



FOCUS *report*

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Topics for the 86th Legislature

The Texas Legislature will consider a wide variety of topics when it convenes in regular session on January 8, 2019. Lawmakers are expected to consider proposals related to school finance, property taxes, costs incurred from Hurricane Harvey, school safety, criminal penalties, transportation funding, and Medicaid managed care contracts, among others. This report highlights many, although by no means all, of the issues the 86th Legislature may consider during its 2019 regular session.

A total of 32 agencies are under review this session by the Sunset Advisory Commission, including the Texas Alcoholic Beverage Commission, the Texas Medical Board, the Texas Department of Public Safety and the Texas Department of Motor Vehicles. During each regular legislative session, the commission reviews state agencies based on a schedule established in law and provides recommendations to the Legislature on whether to continue each agency and how to improve its functions.

Appropriations and spending

When the 86th Legislature writes the state budget for fiscal 2020-21, it will consider agency spending requests in the context of expected state revenue. Some proposals for state spending are discussed in this report under specific topic categories.

The Legislature will consider many requests for spending resulting from Hurricane Harvey and related flooding that occurred in August 2017. The Legislative Budget Board (LBB) is expected to release updated estimates of agency expenditures and projected costs from the storm in late December. In fiscal 2017 and 2018, several agencies expended a mix of state and federal funds to deal with the aftermath of the storm. Major costs were incurred by the Health and Human Services Commission (HHSC), Department of Public Safety, and the General Land Office. The Texas Education Agency (TEA) is estimating \$426 million in school funding costs from Hurricane Harvey. These costs include funding for shifts in school district enrollment, declines in property value in 12 districts that reappraised 2017 taxable values, additional students who qualified for the compensatory education allotment, and facilities damage for certain districts. TEA estimates it could cost another \$865 million if the

86th Legislature decides to hold additional districts harmless for the loss of local property tax in the 2018-19 biennium.

In January 2019, the comptroller's *Biennial Revenue Estimate, 2020-21* will report the amount of revenue available for appropriation by the Legislature for the next biennium. In July 2018, the comptroller revised the previous revenue estimate to say the state would end fiscal 2019 with a cash balance of about \$2.7 billion. That was an increase of \$94 million over the estimate made in October 2017 when the budget was certified.

State agencies were instructed to submit spending requests for general revenue and general revenue dedicated funds that do not exceed the amounts expended in fiscal 2018 and budgeted for 2019.

Funds for certain programs were exempted from this baseline request limit, including amounts necessary to maintain funding for the Foundation School Program and Child Protective Services and to maintain public safety resources in the state's border region. The instructions also exempt from the spending limit the money used to maintain funding for behavioral health services programs, which could apply to several state agencies. Also exempt from the limit were funds needed to maintain current benefits and eligibility in Medicaid, the Children's Health Insurance Program (CHIP), foster care programs, adoption subsidies programs, and the permanency care assistance program, which provides financial support under certain circumstances to relatives and others who become foster parents. Agencies were allowed to include enough funds for projected caseload growth in the baseline requests for these programs.

Agencies also were required to submit details on how they would reduce their baseline request for general revenue and general revenue dedicated funds by 10 percent in 2.5 percent increments.

Budget format. The 86th Legislature could debate whether to revise the way the state's budget is developed and formatted, including by using programs, rather than strategies, for listing appropriations and considering "zero-based budgeting," in which each item in an agency's budget is set at zero at the beginning of the budget-writing process. The budget instructions sent to agencies in June said that at the direction of either the LBB or the Office of the Governor, agencies could be required to submit additional information, including zero-based budget information.

Strategic fiscal review of certain agencies. This budget cycle, 12 agencies will undergo strategic fiscal review, a process designed to examine the performance and cost-effectiveness of state agency operations. As part of the process, the LBB collects detailed data on an agency's programs to examine alternative program funding levels and methods. It also studies the relationship of an agency's programs to its mission and statutes, as well as an agency's implementation of directives and use of certain funds for programs. The 12 entities to undergo review, which represent eight budget articles, are:

- the State Office of Risk Management;
- the Health and Human Services Commission – Office of Inspector General;
- the Teacher Retirement System;
- the Veterinary Medical Diagnostic Laboratory;
- the Institutions of Higher Education Non-Formula Support Items – Public Service;
- the Office of Court Administration, Texas Judicial Council;
- the Alcoholic Beverage Commission;
- the Military Department;
- the Animal Health Commission;
- the Parks and Wildlife Department;
- the Workforce Commission; and
- the Department of Licensing and Regulation.

Lawmakers may consider whether to extend the use of strategic fiscal review of the agencies' budgets.

Supplemental appropriations for fiscal 2019. The 86th Legislature will consider additional spending for the current fiscal year, including for Medicaid-related costs. HHSC estimates it will not be able to make payments to Medicaid providers beginning May 2019 without supplemental funding. The most recent estimate available for the Medicaid- and CHIP-related shortfall in the budget is \$1.4 billion in general revenue. Other supplemental appropriations could be considered, including for Hurricane Harvey-related expenses for school districts.

Rainy day fund. Legislators may consider proposals to use the state's Economic Stabilization Fund ("rainy day fund") for fiscal 2019 spending or for spending in the upcoming fiscal 2020-21 biennium. They may consider proposals to use part of the fund for unmet state needs, infrastructure projects, or to reduce taxes. Lawmakers could debate using the rainy day fund to pay for Hurricane Harvey relief and rebuilding efforts as well as for other

purposes, such as debt relief. As required by Government Code, sec. 316.092, the Select Committee to Determine a Sufficient Balance of the Economic Stabilization Fund recently determined \$7.5 billion to be a sufficient minimum balance for the fund for fiscal 2020-21.

