)-(g) to read as follows:

38-42 (a) Except as provided in Subsections [~~Subsection~~] (d) and  
 38-43 (g), [~~if~~] the commission may by order convert [~~finds that the~~  
 38-44 ~~conversion of~~] a segment of the free state highway system to a toll  
 38-45 facility if it determines that the conversion will improve overall  
 38-46 mobility in the region or is the most feasible and economic means to  
 38-47 accomplish necessary expansion, improvements, or extensions to  
 38-48 that segment of the state highway system[, that segment may be  
 38-49 converted by order of the commission to a turnpike project under  
 38-50 Chapter 361].

38-51 (c) The commission shall adopt rules implementing this  
 38-52 section, including [~~such rules to include~~] criteria and guidelines  
 38-53 for the approval of a conversion of a highway.

38-54 (d) The commission may not convert the Queen Isabella  
 38-55 Causeway in Cameron County to a toll facility [~~turnpike project~~].

38-56 (e) Subchapter G, Chapter 361, applies to a highway  
 38-57 converted to a toll facility under this section.

38-58 (f) Toll revenue collected under this section:

38-59 (1) shall be deposited in the state highway fund;

38-60 (2) may be used by the department to finance the  
 38-61 improvement, extension, expansion, or operation of the converted  
 38-62 segment of highway and may not be collected except for those  
 38-63 purposes; and

38-64 (3) is exempt from the application of Section 403.095,  
 38-65 Government Code.

38-66 (g) The commission may only convert a segment of the state  
 38-67 highway system under this section if the conversion is approved by  
 38-68 the commissioners court of each county within which the segment is  
 38-69 located.

39-1 SECTION 7.03. Section 366.035, Transportation Code, is  
 39-2 amended to read as follows:

39-3 Sec. 366.035. CONVEYANCE [CONVERSION] OF STATE HIGHWAY  
 39-4 [SYSTEM PROJECTS]. (a) The commission may convey a nontoll state  
 39-5 highway or a segment of a nontoll state highway, including real  
 39-6 property acquired to construct or operate the highway, to an  
 39-7 authority for operation and maintenance as a turnpike project under  
 39-8 this chapter if:

39-9 (1) the conveyance is approved by the commissioners  
 39-10 court of each county within which the highway is located;

39-11 (2) the commission determines that the proposed  
 39-12 conveyance will improve overall mobility in the region or is the  
 39-13 most feasible and economic means to accomplish necessary  
 39-14 improvements to the highway;

39-15 (3) any funds paid by the department for the  
 39-16 construction, maintenance, and operation of the conveyed highway  
 39-17 are repaid to the department; and

39-18 (4) the authority agrees to assume all liability and  
 39-19 responsibility for the maintenance and operation of the conveyed  
 39-20 highway on its conveyance.

39-21 (b) The commission may only make a conveyance under this  
 39-22 section if the commission determines that the conveyance is the  
 39-23 most feasible and economic means to accomplish necessary  
 39-24 expansions, extensions, or improvements of the conveyed segment of  
 39-25 the highway. Tolls may not be collected by an authority from a  
 39-26 conveyed segment of highway except to finance the expansion,  
 39-27 extension, operation, and maintenance of that highway segment.  
 39-28 [Except as provided under Subsection (g), if the commission  
 39-29 determines that the most feasible and economic means to accomplish  
 39-30 necessary expansion, improvements, or extensions to the state  
 39-31 highway system is the conversion to a turnpike project of a segment  
 39-32 of the free state highway system, any segment located in a county of  
 39-33 an authority or a county in which an authority operates a turnpike  
 39-34 project or in any county adjacent to those counties may, on approval  
 39-35 of the governor and the affected authority, be transferred by order  
 39-36 of the commission to that authority.] An authority that receives  
 39-37 the segment or [of] highway may own, operate, and maintain the  
 39-38 segment or highway as a turnpike project or system or a part of a  
 39-39 turnpike project or system under this chapter.

39-40 (c) The commission may waive all or a portion of an amount  
 39-41 due under Subsection (a)(2) if it finds that the conveyance will  
 39-42 result in substantial net benefits to the state, the department,  
 39-43 and the traveling public that equal or exceed the amount of payment  
 39-44 waived.

39-45 (d) [(b) An authority shall reimburse the commission for the  
 39-46 cost of a transferred highway, unless the commission determines  
 39-47 that the transfer will result in substantial net benefits to the  
 39-48 state, the department, and the traveling public that exceed that  
 39-49 cost. The cost includes the total amount expended by the department  
 39-50 for the original construction of the highway, including all costs  
 39-51 associated with the preliminary engineering and design engineering  
 39-52 for plans, specifications, and estimates, the acquisition of  
 39-53 necessary rights-of-way, and actual construction of the highway and  
 39-54 all necessary appurtenant facilities. Costs anticipated to be  
 39-55 expended to expand, improve, or extend the highway shall be  
 39-56 deducted from the costs to be reimbursed to the commission.

39-57 [(c)] The commission shall, at the time of a conveyance  
 39-58 [transfer], remove the segment or [of] highway from the state  
 39-59 highway system. After a conveyance, [transfer] the commission has  
 39-60 no liability, responsibility, or duty for the maintenance or  
 39-61 operation of the segment or highway.

39-62 (e) [(d)] Before conveying [transferring] a segment or [of]  
 39-63 the state] highway [system] under this section, the commission  
 39-64 shall conduct a public hearing to receive comments from interested  
 39-65 persons concerning the proposed conveyance [transfer]. Notice of  
 39-66 the hearing must be published in the Texas Register, one or more  
 39-67 newspapers of general circulation in the counties in which the  
 39-68 segment or highway is located, and a newspaper, if any, published in  
 39-69 the counties of the applicable authority.

40-1 (f) [~~(e)~~] The commission shall adopt rules implementing this  
40-2 section. The rules shall include criteria and guidelines for the  
40-3 approval of a conveyance [~~transfer~~] of a highway.

40-4 (g) [~~(f)~~] An authority shall adopt rules providing criteria  
40-5 and guidelines for approving the acceptance of a highway under this  
40-6 section.

