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Research
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Highlights

of the 83rd TEXAS LEGISLATURE
A Summary of Enrolled Legislation

Volume I

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General Appropriations Act—S.B. 1

by Senator Williams—House Sponsor: Representative Pitts

Overview

The Conference Committee on S.B. 1 (committee), the General Appropriations Act, recommended \$197.0 billion in All Funds for state government operations for the 2014-2015 state fiscal biennium beginning September 1, 2013. This recommendation represents an increase of \$7.1 billion, or 3.7 percent, compared to the 2012-2013 biennium. The committee recommended \$101.4 billion in General Revenue (GR) and GR-Dedicated funds for the 2014-2015 biennium. This recommendation represents a \$7.6 billion increase, or 8.1 percent, from the 2012-2013 biennium.

The committee recommended \$4.7 billion in All Funds, including \$3.2 billion in GR and GR-Dedicated funds, for Article I-General Government; \$73.9 billion in All Funds, including \$30.8 billion in GR and GR-Dedicated funds, for Article II-Health and Human Services; and \$74.1 billion in All Funds, including \$53.2 billion in GR and GR-Dedicated funds, for Article III-Agencies of Education. This includes \$56.2 billion in All Funds for public education and \$17.8 billion in All Funds for higher education. The committee recommended \$727.9 million in All Funds, including \$543.6 million in GR and GR-Dedicated funds, for Article IV-The Judiciary; \$11.5 billion in All Funds, including \$8.8 billion in GR and GR-Dedicated funds, for Article V-Public Safety and Criminal Justice; \$4.74 billion in All Funds, including \$1.87 billion in GR and GR-Dedicated funds, for Article VI-Natural Resources; \$25.0 billion in All Funds, including \$1.18 billion in GR and GR-Dedicated funds, for Article VII-Business and Economic Development; \$784.9 million in All Funds, including \$740.6 million in GR and GR-Dedicated funds, for Article VIII-Regulatory; \$952.1 million in All Funds, including \$639.4 million in GR and GR-Dedicated funds, for Article IX-General Provisions; and \$358.3 million in All Funds, including \$358.1 million in GR and GR-Dedicated funds, for Article X-The Legislature.

Major Highlights

Criminal Justice

Appropriates \$5.1 billion in All Funds, including \$4.9 billion in GR and GR-Dedicated Funds for the incarceration of adult offenders in the Texas Department of Criminal Justice. Increases GR-related funding within the incarceration of adult offenders budget strategy by \$105.2 million for correctional officers' salary increases of five percent, \$60.8 million for correctional managed health care, \$20.1 million for contract correctional facilities' per diem increases, and \$6.1 million for 75 reentry transitional coordinators.

Decreases incarceration funding levels for contracted temporary capacity by \$15.0 million and capacity at contract prisons, private state jails, and residential pre-parole facilities by \$97.3 million based on Legislative Budget Board (LBB) projections of 152,289 in fiscal year (FY) 2014 and 153,474 in FY 2015 as the average number of offenders incarcerated.

Full-Time Equivalent Positions

Provides for 218,318 full-time equivalent positions (FTEs) in FY 2014 and 218,331 FTEs in FY 2015. Decreases FTEs by 14,464 from the budgeted level for FY 2013.

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Health and Human Services

Appropriates \$58.2 billion in All Funds, including \$23.3 billion in GR Funds and GR-Dedicated Funds, for the Texas Medicaid program for projected caseload growth and anticipated cost growth. Appropriates \$574.1 million in All Funds, including \$109.1 million in GR, for additional community-based long-term care services; \$246.6 million in All Funds, including \$103.0 million in GR, for nursing facility provider rate increases; and \$211.4 million in All Funds, including \$83.8 million in GR, to provide an increase in the hourly wage of certain attendant care workers and for rate enhancements across Medicaid community-based programs.

Appropriates \$260.4 million in All Funds, including \$166.2 million in GR and GR-Dedicated funds, for Child Protective Services at the Department of Family and Protective Services for strengthening kinship services, entitlement program caseload growth, rate increases for certain foster care providers, career ladder adjustments for caseworkers, and additional FTEs. Appropriates an additional \$263.4 million in GR funds to the Department of State Health Services for the expansion of behavioral health and substance abuse services, reduce community mental health services wait lists, and renovate and support state and community hospitals.

Higher Education

Appropriates \$16.6 billion in All Funds, including \$14.5 billion in GR and GR-Dedicated Funds for Higher Education. Increases formula funding by \$522.5 million and institutional enhancement funding by \$33.0 million in GR.

Increases funding for residency and graduate medical education at the Texas Higher Education Coordinating Board (THECB) and the health-related institutions by \$32.3 million from the 2012-2013 biennium base. Appropriates \$4.5 million in GR-Dedicated Trauma Care Funds to THECB for graduate level medical and nursing education programs due to the passage of H.B. 7. Increases GR funding for THECB by \$135.1 million for TEXAS Grants. Increases GR-Dedicated funding for the Physician Education Loan Repayment Program by \$28.2 million and Higher Education Group Insurance contributions by \$223.8 million.

Natural Resources

Appropriates \$155.2 million in GR-Dedicated Texas Emissions Reduction Plan (TERP) Funds to the Texas Commission on Environmental Quality (TCEQ) for additional TERP grants during the 2014-2015 biennium, which represents an increase of \$24.9 million from the 2012-2013 biennium base.

Appropriates \$83.5 million in GR Sporting Goods sales tax allocations, an increase of \$31.4 million from the 2012-2013 biennium level, for state park operations, maintenance, minor repairs and support, including maintaining operations of an estimated 20 state park sites and one regional office. Appropriates \$16.9 million in GR Sporting Goods sales tax allocations, an increase of \$15.5 million from the 2012-2013 biennium level, for local parks grants to large and small communities. Appropriates \$14.8 million in GR Funds, a \$10.8 million increase from the 2012-13 biennium, to the Soil and Water Conservation Board for flood control dam maintenance and structural repair projects. Appropriates \$208.0 million in GR-Dedicated Game, Fish, and Water Safety Funds, an increase of \$32.5 million from the 2012-2013 biennium level, to the Texas Parks and Wildlife Department (TPWD) for wildlife and fishery operations, including \$5.2 million

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for a helicopter for law enforcement as well as conservation purposes, \$10.7 million for license buyback programs and programs supported by freshwater, saltwater, migratory and upland game bird stamps, \$2.0 million for a contract with the Texas A&M Agrilife Extension Service to reestablish growth of quail populations, and \$8.0 million for repairs and improvements at freshwater fish hatcheries and wildlife facilities.

Public Education

Appropriates \$56.2 billion in All Funds, including \$37.5 billion in GR and GR-Dedicated funds, for public education, an increase of \$3.8 billion, or 7.3 percent from the 2012-2013 biennium base. Appropriates \$40.2 billion in All Funds, including \$32.2 billion in GR and GR-Dedicated funds, for the Foundation School Program (FSP), an increase of \$2.3 billion in All Funds and \$1.9 billion in GR and GR-Dedicated funds, from the 2012-2013 biennium base.

Appropriates \$330.0 million outside the FSP to the Texas Education Agency in fiscal year 2015 as one-time transition aid to school districts for newly-required retirement contributions. Increases funding for the Instructional Materials Allotment by \$230.6 million from the 2012-2013 biennial level of funding.

Increases funding for pre-Kindergarten grants by \$30.0 million, the Student Success Initiative by \$14.0 million, Communities in Schools by \$11.5 million, the Windham School District by \$8.0 million, Adult Basic Education by \$5.0 million, Teach for America by \$4.0 million, and Texas Advanced Placement Incentives by \$2.5 million.

State Employee Salary Increases

Appropriates \$246.6 million in All Funds, including \$167.1 million in GR and GR-Dedicated Funds, for an across-the-board pay raise for state employees of one percent with a \$50 per month minimum in FY 2014, and an additional two percent with a \$50 per month minimum in FY 2015. Provides that those state exempt employees who received a targeted pay increase, and higher education employees, except employees working for a Texas A&M service agency, are excluded.

Appropriates \$68.2 million in All Funds, including \$47.1 million in GR and GR-Dedicated Funds, for salary increases for certain Health and Human Services agencies employees, including \$32.7 million in All Funds, including \$13.8 million in GR Funds, for direct care staff at the Department of Aging and Disability Services (DADS) state supported living centers; \$14.8 million in GR Funds for psychiatric nursing assistants at Department of State Health Services state hospitals; and \$20.7 million in All Funds, including \$18.5 million in GR Funds, for a career ladder for workers and supervisor reclassification at the Department of Family and Protective Services.

Appropriates \$34.8 million in GR Funds for a 12 percent judicial pay raise for judges and those statutorily linked to state district judge pay. Provides \$1.2 million for similar increases for visiting judges. Appropriates \$126.6 million in GR Funds for a five percent salary increase of, beginning in FY 2014, for TDCJ correctional officers and juvenile correctional officers at the Texas Juvenile Justice Department. Appropriates \$102.8 million in All Funds, including \$17.2 million in GR and GR-Dedicated Funds, for salary increases for Schedule C law enforcement officers at the Department of Public Safety of the State of Texas (DPS), Texas Department of Criminal Justice (TDCJ), Texas Alcoholic Beverage Commission (TABC), and game wardens at Texas Parks and Wildlife Department (TPWD) equivalent to one-half of an equity

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adjustment plus a five percent raise in FY 2014, and a similar increase in FY 2015 resulting in a full equity adjustment plus a 10 percent raise compared to 2013 salary levels.

Teacher Retirement and Health Benefits

Appropriates \$3.24 billion in All Funds, including \$3.01 billion in GR Funds, for the state contribution for retirement benefits through the Teacher Retirement System (TRS) sufficient for a state retirement contribution rate of 6.4 percent of payroll in FY 2014 and 6.8 percent of payroll in FY 2015.

Provides for a contribution rate of up to 6.8 percent in FY 2014 contingent on enactment of S.B. 1458 and the availability of funds through excess appropriations for state contributions for TRS retirement and insurance in FY 2013 recovered through the statutory settle-up process.

Appropriates \$123.8 million for retiree health insurance, an increase of 33.3 percent above the 2012-2013 biennium, and provides for a statutorily-required state contribution to TRS-Care of 1.0 percent of public education payroll.