Lawmakers also could discuss changing how the fund may be spent by altering the voting thresholds for appropriating money from the fund, adjusting the fund's cap or sufficient balance requirements, or revising how the fund may be invested to include putting a portion of it in higher-return investments.

Spending limits. Legislators may consider revising the current limits on state expenditure growth or imposing new ones. This could include proposals to limit the rate of expenditure growth to a measure based on population and inflation or another similar measure. Other proposals would apply limits on expenditures to all spending rather than a portion of it.

The current limit on expenditure growth requires that the state calculate the growth rate of the Texas economy, which currently is based on personal income. Proposals to revise the current method for determining the growth rate could be considered.

Taxes and revenue

The 86th Legislature may consider a number of proposals to reform the property tax system, as well as proposals to change the franchise tax and how the state captures online sales tax revenues.

Property tax. Several property tax measures may be considered in 2019, including replacing the property tax, capping property tax revenue growth, amending rollback election policies for local rate increases, and expanding transparency requirements for proposed tax increases.

Replacing property taxes. Legislators may consider reducing or eliminating local property taxes that fund the maintenance and operations of public schools. Proposals may include replacing the revenue lost from reducing property taxes by ending certain tax exemptions, increasing the sales tax on certain items, or expanding the base of the sales tax to include certain business services, such as accounting or legal services.

Revenue growth cap. The 86th Legislature may consider establishing a growth cap of 2.5 percent on the amount of property tax revenue a local taxing unit may collect in a year.

Rollback elections. Current law allows voters to petition a taxing unit that increases tax rates by 8 percent in a year to trigger a rollback election. Lawmakers may consider decreasing the rollback rate or requiring an increase in a tax rate that exceeds the rollback rate to automatically trigger an election without petition. Proposals also may decrease the number of signatures needed for a successful petition of a rollback election or require rollback elections to be held during general elections in November.

Transparency. In 2019, legislators may examine proposals to require local taxing entities to change the way they inform homeowners of property tax increases. Proposals may include changing the effective tax rate formula, changing the process by which property owners are informed of a proposed tax increase, or requiring appraisal districts to create websites containing information on property taxes.

Property appraisals. Lawmakers may consider measures to change appraisal district policies, such as requiring appraisal district directors to be locally elected officials rather than being appointed by local taxing units. Proposals may be introduced to prohibit taxing unit employees from serving with an appraisal district or review board. Legislators also may consider increasing training requirements and adding term limits for appraisal review board members.

Property reappraisals after disasters. The impact of Hurricane Harvey on property values could prompt lawmakers to consider how property affected by a disaster is assessed and taxed. Taxing units are allowed to request reappraisal of property damaged in a disaster, and some school districts did so after Harvey. Proposals considered last session to require property reappraisals after a disaster declaration could be discussed again in 2019.

Franchise tax. Lawmakers may consider changing the franchise tax, also known as the margins tax, which is imposed on businesses operating in the state. The Legislature may examine proposals to simplify franchise tax formulas, reduce tax rates, or phase out the tax completely.

Online sales tax revenues. In 2018, the U.S. Supreme Court reversed a previous decision that retailers must collect sales tax only in states where they had a substantial physical

presence. Legislators may consider measures to change the tax structure to capture online sales tax revenues or to require more internet retailers to collect taxes.

Supermajority vote. Legislators may consider measures requiring any new tax or tax increase to be approved by a vote of two-thirds of the members of each house.

Business and economic development

The 86th Legislature may consider proposals to revise occupational licensing and to continue economic development incentive programs.

Occupational licensing. The Legislature may consider proposals to reduce certain education and training requirements for occupational licensing or to streamline the process for obtaining licenses. Discussions could include revising restrictions on occupational licensing to make it possible for more individuals with criminal convictions to obtain some licenses. Lawmakers might discuss prohibiting a state licensing agency from denying a professional license due to an applicant's default on student loan repayments. Lawmakers also may consider measures expanding reciprocity for individuals with licenses from other states or allowing unlicensed individuals to work in an occupation if they disclose to prospective customers that they are not licensed in Texas.

Recent court decisions have recognized that having a controlling number of market participants on a regulatory board can lead to complaints about anti-competitive behavior. The 86th Legislature might consider legislation to adjust the membership of occupational licensing boards to ensure they have a majority of public members rather than active market participants.

Wage issues. Lawmakers may discuss certain wage issues, including legislation or a constitutional amendment to increase the minimum wage above the current rate, which follows the federal standard, proposals to allow cities and counties to set a minimum wage above the state rate, and measures prohibiting employers from discriminating in compensation on the basis of an employee's sex.

Business incentives. The state employs several programs for economic development under chs. 312 and 313 of the Tax Code, including the Texas Enterprise Fund and property tax abatement policies.

Enterprise Fund. Legislators may consider proposals to require a certain minimum balance in the Enterprise Fund at the beginning of each biennium to use for economic development incentives. Measures also may focus on increasing awareness or use of incentives in underserved regions of the state or on increasing transparency of the Enterprise Fund awards process.

Property tax abatement. Current law allows local governments to temporarily reduce property taxes for businesses that develop or improve the property under their jurisdiction. The chapter is set to expire on September 1, 2019. Lawmakers may debate measures either to continue or discontinue property tax abatement authority.

E-Verify. The 86th Legislature may consider requiring businesses that contract with a state agency to use the federal E-Verify system to check whether job applicants are legally authorized to work in the United States. State agencies and universities are currently required to use the E-Verify system.

Criminal justice and public safety

Lawmakers may consider creating new criminal offenses and revising criminal procedures. Discussions could include proposals to reduce the number of jailable offenses and to expand use of the cite-and-summons law, which allows peace officers to issue a citation and a summons to appear in court rather than to arrest and take a suspect to jail. Criminal offenses outside the Penal Code could be examined to determine if they are too broad, would be better handled by civil law, or are unnecessary because they involve actions covered by other laws.