40-7 (h) [~~(g)~~] The commission may not transfer the Queen Isabella  
40-8 Causeway in Cameron County to an authority under this section.

40-9 (i) Funds received by the department under this section:  
40-10 (1) shall be deposited to the credit of the state  
40-11 highway fund; and  
40-12 (2) are exempt from the application of Section  
40-13 403.095, Government Code.

40-14 ARTICLE 8. SUSPENSION OF SENTENCE AND DEFERRAL  
40-15 OF FINAL DISPOSITION OF CERTAIN OFFENSES

40-16 SECTION 8.01. Article 45.051, Code of Criminal Procedure,  
40-17 is amended to read as follows:

40-18 Art. 45.051. SUSPENSION OF SENTENCE AND DEFERRAL OF FINAL  
40-19 DISPOSITION. (a) On a plea of guilty or nolo contendere by a  
40-20 defendant or on a finding of guilt in a misdemeanor case punishable  
40-21 by fine only and payment of all court costs, the judge [~~justice~~]  
40-22 may, at the judge's discretion, defer further proceedings without  
40-23 entering an adjudication of guilt and place the defendant on  
40-24 probation for a period not to exceed 180 days.

40-25 (b) During the deferral period, the judge [~~justice~~] may, at  
40-26 the judge's discretion, require the defendant to:

40-27 (1) post a bond in the amount of the fine assessed to  
40-28 secure payment of the fine;

40-29 (2) pay restitution to the victim of the offense in an  
40-30 amount not to exceed the fine assessed;

40-31 (3) submit to professional counseling;

40-32 (4) submit to diagnostic testing for alcohol or a  
40-33 controlled substance or drug;

40-34 (5) submit to a psychosocial assessment;

40-35 (6) participate in an alcohol or drug abuse treatment  
40-36 or education program;

40-37 (7) pay the costs of any diagnostic testing,  
40-38 psychosocial assessment, or participation in a treatment or  
40-39 education program either directly or through the court as court  
40-40 costs; [~~and~~]

40-41 (8) complete a driving safety course approved under  
40-42 the Texas Driver and Traffic Safety Education Act (Article  
40-43 4413(29c), Vernon's Texas Civil Statutes) or another course as  
40-44 directed by the judge;

40-45 (9) present to the court satisfactory evidence that  
40-46 the defendant has complied with each requirement imposed by the  
40-47 judge under this article; and

40-48 (10) comply with any other reasonable condition.

40-49 (c) On determining that [~~At the conclusion of the deferral~~  
40-50 ~~period, if~~] the defendant [~~presents satisfactory evidence that he~~]  
40-51 has complied with the requirements imposed by the judge under this  
40-52 article, the judge [~~justice~~] shall dismiss the complaint, and it  
40-53 shall be clearly noted in the docket that the complaint is dismissed  
40-54 and that there is not a final conviction. [~~Otherwise, the justice~~  
40-55 ~~may proceed with an adjudication of guilt. After an adjudication of~~  
40-56 ~~guilt, the justice may reduce the fine assessed or may then impose~~  
40-57 ~~the fine assessed, less any portion of the assessed fine that has~~  
40-58 ~~been paid.] If the complaint is dismissed, a special expense not to~~  
40-59 ~~exceed the amount of the fine assessed may be imposed. Other than~~  
40-60 ~~an offense under Section 545.413, Transportation Code, this~~  
40-61 ~~subsection does not apply to an offense involving the operation of a~~  
40-62 ~~motor vehicle.~~

40-63 (c-1) This subsection applies only to an offense involving  
40-64 the operation of a motor vehicle, other than an offense under  
40-65 Section 545.413, Transportation Code. At the conclusion of the  
40-66 deferral period, if the defendant presents satisfactory evidence  
40-67 that the defendant has complied with the requirements imposed, the  
40-68 justice shall proceed with an adjudication of guilt but may not  
40-69 impose the fine assessed or a reduced fine.



41-1 (d) If by ~~at~~ the conclusion of the deferral period the  
41-2 defendant does not present satisfactory evidence that the defendant  
41-3 complied with the requirements imposed, the judge ~~justice~~ may  
41-4 impose the fine assessed or impose a lesser fine. The imposition of  
41-5 the fine or lesser fine constitutes a final conviction of the  
41-6 defendant.

41-7 (e) Records relating to a complaint dismissed as provided by  
41-8 this article may be expunged under Article 55.01 ~~of this code~~. If  
41-9 a complaint is dismissed under this article, there is not a final  
41-10 conviction and the complaint may not be used against the person for  
41-11 any purpose.

41-12 (f) This article does not apply to an offense to which  
41-13 Section 542.404 or 729.004(b), Transportation Code, applies.

41-14 SECTION 8.02. Article 45.0511, Code of Criminal Procedure,  
41-15 is amended to read as follows:

41-16 Art. 45.0511. DRIVING SAFETY COURSE OR MOTORCYCLE OPERATOR  
41-17 COURSE DISMISSAL [DEFERRED DISPOSITION] PROCEDURES [APPLICABLE TO  
41-18 TRAFFIC OFFENSES]. (a) This article applies only to an alleged  
41-19 offense that:

41-20 (1) is within the jurisdiction of a justice court or a  
41-21 municipal court;

41-22 (2) involves [involving] the operation of a motor  
41-23 vehicle; and

41-24 (3) is [other than a commercial motor vehicle, as]  
41-25 defined by:

41-26 (A) Section 472.022 [522.003], Transportation  
41-27 Code;

41-28 (B) Subtitle C, Title 7, Transportation Code; or

41-29 (C) Section 729.001(a)(3), Transportation Code [7  
41-30 and supplements Article 45.051].