Transportation

Appropriates \$17.4 billion in All Funds for transportation planning and design, right-of-way acquisition, construction, and maintenance and preservation, including \$8.2 billion for maintenance and preservation of the existing transportation system, an increase of \$1.5 billion from the 2012-2013 biennial base; \$6.7 billion for construction and highway improvements, an increase of \$1.2 billion from the 2012-2013 biennial base; \$1.6 billion for transportation system planning, design, and management; and \$0.9 billion for right-of-way acquisition, a decrease of \$1.1 billion from the 2012-2013 biennial base.

Appropriates \$2.4 billion in All Funds for debt service payments and other financing costs for the Texas Department of Transportation's (TxDOT) borrowing programs, an increase of \$756 million from the 2012-2013 biennial base, including \$1.9 billion in Other Funds from the State Highway Fund and the Texas Mobility Fund, \$368.4 million in GR Funds, and \$125.7 million in Federal Funds from Build America Bond interest payment subsidies.

Vetoed

Vetoed amounts included approximately \$17.3 million in All Funds, including approximately \$12.5 million in GR funds, from S.B. 1. Vetoed by the governor were appropriations for Houston Area Research Council-Water Aquifer Research, the Travis County Public Integrity Unit, and appropriations representing contingency riders or contingent appropriations for bills that either did not pass or were vetoed by the governor.

Consolidation of Funds and Accounts for General Government Purposes—H.B. 6 *by Representative Otto et al.—Senate Sponsor: Senator Williams*

Historically, dedications of revenue for particular purposes have limited the legislature's flexibility in appropriating funds based on budgetary need and in using fund balances for other governmental purposes. Over 20 years ago, the legislature enacted provisions relating to the consolidation of funds in existence

before the end of the fiscal biennium. These provisions provided for the abolition of dedications in existence prior to the end of the next fiscal biennium, unless otherwise expressly exempted. The comptroller of public accounts of the State of Texas (comptroller) estimated general revenue dedicated (GR-D) account balances to be \$4.8 billion at the beginning of fiscal year (FY) 2014-2015. This bill:

Creates, re-creates, and abolishes certain state funds and accounts; dedicates and rededicates revenue; and exempts unappropriated money from use for general governmental purposes.

Use of Certain Statutorily Dedicated Revenue and Accounts and Rates For Certain Statutorily Dedicated Fees and Assessments—H.B. 7

by Representative Darby et al.—Senate Sponsor: Senator Williams

For more than 20 years, certain unspent dedicated revenue in the general revenue fund has counted toward overall budget certification. There is concern that these amounts have grown substantially during that time, and there have also been additional concerns expressed regarding allocations from the System Benefit Fund. This bill:

Requires the Legislative Budget Board (LBB) to develop and implement a process to review new legislative enactments that create dedicated revenue and the appropriation and accumulation of dedicated revenue and available dedicated revenue; develop and implement tools to evaluate the use of available dedicated revenue for state government financing and budgeting; and develop specific and detailed recommendations on actions the legislature is authorized to reasonably take to reduce state government's reliance on available dedicated revenue for the purposes of certification under Section 403.121 (Contents of Estimate) as authorized by Section 403.095 (Use of Dedicated Revenue). Requires LBB to incorporate into LBB's budget recommendations appropriate measures to reduce state government's reliance on available dedicated revenue for the purposes of certification under Section 403.121 as authorized by Section 403.095 and to include with the budget recommendations plans for further reducing state government's reliance on available dedicated revenue for those purposes for the succeeding six years. Requires LBB to consult the comptroller of public accounts of the State of Texas (comptroller) as necessary to accomplish those objectives.

Provides that, notwithstanding any other law, all interest or other earnings that accrue on all revenue held in an account in the general revenue fund any part of which Section 403.095 makes available for certification under Section 403.121 are available for any general governmental purpose, and requires the comptroller to deposit the interest and earnings to the credit of the general revenue fund.

Provides that the fee the Texas Commission on Environmental Quality (TCEQ) charges on all solid waste that is disposed of within this state is 94 cents per ton, rather than \$1.25 per ton, received for disposal at a municipal solid waste landfill if the solid waste is measured by weight. Provides that if the solid waste is measured by volume, the fee for compacted solid waste is 30 cents per cubic yard and the fee for uncompacted solid waste is 19 cents per cubic yard received for disposal at a municipal solid waste landfill. Provides that 66.7 percent of the revenue received by TCEQ and deposited in the state treasury to the credit of TCEQ is dedicated to TCEQ's municipal solid waste permitting programs, enforcement programs, and site remediation programs, and to pay for activities that will enhance the state's solid waste management program. Requires TCEQ to issue a biennial report to the legislature describing in detail how the money was spent. Authorizes the activities to enhance the state's solid waste management program to

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include certain activities. Provides that of the revenue received by TCEQ under Section 361.013 (Solid Waste Disposal and Transportation Fees), 33.3 percent is dedicated to local and regional solid waste projects consistent with regional plans approved by TCEQ in accordance with Chapter 361 (Solid Waste Disposal Act), Health and Safety Code, and to update and maintain those plans. Authorizes money in the account attributable to fees imposed under Section 361.138 (Fee on the Sale of Batteries) to be used for environmental remediation at the site of a closed battery recycling facility located in the municipal boundaries of a municipality if the municipality submits to TCEQ a voluntary compliance plan for the site and is paying or has paid for part of the costs of the environmental remediation of the site.

Authorizes money collected under Section 771.0711(b) (relating to requiring the Commission on State Emergency Communications to impose on each wireless telecommunications connection a 9-1-1 emergency service fee) to be used only for services related to 9-1-1 services, including automatic number identification and automatic location information services, or as authorized by Section 771.079(c) (relating to authorizing money collected under Section 771.0711(b) to be used only for certain 9-1-1-related services).

Authorizes money in the trauma facility and emergency medical services account to be appropriated to the Texas Higher Education Coordinating Board for graduate-level medical education programs or nursing education programs.

Requires the comptroller to assess against all insurers to which Chapter 2007 (Assessment for Rural Fire Protection), Insurance Code, applies amounts for each state fiscal year necessary, as determined by the commissioner of insurance, to collect a combined total equal to the lesser of the total amount that the General Appropriations Act appropriates from the volunteer fire department assistance fund account in the general revenue fund for that state fiscal year and \$30 million.

Provides that the oil and gas regulation and cleanup fund consists of certain money, including fees collected under Section 91.0115 (Casing; Letter of Determination), Natural Resources Code. Requires the Texas Railroad Commission (railroad commission) to adopt all necessary rules relating to activities regarding the use of alternative fuels that are or have the potential to be effective in improving the air quality, energy security, or economy of this state. Requires the railroad commission to use the oil and gas regulation and cleanup fund to pay for certain activities relating to the use of alternative fuels. Abolishes the Alternative Fuels Research And Education Fund and requires that any money, claims, or deposits be transferred to the undedicated portion of the general revenue fund.

Requires the comptroller, in addition to amounts appropriated to the Texas Parks and Wildlife Department (TPWD) from the proceeds described by Section 151.801(c) (relating to the use of proceeds from the collection of the taxes imposed by Chapter 151 (Limited Sales, Excise, and Use Tax), Tax Code, on the sale, storage, or use of sporting goods), Tax Code, to transfer to appropriate TPWD accounts amounts from those proceeds sufficient to fund the state contributions for employee benefits of TPWD employees whose salaries or wages are paid from TPWD accounts receiving the transfers. Requires the comptroller, not later than September 30, 2013, to eliminate all dedicated accounts established for specialty license plates and to set aside the balances of those dedicated accounts so that the balances may be appropriated only for the purposes intended as provided by the dedications.

Requires the Public Utility Commission (PUC) to set the nonbypassable system benefit fund fee at the amount of zero cents per megawatt hour for the period beginning September 1, 2013, and ending

September 1, 2016. Authorizes money in the system benefit fund to be appropriated through a program established by PUC to assist low-income electric customers by providing certain reduced rates. Provides that the amount of \$500 million is appropriated from the system benefit fund to PUC, in addition to other appropriations made from the system benefit fund by the 83rd Legislature, Regular Session, 2013, for the purposes of Section 39.9039 (Elimination of System Benefit Fund Balance), Utilities Code, for the period beginning on the effective date of this Act and ending August 31, 2014.

Requires TCEQ to annually prepare a report regarding the status of corrective actions for sites reported to TCEQ under Subchapter I (Underground and Aboveground Storage Tanks), Chapter 26 (Water Quality Control), Water Code, as having had a release needing corrective action. Sets forth the required contents of the report from TCEQ to the legislature.

Emergency Supplemental Appropriations and Transfer Authority—H.B. 10
by Representatives Pitts and Giddings—Senate Sponsor: Senator Williams

Each legislative session, state agencies project the costs of fulfilling their functions and providing important services for the following two-year budget period. This information and the biennial estimate of revenues submitted to the governor and the legislature before the convening of each regular session are key components in the construction of the General Appropriations Act. This bill:

Makes certain supplemental appropriations and gives direction and adjustment authority regarding certain appropriations. Makes adjustments to appropriations to certain agencies over certain time periods to address revised revenue estimates and supplemental needs.

Supplemental Appropriations, Reductions, and Adjustment Authority—H.B. 1025
by Representative Pitts—Senate Sponsor: Senator Williams

Each legislative session, state agencies project the costs of fulfilling their functions and providing important services for the following two-year budget period. This information, combined with the biennial estimate of revenues submitted to the governor and the legislature before the convening of each regular session, is a key component in the construction of the General Appropriations Act. This bill:

Makes certain supplemental appropriations and gives direction and adjustment authority regarding certain appropriations. Makes adjustments to appropriations to certain agencies over certain periods to address revised revenue estimates and supplemental needs.

Vetoed amounts included approximately \$517 million, including approximately \$191.4 million in General Revenue Funds, from H.B. 1025. Vetoed by the governor were appropriations to address repair and renovation needs at the Texas Department of Criminal Justice, Department of Housing and Community Affairs community-based prevention and intervention programs, transitional funding for a new university model start-up at the University of North Texas at Dallas, and certain higher education special item funding.