Bail and pre-trial detention. Legislators could consider several proposals for how those accused of a crime are handled after arrest and before trial. Currently, after an arrest, individuals must be brought before a magistrate within 48 hours to be informed of charges and certain rights. Decisions about releasing a defendant on bail are made by the magistrate at this proceeding.

Local bail-setting practices are being challenged in several ongoing lawsuits, prompting changes in some of the state's largest counties and discussions about potential statewide laws. Debate may include when to use personal bonds that do not require cash or other sureties, requiring release of those who are granted bail but cannot afford it, providing lawyers at bail hearings, and restricting who may be released on bail.

Some counties currently use pre-trial assessments of arrestees' public safety and flight risk to inform magistrates during the initial bail-setting process. Proposals could be made to require assessments in all jurisdictions for those arrested for felonies and more serious misdemeanors. Debate could include how best to supervise those released into the community and funding for local pre-trial supervision.

Drug offenses. The Legislature could consider reducing penalties for possession of small amounts of marijuana or other drugs. This could include reducing some penalties to Class C misdemeanors or replacing criminal penalties with civil penalties, such as a fine. Proposals could emerge to legalize marijuana following the model of other states where it is taxed and regulated similar to alcohol.

Civil asset forfeiture. Lawmakers may consider requiring a criminal conviction before a person's assets seized by a law enforcement agency and allegedly related to a crime could be forfeited to a government agency. Discussions may include whether a criminal conviction should be required before property is taken from its owner, the standard of proof required to take property under civil forfeiture laws, how owners can prove their innocence and have property returned, and what entity should receive forfeited property or its proceeds. Legislators also could discuss whether to limit participation in a federal program that allows seized assets to be shared by state and federal officials.

Grand juries. In 2015, the 84th Legislature revised the state's system for selecting grand jurors to require that they be selected and summoned in the same way as panels for civil trials in district courts. The 86th Legislature could consider how this has worked and debate changes to the selection process and grand jury operations. Proposals that may be considered include allowing lawyers for the accused to be present when grand jurors hear evidence and information and requiring prosecutors to present grand juries with evidence that is favorable to the accused.

State jails. Lawmakers could review how the state jail system has operated since the creation of state jail felonies in 1993. Those found guilty of state jail felonies currently can serve from 180 days to two years in a state jail. There is no release from state jails on parole supervision before a sentence is completed, but judges may grant early release to offenders under certain circumstances. At the end of September 2018, the Texas Department of Criminal Justice (TDCJ) held about 7,300 state jail felons in 17 state jails.

State jails also housed about 14,500 inmates awaiting transfer to other TDCJ facilities.

The recidivism rate of state jail felons and the adequacy of treatment, rehabilitation, aftercare, and re-entry programs in state jails could be discussed in 2019. Discussions may include whether to increase the pre-trial diversion of offenders from state jails into supervision programs with treatment and rehabilitation and whether some penalties should be revised so more offenders would be placed on probation rather than sent to state jail.

Juvenile justice. Legislators may debate ways to continue placing juvenile offenders under the supervision of local communities rather than in state custody, including proposals to close some state facilities. In October 2018, the Texas Juvenile Justice Department had custody of about 1,140 youths, down from nearly 5,000 in 2005. Legislators could discuss expanding local juvenile justice services by moving funding from the state to counties for local juvenile probation departments.

Age of criminal responsibility. Lawmakers may consider whether 17-year-olds should be subject to the adult or juvenile criminal justice systems. Texas is one of a small number of states in which 17-year-olds accused of committing crimes enter the adult criminal justice system, rather than the juvenile system. Legislation to change this failed in the 2015 and 2017 legislative sessions but could be considered again in 2019.

Texas Department of Public Safety Sunset. The Texas Department of Public Safety (DPS) is undergoing review this session by the Sunset Advisory Commission. Review will focus on administrative operations and non-law enforcement functions. Lawmakers could consider recommendations to transfer the motorcycle safety program to the Department of Licensing and Regulation, analyze the potential transfer of the driver license program to the Texas Department of Motor Vehicles, and eliminate certain licenses and registrations.

Border security. The 86th Legislature may discuss the appropriate level of funding for border security. Total state funding for border security in fiscal 2018-19 was \$800 million, with \$694.3 million going to DPS. Legislators also could debate the way state-funded border security efforts are measured and evaluated. The Legislative Budget Board is collecting expenditure and performance data that could be discussed during deliberations on border security spending.

Legislators also could debate the type of information collected and reported by DPS about its activities on the border.

Immigration. The 86th Legislature may consider revising SB 4, enacted by the 85th Legislature in 2017, which prohibits local government entities from adopting, enforcing, or endorsing certain policies that prohibit or limit the enforcement of immigration law. Other proposals could include requiring law enforcement officers to collect information during traffic stops about whether they inquired about immigration status.

Mental health. Lawmakers could discuss mental health treatment and services in the criminal justice system, including for those held in local jails. The 85th Legislature revised several laws in this area, including laws on the identification of arrestees who might have a mental illness or an intellectual disability and the diversion of certain persons from the criminal justice system to treatment. The implementation of these laws could be examined, as well as court-ordered mental health treatment for those accused of crimes, both outpatient and inpatient. Discussions could include revising the criteria a court uses when ordering involuntary mental health treatment, educating judges on the process, and increasing funding for local mental health outpatient treatment services.