41-31 (b) The judge [During the deferral period under Article  
41-32 45.051, the justice:

41-33 [1)] shall require the defendant to successfully  
41-34 complete a driving safety course approved by the Texas Education  
41-35 Agency or a course under the motorcycle operator training and  
41-36 safety program approved by the designated state agency under  
41-37 Chapter 662, Transportation Code, if:

41-38 (1) the defendant elects to take a driving safety  
41-39 course or motorcycle operator training course under this article;

41-40 (2) [deferred disposition and] the defendant has not  
41-41 completed an approved driving safety course or motorcycle operator  
41-42 training course, as appropriate, within the [preceding] 12 months  
41-43 preceding the date of the offense; [and]

41-44 (3) [(2) may require the defendant to successfully  
41-45 complete a driving safety course approved by the Texas Education  
41-46 Agency if the defendant has completed an approved driving safety  
41-47 course within the preceding 12 months.

41-48 [(c) Subsection (b)(1) applies only if:

41-49 [(1)] the defendant [person] enters a plea under  
41-50 Article 45.021 in person or in writing of no contest or guilty on or  
41-51 [and,] before the answer date on the notice to appear and:

41-52 (A) presents in person or by counsel to the court  
41-53 a [an oral or written] request to take a course; or

41-54 (B) sends to the court by certified mail, return  
41-55 receipt requested, postmarked on or before the answer date on the  
41-56 notice to appear, a written request to take a course;

41-57 (4) [(2) the court enters judgment on the person's plea  
41-58 of no contest or guilty at the time the plea is made but defers  
41-59 imposition of the judgment for 180 days;

41-60 [(3)] the defendant [person] has a valid Texas driver's  
41-61 license or permit;

41-62 (5) [(4)] the defendant [person] is charged with an  
41-63 offense to which this article applies, other than speeding 25 miles  
41-64 per hour or more over the posted speed limit; and

41-65 (6) [(5)] the defendant [person] provides evidence of  
41-66 financial responsibility as required by Chapter 601,  
41-67 Transportation Code [7

41-68 [(6) the defendant's driving record as maintained by  
41-69 the Texas Department of Public Safety shows the defendant has not

42-1 ~~completed an approved driving safety course or motorcycle operator~~  
42-2 ~~training course, as appropriate, within the 12 months preceding the~~  
42-3 ~~date of the offense; and~~

42-4 ~~[(7) the defendant files an affidavit with the court~~  
42-5 ~~stating that the person is not taking a course under this section~~  
42-6 ~~and has not completed a course that is not shown on the person's~~  
42-7 ~~driving record within the 12 months preceding the date of the~~  
42-8 ~~offense].~~

42-9 (c) The court shall enter judgment on the defendant's plea  
42-10 of no contest or guilty at the time the plea is made, defer  
42-11 imposition of the judgment, and allow the defendant 90 days to  
42-12 successfully complete the approved driving safety course or  
42-13 motorcycle operator training course and present to the court:

42-14 (1) a uniform certificate of completion of the driving  
42-15 safety course or a verification of completion of the motorcycle  
42-16 operator training course;

42-17 (2) the defendant's driving record as maintained by  
42-18 the Department of Public Safety showing that the defendant had not  
42-19 completed an approved driving safety course or motorcycle operator  
42-20 training course, as applicable, within the 12 months preceding the  
42-21 date of the offense; and

42-22 (3) an affidavit stating that the defendant was not  
42-23 taking a driving safety course or motorcycle operator training  
42-24 course, as applicable, under this article on the date the request to  
42-25 take the course was made and had not completed such a course that is  
42-26 not shown on the defendant's driving record within the 12 months  
42-27 preceding the date of the offense.

42-28 (d) Notwithstanding Subsections (b)(2) and (3), ~~[Subsection~~  
42-29 ~~(c)(1), on a written motion submitted to the court]~~ before the final  
42-30 disposition of the case, the court may grant a request to take a  
42-31 driving safety course or a motorcycle operator training course  
42-32 under this article.

42-33 (e) A request to take a driving safety course made at or  
42-34 before the time and at the place at which a defendant ~~[person]~~  
42-35 is required to appear in court is an appearance in compliance with the  
42-36 defendant's ~~[person's]~~ promise to appear.

42-37 (f) In addition to court costs and fees authorized or  
42-38 imposed by a law of this state and applicable to the offense, the  
42-39 [The] court may:

42-40 (1) require a defendant ~~[person]~~ requesting a ~~[driving~~  
42-41 ~~safety]~~ course under Subsection (b) to pay a fee set by the court at  
42-42 an amount of not more than \$10; or

42-43 (2) require a defendant requesting a course under  
42-44 Subsection (d) to pay a fee set by the court at an amount not to  
42-45 exceed the maximum amount of the fine for the offense committed by  
42-46 the defendant ~~[, including any other fee authorized by statute or~~  
42-47 ~~municipal ordinance, to cover the cost of administering this~~  
42-48 ~~article].~~

42-49 (g) A defendant ~~[person]~~ who requests but does not take a  
42-50 course is not entitled to a refund of the fee.

42-51 (h) Fees collected by a municipal court shall be deposited  
42-52 in the municipal treasury. Fees collected by another court shall be  
42-53 deposited in the county treasury of the county in which the court is  
42-54 located.

42-55 (i) If a defendant ~~[person]~~ requesting a ~~[driving safety]~~  
42-56 course under this article fails to comply with Subsection (c)  
42-57 [furnish evidence of the successful completion of the course to the  
42-58 court], the court shall:

42-59 (1) notify the defendant ~~[person]~~ in writing, mailed  
42-60 to the address on file with the court or appearing on the notice to  
42-61 appear, of that failure; and

42-62 (2) require the defendant ~~[person]~~ to appear at the  
42-63 time and place stated in the notice to show cause why the evidence  
42-64 was not timely submitted to the court.