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Oyster Sales Account Funds Allocation and Abolishment of Oyster Advisory Committee—H.B. 1903 *by Representative Eiland et al.—Senate Sponsor: Senator Williams*

The 76th Legislature enacted laws to protect public health and the commercial oyster industry following a serious bacterial outbreak in Galveston Bay that closed the bay for fishing and related activities and virtually shut down the Texas oyster industry. The seafood safety laboratory at Texas A&M University at Galveston, which is federally certified to study and analyze organisms that may be associated with human illness resulting from the consumption of oysters and to monitor bacterial levels in oysters, supports the work of the Department of State Health Services (DSHS). DSHS is charged with monitoring bay water, collecting shellfish meat samples, and opening or closing oyster harvesting areas. Because of recent budget constraints, funding for the seafood safety laboratory has been largely reduced. The seafood safety laboratory cannot be sustained on current funding and could lose its federal certification, which would be a devastating blow to the Texas oyster industry. This bill:

Requires that two percent of the amount of the fees and penalties collected under Section 436.103 (Fee on Oyster Sales; Penalties), Health and Safety Code, before any other disposition of the fees and penalties is made, be deposited in the state treasury for appropriation for the use of the comptroller of public accounts of the State of Texas (comptroller) in the administration and enforcement of Section 436.103. Requires that the remainder of the fees and penalties collected under Section 436.103 be deposited to the credit of the oyster sales account in the general revenue fund to be allocated each year for certain oyster-related activities, including studying and analyzing organisms that may be associated with human illness and that can be transmitted through the consumption of oysters; and contributing to the support of the oyster shell recovery and replacement program created under Section 76.020 (Oyster Shell Recovery and Replacement Program), Parks and Wildlife Code.

Requires the comptroller at the beginning of each state fiscal year, after deducting the amount deposited into the state treasury for the comptroller's use, to allocate \$100,000 of the unencumbered balance deposited to the credit of the oyster sales account in the general revenue fund to Texas A&M University at Galveston for use in performing certain activities. Authorizes the remainder of the money in the oyster sales account to be allocated only for the purposes described by Section 436.103(e) (relating to requiring that two percent of the amount of the fees and penalties collected under Section 436.103 be appropriated for certain oyster-related activities), Health and Safety Code.

Repeals Subchapter A (Texas Oyster Program), Chapter 47 (Texas Oyster and Shrimp Program), Agriculture Code, and abolishes the oyster advisory committee established under Section 47.002 (Oyster Advisory Committee), Agriculture Code.

Salary Increases For Certain Employees of the Department of Public Safety—H.B. 2100 *by Representative Senfronia Thompson et al.—Senate Sponsor: Senator Williams*

The Texas Position Classification Plan, 1961, lays out salary classification groups for certain positions within the Department of Public Safety of the State of Texas (DPS). DPS troopers currently are compensated at a rate that is approximately 40 percent less than that of the highest paid law enforcement agents in the state, despite the challenging and changing threat environment faced by these troopers. In order to recognize and compensate troopers at a level commensurate with their performance, it is believed that troopers should be paid at a higher rate. This bill:

Authorizes DPS, notwithstanding any other provision of law and subject to the availability of money appropriated for that purpose, to pay its employees classified as Trooper Trainee, Probationary Trooper, and Trooper I at rates that exceed the maximum rates designated in Salary Schedule C of the position classification schedule prescribed by the General Appropriations Act for the state fiscal biennium ending August 31, 2013, for that position by up to 10 percent.

Authorizes DPS, notwithstanding Section 411.0162(a) (relating to authorizing DPS to exceed by up to 10 percent the maximum rates designated in Salary Schedule C of the position classification schedule prescribed by the General Appropriations Act), Government Code, or any other provision of law and subject to the availability of money appropriated for that purpose, in the state fiscal year beginning September 1, 2013, to pay its employees classified as Trooper Trainee, Probationary Trooper, and Trooper I at rates that exceed the maximum rates designated in Salary Schedule C of the position classification schedule prescribed by the General Appropriations Act for the state fiscal biennium ending August 31, 2013, for that position by up to five percent.

Fees Charged to Certain Recreational Vehicle Parks—H.B. 2152

by Representative Callegari—Senate Sponsor: Senator Lucio

Some municipalities have interpreted current statute to allow the municipality to assess state water fees on commercial recreational vehicle parks as if each parking space in the park is a separate, private residence. This bill:

Deletes existing text that requires that a municipally owned utility that provides nonsubmetered master utility service (service) to a recreational vehicle park to determine the rates for service on the same basis the utility uses to determine the rates for hotels and motels that serve transient customers and receive service from the utility.

Prohibits a municipally owned utility that provides service to a recreational vehicle park from charging a recreational vehicle park a fee that the utility does not charge other commercial businesses that serve transient customers and receive service from the utility.

Prohibits a district, notwithstanding any other provision of Section 49.351 (Fire Departments), Water Code, from charging a fee to a recreational park on the basis of connections the park provides for its transient customers. Requires that a fee charged to a recreational vehicle park be based on the park's nonsubmetered master meter connection.

Disposition of Certain Texas Department of Motor Vehicles Fees—H.B. 2202

by Representatives Pickett and McClendon—Senate Sponsor: Senator Williams

Primary functions of the recently created Texas Department of Motor Vehicles (TxDMV) include, among others, administering the collection of motor vehicle-related fees and regulating the sale of motor vehicles. Fees collected by TxDMV are used primarily to fund the state's highway system and TxDMV is currently funded by money appropriated from the state highway fund. Interested parties contend that TxDMV should be funded through administrative fees and other revenue collected by TxDMV. The parties are also of the

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opinion that TxDMV's fee structure is in need of simplification and that the board of TxDMV needs more flexibility with regard to its regulatory authority. This bill:

Establishes the Texas Department of Motor Vehicles Fund (TxDMV fund). Provides that the fund, unless otherwise dedicated by the Texas Constitution, consists of money appropriated by the legislature to TxDMV; money allocated to pay fund accounting costs and related liabilities of the fund; gifts, grants, and donations received by TxDMV; money required by law to be deposited to the fund; interest earned on money in the fund; and other revenue received by TxDMV. Prohibits money appropriated to TxDMV for Automobile Burglary and Theft Prevention Authority purposes and other revenue collected or received by the Automobile Burglary and Theft Prevention Authority from being deposited into the fund. Authorizes money that is required to be deposited in the state treasury to the credit of the TxDMV fund to be used by TxDMV only to support TxDMV's operations and the administration and enforcement of TxDMV's functions, or to pay the accounting costs and related liabilities for the fund, including fringe benefits, workers' compensation, and unemployment compensation. Requires that certain fees, civil penalties, and other monies collected under certain sections of the Occupations Code and the Transportation Code, or a percentage of those funds, notwithstanding any other law to the contrary, be deposited in or transferred to the state treasury to the credit of the TxDMV fund.

Provides that an amount in a retail installment contract is an itemized charge if the amount is not included in the cash price and meets certain criteria.

Requires the Texas Department of Transportation (TxDOT), on or before the fifth workday of each month, to remit to the comptroller of public accounts of the State of Texas (comptroller) for deposit to the credit of the Texas Emissions Reduction Plan Fund an amount of money equal to the amount of the fees deposited by the comptroller to the credit of the Texas Mobility Fund under Section 501.138(b-1) (relating to requiring certain fees collected to be sent to the comptroller to be deposited to the credit of the Texas Mobility Fund), Transportation Code, in the preceding month. Requires TxDOT to use for remittance to the comptroller money in the state highway fund that is not required to be used for a purpose specified by Section 7-a (Revenues From Motor Vehicle Registration Fees and Taxes on Motor Fuels and Lubricants; Purposes for Which Used), Article VIII (Taxation and Revenue), Texas Constitution, and prohibits from being used for that remittance money received by this state under the congestion mitigation and air quality improvement program established under 23 U.S.C. Section 149.

Prohibits TxDMV from collecting a fee under Section 502.191(c) (relating to authorizing TxDMV to collect a fee for processing a payment by electronic funds transfer, credit card, or debit card in an amount not to exceed the amount of the charges incurred by TxDMV to process the payment) or (d) (relating to authorizing TxDMV to collect a certain fee from a person making a payment by electronic funds transfer, credit card, or debit card through a certain online project), Transportation Code, if TxDMV collects a fee under Section 502.1911 (Registration Processing and Handling Fee), Transportation Code. Authorizes TxDMV to collect a fee, in addition to other registration fees for the issuance of a license plate, a set of license plates, or another device used as the registration insignia, to cover the expenses of collecting those registration fees, including a service charge for registration by mail. Requires the board of TxDMV by rule to set the fee in an amount that meets certain criteria. Authorizes the county tax assessor-collector, a private entity with which a county tax assessor-collector contracts under Section 502.197 (Registration by Mail or Electronic Means; Service Charge), or a deputy assessor-collector to retain a portion of the fee collected as provided by board rule. Requires that the remaining amounts collected be deposited to the credit of the TxDMV fund.

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Requires the county assessor-collector, each Monday after the credits to the county road and bridge fund equal the total computed under Section 502.198(b) (relating to the disposition of fees), to credit certain amounts and send certain amounts to certain funds, including sending to TxDMV an amount equal to 50 percent of those collections for deposit to the credit of the state highway fund.

Requires the TxDMV board, by rule, in addition to other registration fees for a license plate or set of license plates or other device used as the registration insignia, to adopt a fee of not less than 50 cents and not more than \$1. Requires that the fee be collected and deposited into a subaccount in the TxDMV fund. Authorizes TxDMV to use the money collected to provide for or enhance the automation of and the necessary infrastructure for on-premises and off-premises registration and permitting; services related to the titling of vehicles; and licensing and enforcement procedures.

Provides that Section 403.095 (Use of Dedicated Revenue), Government Code, does not apply to money received by TxDMV and deposited to the credit of the TxDMV fund in accordance with Chapter 503 (Dealer's and Manufacturer's Vehicle License Plates), Transportation Code. Requires the TxDMV board by rule to prescribe the classification types of deputies performing titling and registration duties, the duties and obligations of deputies, the type and amount of any bonds that may be required by a county assessor-collector for a deputy to perform titling and registration duties, and the fees that may be charged or retained by deputies. Authorizes a county assessor-collector, with the approval of the commissioners court of the county, to deputize an individual or business entity to perform titling and registration services in accordance with adopted rules.

Authorizes TxDMV to establish one or more escrow accounts in the TxDMV fund for the prepayment of a fee for a permit issued by TxDMV that authorizes the operation of a vehicle and its load or a combination of vehicles and load exceeding size or weight limitations. Authorizes the TxDMV board by rule to establish fees for the administration of Section 621.003 (Reciprocal Agreement With Another State for Issuance of Permits), Transportation Code, in an amount that, when added to the other fees collected by TxDMV, does not exceed the amount sufficient to recover the actual cost to TxDMV of administering that section.