Human trafficking. The 85th Legislature in 2017 enacted several changes to human trafficking laws, including increasing penalties for some related crimes, requiring commercial driver's license training programs to include information on preventing human trafficking, and expanding membership on the Texas Human Trafficking Prevention Task Force. The 86th Legislature could consider several proposals, including ones requiring prison time for certain crimes, increasing funding and training for law enforcement agencies to combat human trafficking, and making it a crime to operate a "stash house," used for organized crime or to facilitate human trafficking.

Health and human services

Proposals to strengthen Medicaid managed care services and the foster care system could dominate the 86th Legislature's discussion on health and human services. Lawmakers also could consider measures to expand prevention and treatment options for individuals who are at risk for or struggling with substance abuse and mental health issues.

Sunset review of professional boards. Several state health professional boards will undergo review by the Sunset Advisory Commission this session, including the Texas Medical Board, the Texas State Board of Examiners of Professional Counselors, the Texas State Board of Examiners of Marriage and Family Therapists, the Texas State Board of Social Worker Examiners, and the Texas State Board of Examiners of Psychologists. Lawmakers may consider recommendations to adopt the Interstate Medical Licensure Compact and establish in statute an advanced-level medical radiologic technologist certificate. A proposal may emerge to consolidate three of the behavioral health regulatory boards with the Board of Examiners of Psychologists to create the Texas Behavioral Health Executive Council.

Medicaid managed care. As most of the state's Medicaid programs continue transitioning to managed care, lawmakers may consider proposals to encourage health provider participation in the Medicaid network and to address provider reimbursement rates under managed care. Other proposals may include increasing transparency in the rate-setting process, developing more value-based payment models to improve quality care, and strengthening oversight of managed care contracts.

Child Protective Services. Lawmakers may consider proposals to reform Child Protective Services at the Department of Family and Protective Services, continuing efforts in previous sessions to reduce worker turnover and prevent child abuse and fatalities. Proposals may focus on increasing the state's foster care capacity by expanding community-based foster care (formerly known as foster care redesign), limiting caseloads for caseworkers, and increasing financial assistance for kinship caregivers. Other proposals may include expanding transitional living services for youth exiting the foster care system and reducing barriers to adoption.

Telemedicine. The 86th Legislature may consider proposals to expand access to telemedicine in rural areas and to address issues with health insurance reimbursement for this treatment modality, which uses advanced telecommunications technology to connect a health care provider with a patient in a distant location. Proposals could include increasing access to telemonitoring for patients with chronic conditions and those in correctional facilities, as well as addressing the quality of provider networks in rural areas.

Mental health. Lawmakers may consider proposals to address mental health treatment in Texas, including proposals

to enhance peer support services, address shortages of psychiatric treatment beds for both civil and forensic patients, and expand community treatment options. Other proposals could include establishing a statewide mental health screening program using telemedicine to identify K-12 students with mental health issues and increasing access to licensed professional counselors.

Maternal health and mortality. As maternal deaths in Texas continue to climb, the Legislature may consider proposals to increase access to pre- and post-natal health coverage for women, especially low-income women on Medicaid. Other proposals may focus on improving the accuracy of maternal death certificate data and developing programs to reduce risk factors, such as cardiovascular conditions, diabetes, and obesity.

Opioids and substance abuse. As part of the state's response to opioid abuse and addiction, lawmakers may consider proposals to establish limits on first-time opioid prescriptions, enhance the Prescription Monitoring Program, require electronic prescribing of certain controlled substances, and expand access to treatment for those addicted to opioids and other substances. Lawmakers also may consider recommendations to establish a "good Samaritan" defense to prosecution for certain drug offenses, a needle exchange program, and a statewide standing order to enable all pharmacies to provide naloxone to eligible persons without the pharmacy obtaining a physician's order.

Legislators could consider a recommendation from the Texas Judicial Council to create a statewide Opioid Task Force including local and state leaders, experts, and advocates. The task force would coordinate collaboration on responses to opioid abuse.

Scope of practice. Texas faces a health care practitioner shortage, particularly in rural areas. Lawmakers may consider proposals to expand the ability of advanced nurse practitioners and physician assistants to provide primary care. Other proposals to increase the number of health practitioners by expanding educational opportunities and revising licensure regulations to lower barriers to entry may be discussed.

Abortion. The Legislature could consider proposals to regulate abortion. This could include prohibiting a person from performing an abortion when a heartbeat is detected or restricting the use of telemedicine for women seeking emergency contraception.

Lawsuits. Lawmakers may consider proposals to limit lawsuits in which parents claim that a doctor failed to properly warn of the risk of conceiving or giving birth to a child with certain fetal anomalies.

Freestanding emergency rooms. As freestanding emergency rooms become more common in Texas, legislators may consider proposals to address related billing and advertising issues. Proposals may include requiring these facilities to clarify to patients whether they are in-network or out-of-network. Legislators also may consider proposals to expand consumer protections for balance billing, also known as surprise medical bills.

Public education

A report from a legislatively created commission to study and recommend improvements to the state's complex school finance system could form a basis for proposals to change the funding system, including increasing the state's share of school funding in relation to revenue from local property taxes. Other issues of interest to lawmakers may center on teacher pay proposals designed to reward exceptional teachers for working in schools with greater need and the ongoing funding shortfalls for the state's health care program for retired teachers. School safety improvements are also expected to be a topic for consideration in light of recent school shootings in Texas and other states.

School finance. The Texas Commission on School Finance, created by the 85th Legislature to make recommendations for improvements to the school finance system, has been meeting throughout 2018 ahead of a December 31 deadline for submitting its report. During the 2019 regular legislative session, lawmakers may consider proposals related to the commission's recommendations.