42-65 (j) If the defendant ~~[A person who]~~ fails to appear at the  
42-66 time and place stated in the notice under Subsection (i), or appears  
42-67 at the time and place stated in the notice but does not show good  
42-68 cause for the defendant's failure to comply with Subsection (c),  
42-69 the court shall enter an adjudication of guilt and impose sentence

43-1 ~~[commits a misdemeanor punishable as provided by Section 543.009,~~  
43-2 ~~Transportation Code].~~

43-3 (k) On a defendant's ~~[person's]~~ showing of good cause for  
43-4 failure to furnish evidence to the court, the court may allow an  
43-5 extension of time during which the defendant ~~[person]~~ may present:

43-6 (1) a uniform certificate of course completion as  
43-7 evidence that the defendant ~~[person]~~ successfully completed the  
43-8 driving safety course; or

43-9 (2) a verification of course completion as evidence  
43-10 that the defendant successfully completed the motorcycle operator  
43-11 training course.

43-12 (1) When a defendant ~~[person]~~ complies with Subsection (c)  
43-13 ~~[(b) and a uniform certificate of course completion is accepted by~~  
43-14 ~~the court],~~ the court shall:

43-15 (1) proceed with an adjudication of guilt, but may not  
43-16 impose the fine assessed or a reduced fine ~~[remove the judgment and~~  
43-17 ~~dismiss the charge];~~

43-18 (2) report the fact that the defendant ~~[person]~~  
43-19 successfully completed a driving safety course or a motorcycle  
43-20 operator training course and the date of completion to the Texas  
43-21 Department of Public Safety for inclusion in the person's driving  
43-22 record; and

43-23 (3) state in that ~~[this]~~ report whether the course was  
43-24 taken under ~~[the procedure provided by]~~ this article to provide  
43-25 information necessary to determine eligibility to take a subsequent  
43-26 course under Subsection (b).

43-27 (m) If the defendant is charged with more than one offense,  
43-28 the defendant may complete a driving safety course in connection  
43-29 with only one of the charges ~~[The court may dismiss only one charge~~  
43-30 ~~for each completion of a course].~~

43-31 (n) ~~[A charge that is dismissed under this article may not~~  
43-32 ~~be part of a person's driving record or used for any purpose.~~

43-33 ~~[(o)]~~ An insurer delivering or issuing for delivery a motor  
43-34 vehicle insurance policy in this state may not cancel or increase  
43-35 the premium charged an insured under the policy because the court  
43-36 proceeded with an adjudication of guilt under Subsection (1)(1) or  
43-37 because the insured completed a driving safety course or a  
43-38 motorcycle operator training course ~~[or had a charge dismissed]~~  
43-39 under this article.

43-40 (o) ~~[(p)]~~ The court shall advise a defendant ~~[person]~~  
43-41 charged with a misdemeanor under Section 472.022, Transportation  
43-42 Code, Subtitle C, Title 7, Transportation Code, or Section  
43-43 729.001(a)(3), Transportation Code, committed while operating a  
43-44 motor vehicle of the defendant's ~~[person's]~~ right under this  
43-45 article to successfully complete a driving safety course or, if the  
43-46 offense was committed while operating a motorcycle, a motorcycle  
43-47 operator training course. The right to complete a course does not  
43-48 apply to a defendant ~~[person]~~ charged with:

43-49 (1) a violation of Section 545.066, ~~[545.401,~~  
43-50 ~~545.421,]~~ 550.022, or 550.023, Transportation Code; ~~[7]~~ or

43-51 (2) an offense to which ~~[serious traffic violation as~~  
43-52 ~~defined by]~~ Section 542.404 or 729.004(b) ~~[522.003],~~  
43-53 Transportation Code, applies.

43-54 (p) A notice to appear issued for an offense to which this  
43-55 article applies must inform a defendant charged with an offense  
43-56 under Section 472.022, Transportation Code, an offense under  
43-57 Subtitle C, Title 7, Transportation Code, or an offense under  
43-58 Section 729.001(a)(3), Transportation Code, committed while  
43-59 operating a motor vehicle of the defendant's right to complete a  
43-60 driving safety course or, if the offense was committed while  
43-61 operating a motorcycle, of the defendant's right to complete a  
43-62 motorcycle operator training course. The notice required by this  
43-63 subsection must read substantially as follows:

43-64 "You may be able to avoid certain negative consequences of  
43-65 this charge by successfully completing a driving safety course or a  
43-66 motorcycle operator training course. You will lose that right if,  
43-67 on or before your appearance date, you do not provide the court with  
43-68 notice of your request to take the course."

43-69 (q) If the notice required by Subsection (p) is not provided

44-1 to the defendant charged with the offense, the defendant may  
44-2 continue to exercise the defendant's right to take a driving safety  
44-3 course or a motorcycle operator training course until the notice  
44-4 required by Subsection (p) is provided to the defendant or there is  
44-5 a final disposition of the case.

44-6 [~~(q) Nothing in this article shall prevent a court from~~  
44-7 ~~assessing a special expense for deferred disposition in the same~~  
44-8 ~~manner as provided by Article 45.051. For a deferred disposition~~  
44-9 ~~under Subsection (b)(1), the court may only collect a fee of not~~  
44-10 ~~more than \$10 in addition to any applicable court cost.]~~

44-11 SECTION 8.03. Section 472.022(f), Transportation Code, is  
44-12 amended to read as follows:

44-13 (f) Articles 45.051 and 45.0511 [Article 45.54], Code of  
44-14 Criminal Procedure, do [does] not apply to an offense under this  
44-15 section committed in a construction or maintenance work zone when  
44-16 workers are present.

44-17 SECTION 8.04. The following laws are repealed:

- 44-18 (1) Section 543.101, Transportation Code; and
- 44-19 (2) Section 543.117, Transportation Code.

44-20 SECTION 8.05. (a) This article takes effect September 1,  
44-21 2003.

44-22 (b) Articles 45.051 and 45.0511, Code of Criminal  
44-23 Procedure, as amended by this article, apply only to an offense  
44-24 committed on or after September 1, 2003.

44-25 (c) An offense committed before September 1, 2003, is  
44-26 covered by the law in effect on the date the offense was committed,  
44-27 and the former law is continued in effect for that purpose.

44-28 ARTICLE 9. DRIVER'S LICENSES

44-29 SECTION 9.01. Section 521.292, Transportation Code, is  
44-30 amended by adding Subsection (c) to read as follows:

44-31 (c) For purposes of Subsection (a)(3), (7), or (9) and  
44-32 Subsection (b), an adjudication of guilt under Articles 45.051(c-1)  
44-33 and 45.0511(1)(1), Code of Criminal Procedure, is not a conviction.