Requires that an application for a permit under Section 623.0711 (Permits Authorized by Commission), Transportation Code, be accompanied by the permit fee established by TxDMV, in consultation with the Texas Transportation Commission (TTC), for the permit, not to exceed \$9,000. Requires that TTC rules authorize TxDMV, in addition to the fee established, to collect a consolidated permit payment for a permit under Section 623.0711, Transportation Code, in an amount not to exceed 15 percent of the fee established.

Requires the TxDMV board by rule to prescribe the classification types of businesses that are authorized to perform certain TxDMV functions, the duties and obligations of an authorized business, the type and amount of any bonds that may be required for a business to perform certain functions, and the fees that may be charged or retained by a business authorized under Section 1001.013 (Performance of Certain Department Functions by Authorized Business), Transportation Code. Authorizes the executive director of TxDMV to authorize a business entity to perform a TxDMV function in accordance with rules adopted.

Repeals Sections 502.1982 (Disposition of Optional County Road and Bridge Fee), 520.008 (Full-Service Deputies), 520.009 (Limited-Service Deputies), 520.0091 (Deputy Assessor-Collectors), and 520.0092 (Acts by Deputy County Assessor-Collector), Transportation Code.

APPROPRIATIONS AND FINANCE

Use of Administrative Costs of Money Received by Entities to Implement a Project—H.B. 2290 *by Representatives Lozano and Ashby—Senate Sponsor: Senator Estes*

When a group or person is caught harming the environment, the group or person can either pay a fine or fund a supplemental environmental project (project). In many cases, a project costs less than the fine, which keeps money in a local economy. A project can be managed by a local resource development council, which is a nonprofit third-party manager and which must follow certain accounting rules regarding the expenditure of the money. Currently, one rule is that the money cannot be spent for administrative expenses, which limits rural areas that have small budgets and cannot hire more staff. This bill:

Authorizes the Texas Commission on Environmental Quality to allow a local government or certain other organizations exempt from federal income taxation, that receives money from a respondent to implement a project to use a portion of the money, not to exceed 10 percent of the direct cost of the project, for administrative costs, including overhead costs, personnel salary and fringe benefits, and travel and per diem expenses, associated with implementing the project. Requires that money used for administrative costs be used in accordance with Chapter 783 (Uniform Grant and Contract Management), Government Code.

Reimbursement for Health Care Services for County Inmates—H.B. 2454 *by Representative Frank—Senate Sponsor: Senator Estes*

Because of lacking financial information from inmates, the cost of health care provided to an indigent inmate of a county jail or other county correctional facility sometimes cannot be credited toward eligibility for state assistance. This bill:

Authorizes a county, regardless of the application, documentation, and verification procedures or eligibility standards established by the Department of State Health Services, to credit an expenditure for an eligible resident toward eligibility for state assistance if the eligible resident received the health care services at a hospital or other health care provider if the eligible resident is an inmate of a county jail or another county correctional facility.

Transfer of Certain Tax Increment Fund Monies—H.B. 2636 *by Representatives Frullo and Perry—Senate Sponsor: Senator Duncan*

Tax increment funds (TIF) have been used across Texas for many reasons including economic development, public improvement, and revitalization. TIFs have been an important tool for many communities to improve their cities and towns. There is a perceived need for increased flexibility at the local level related to TIF projects. This bill:

Authorizes money in the tax increment fund for a reinvestment zone to be transferred to the tax increment fund for an adjacent zone if the taxing units that participate in the zone from which the money is to be transferred participate in the adjacent zone and vice versa; each participating taxing unit has agreed to deposit the same portion of its tax increment in the fund for each zone; each participating taxing unit has agreed to the transfer; and the holders of any tax increment bonds or notes issued for the zone from which the money is to be transferred have agreed to the transfer.

Exclusion of Flow-Through Funds in Determining Revenue Related to the Franchise Tax—H.B. 2766
by Representative Hunter—Senate Sponsor: Senators Whitmire and Hinojosa

Current law allows an entity to exclude from its total revenue, for franchise tax purposes, certain flow-through payments mandated by contract to be distributed to other entities, including payments relating to improvements on real property or the location of the boundaries of real property. Interested parties note that the comptroller of public accounts of the State of Texas has interpreted this provision as allowing an entity to exclude subcontracting payments only when the entity has a contract in place that states that a specific portion of the work will be subcontracted. Typically, the parties assert, contracts in the industry do not initially delineate which portions of a project will be completed through the use of subcontractors and which will not. A change in current law could allow certain subcontracting payments to be excluded when funds are mandated by law or contract to be paid to subcontractors making improvements to real property, absent a requirement that a prime contract explicitly require a contractor to use subcontractors. It is thought that such changes would allow similarly situated taxpayers to be treated fairly. This bill:

Requires a taxable entity to exclude from its total revenue, to the extent included under Section 171.1011(c)(1)(A) (relating to tabulating the total revenue of a taxable entity treated for federal income purposes as a corporation by adding certain amounts reportable as income), Section 171.1011(c)(2)(A) (relating to tabulating the total revenue of a taxable entity treated for federal income tax purposes as a partnership by adding certain amounts reportable as income), or Section 171.1011(c)(3) (relating to stipulating the total revenue of a taxable entity other than a taxable entity treated as a corporation or partnership for federal income tax purposes), Tax Code, only flow-through funds that are mandated by contract or subcontract to be distributed to other entities and are sales commissions to nonemployees, including split-fee real estate commissions; the tax basis as determined under the Internal Revenue Code of securities underwritten; and subcontracting payments made under a contract or subcontract entered into by the taxable entity to provide services, labor, or materials in connection with the actual or proposed design, construction, remodeling, remediation, or repair of improvements on real property or the location of the boundaries of real property.

Composition of and Use of Money in the Oil and Gas Regulation and Cleanup Fund—H.B. 3309
by Representative Crownover—Senate Sponsor: Senator Estes

The groundwater advisory unit (unit) is charged with protecting the state's groundwater supplies that could be affected by oil and gas drilling operations. To pay for operation of the unit, a small fee is assessed to all operators who seek a permit. In 2011, the unit was transferred from the Texas Commission on Environmental Quality to the Railroad Commission of Texas (railroad commission). When the transfer was conducted, an accounting error caused the fees to not be collected on behalf of the unit. This bill:

Requires the railroad commission to certify to the comptroller of public accounts of the State of Texas (comptroller) the date on which the balance in the fund equals or exceeds \$30 million, rather than \$20 million. Prohibits the oil-field cleanup regulatory fees on oil and gas from being collected or required to be paid on or after the first day of the second month following the certification, except that the comptroller is required to resume collecting the fees on receipt of a railroad commission certification that the fund has fallen below \$25 million, rather than \$10 million.

APPROPRIATIONS AND FINANCE

Authorizes money in the oil and gas regulation and cleanup fund to be used by the railroad commission or its employees or agents for certain purposes, including the study and evaluation of electronic access to geologic data and surface casing depths necessary to protect usable groundwater in this state.

Deletes existing text authorizing money collected to be used to study and evaluate electronic access to geologic data and surface casing depths under Section 91.020 (Electronic Geologic Data), Natural Resources Code.

Requires that the fees collected be deposited in the oil and gas regulation and cleanup fund.

Directing Payment of Certain Miscellaneous Claims and Judgments Against the State—H.B. 3188 *by Representative Otto—Senate Sponsor: Senator Williams*

At the conclusion of each biennium, the state has a number of outstanding claims and judgments against it for varying amounts of money, such as warrants voided by the statute of limitations, outstanding invoices to private vendors, unpaid charges for Medicaid recipients, or court judgment settlements. These claims require additional appropriations to be made to honor the state's obligations under the law. This bill:

Appropriates certain sums of money out of the General Revenue Fund Account No. 0001 for payment of itemized claims and judgments plus interest, if any, against the State of Texas.

Remittance and Allocation Dates For Certain Taxes, Fees, and State Money—S.B. 559 *by Senator Duncan—House Sponsor: Representative Pitts et al.*

The 82nd Legislature, 1st Called Session, 2011, passed legislation implementing one-time adjustments to the timing under which a variety of taxes were required to be remitted to the state. This bill:

Repeals certain sections of the Alcoholic Beverage Code and Tax Code so as to return to the regular tax remittance schedule.

Dyed Diesel Fuel Purchasing End User Number Revocation and Reinstatement—S.B. 603 *by Senator Williams—House Sponsor: Representative Ritter*

Texas law requires persons wishing to purchase tax-free dyed diesel fuel to complete an application for a Texas End User Signed Statement for Purchasing Tax-Free Dyed Diesel Fuel. The application must be submitted to the Office of the Comptroller of Public Accounts (comptroller). After the signed statement is approved by the comptroller, the applicant is assigned an end user number that is used in conjunction with the purchase of tax-free dyed diesel fuel. The comptroller publishes an online list of persons and companies who have been issued an end user number so that distributors of dyed diesel fuel can verify that each purchaser of tax-free fuel is entitled to make such purchases. Persons using an end user number to purchase tax-free dyed diesel fuel may only use the fuel for off-road, tax-exempt purposes and may not purchase more than 10,000 gallons per month. These restrictions are designed to limit opportunities for fuel tax evasion. It has been reported that some businesses that have been issued an end user number have refused to remit payment to the fuel distributor from whom they purchased the tax-free dyed diesel

fuel. After defaulting, the same purchaser has refused to remit payment to other fuel distributors from whom they subsequently received fuel. Persons who have obtained authorization from the comptroller to purchase tax-free fuels should not be permitted to utilize that authorization to acquire tax-free fuels without remitting payment for the fuel. This bill:

Requires the comptroller, on receipt of notice transmitted by an electronic means of a final judgment entered by a court against a purchaser of dyed diesel fuel for failure to pay an amount owed to a licensed supplier or distributor for the purchase of dyed diesel fuel, to revoke the end user number issued to the purchaser. Requires the comptroller to provide the notice described by Section 162.206(e)(2) (relating to tax-free purchases of dyed diesel fuel), Tax Code, to the licensed supplier or the distributor if the purchaser's end user number is revoked. Authorizes the comptroller to reinstate an end user number that is revoked on receipt of proof transmitted by electronic means and satisfactory to the comptroller that the purchase whose end user number was revoked has satisfied the judgment described, including all costs and other amounts awarded in the judgment.