The commission's draft report recommends eliminating some aspects of the funding formulas, such as the cost-of-education index used to distribute \$3 billion a year to school districts based on regional cost adjustments that have not been updated in 27 years. The draft report recommends using savings from restructuring the index and other formula changes to fund programs that support instruction for certain student populations, such as those from low-income families, English learners, and students with dyslexia. The draft report also recommends increasing funding for certain students in kindergarten through third grade to improve third-grade reading proficiency and

rewarding districts with additional funds for each third-grade student who meets state reading standards. Another recommendation would reward schools with additional funding for graduating students who demonstrate postsecondary readiness and meet other criteria such as college enrollment or military enlistment.

Teacher pay. Lawmakers may consider a teacher pay raise or other compensation to keep high-quality teachers in the classroom. Proposals could emerge to use financial incentives to encourage the best educators as measured by school district evaluations to teach at lower-performing schools.

School safety. In response to recent school shootings in Texas and elsewhere, the governor issued recommendations in May 2018 on improving school safety. House and Senate committees also held hearings and issued reports focused on ways to reduce school violence. As a result of these efforts, the Legislature may consider funding for improved building security and statutory updates to school facilities standards. Recommendations to increase the number of law enforcement officers working in schools and of school employees trained for armed response under the state's school marshal program also could be discussed.

The recommendations from the governor and legislative committees also focused on ways to assess threats and address student mental health needs. The Legislature may discuss requiring schools to establish threat assessment teams, increasing funding to hire more school counselors and school social workers, and improving school culture through character education and positive behavior supports.

Special education. The Legislature may consider funding a \$50 million grant program sought by the Texas Education Agency (TEA) to help school districts provide compensatory services for those students who previously had not been properly identified as needing special education services. The funding request is related to TEA's plan to address critical findings from the U.S. Department of Education on deficiencies in federally mandated services for individuals with disabilities.

Retired teachers' health care. For the third consecutive session, the state's health insurance program for retired teachers is facing a major shortfall. The Teacher Retirement System of Texas estimates that TRS-Care will need at least \$410 million to remain solvent through fiscal 2020-21. In addition to making budgetary decisions related to the

shortfall, lawmakers may review plan design changes made during the 2017 session that reduced insurance plan options and increased premiums and out-of-pocket costs.

School choice. The 86th Legislature might debate proposals related to education options, such as charter schools, within the public school system. As charter school enrollment increases, proposals related to how charter schools are funded and decisions on which students to enroll could be discussed.

Lawmakers also could consider proposals to help families pay for education options outside the public school system. These proposals could be similar to bills passed by the Senate in 2017 that would have helped parents of low-income students and those with special education needs pay for certain educational expenses through state-funded education savings accounts and tax credit scholarships funded by entities that pay state insurance premium taxes.

High school graduation. During the 2015 and 2017 sessions, the Legislature enacted bills to allow certain high school students who had failed to pass one or two of the five state end-of-course exams (EOCs) to demonstrate their readiness for graduation. The legislation established individual graduation committees to administer additional assignments for students who had passed their required coursework and to determine if these students should receive their diplomas. Although the two previous Legislatures put a Sunset date on the alternate process, the 86th Legislature could consider making the individual graduation committees permanent. Lawmakers also could discuss proposals to reduce the number of EOCs and provide funding for students to take college readiness exams such as the SAT, ACT, or Texas Success Initiative.

Higher education

Proposals on higher education funding and the state's goal of increasing the percentage of adults with degrees and certifications likely will be considered by the 86th Legislature. Lawmakers may debate proposals to limit tuition increases, restructure financial aid programs, reduce excess college credit hours, and reduce duplication in higher education offerings.

College credit transferability. A legislatively mandated study by the Texas Higher Education Coordinating Board (THECB) found that students who attend community college and later transfer to a four-year institution are more

likely to accumulate excess college credit and take longer to graduate than students who do not transfer. Lawmakers could consider legislation to reduce excess semester credit hours, including restructuring the state's undergraduate core curriculum to ensure that those courses applied to most majors. Other topics of discussion could include increasing academic advising, extending requirements to file a degree plan to high school students enrolled in dual credit courses, and linking a portion of state funding to student outcomes, such as earning a degree or certification.

Reducing duplication in higher education offerings.

Following a controversial land purchase by the University of Texas System in Houston, lawmakers could discuss what role the state should have in overseeing development of new higher education institutions in geographical areas served by existing institutions.

Dual credit. Enrollment in dual credit programs, which allow high school students to earn both high school and college credit, has increased by 57 percent over a 10-year period, according to the THECB. Concerns have been raised about the efficiency of dual credit in helping reduce the time and cost for students to achieve a college degree or certification. Recommendations to strengthen student success in dual credit programs could include proposals to require high school students to demonstrate college readiness in the academic disciplines in which they propose to take dual credit courses. The 86th Legislature also could discuss proposals to ensure that students enroll in dual credit courses that will apply to their planned degree.

Higher education funding. As Texas strives to meet the THECB's goal of having 60 percent of Texans ages 25 to 34 attain a certificate or degree by 2030, issues related to higher education funding and student debt could be considered during the 2019 session. Proposals might emerge to increase state formula funding for institutions of higher education, restructure formula funding to reward institutions for graduating more students, and increase financial aid for needy students. Discussions also may include proposals to lower tuition or slow tuition growth and to enact a sales tax holiday for college textbooks.

Energy, environment, and natural resources

Prominent energy, environment, and natural resources topics may include proposals to manage the state's water resources and implement flood prevention strategies.

Lawmakers also may address proposed changes to the Texas Windstorm Insurance Association (TWIA) and discuss using unspent funds from programs designed to reduce emissions from vehicles.