44-34 ARTICLE 10. COMMERCIAL DRIVER'S LICENSES

44-35 SECTION 10.01. Section 522.003(25), Transportation Code,  
44-36 is amended to read as follows:

44-37 (25) "Serious traffic violation" means:

44-38 (A) a conviction arising from the driving of a  
44-39 commercial motor vehicle, other than a parking, vehicle weight, or  
44-40 vehicle defect violation, for:

44-41 (i) [~~(A)~~] excessive speeding, involving a  
44-42 single charge of driving 15 miles per hour or more above the posted  
44-43 speed limit;

44-44 (ii) [~~(B)~~] reckless driving, as defined by  
44-45 state or local law;

44-46 (iii) [~~(C)~~] a violation of a state or local  
44-47 law related to motor vehicle traffic control, including a law  
44-48 regulating the operation of vehicles on highways, arising in  
44-49 connection with a fatal accident;

44-50 (iv) [~~(D)~~] improper or erratic traffic lane  
44-51 change;

44-52 (v) [~~(E)~~] following the vehicle ahead too  
44-53 closely; or

44-54 (vi) [~~(F) — operating] a [commercial motor  
44-55 vehicle in] violation of Sections [Section] 522.011 or 522.042; or  
44-56 (B) a violation of Section 522.015.~~

44-57 SECTION 10.02. Section 522.081, Transportation Code, is  
44-58 amended to read as follows:

44-59 Sec. 522.081. DISQUALIFICATION. (a) This subsection  
44-60 applies [~~only~~] to a violation committed while operating any motor  
44-61 vehicle, including a commercial motor vehicle. A person who holds a  
44-62 commercial driver's license is disqualified from driving a  
44-63 commercial motor vehicle for:

44-64 (1) 60 days if convicted of:

44-65 (A) two serious traffic violations that occur  
44-66 within a three-year period; or

44-67 (B) one violation of a law that regulates the  
44-68 operation of a motor vehicle at a railroad grade crossing; or

44-69 (2) 120 days if convicted of:

45-1 (A) three serious traffic violations arising  
45-2 from separate incidents occurring within a three-year period; or

45-3 (B) two violations of a law that regulates the  
45-4 operation of a motor vehicle at a railroad grade crossing that occur  
45-5 within a three-year period[ ~~, or~~

45-6 [~~(3) one year if convicted of three violations of a law~~  
45-7 ~~that regulates the operation of a motor vehicle at a railroad grade~~  
45-8 ~~crossing that occur within a three-year period].~~

45-9 (b) This subsection applies to a violation committed while  
45-10 operating any motor vehicle, including a commercial motor vehicle,  
45-11 except as provided by this subsection. A person who holds a  
45-12 commercial driver's license is disqualified from driving a  
45-13 commercial motor vehicle for one year:

45-14 (1) if convicted of three violations of a law that  
45-15 regulates the operation of a motor vehicle at a railroad grade  
45-16 crossing that occur within a three-year period;

45-17 (2) on first conviction of:

45-18 (A) [~~(1)~~] driving a [commercial] motor vehicle  
45-19 under the influence of alcohol or a controlled substance, including  
45-20 a violation of Section 49.04 or 49.07, Penal Code;

45-21 (B) [~~(2)~~] driving a commercial motor vehicle while  
45-22 the person's alcohol concentration was 0.04 or more;

45-23 [~~(3)~~] intentionally] leaving the scene of an accident  
45-24 involving a [commercial] motor vehicle driven by the person;

45-25 (C) [~~(4)~~] using a [commercial] motor vehicle in  
45-26 the commission of a felony, other than a felony described by  
45-27 Subsection (d)(2);

45-28 (D) [~~(5)~~] refusing to submit to a test to determine  
45-29 the person's alcohol concentration or the presence in the person's  
45-30 body of a controlled substance or drug while driving a commercial  
45-31 motor vehicle;

45-32 [~~(6)~~] causing the death of another person through the  
45-33 negligent or criminal operation of a [commercial] motor vehicle; or

45-34 (E) [~~(7)~~] driving a commercial motor vehicle  
45-35 while the person's commercial driver's license is revoked,  
45-36 suspended, or canceled, or while the person is disqualified from  
45-37 driving a commercial motor vehicle, for an action or conduct that  
45-38 occurred while operating a commercial motor vehicle;

45-39 (3) for refusing to submit to a test under Chapter 724  
45-40 to determine the person's alcohol concentration or the presence in  
45-41 the person's body of a controlled substance or drug while operating  
45-42 a motor vehicle in a public place; or

45-43 (4) if an analysis of the person's blood, breath, or  
45-44 urine under Chapter 724 determines that the person:

45-45 (A) had an alcohol concentration of 0.04 or more,  
45-46 or that a controlled substance or drug was present in the person's  
45-47 body, while operating a commercial motor vehicle in a public place;  
45-48 or

45-49 (B) had an alcohol concentration of 0.08 or more  
45-50 while operating a motor vehicle, other than a commercial motor  
45-51 vehicle, in a public place.

45-52 (c) A person who holds a commercial driver's license is  
45-53 disqualified from operating a commercial motor vehicle for three  
45-54 years if:

45-55 (1) the person:

45-56 (A) is convicted of an offense [If a violation]  
45-57 listed in Subsection (b)(2) and the vehicle being operated by the  
45-58 person was transporting a hazardous material required to be  
45-59 placarded; or

45-60 (B) refuses to submit to a test under Chapter 724  
45-61 to determine the person's alcohol concentration or the presence in  
45-62 the person's body of a controlled substance or drug while operating  
45-63 a motor vehicle in a public place and the vehicle being operated by  
45-64 the person was transporting a hazardous material required to be  
45-65 placarded; or

45-66 (2) an analysis of the person's blood, breath, or urine  
45-67 under Chapter 724 determines that while transporting a hazardous  
45-68 material required to be placarded the person:

45-69 (A) while operating a commercial motor vehicle in

46-1 a public place had an alcohol concentration of 0.04 or more, or a  
46-2 controlled substance or drug present in the person's body; or  
46-3 (B) while operating a motor vehicle, other than a  
46-4 commercial motor vehicle, in a public place had an alcohol  
46-5 concentration of 0.08 or more [~~(b) occurred while the person was~~  
46-6 ~~transporting a hazardous material required to be placarded, the~~  
46-7 ~~person is disqualified for three years]~~.