Foundation School Fund Yearly Entitlement Payment Schedule to School Districts—S.B. 758

by Senator Williams—House Sponsor: Representative Pitts et al.

The 82nd Legislature deferred the Foundation School Program (FSP) payment to school districts scheduled for August of fiscal year 2013 to September of the following fiscal year. The effect of this deferral is that a total of 23 monthly FSP payments would be dispersed during the 2012-2013 biennium, resulting in a one-time savings in fiscal year 2013. This bill:

Requires that 15 percent of the yearly entitlement from the foundation school fund to each category 2 school district (relating to a school district having a wealth per student of at least one-half of the statewide average wealth per student but not more than the statewide average wealth per student) be paid in an installment to be made on or before the 25th day of August.

Requires that 20 percent of the yearly entitlement from the foundation school fund to each category 3 school district (relating to a school having a wealth per student of more than the statewide average wealth per student) be paid in an installment to be made on or before the 25th day of August.

Requires that previously unpaid additional funds from prior fiscal years owed to a district be paid to the district together with the September payment of the current fiscal year entitlement.

Requires the comptroller of public accounts of the State of Texas (comptroller), each August, to estimate the amount to be transferred to the foundation school fund on or before September 15; and notwithstanding Section 466.355(b)(4) (relating to the transfer of a certain balance), Government Code, transfer the amount estimated to the foundation school fund before August installment payments are made under Section 42.259 (Foundation School Fund Transfers), Education Code.

APPROPRIATIONS AND FINANCE

Funding For Travel Information Centers of the Texas Department of Transportation—S.B. 1017 *by Senator Paxton—House Sponsor: Representative Lavender*

The State of Texas operates 12 travel information centers to provide travelers with tourism information and rest areas. The Legislative Budget Board (LBB) Government Effectiveness and Efficiency Report indicates a decline in the use of travel counselors and reports that approximately only one percent of out-of-state travelers currently utilize a travel information center during their trip. Tourism is being impacted by the reduced use of these historically employed sites. Funding is needed to assist travelers find different tourist locations. This bill:

Requires the Texas Department of Transportation (TxDOT) to maintain and operate travel information centers to provide highway information, travel guidance, and descriptive material designated to assist the traveling public and stimulate travel to and within this state.

Authorizes TxDOT to enter into an agreement with another state agency or a local government, including a regional planning commission, for the operation of a travel information center that is located within the boundaries of the local government, and issue a request for proposals to private or nonprofit entities for the operation of a travel information center.

Authorizes TxDOT to sell commercial advertising space at a travel information center if the advertising is not visible from the main traveled way of the highway.

Requires TxDOT, if TxDOT sells commercial advertising space, to set rates for the advertising and other services available at a travel information center at a level that generates receipts approximately sufficient to cover the cost of its travel and information operations.

Prohibits TxDOT from engaging in an activity that would decrease the amount of federal highway funding available to TxDOT.

Authorizes TxDOT to enter into an agreement for the acknowledgement of donations if the acknowledgement does not contain comparative or qualitative descriptions of the donor's products, services, facilities, or companies.

Requires that all proceeds from the sale of the items and advertising and all donations acknowledged under this section be deposited to the credit of a separate account in the state highway fund.

Provides that money in the account is dedicated for TxDOT's use in its travel and information operations.

Use of a Common or Contract Carrier to Send Certain Documents to a Taxing Unit—S.B. 1224 *by Senator Taylor—House Sponsor: Representative Greg Bonnen*

The Property Code specifies that a payment must be sent by regular first class mail and bear a post office cancellation mark (postmark) to determine timeliness of payment. Many property owners utilize nationwide carriers to ensure delivery but tax collectors are not permitted to utilize the shipping date for the purpose of determining timeliness of payment. This often results in costly penalties and interest creating an

unnecessary burden on property owners whose intent is clear—to timely remit payment of property taxes. An informal survey of county tax offices revealed that acceptance of a shipping date is common. This bill:

Provides that when a property owner is required to make a payment or to file or deliver a report, application, statement, or other document or paper by a specified due date, the property owner's action is timely if it is properly addressed with postage or handling charges prepaid and it is sent by regular first-class mail, and bears a post office cancellation mark of a date earlier than or on the specified due date and within the specified period; it is sent by common or contract carrier and bears a receipt mark indicating a date earlier than or on the specified due date and within the specified period; or it is sent by regular first-class mail or common or contract carrier and the property owner furnishes satisfactory proof that it was deposited in the mail or with the common or contract carrier on or before the specified due date and within the specified period.

State Water Implementation Fund and State Water Implementation Revenue Fund—S.J.R. 1

by Senator Williams—House Sponsor: Representatives Pitts and Ritter

In 2011, Texas experienced what was reported to be the worst one-year drought on record. The 2011 drought highlighted the importance of long-range planning to meet the state's water needs. The *Water For Texas 2012 State Water Plan* projects that over the next 50 years, both population and water demand in the state will increase significantly, while the existing water supply will decrease. The 2012 State Water Plan includes numerous regionally identified strategies to develop the several million acre-feet of water supply per year required to meet these increasing demands. The estimated total capital cost of the 2012 State Water Plan, representing the capitol cost of all water management strategies recommended in the 2011 regional water plans, is more than \$50 billion. Based on surveys conducted as part of the planning process, water providers will need significant support through state financial assistance to implement these recommended water strategies. If state financial assistance is not provided to implement these regional water management strategies, the state during similar drought conditions could suffer significant economic losses and the majority of Texas's population could face a critical water shortage. This resolution proposes a constitutional amendment to:

Creates the State Water Implementation Fund for Texas (SWIFT) as a special fund in the state treasury outside the general revenue (GR) fund. Establishes certain requirements regarding the administration and use of monies in the State Water Implementation Fund.

Authorizes the legislature to authorize the Texas Water Development Board or that board's successor in function (TWDB) to enter into bond enhancement agreements to provide additional security for general obligation bonds or revenue bonds of TWDB the proceeds of which are used to finance state water plan projects. Establishes certain requirements regarding bond enhancement agreements. Authorizes the legislature by general law to authorize TWDB to use SWIFT to finance, including by direct loan, water projects included in the state water plan. Requires TWDB to provide written notice to the Legislative Budget Board or that board's successor in function (LBB) before each bond enhancement agreement or loan agreement entered into pursuant to this section has been executed by TWDB and to provide a copy of the proposed agreement to LBB in function for approval. Requires that the proposed agreement be considered approved unless LBB issues a written disapproval not later than the 21st day after the date on which LBB staff receives the submission.

APPROPRIATIONS AND FINANCE

Establishes that SWIFT consists of certain monies. Requires the legislature by general law to provide for the manner in which the assets of SWIFT may be used, subject to certain limitations. Authorizes the legislature by general law to provide for costs of investment of SWIFT to be paid from that fund. Requires TWDB each fiscal year, as provided by general law, to set aside from amounts on deposit in SWIFT an amount that is sufficient to make payments under bond enhancement agreements that become due during that fiscal year. Prohibits any dedication or appropriation of amounts on deposit in SWIFT from being modified so as to impair any outstanding obligation under a bond enhancement agreement secured by a pledge of those amounts unless provisions have been made for a full discharge of the bond enhancement agreement. Provides that money in SWIFT is dedicated for purposes of Section 22 (Restriction on Appropriations), Article VIII (Taxation and Revenue), Texas Constitution, and an appropriation from the Economic Stabilization Fund (ESF) or "rainy day" fund to the credit of SWIFT is an appropriation of state tax revenues dedicated for the purposes of Section 22, Article VIII, Texas Constitution. Establishes that reposed in the legislature is the full power to implement and effectuate the design and objects of Section 49-d-12, Texas Constitution, including the power to delegate such duties, responsibilities, functions, and authority to TWDB in function as the legislature believes necessary.

Creates the State Water Implementation Revenue Fund for Texas (revenue fund) as a special fund in the state treasury outside the general revenue fund. Requires that money in the revenue fund be administered, without further appropriation, by TWDB in function and be used for the purpose of implementing the state water plan that is adopted as required by general law by TWDB in function. Authorizes separate accounts to be established in the revenue fund as necessary to administer the fund or authorized projects. Authorizes the legislature by general law to authorize TWDB in function to issue bonds and enter into related credit agreements that are payable from all revenues available to the revenue fund. Requires TWDB in function to provide written notice to LBB before issuing a bond or entering into a related credit agreement that is payable from revenue deposited to the credit of the revenue fund and to provide a copy of the proposed bond or agreement to LBB for approval. Requires that the proposed bond or agreement be considered approved unless LBB issues a written disapproval not later than the 21st day after the date on which the staff of that board receives the submission. Establishes that the revenue fund consists of certain monies.

Requires TWDB, in each fiscal year in which amounts become due under the bonds or agreements authorized, to transfer from revenue deposited to the credit of the revenue fund in that fiscal year an amount that is sufficient to pay the principal of and interest on the bonds that mature or become due during the fiscal year and any cost related to the bonds, including payments under related credit agreements that become due during that fiscal year. Requires that any obligations authorized by general law be issued by TWDB in function pursuant to Section 49-d-13, Texas Constitution, to be special obligations payable solely from amounts in the revenue fund. Prohibits obligations issued by TWDB in function pursuant to Section 49-d-13, Texas Constitution, from being a constitutional state debt payable from the general revenue of the state. Prohibits any dedication or appropriation of revenue to the credit of the revenue fund from being modified so as to impair any outstanding bonds secured by a pledge of that revenue unless provisions have been made for a full discharge of those bonds. Provides that money in the revenue fund is dedicated by this constitution for purposes of Section 22, Article VIII, Texas Constitution. Provides that reposed in the legislature is the full power to implement and effectuate the design and objects of Section 49-d-13, Texas Constitution, including the power to delegate such duties, responsibilities, functions, and authority to TWDB in function as the legislature believes necessary.

Unemployment Compensation and Chargebacks For Certain Victims of Sexual Assault—H.B. 26
by Representative Martinez Fischer—Senate Sponsor: Senator Zaffirini

Current law provides that a person who is forced to leave his or her job due to family violence or stalking is eligible to receive unemployment insurance benefits if he or she can produce certain evidence of the offense. Victims of sexual assault are eligible for these benefits if the assault is a result of family violence; however, victims of sexual assault that is not family violence-related do not qualify for unemployment insurance. This inconsistency results in inequitable support for victims of similar crimes. This bill:

Defines "immediate family," "sexual assault," and "family violence center."