River authorities Sunset review. The Guadalupe-Blanco River Authority, Lower Colorado River Authority, Nueces River Authority, and Red River Authority of Texas are undergoing review this session by the Sunset Advisory Commission. The review will focus on the river authorities' strategic planning and management. While the authorities are not subject to being abolished, lawmakers may debate recommendations such as requiring opportunities for public testimony at board meetings and other practices to improve accountability, openness, and transparency.

Windstorm insurance. TWIA is an insurance company created by the Legislature in 1971 to provide wind and hail insurance to coastal counties. Legislators may consider a 10 percent insurance rate increase requested by TWIA. Lawmakers also may consider proposals to phase out TWIA, which is under Sunset review, or proposals to change coverage options, update payment policies, or adopt a post-hurricane plan.

Vehicle emissions. Lawmakers may consider proposals for how to use unspent funds from the Texas Emissions Reduction Plan (TERP). Some fees collected that are dedicated to TERP have not been appropriated in recent years, and proposals may emerge to dedicate the unspent funds for their intended purpose of reducing vehicular emissions.

Water. The Legislature may consider proposals to address the water needs of the state's growing population, including options for developing new water sources and markets. Lawmakers may continue monitoring groundwater regulation by reviewing the performance of groundwater conservation districts and proposing changes to existing groundwater permitting processes. They also may consider the designation of brackish groundwater production zones and related permitting, as well as aquifer-wide management and permitting practices.

Statewide flood management. The 86th Legislature may discuss statewide flood risk management proposals, including updating flood mapping and rainfall modeling and identifying state flood risk reduction goals. Lawmakers may debate providing financial assistance for flood mitigation projects, such as additional flood control reservoirs, or

collecting and storing flood flows for future state water supply needs. Another discussion could center on what information is available to emergency responders, local governments, and citizens during a flood event and proposals to require certain types of related data and measurements to be available to stakeholders. Other proposals could focus on recommendations from the Texas State Flood Assessment. The 85th Legislature appropriated \$600,000 for the Texas Water Development Board to begin developing an overview of state flood risks and responses. The 86th Legislature may discuss ways to implement the flood assessment, including appropriate funding levels.

Electric grid security. Lawmakers may consider proposals to secure the state's electrical grid against vulnerabilities to electromagnetic, geomagnetic, physical, and cybersecurity threats. Proposals could include creating study committees, exempting certain information related to the grid from public information laws, providing funding to increase the grid's security, establishing a program to share cybersecurity information between utilities, and requiring utilities to contract only with certain approved IT providers.

Industrial hemp. The 86th Legislature may consider proposals to develop an industrial hemp market in Texas. Proposals may focus on processing and manufacturing requirements of hemp products, including feed, food, fiber, cosmetics, supplements, and building materials. Lawmakers may debate the definition of hemp, license or permit requirements for growers, regulation and certification of seeds, and legal protections.

Transportation

The 86th Legislature may consider options to revise transportation financing, including the use of toll roads, and proposals to end the use of red-light cameras and to revise or end the Driver Responsibility Program.

Transportation project financing. Legislators may re-examine dedicated funding sources for state transportation projects such as Proposition 1 and Proposition 7, funding mechanisms that supply money to the State Highway Fund from oil and gas severance tax and sales and use tax revenues respectively. Proposed measures may extend or revise the formulas for Proposition 1 and Proposition 7.

Lawmakers also may revise financing and contracting requirements for local transportation projects. Proposals

may include removing limitations on comprehensive demonstration agreements, expanding design-build contracting abilities, or expanding local pass-through financing options.

Toll roads. Lawmakers may consider several changes to the tolling system, including limiting toll charges for tolling authorities, requiring voter approval of new toll roads, or requiring tolls to be discontinued once toll revenues repay transportation project costs. Proposals also may include prohibiting the conversion of existing roads to toll roads and changing enforcement practices for habitual toll violators. Legislators also may debate the use of public-private partnerships, also known as comprehensive development agreements, for toll projects.

Red-light cameras. The Legislature may consider limiting the authority of local governments to levy penalties on tickets issued to red-light violators without a law enforcement officer present. Proposals may include eliminating red-light cameras or expanding the use of other precautionary lights or signage at traffic lights.

Driver Responsibility Program. Lawmakers may consider changes to the Driver Responsibility Program, which authorizes the Department of Public Safety (DPS) to impose surcharges on drivers who commit certain traffic offenses, in addition to fees and penalties for the offense. Under the program, a driver's license is suspended for failing to pay surcharges. Proposals may include:

- reducing surcharges or limiting the time frame during which they could be applied;
- removing the mandatory loss of license for nonpayment of surcharges;
- requiring DPS to increase or expand amnesty programs or indigency waivers;
- replacing the program with a local fine collection program; or
- eliminating the program.

Texas Department of Motor Vehicles Sunset. The Texas Department of Motor Vehicles is undergoing review by the Sunset Advisory Commission. Proposals may include restructuring the department's board and expanding vehicle title fraud safeguards.

Energy sector trucking. The Legislature may consider funding the Transportation Infrastructure Fund grant program for county roads impacted by overweight trucks

operating within the oil and gas industry. Other proposals to fund roadway reconstruction may include using a portion of the oil and gas severance tax to fund reconstruction, increasing the motor fuel tax, or incentivizing investments in pipelines or other alternative infrastructure for the transportation of goods.

Driver licenses. Lawmakers may debate proposals to expedite the driver license renewal process. They also may debate establishing a pilot program for DPS to issue digital personal identification and driver's licenses, which could be used as proof of licensure.

Government organization

The 86th Legislature may consider changes to how the state responds to natural disasters. It also may consider proposals to establish an online voting registration system, upgrade voting equipment, and change how the state awards contracts.

Disaster recovery. As areas affected by Hurricane Harvey continue to recover, the Legislature may consider recommendations from the Governor's Commission to Rebuild Texas to improve responses to future extreme weather events.