46-8 (d) A person is disqualified from driving a commercial motor  
46-9 vehicle for life:

46-10 (1) if the person [~~+~~  
46-11 [~~(1)~~] is convicted [~~of~~] two or more times [~~violations~~]  
46-12 of an offense specified by Subsection (b)(2) [~~(b)~~], or a  
46-13 combination of those offenses, arising from two or more separate  
46-14 incidents; [~~or~~]

46-15 (2) if the person uses a [~~commercial~~] motor vehicle in  
46-16 the commission of a felony involving:

46-17 (A) the manufacture, distribution, or dispensing  
46-18 of a controlled substance; or

46-19 (B) possession with intent to manufacture,  
46-20 distribute, or dispense a controlled substance; or

46-21 (3) for any combination of two or more of the  
46-22 following, arising from two or more separate incidents:

46-23 (A) a conviction of the person for an offense  
46-24 described by Subsection (b)(2);

46-25 (B) a refusal by the person described by  
46-26 Subsection (b)(3); and

46-27 (C) an analysis of the person's blood, breath, or  
46-28 urine described by Subsection (b)(4).

46-29 (e) A person may not be issued a commercial driver's license  
46-30 and is disqualified from operating a commercial motor vehicle if,  
46-31 in connection with the person's operation of a commercial motor  
46-32 vehicle, the person commits an offense or engages in conduct that  
46-33 would disqualify the holder of a commercial driver's license from  
46-34 operating a commercial motor vehicle, or is determined to have had  
46-35 an alcohol concentration of 0.04 or more or to have had a controlled  
46-36 substance or drug present in the person's body. The period of  
46-37 prohibition under this subsection is equal to the appropriate  
46-38 period of disqualification required by Subsections (a)-(d).

46-39 (f) In this section, "felony" means an offense under state or  
46-40 federal law that is punishable by death or imprisonment for a term  
46-41 of more than one year.

46-42 SECTION 10.03. Section 522.087, Transportation Code, is  
46-43 amended to read as follows:

46-44 Sec. 522.087. PROCEDURES APPLICABLE TO DISQUALIFICATION.

46-45 (a) A person is automatically disqualified under Section  
46-46 522.081(a)(1)(B), Section 522.081(b)(2) [~~522.081(b)(1), (3), (4),~~  
46-47 ~~(6), or (7)]], or Section 522.081(d)(2). An appeal may not be taken  
46-48 from the disqualification.~~

46-49 (b) Disqualifying a person under Section 522.081(a), other  
46-50 than under Subdivision (1)(B) of that subsection, Section  
46-51 522.081(b)(1), or Section 522.081(d)(1) or (3) is subject to the  
46-52 notice and hearing procedures of Sections 521.295-521.303. An  
46-53 appeal of the disqualification is subject to Section 521.308.

46-54 SECTION 10.04. Section 543.202(b), Transportation Code, is  
46-55 amended to read as follows:

46-56 (b) The record must be made on a form or by a data processing  
46-57 method acceptable to the department and must include:

46-58 (1) the name, address, physical description,  
46-59 including race or ethnicity, date of birth, and driver's license  
46-60 number of the person charged;

46-61 (2) the registration number of the vehicle involved;

46-62 (3) whether the vehicle was a commercial motor vehicle  
46-63 as defined by Chapter 522 or was involved in transporting hazardous  
46-64 materials;

46-65 (4) the person's social security number, if the person  
46-66 was operating a commercial motor vehicle or was the holder of a  
46-67 commercial driver's license or commercial driver learner's permit;

46-68 (5) the date and nature of the offense, including  
46-69 whether the offense was a serious traffic violation as defined by

47-1 Chapter 522;

47-2 (6) whether a search of the vehicle was conducted and  
47-3 whether consent for the search was obtained;

47-4 (7) the plea, the judgment, whether the individual was  
47-5 adjudicated under Article 45.051(c-1) or 45.0511(1)(1), Code of  
47-6 Criminal Procedure, and whether bail was forfeited;

47-7 (8) the date of conviction; and

47-8 (9) the amount of the fine or forfeiture.

47-9 SECTION 10.05. Section 543.101, Transportation Code, is  
47-10 repealed.

47-11 SECTION 10.06. (a) This article takes effect June 1, 2005.

47-12 (b) Sections 522.081 and 522.087, Transportation Code, as  
47-13 amended by this article, apply only to conduct that is engaged in or  
47-14 to an offense that is committed on or after the effective date of  
47-15 this article. Conduct that is engaged in or an offense committed  
47-16 before the effective date of this article is governed by Sections  
47-17 522.081 and 522.087, Transportation Code, as those sections existed  
47-18 immediately before the effective date of this article, and the  
47-19 former law is continued in effect for that purpose.

47-20 ARTICLE 11. MOTOR VEHICLE SALES TAX

47-21 SECTION 11.01. Section 152.002, Tax Code, is amended by  
47-22 adding Subsection (f) to read as follows:

47-23 (f) Notwithstanding Subsection (a), the total consideration  
47-24 of a used motor vehicle is the amount on which the tax is computed as  
47-25 provided by Section 152.0412.

47-26 SECTION 11.02. Section 152.041(a), Tax Code, is amended to  
47-27 read as follows:

47-28 (a) The tax assessor-collector of the county in which an  
47-29 application for registration or for a Texas certificate of title is  
47-30 made shall collect taxes imposed by this chapter, subject to  
47-31 Section 152.0412, unless another person is required by this chapter  
47-32 to collect the taxes.