Prohibits benefits computed on benefit wage credits of an employee or former employee from being charged to the account of an employer if the employee's last separation from the employer's employment before the employee's benefit year was the result of an employee leaving the employee's workplace to protect the employee from family violence or stalking or the employee or a member of the employee's immediate family from violence related to a sexual assault as evidenced by certain documents.

Provides that an individual is not disqualified for benefits under this subchapter if the individual leaves the workplace to protect the individual from family violence or stalking or the individual or a member of the individual's immediate family from violence related to the a sexual assault as evidenced by certain documents.

Occupational Licenses—H.B. 86

by Representative Callegari et al.—Senate Sponsor: Senator Lucio

Currently, Texas regulates more than 500 types of occupations, representing jobs held by several million Texans. It has been reported that Texas regulates a greater proportion of its workforce than the national average. While some occupational licensing programs serve a compelling public interest, some have raised concerns that the state's policy emphasis in favor of greater occupational regulation can have negative implications for the state's workforce and consumers.

In light of the broad policy concerns regarding the state's proliferation of occupational licensing programs and the projected trend toward more occupational regulation in Texas, recommendations were developed by the House Committee on Government Reform. This legislation is a result of those recommendations. This bill:

Defines "public interest" as a protection from a present and recognizable harm to the public health, safety, or welfare, not including speculative threats or other non-demonstrable menaces.

Defines "license" to mean a license, certificate, registration, permit, or other form of authorization required by law or a state agency rule that must be obtained by an individual to engage in a particular occupation or profession.

Requires the Sunset Advisory Commission (Sunset Commission), in an assessment of an agency that licenses an occupation or profession, to consider whether the occupational licensing program serves a meaningful, defined public interest, and provides the least restrictive form of regulation that will adequately

protect the public interest; the extent to which the regulatory objective of the occupational licensing program may be achieved through market forces, private or industry certification and accreditation programs, or enforcement of other law; the extent to which licensing criteria, if applicable, ensure that applicants have occupational skill sets or competencies that correlate with a public interest and the impact that those criteria have on applicants, particularly those with moderate or low incomes, seeking to enter the occupation or profession; and the impact of the regulation, including the extent to which the program stimulates or restricts competition and affects consumer choice and the cost of services.

Authorizes a member of the legislature, not later than December 31 of an odd-numbered year, to submit proposed legislation that would create an occupational licensing program or significantly affect an existing occupational licensing program to the sunset commission for review and analysis.

Authorizes a request to be submitted after December 31 of an odd-numbered year on the approval of the sunset commission's chair based on the recommendation of the executive director of the Sunset Advisory Commission (executive director).

Authorizes the chair of the Sunset Commission, on the recommendation of the executive director, to deny a request for review.

Requires the Sunset Commission, if it reviews and analyzes legislation proposing the regulation of an occupation, to submit a report to the legislature before the start of the next legislative session regarding its findings on the need for regulating the occupation and the type of regulation recommended, if any.

Requires the Sunset Commission, in analyzing legislation proposing the creation of an occupational licensing program, to determine whether the unregulated practice of the occupation would be inconsistent with the public interest; whether the public can reasonably be expected to benefit from an assurance of initial and continuing professional skill sets or competencies; and whether the public can be more effectively protected by means other than state regulation.

Requires the Sunset Commission to submit a report to the legislature before the start of the next legislative session regarding the sunset commission's findings on the need for the proposed legislation if the sunset commission reviews and analyzes proposed legislation amending an existing occupational licensing program.

Use of Electronically Readable Information on Driver's Licenses—H.B. 346

by Representative Deshotel—Senate Sponsor: Senator Carona

Texas is one of only two states that prohibit businesses from saving electronically readable information obtained from scanned driver's licenses. Because driver's license numbers rarely change, businesses can use driver's license numbers to track fraudulent and potentially fraudulent activities such as returning shoplifted or used merchandise. Return fraud is costly to Texas businesses.

Information electronically embedded in Texas driver's licenses is the same as the information displayed on the license, which includes a unique number, a color photograph of the entire face, a brief physical description, and the license holder's address.

BUSINESS, ECONOMIC DEVELOPMENT, AND WORKFORCE

Under Section 521.126 (Electronically Readable Information), Transportation Code, accessing or using electronically readable information from a driver's license or personal identification certificate, or compiling or maintaining this information in a database, is a misdemeanor offense. However, a business may access this information to verify a check or an individual's identity at the point of sale of a good or service by check. This bill:

Provides that the prohibition regarding using a person's driver's license information and compiling a database license does not apply to a financial institution or a business that accesses or uses electronically readable information for purposes of identification verification of an individual or check verification at the point of sale for a purchase of a good or service by check; accesses or uses as electronically readable information a driver's license number or a name printed on a driver's license as part of a transaction initiated by the license or certificate holder to provide information encrypted in a manner consistent with PCI DSS Standard 3.4 to a check services company or fraud prevention services company governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.) for the purpose of effecting, administering, or enforcing the transaction; and that does not involve the sale, transfer, or other dissemination of a name or driver's license number to a third party for any purpose, including any marketing, advertising, or promotional activities.

Provides that the prohibition does not apply to a check services company or a fraud prevention services company governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.) that, for the purpose of preventing fraud when effecting, administering, or enforcing the transaction accesses or uses as electronically readable information a driver's license number or a name printed on a driver's license; or compiles or maintains a database of electronically readable driver's license numbers or names printed on driver's licenses and periodically removes the numbers or names from the database that are at least four years old; or on a separate document, signed by the license or certificate holder, that explains in at least 14-point bold type the information that will be included in the compilation or database.

Defines "financial institution" to have the meaning assigned by 31 U.S.C. Section 5312(a)(2).

Posting Notice of Foreclosure—H.B. 584

by Representative Eddie Rodriguez—Senate Sponsor: Senator Rodriguez

Currently, notice of a foreclosure sale of real property is filed with a county clerk and then posted in the courthouse lobby, with an auction later taking place on the steps of the county's courthouse. The purpose of the filing and posting, in part, is to give notice to potential purchasers of properties that may soon be available for bidding. In some cases, the only bidder on the property is the foreclosing entity, who may use the sale as a mechanism to transfer the asset from an account receivable to an asset titled to the bank. However, competitive sales, such as a public auction where cash bidders compete for the property, are good for troubled borrowers and communities because the sales may help real estate retain its value and may allow a borrower to be compensated for the equity acquired in a foreclosed home. This bill:

Requires a county, if the county maintains an Internet website, to post a notice of sale filed with the county clerk on the website on a page that is publicly available for viewing without charge or registration.

Out-of-State Barbers and Cosmetologists—H.B. 619

by Representative Naomi Gonzalez—Senate Sponsor: Senator Watson

Concerns have been raised that state reciprocity regarding the licensing of certain classes of cosmetologists and barbers is inconsistent across jurisdictional boundaries. Under current Texas law, the Texas Department of Licensing and Regulation (TDLR) is authorized to waive certain license requirements for applicants licensed in other states but is not required to do so. Critics report that many applicants who have been licensed by other states to perform the same activities authorized under the Texas license and who have moved to Texas are often required to fulfill additional training requirements to obtain a license to practice in Texas, and they assert that this additional training is redundant and unnecessary because most licensing standards established in other states meet or exceed those of Texas. In addition, those applicants have years of experience practicing their trades in the other state and should not have to complete additional training. This bill:

Requires TDLR to issue a license or certificate to an applicant for a license or certificate to a barber, a barber technician, hair weaving or hair braiding if the applicant submits an application on a form prescribed by TDLR; pays the application fee; and provides proof that the applicant holds a current license to engage in the same or a similar activity issued by another jurisdiction that has license requirements substantially equivalent to those of this state.

Authorizes TDLR to waive any requirement for a license or certificate for an applicant holding a license from another state that has license requirements substantially equivalent to those of this state.

Application of Certain Contracting Requirements to Technology Facilities—H.B. 768

by Representative Howard—Senate Sponsor: Senator Watson

Current Texas law permits public-private partnerships to be utilized in the creation of certain projects for which there is a public purpose or need. A "technology facility," such as a technology incubator or cloud computing facility, is not currently included on the list of qualifying projects. This bill:

Redefines "qualifying project" to include a technology facility.

Licensing of Journeyman Lineman—H.B. 796

by Representative Senfronia Thompson—Senate Sponsor: Senator Garcia

Electricians in Texas are required to have a license to do electrical work. Journeyman linemen who work for utilities are not required to have a license to do lineman work as long as they work for the utility because utilities are exempt from these licensing requirements. Increasingly, some private industries now have their own substation, distribution, and/or transmission facilities, but work on these facilities requires a license. Workers who seek to work as journeyman linemen in these private industry settings may seek licensing as an electrician, but face two problems under current law in securing a license for this work.

First, to be eligible to take the test for an electrician's license, an individual must have worked for 7,000 hours under a master electrician. Utilities do not use a master electrician, so linemen cannot meet that requirement. Second, the nature of line work is very different from that of an electrician and involves very

different skills and knowledge. Thus, because they are unable to be licensed as electricians, these workers are not able to take advantage of these lineman journeymen opportunities in the private industry. This bill:

Defines "journeyman lineman" to mean an individual who engages in electrical work involving the maintenance and operation of equipment associated with the transmission and distribution of electricity from the electricity's original source to a substation for further distribution.

Requires the executive director of the Texas Department of Licensing and Regulation (executive director) to adopt rules for the licensing of electricians, sign electricians, electrical sign contractors, electrical contractors, journeyman linemen, residential appliance installers, and residential appliance installation contractors.

Requires an applicant for a license as a journeyman lineman to have at least 7,000 hours of training in an apprenticeship program approved by the United States Department of Labor or 3-1/2 years of experience as a journeyman lineman for an electric utility, electric cooperative, municipally owned utility, or electrical contractor in this state, and pass a journeyman lineman examination.

Provides that a journeyman lineman license is not required for a person performing work exempt on certain electrical equipment, or a person who is performing journeyman lineman work, possesses a journeyman electrician license, and is employed by an institution of higher education.