Redistricting. In August 2018, a panel of three federal judges ruled that House District 90 in Fort Worth must be redrawn. Legislators may consider proposals to redraw the district. Lawmakers also may consider a constitutional amendment establishing an independent redistricting commission and revising redistricting procedures.

Voting equipment replacement and upgrades. Lawmakers in 2019 may address concerns about election security and the vulnerability to hacking of direct-recording electronic (DRE) voting machines currently used in many large counties. Debate could focus on proposals to transition away from DREs and return to paper-based voting systems or to adopt new electronic machines that print out a record of each vote, which a voter could view and verify before leaving the polling place. This interim, the Senate Select Committee on Election Security reviewed voting security protocols, specifically the use of electronic voting machines and paper ballots. The committee issued its recommendations in December 2018.

Online voter registration. In April 2018, a federal judge ruled that Texas violated the National Voter Registration Act — also known as the Motor Voter Act — by failing to allow drivers to register to vote when they updated their driver license information online. Currently, drivers who renew their licenses in person at Department of Public Safety offices may register to vote, but drivers who update their licenses online are instead directed to a registration form that they must print out and send to their county registrar. The judge ordered the state to establish procedures to allow individuals to register when they renew their driver's license or update their address online. The ruling is under appeal.

In 2019, legislators may debate proposals that would allow eligible Texans to register to vote electronically. Currently, applicants must register in person, by mail, or through a combination of faxing and mailing. In 2017, the 85th Legislature considered several bills, including HB 143 by Israel, which would have required the secretary of state to implement an online voter registration program. Lawmakers may consider similar legislation in the upcoming session.

Statewide voter registration database. Lawmakers may consider how to enhance the security of Texas' statewide voter registration database and how it is accessed by county election staff. Texas has a decentralized, bottom-up system in which counties provide their own voter registration lists to the state. The Texas Election Administration Management (TEAM) database is a centralized, computerized statewide voter registration list administered by the secretary of state. It also supports election management, including candidate filing, election night reporting, ballot certification and election canvassing. TEAM is accessed by more than 2,000 county election and jury clerk staff via county computers. Prompted by concerns over the security of the current system, the 86th Legislature may consider proposals to require Texas counties to use computers provided by the state that would be used solely for the purpose of logging on to a secure environment to access TEAM.

Public pensions. The stability of certain municipal pension systems that are subject to joint administration by the Legislature and local officials could be discussed during the upcoming session. Lawmakers may consider proposals to increase contribution rates as well as reduce employee benefits and the assumed rate of return for underfunded pension systems, such as the Employees Retirement System and other smaller systems. Proposals also may include plan design changes for certain municipal retirement systems that

are facing major funding shortfalls, such as the Fort Worth Employees' Retirement Fund.

Public information. The 86th Legislature may address concerns about the effects of two 2015 Texas Supreme Court rulings on public information, *Boeing Co. v. Paxton* and *Greater Houston Partnership v. Paxton*. These rulings changed the way the Texas Public Information Act is interpreted for government contracts with private companies and the use of tax dollars in contracts with large nonprofit organizations. Lawmakers also may consider proposals to expedite agency responses to public information requests, to address whether dates of birth should be available in certain public records, and to award attorneys' fees to a requester under certain circumstances in a civil lawsuit. Lawmakers also may consider how governments obtain public records stored on private electronic devices.

Open Meetings Act requirements. Following concerns raised in the aftermath of Hurricane Harvey, the 86th Legislature may debate the applicability of certain Open Meetings Act requirements during a state or federally declared state of disaster or emergency. Lawmakers may consider proposals to modify the public notice posting requirements in certain circumstances as well as the requirement that governmental bodies first convene in an open meeting.

Cybersecurity. The Legislature may debate the appropriate level of funding for state operations related to cybersecurity, information technology, and cloud computing. The 85th Legislature in 2017 passed several bills on cybersecurity that outlined state agency requirements and Department of Information Resources (DIR) oversight responsibilities. Lawmakers in 2019 could address more areas of DIR oversight, local response to data breaches, efforts to increase the cybersecurity workforce, and proposals to allow other states access to Texas' Data Center Services Program. They also may continue evaluating legacy systems and their impact on cybersecurity and consider best practices in securing sensitive personal information held or used by public and private entities.

Government contracts. Lawmakers may consider the processes by which state agencies award, execute, manage, and monitor state contracts. Proposals to change state contracting could address the scoring guidelines for contract bids, vendor selection reporting and criteria, policies for identifying and tracking contract compliance issues, and oversight procedures for vendor performance.

Veteran issues. The 86th Legislature may consider policies aimed at helping the state's growing veteran population. Proposals could focus on addressing veteran homelessness, easing the transition from the military to the civilian workforce, and improving veterans' health and mental health, including improving access to and delivery of care. The Texas Veterans Commission is undergoing review this session by the Sunset Advisory Commission. Review of the agency will focus on setting performance targets, measuring impact to veterans, and planning for future veteran needs across all programs.

Regulatory issues

The 86th Legislature may consider proposals on several regulatory issues, including changing gun licensing fees and requirements, adjusting the way the state regulates alcohol, and making more resources available for the state's guardianship system. Lawmakers may also consider measures pre-empting some ordinances and regulations set by Texas cities.

Gun regulation. Legislators could debate changes to laws governing where individuals may possess firearms and proposals to change the fees for handgun licenses. Lawmakers also may consider proposals allowing people to carry handguns without a state license, sometimes referred to as "constitutional carry." Debate could include proposals to create a criminal offense for reckless discharge of a firearm and to require background checks for guns purchased at gun shows. Lawmakers also could examine the laws governing the storage of firearms and proposals that address new firearm technology, such as 3D-printed guns.