47-33 SECTION 11.03. Subchapter C, Chapter 152, Tax Code, is  
47-34 amended by adding Section 152.0412 to read as follows:

47-35 Sec. 152.0412. STANDARD PRESUMPTIVE VALUE; USE BY TAX  
47-36 ASSESSOR-COLLECTOR. (a) In this section, "standard presumptive  
47-37 value" means the average retail value of a motor vehicle as  
47-38 determined by the Texas Department of Transportation, based on a  
47-39 nationally recognized motor vehicle industry reporting service.

47-40 (b) If the amount paid for a motor vehicle subject to the tax  
47-41 imposed by this chapter is equal to or greater than the standard  
47-42 presumptive value of the vehicle, a county tax assessor-collector  
47-43 shall compute the tax on the amount paid.

47-44 (c) If the amount paid for a motor vehicle subject to the tax  
47-45 imposed by this chapter is less than the standard presumptive value  
47-46 of the vehicle, a county tax assessor-collector shall compute the  
47-47 tax on the standard presumptive value unless the purchaser  
47-48 establishes the retail value of the vehicle as provided by  
47-49 Subsection (d).

47-50 (d) A county tax assessor-collector shall compute the tax  
47-51 imposed by this chapter on the retail value of a motor vehicle if:

47-52 (1) the retail value is shown on an appraisal  
47-53 certified by an adjuster licensed under Article 21.07-4, Insurance  
47-54 Code, or by a motor vehicle dealer operating under Subchapter B,  
47-55 Chapter 503, Transportation Code;

47-56 (2) the appraisal is on a form prescribed by the  
47-57 comptroller for that purpose; and

47-58 (3) the purchaser of the vehicle obtains the appraisal  
47-59 not later than the 20th day after the date of purchase.

47-60 (e) On request, a motor vehicle dealer operating under  
47-61 Subchapter B, Chapter 503, Transportation Code, shall provide a  
47-62 certified appraisal of the retail value of a motor vehicle. The  
47-63 comptroller by rule shall establish a fee that a dealer may charge  
47-64 for providing the certified appraisal. The county tax  
47-65 assessor-collector shall retain a copy of a certified appraisal  
47-66 received under this section.

47-67 (f) The Texas Department of Transportation shall maintain  
47-68 information on the standard presumptive values of motor vehicles as  
47-69 part of the department's registration and title system. The

48-1 department shall update the information at least quarterly each  
48-2 calendar year.

48-3 SECTION 11.04. Chapter 152, Tax Code, is amended by  
48-4 amending Section 152.121 and adding Section 152.123 to read as  
48-5 follows:

48-6 Sec. 152.121. TAX SENT TO COMPTROLLER. (a) After  
48-7 crediting the amounts as provided by Section 152.123, a [The]  
48-8 county tax assessor-collector shall send [the] money collected from  
48-9 taxes and penalties imposed by this chapter to the comptroller as  
48-10 follows:

48-11 (1) on the 10th day of each month if during the last  
48-12 preceding state fiscal year less than \$2 million of the taxes and  
48-13 penalties imposed by this chapter was collected by the office of the  
48-14 county tax assessor-collector;

48-15 (2) once each week if during the last preceding state  
48-16 fiscal year \$2 million or more, but less than \$10 million, of the  
48-17 taxes and penalties imposed by this chapter was collected by the  
48-18 office of the county tax assessor-collector; or

48-19 (3) daily (as collected) if during the last preceding  
48-20 state fiscal year \$10 million or more of the taxes and penalties  
48-21 imposed by this chapter was collected by the office of the county  
48-22 tax assessor-collector.

48-23 (b) Taxes on metal dealer plates collected by the Texas  
48-24 Department of Transportation shall be deposited by the department  
48-25 in the state treasury in the same manner as are other taxes  
48-26 collected under this chapter[-]

48-27 [~~(c) If the amount of net collections under Chapter 502,~~  
48-28 ~~Transportation Code, is insufficient to cover the amount of those~~  
48-29 ~~net collections authorized to be retained by a county as a~~  
48-30 ~~percentage of the tax and penalties collected under this chapter,~~  
48-31 ~~the comptroller shall on request of the county tax~~  
48-32 ~~assessor-collector authorize the county to retain a portion of the~~  
48-33 ~~tax and penalties collected under this chapter to cover the~~  
48-34 ~~deficiency].~~

48-35 Sec. 152.123. TAX RETAINED BY COUNTY. (a) The county tax  
48-36 assessor-collector shall calculate five percent of the tax and  
48-37 penalties collected by the county tax assessor-collector under this  
48-38 chapter. In addition, the county tax assessor-collector shall  
48-39 calculate each calendar year an amount equal to five percent of the  
48-40 tax and penalties that the comptroller:

48-41 (1) collected under Section 152.047 in the preceding  
48-42 calendar year; and

48-43 (2) determines are attributable to sales in the  
48-44 county.

48-45 (b) The county shall retain the following percentage of the  
48-46 amounts calculated under subsection (a) during each of the  
48-47 following fiscal years:

48-48 (1) in fiscal year 2005, 10 percent;

48-49 (2) in fiscal year 2006, 20 percent;

48-50 (3) in fiscal year 2007, 30 percent;

48-51 (4) in fiscal year 2008, 40 percent;

48-52 (5) in fiscal year 2009, 50 percent;

48-53 (6) in fiscal year 2010, 60 percent;

48-54 (7) in fiscal year 2011, 70 percent;

48-55 (8) in fiscal year 2012, 80 percent;

48-56 (9) in fiscal year 2013, 90 percent;

48-57 (10) in fiscal year 2014 and succeeding years, 100  
48-58 percent.

48-59 (c) The county shall credit the amounts retained under  
48-60 Subsection (b) to the county 's general fund.