Requires the license holder, to renew a master electrician, journeyman electrician, master sign electrician, journeyman sign electrician, maintenance electrician, journeyman lineman, or residential wireman license, to complete four hours of continuing education annually.

Requires the executive director, not later than January 1, 2014, to adopt rules regulating the licensing of a journeyman lineman.

Provides that a person is not required to hold a license as a journeyman lineman before June 1, 2014.

Certain License Holders Convicted of a Class C Misdemeanor—H.B. 798

by Representative Senfronia Thompson—Senate Sponsor: Senator Garcia

Under current law, individuals convicted of Class C misdemeanors are often denied occupational licenses under Chapter 53 (Consequences of Criminal Conviction), Occupations Code. The maximum punishment of a Class C misdemeanor is a \$500 fine and no jail time. Concerns have been raised that a Class C misdemeanor offense is not a sufficiently serious offense to warrant prohibiting someone from obtaining certain licenses. The denial of a license removes any possibility of practicing certain occupations regardless of training and experience such as water well drillers, auctioneers, and surveyors. This bill:

Provides that the authority of a licensing entity to suspend or revoke a license, disqualify a person from receiving a license, or deny to a person the opportunity to take a licensing examination on the grounds that the person has been convicted of certain offenses does not apply to a person who has been convicted only of an offense punishable as a Class C misdemeanor unless the person is an applicant for or the holder of a license that authorizes the person to possess a firearm and the offense for which the person was convicted is a misdemeanor crime of domestic violence as that term is defined by 18 U.S.C. Section 921.

Provides that the change in law made by this Act applies to an application for, or a disciplinary proceeding regarding, a license or other authorization that is pending with a licensing authority on the effective date of this Act or an application filed or a disciplinary proceeding commenced on or after that date.

Dissemination of Information Regarding Employment Opportunities to Students—H.B. 809
by Representative John Davis et al.—Senate Sponsor: Senator Deuell

Concerns have been raised that there may be a lack of adequate information for students making post-graduation plans regarding available careers and the salaries such careers can generate. The Texas Workforce Commission (TWC) collects information on projected employment opportunities in Texas that could be disseminated to assist students. This bill:

Requires TWC to provide the Texas Education Agency (TEA) with information at least each quarter regarding current and projected opportunities in this state, disaggregated by county or other appropriate region.

Requires TEA to provide the information obtained by TWC, relating to current and projected employment opportunities in Texas, to school districts for use in local planning and implementation of career and technical education and training programs.

Unemployment Compensation Benefits Paid to a Person Partially Employed—H.B. 916
by Representatives Orr and Murphy—Senate Sponsor: Senator Birdwell

Chapter 204 (Contributions), Labor Code, governs the Texas unemployment compensation contribution system. Section 204.021(Chargebacks), Labor Code, says that benefits paid to a claimant are charged to the account of the claimant's former employer. Benefits paid to a claimant are counted as "chargebacks" against the employer's account. Section 204.022(a) (relating to prohibiting benefits computed on benefit wage credits of an employee or former employee from being charged to the account of an employer), Labor Code, permits employers to be exempted from the chargeback system in specified situation when the separation from employment was not due to the fault of the employer if a former employee claims unemployment benefits. Exempted chargebacks that are not posted on employers' accounts and any added costs of providing unemployment benefits to these claimants are paid by all contributors to the unemployment insurance system. This bill:

Prohibits benefits computed on benefit wage credits of an employee from being charged to the account of an employer if the employee continued to work the employee's customary hours for the employer when the employee's benefit year began.

Provides that Section 204.022(a) does not apply to a claim for unemployment benefits made under Chapter 215 (Shared Work Unemployment Compensation Program), Labor Code.

Transfers of Funds Relating to the Employment and Training Investment Assessment—H.B. 939

by Representative John Davis—Senate Sponsor: Senator Hancock

The employment and training investment assessment is imposed on each employer paying contributions under the Texas Unemployment Compensation Act as a separate assessment of one-tenth of one percent of wages paid by an employer. Money from the assessment is deposited to the credit of the employment and training investment holding fund. According to Texas Workforce Commission (TWC) projections, the assessment is projected to collect an estimated \$95 million from employers in 2013. Money in the holding fund is intended, in part, to finance the skills development fund. However, the skills development fund has been funded with general revenue at a base level of almost \$50 million per biennium for several bienniums. Currently law states that an amount up to the amount appropriated for the skills development fund can be transferred from the employment and training investment assessment holding fund to the skills development fund, but only if TWC determines that the amount in the unemployment compensation fund, which also derives money from the holding fund, will exceed 100 percent of its floor as computed on October 1. A transfer from the employment and training investment holding fund to the skills development fund has not occurred in several years because the unemployment compensation fund has been below the floor, causing the funds in the employment and training investment holding fund to be transferred directly into the unemployment trust fund. This bill:

Provides that on September 1, 2013, 15 percent of the amount in the employment and training investment holding fund under Section 204.122 (Holding Fund), Labor Code, and 15 percent of the amount in the training stabilization fund under Section 302.101 (Training Stabilization Fund), Labor Code, are required to be transferred to TWC to be used for one-time expenses related to workforce development or the administration of Subtitle A (Texas Unemployment Compensation Act), Title 4 (Employment Services and Unemployment), Labor Code.

Requires TWC to transfer 15 percent of the total amount received by TWC, including 15 percent of the amount in the employment and training investment holding fund under Section 204.122, Labor Code, and 15 percent of the amount in the training stabilization fund under Section 302.101, Labor Code, to be used to fund employment programs for veterans.

Manufactured Housing Licenses—H.B. 944

by Representative Riddle—Senate Sponsor: Senator Carona

Pursuant to Section 1201.101(b), Occupations Code, a person must obtain a retailer's license in order to sell more than one manufactured home in a given year. In order to obtain a retailer's license, a person must complete 12 hours of instruction relating to the law and consumer protection regulations applicable to manufactured home sales. Although these requirements are necessary to protect the general marketplace, they are overly burdensome on those individuals who wish to sell a limited number of manufactured homes. This bill:

Exempts a person, notwithstanding any other law, in any 12-month period from holding a retailer's license if during that period the person sells or offers to sell not more than three manufactured homes.

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Requires the Texas Department of Housing and Community Affairs operating through its manufactured housing division by rule to develop a form necessary for a person to establish eligibility for the exemption provided by this section.

Provides that a person who is eligible for an exemption remains subject to the other applicable provisions of this subchapter regarding the sale of manufactured homes.

Unlawful Employment Practices Regarding Discrimination in Compensation—H.B. 950 [VETOED] *by Representative Senfronia Thompson et al.—Senate Sponsor: Senator Davis et al.*

The federal Lilly Ledbetter Act was passed to restore protections against pay discrimination in response to the United States Supreme Court decision in *Ledbetter v. Goodyear Tire & Rubber Co.*, which held that the statute of limitations for filing an equal-pay lawsuit begins at the date the pay was agreed upon, not the date of the most recent paycheck. This decision precluded lawsuits by plaintiffs who alleged ongoing pay discrimination, but who did not discover it until years after the discrimination began. Current state law does not reflect the recent changes to federal anti-discrimination law. Conformity between state and federal laws concerning the Lilly Ledbetter Act enables parties to proceed in a nearby state court, allowing parties to avoid the increased costs of federal courts. This bill:

Requires that a complaint under Subchapter E (Administrative Review), Labor Code, be filed not later than the 180th day after the date the alleged unlawful employment practice occurred.

Provides that an unlawful employment practice occurs each time a discriminatory compensation decision or other practice is adopted; an individual becomes subject to a discriminatory compensation decision or other practice; or an individual is adversely affected by application of a discriminatory compensation decision or other practice, including each time wages, benefits, or other compensation affected wholly or partly by such a decision or other practice is paid.

Prohibits liability under a back pay award, except as otherwise provided by Section 21.258(c), Labor Code, from accruing for a date more than two years before the date a complaint is filed with the Texas Workforce Commission civil rights division.

Authorizes liability to accrue, and authorizes an aggrieved person to obtain relief as provided by Subchapter F (Judicial Enforcement), Labor Code, including recovery of back pay for up to two years preceding the date of filing the complaint, if the unlawful employment practices that have occurred during the period for filing for a complaint are similar or related to unlawful employment practices with regard to discrimination in payment of compensation that occurred outside the period for filing a complaint.

Provides that interim earnings, workers' compensation benefits, and unemployment compensation benefits received operate to reduce the back pay otherwise allowable under Section 21.258, Labor Code.

Eligibility of Temporary Election Officers For Unemployment Compensation—H.B. 983

by Representative Elkins—Senate Sponsor: Senator Patrick

Counties hire temporary personnel to work for a single day or up to a few weeks to help run elections. These individuals understand that this employment is temporary and that it is limited to working in relation to a particular election, though some individuals apply for and receive unemployment compensation benefits after the temporary employment has ended. This bill:

Provides that "employment" in Subtitle A (Texas Unemployment Compensation Act), Labor Code, does not include employment as an election official or worker by a political subdivision of or an instrumentality of a political subdivision that is wholly owned by one or more political subdivisions, if the remuneration received by the individual during the calendar year is less than \$1,000.

Exemption From License Requirements For a Limited Sales of Manufactured Housing—H.B. 994

by Representative Dennis Bonnen—Senate Sponsor: Senator Hegar

Texans today are served by an electricity system that boasts a diverse resource base—fossil, renewable, and nuclear—that is a reliable mix that works as a hedge against regulatory and economic swings. Future citizens of Texas deserve to enjoy those same benefits and, for new nuclear generation to have a future role in Electric Reliability Council of Texas (ERCOT), the legislature must act.

The United States Nuclear Regulatory Commission (NRC) has requirements regarding funding to decommission—that is, to deconstruct—a nuclear plant at the end its operating life. The NRC requires a decommissioning funding mechanism and, in ERCOT's competitive electricity market, the nuclear project owner must bear the decommissioning cost. In a traditional regulated marker, decommissioning costs are borne by captive ratepayers through rates approved by the Public Utility Commission of Texas (PUC).

H.B. 1386, 80th Legislature, Regular Session, 2007, established a state funding program for decommissioning to ensure that new nuclear generating projects in Texas's competitive market can satisfy the NRC requirements and can adequately protect customers. Subsequent to passage of H.B. 1386, PUC adopted the administrative rules necessary to implement the statute.