Proposals to create "red flag" laws that allow family members, prosecutors, and others to ask a court to temporarily take or restrict firearms from individuals who are a danger to themselves or others also may be considered. The laws, sometimes called "extreme risk protection orders," could allow courts to order mental health evaluations of the individuals.

Guardianship. The Legislature could continue to discuss guardians appointed by courts to make certain decisions on behalf of individuals with diminished capacity. The 85th Legislature in 2017 enacted several laws relating to guardians, including setting registration, training, and other standards for certain guardians and creating a central database of guardianships in Texas. The 85th Legislature also approved

SB 667 by Zaffirini, which would have established a statewide guardianship compliance program to provide assistance to courts handling guardianship cases, but the bill was vetoed. The 86th Legislature could revisit the issue, including by discussing proposals to create a statewide guardianship abuse, fraud, and exploitation deterrence program to help courts with guardianship cases and to establish courts that focus on guardianship issues, in a manner similar to current courts that focus on child protection cases.

Alcohol regulation. Lawmakers could explore several proposals on regulating and selling alcohol, including the repeal of laws that restrict alcohol sales on Sunday. The Texas Alcoholic Beverage Commission is undergoing review by the Sunset Advisory Commission this session, and as part of that review, legislators could debate proposals to reduce the number and type of licenses and permits issued by the agency. Legislators could consider regulating and overseeing on-demand delivery services for alcohol, such as ordering alcohol through apps or websites for home delivery. Proposals could include ensuring that alcohol is sold and delivered only to those old enough to legally buy and consume it. Other proposals could include allowing big-box retail chains to sell liquor.

Legislators may consider regulation of powdered alcohol, which can be added to water to make alcoholic beverages, such as vodka or rum, or a mixed drink such as a margarita or mojito. Texas law does not mention powdered alcohol, and in 2015 and 2017 lawmakers considered, but did not approve, proposals to ban the product or to explicitly legalize, tax, and regulate it.

Municipal pre-emption. The 86th Legislature may consider measures pre-empting certain regulations set by home-rule municipalities.

Paid sick leave. Certain Texas cities have passed ordinances to require businesses to provide paid sick leave for their employees. Lawmakers may consider a pre-emption measure prohibiting local governments from establishing or enforcing paid sick leave requirements.

Short-term rentals. The Legislature may consider measures pre-empting municipal regulations on short-term rental companies. Proposals may include establishing statewide short-term rental regulations or prohibiting cities from banning short-term rentals. Lawmakers also may consider regulating the collection of hotel occupancy taxes

and allowing the state to audit rental hosts or third-party booking platforms.

Single-use plastic bags. In June 2018, the Texas Supreme Court ruled that the ban on single-use plastic bags by several cities in the state was pre-empted by current state law that regulates solid waste disposal. Lawmakers may debate proposals to prohibit bag bans or to remove the conflicting law and allow cities to enforce them.

Judiciary and civil jurisprudence

Lawmakers could consider reducing or consolidating court fines and costs and increasing state funds used to provide basic legal services to low-income Texans. Proposals also could emerge to increase compensation for judges and increase the number and oversight of specialty courts.

Data collection. Legislators could debate a proposal to mandate collection of case-level data from all courts and magistrates and explore ways to pay for it. A June 2018 report by the Texas Judicial Council's Data Committee indicated that much of the data is aggregated on the county level and that it is difficult to gather certain information, such as the number of cases that involve opioids or fine-only cases involving juveniles.

Specialty courts. Lawmakers could discuss proposals to increase the use of specialty criminal courts in Texas. The state currently has almost 200 of these "problem solving" courts focusing on issues such as mental health, drugs, veterans, DWI, and domestic violence. In 2017, the Legislature authorized counties to create public safety employee treatment courts. The courts may operate in various ways, including by diverting people from the criminal justice system before a trial or coupling probation and treatment. The Office of the Governor's Criminal Justice Division currently has some oversight of the courts, and proposals could include increasing oversight of the courts by the judicial branch and creating a specialty court case management system. State funding for the courts also could be discussed.

Judicial salaries. Legislators may discuss proposals from the state Judicial Compensation Commission to increase judicial salaries. The general appropriations act sets state court judicial salaries based on certain statutory minimums. Government Code, sec. 659.012 establishes minimum salaries for state judges and specifies pay differentials among judges

at the three court levels: district courts, intermediate courts of appeals, and the highest appellate courts. The commission recommended a 15 percent increase in salaries for justices and judges on the Texas Supreme Court, the Court of Criminal Appeals, the 14 courts of appeals, and the district courts.

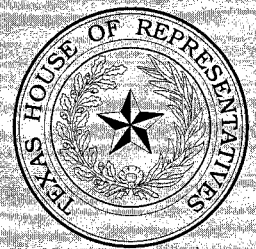
Court fees and costs. Legislators could discuss proposals to revise court fees and costs for both civil and criminal cases. There are currently hundreds of potential court costs, according to the Office of Court Administration. Proposals could include reducing the number and types of some fees.

In 2017, the Legislature revised the allocation of a fee charged upon certain criminal convictions in response to a court decision that it was unconstitutional to allocate

the fee for certain accounts because the funds were not going to a legitimate criminal justice purpose. The Legislature redirected portions of the fee to meet the court's requirement. Courts have since found other court costs unconstitutional, and proposals addressing these cases and redirecting the use of other fees could be proposed during the 86th Legislature.

The 85th Legislature in 2017 revised how criminal courts collect some fees and costs, and lawmakers could discuss implementation of the changes. The 2017 revisions included requiring courts to ask early in the process about an individual's ability to pay and allowing courts to impose community service or use installment plans and to waive fines or costs under certain circumstances.

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