48-61 SECTION 11.05. Section 502.102(b), Transportation Code, is  
48-62 amended to read as follows:

48-63 (b) Each Monday, a county assessor-collector shall credit  
48-64 to the county road and bridge fund an amount equal to the net  
48-65 collections made during the preceding week until the amount so  
48-66 credited for the calendar year equals the total of:

48-67 (1) \$60,000;

48-68 (2) \$350 for each mile of county road maintained by the  
48-69 county, according to the most recent information available from the



department, not to exceed 500 miles; and

~~(3) the amount retained under Section 502.1025 [an amount equal to five percent of the tax and penalties collected by the assessor-collector under Chapter 152, Tax Code, in the preceding calendar year; and]~~

~~[(4) an amount equal to five percent of the tax and penalties collected by the comptroller under Section 152.047, Tax Code, in the preceding calendar year].~~

SECTION 11.06. Chapter 502, Transportation Code, is amended by adding Section 502.1025 to read as follows:

Sec. 502.1025. ADDITIONAL AMOUNTS RETAINED BY A COUNTY.

(a) The county tax assessor-collector shall calculate five percent of the tax and penalties collected by the county tax assessor-collector under Chapter 152, Tax Code. In addition, the county tax assessor-collector shall calculate each calendar year an amount equal to five percent of the tax and penalties that the comptroller:

(1) collected under Section 152.047, Tax Code, in the preceding calendar year; and

(2) determines are attributable to sales in the county.

(b) A county tax assessor-collector shall retain the following percentage of the amounts calculated under subsection (a) during each of the following fiscal years:

(1) in fiscal year 2005, 90 percent;

(2) in fiscal year 2006, 80 percent;

(3) in fiscal year 2007, 70 percent;

(4) in fiscal year 2008, 60 percent;

(5) in fiscal year 2009, 50 percent;

(6) in fiscal year 2010, 40 percent;

(7) in fiscal year 2011, 30 percent;

(8) in fiscal year 2012, 20 percent;

(9) in fiscal year 2013, 10 percent;

(10) in fiscal year 2014 and succeeding years, 0 percent.

(c) The county shall credit the amounts retained under Subsection (b) to the county road and bridge fund. Money credited to the fund under this section may only be used for:

(1) county road construction, maintenance, and repair;

(2) bridge construction, maintenance, and repair;

(3) the purchase of right-of-way for road or highway purposes; or

(4) the relocation of utilities for road or highway purposes.

SECTION 11.07. Section 502.108(e), Transportation Code, is repealed.

ARTICLE 12. MISCELLANEOUS PROVISIONS

SECTION 12.01. Section 201.601, Transportation Code, is amended by adding Subsection (c) to read as follows:

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

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

SECTION 12.02. (a) The Texas Transportation Commission may sell the tract of land comprising the Texas Department of Transportation's Bull Creek campus at Bull Creek Road and 45th Street in Austin in accordance with the procedures for disposal of surplus land acquired for highway purposes under Subchapter B, Chapter 202, Transportation Code.

(b) The commission may retain ownership and control of:

(1) the portion of the Bull Creek campus used on the

50-1 effective date of this Act for the operations of the department's  
50-2 motor carrier division; and

50-3 (2) the parking facilities on Bull Creek Road used to  
50-4 serve the Bull Creek campus and the department's Camp Hubbard  
50-5 campus.

50-6 (c) Revenue from the sale of this property shall be  
50-7 deposited to the credit of the state highway fund.

50-8 (d) Before September 1, 2005, the commission may purchase or  
50-9 acquire by exercise of the power of eminent domain any portion of  
50-10 the State Aircraft Pooling Board property located at the site of the  
50-11 former Robert Mueller Municipal Airport in Austin that the  
50-12 commission determines is needed:

50-13 (1) as a replacement for property sold under  
50-14 Subsection (a) of this section;

50-15 (2) for the operation of an intelligent transportation  
50-16 system; or

50-17 (3) to locate other department facilities or offices.

50-18 (e) The department may relocate its displaced operations  
50-19 from the Bull Creek campus to the replacement property. If the  
50-20 State Aircraft Pooling Board property is not sufficient for the  
50-21 department's needs to relocate displaced operations and for other  
50-22 facilities or offices, the commission may also purchase or acquire  
50-23 by exercise of the power of eminent domain any property adjacent to  
50-24 that property that the commission determines necessary.

50-25 (f) This section does not require the commission to relocate  
50-26 all or a portion of the department's displaced operations from the  
50-27 Bull Creek campus to property acquired under this section.

50-28 (g) Section 31.158, Natural Resources Code, does not apply  
50-29 to a transaction authorized by this section.

50-30 SECTION 12.03. (a) On behalf of the state, the Texas  
50-31 Building and Procurement Commission shall sell to the Texas  
50-32 Department of Transportation the following state-owned land on the  
50-33 site of the former Robert Mueller Municipal Airport in Austin:

50-34 (1) the 3.010-acre tract of land located at 4900 Old  
50-35 Manor Road; and

50-36 (2) any other portion of state-owned land that the  
50-37 Texas Department of Transportation needs to relocate the operations  
50-38 carried out at its Bull Creek Campus at Bull Creek Road and 45th  
50-39 Street in Austin.

50-40 (b) The Texas Department of Transportation shall purchase  
50-41 the land before September 1, 2005.

50-42 (c) Section 31.158, Natural Resources Code, does not apply  
50-43 to a real estate transaction authorized by this section.

50-44 SECTION 12.04. Section 222.103(h), Transportation Code, is  
50-45 amended to read as follows:

50-46 (h) Money granted by the department each [~~federal~~] fiscal  
50-47 year under this section may not exceed \$800 million [~~30 percent of~~  
50-48 ~~the obligation authority under the federal aid highway program that~~  
50-49 ~~is distributed to this state in that year~~]. This limitation does  
50-50 not apply to money required to be repaid.

50-51 ARTICLE 13. GENERAL PROVISIONS; EFFECTIVE DATE

50-52 SECTION 13.01. Money required to be deposited to a specific  
50-53 fund or account by a change in law made by this Act is exempt from  
50-54 Section 403.095, Government Code.

50-55 SECTION 13.02. Except as otherwise provided by this Act,  
50-56 this Act takes effect September 1, 2003.

50-57 \* \* \* \* \*