Construction of a proposed nuclear project must begin before January 1, 2015, in order to qualify for the H.B. 1386 program. At the time H.B. 1386 was passed, one or more proposed projects were expected to meet this requirement. However, due to recent international industry events, the current economic environment, and low natural gas prices, no proposed projects nor any future projects that may take advantage of breakthrough technologies can meet this construction deadline. This bill:

Extends the construction deadline until January 1, 2033, preserving the option for development of economically feasible nuclear generation in ERCOT for 20 years.

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Information on Postsecondary Education, Career Opportunities, and Workforce Needs—H.B. 1296 *by Representative Alvarado et al.—Senate Sponsor: Senator Taylor*

Sufficient information is not currently available regarding the location of job shortages in Texas and the educational degrees or certificates students should attain to fill job openings in Texas. This information could assist Texas colleges and universities to better plan degree programs and course of study offerings to meet the demand for workers in certain industries. This bill:

Requires the Texas Education Agency (TEA) to prepare information comparing institutions of higher education in this state and post the information on TEA's Internet website and to a public school student who requests the information.

Requires that the information:

- identify postsecondary education and career opportunities, including information that states the benefits of four-year and two-year higher education programs, postsecondary technical education, skilled workforce careers, and career education programs;
- compare each institution of higher education with other institutions regarding the relative cost of tuition, the retention rate of students, the graduation rate of students, the average student debt, the loan repayment rate of students, and the employment rate of students;
- identify the state's future workforce needs, as projected by the Texas Workforce Commission (TWC); and
- include annual wage information for the top 10 highest demand jobs in this state, as identified by TWC.

Requires TEA to collaborate with the Texas Higher Education Coordinating Board (THECB) and requires TWC to obtain the necessary information to incorporate the use of existing materials and develop new materials to be provided to counselors, students, and parents regarding institutions of higher education.

Requires each institution of higher education to include on its Internet website, in a prominent location that is not more than three hyperlinks from the website's homepage, a link to the information posted on TEA's Internet website relating to information comparing institutions of higher education in Texas.

Requires THECB, in conjunction with TWC and in consultation with any other state agency as requested by THECB or TWC, to collect relevant information and make five-year projections concerning Texas workforce needs and the educational attainment and training of persons projected to enter the state workforce.

Requires THECB, based on the projections relating to information comparing institutions of higher education in this state, to identify the types and levels of education, training, and skills that are needed to meet the state's future workforce needs and to make recommendations concerning the expansion of existing programs or the development of new programs at public and private postsecondary educational institutions in this state as necessary to meet the projected workforce needs.

Requires THECB, not later than February 1, 2015, to prepare and submit electronically to each standing legislative committee with primary jurisdiction over higher education or workforce development, each public and private postsecondary educational institution in this state, and TEA a report of the information collected and analyzed under this section, including recommendations of THECB for programming at postsecondary educational institutions.

Review of Certain Skills Development Fund Workforce Training Programs—H.B. 1297
by Representative Alvarado et al.—Senate Sponsor: Senators Estes and Garcia

The authorities at community and technical colleges in Texas should be aware whether the workforce training programs offered enable graduates to obtain well-paying jobs. Through conducting assessments of community and technical college training programs, the colleges will be provided with a better understanding of how to more effectively train and prepare uniquely skilled labor pools. This bill:

Requires the Texas Higher Education Coordinating Board to review all customized training programs biennially to verify that state funds are being used appropriately by public community and technical colleges and the Texas A&M Engineering Extension Service under Chapter 303 (Skills Development Fund), Labor Code.

Requires the Texas A&M Engineering Extension Service and each public community or technical college that provides workforce training under Chapter 303, Labor Code, not later than October 1 of each even-numbered year, to:

- conduct a review of the training programs to determine the effectiveness of the programs in improving the wages of participants who complete the programs and identify strategies for improving the delivery of workforce training in order to more effectively impact economic development in Texas; and
- submit to the Texas Workforce Commission (TWC) a report summarizing the results of the review for inclusion by the executive director of TWC in the report to the governor and the legislature required by Section 303.006(c), Labor Code.

Unemployment Compensation Chargebacks For Involuntarily Separated Persons—H.B. 1550
by Representative Bell—Senate Sponsor: Senator Van de Putte

Current law provides that individuals involuntarily separated from employment under certain circumstances qualify for unemployment compensation benefits under the unemployment insurance program administered by the Texas Workforce Commission. However, not all of these circumstances that serve as the basis for an involuntary separation also protect the separated employee's former employer from having that claimant's unemployment compensation benefits charged to the employer's account. This bill:

Prohibits benefits computed on benefit wage credits of an employee or former employee from being charged to the account of an employer if the employee's last separation from the employer's employment before the employee's benefit year was due to certain circumstances, including a reason that was urgent so as to make the separation involuntary under Section 207.046(a)(1), Labor Code, and does not constitute good cause connected with the employee's work under Section 207.045 (Voluntarily Leaving Work), Labor Code, for the employee to voluntarily leave the employment.

Certain Exclusions From Unemployment Compensation Chargebacks and Grounds For Benefit Disqualification—H.B. 1580

by Representative Reynolds—Senate Sponsor: Senator Ellis

Individuals who receive unemployment compensation benefits are generally interested in returning to work as soon as possible and may accept a position knowing that the position is not suitable for the individual. An individual who accepts a position, then voluntarily leaves that employment at any time without good cause connected to work, is disqualified from receiving unemployment compensation benefits. This bill:

Prohibits benefits computed on benefit wage credits of an employee or former employee from being charged to the account of an employer if the employment did not constitute suitable work for the employee, as determined under Section 207.008 (Suitable Work), Labor Code, and the employee worked for the employer for less than four weeks.

Provides that an individual who voluntarily leaves the individual's last work is not disqualified for benefits if at the time the last work began, the individual was receiving benefits under the Texas Employment Compensation Act; the work did not constitute suitable work for the individual, as determined under Section 207.008, Labor Code; and the individual was employed at the last work for less than four weeks.

Assumed Name of a Series Limited Liability Company—H.B. 1624

by Representative Cortez—Senate Sponsor: Senator Van de Putte

Concerns have been raised that a parent limited liability company is not required to file any public documents acknowledging the formation of a new series limited liability company and that when a new series is created the naming of such a series remains substantially unregulated. This bill:

Redefines "assumed name" to add the following language: "for a limited liability company, a name other than the name stated in its certificate of formation or a comparable document, including the name of any series of the limited liability company established by its company agreement."

Clarifying Workers' Compensation Coverage Regarding Temporary Employees—H.B. 1762

by Representative Price—Senate Sponsor: Senator Deuell

Current law authorizes an employer, except for a public employer and as otherwise provided by law, to elect to obtain workers' compensation insurance coverage through a licensed insurance company or through self-insurance. However, it is unclear how the workers' compensation provisions apply to temporary employment services and their clients. The Supreme Court of Texas has held that a business that uses temporary workers may not be protected from a suit for negligence by an injured temporary worker, even if the temporary employment service has workers' compensation coverage. This bill:

Provides that a certificate of insurance coverage showing that a temporary employment service maintains workers' compensation insurance constitutes proof of such coverage for the temporary employment service and its clients with respect to all temporary employees assigned to a client.

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Requires the state or a political subdivision of the state to accept such certificate of insurance coverage as proof of workers' compensation coverage.

Provides that if a temporary employment service elects to obtain workers' compensation insurance, the service and its clients are subject to certain worker's compensation laws.

Provides that an employee's election regarding workers' compensation coverage made with respect to the temporary employment service applies to any client of that service.

Bars such an employee from making a separate election with respect to a client.

Provides that if an employee elects to retain a common-law right of action with respect to the temporary employment service, that election does not apply to a client of that service if the client is not subject to the election provision.

Study Regarding the Effects on International Trade of Wait Times at Points of Entry—H.B. 1777 *by Representative Moody et al.—Senate Sponsor: Senator Rodríguez*

Recent media attention has focused on what some have called excessively long wait times at international ports of entry between Mexico and Texas. This bill:

Requires the Border Trade Advisory Committee (committee) to conduct a study regarding the effects on international trade of wait times at points of entry between the United States and the United Mexican States located in this state.

Requires the committee to consult with the Texas Transportation Commission (TTC) to the extent that TTC may provide useful information, expertise, or resources to further the study. Requires TTC to assist the committee with the study.

Requires that the study include recommendations regarding intergovernmental initiatives to reduce wait times and promote international trade.

Requires the committee, not later than October 1, 2014, to submit a report to the legislature that includes the results of the study and any associated recommendations.

Facilitation and Operation of Space Flight Activities—H.B. 1791 *by Representative John Davis et al.—Senate Sponsor: Senator Deuell*

Private commercial space companies have made historic strides in recent years, including an American company that became the first private space entity to successfully dock with a space station, deliver cargo, and return to Earth. American rockets are regaining international market share in the commercial satellite launch sector. Texas has an opportunity to host launches from a commercial orbital launch site, which would provide high-paying, high-tech jobs, infrastructure investments, tourism, and other economic benefits. Certain state laws concerning space flight activities need to be modernized. This bill:

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Redefines "launch," "reentry," "space flight activities," "space flight entity," "space flight participant," "space flight participant injury," "spaceport," and "spacecraft" and defines "launch vehicle," "reentry vehicle," "spacecraft," and "crew" for this section.

Provides that, except as provided by Section 100A.002, Civil Practice and Remedies Code, a space flight entity is not liable to any person for damages resulting from nuisance arising from testing, launching, reentering, or landing or subject to any claim for nuisance arising from testing, launching, reentering, or landing.

Provides that, except as provided by Section 100A.002, Civil Practice and Remedies Code, a space flight entity is not liable to any person for a space flight participant injury or damages arising out of space flight activities if the space flight participant has signed the agreement required by Section 100A.003 (Warning Required), Civil Practice and Remedies Code, and given written consent as required by 51 U.S.C. Section 50905.

Provides that Section 100A.002(b), Civil Practice and Remedies Code, does not limit liability for a space flight participant injury proximately caused by the space flight entity's gross negligence evidencing wilful or wanton disregard for the safety of the space flight participant or intentionally caused by the space flight entity.

Provides that Section 100A.002, Civil Practice and Remedies Code, precludes injunctive relief with respect to space flight activities.

Provides that Section 100A.002, Civil Practice and Remedies Code, does not limit liability for breach of a contract for use of real property by a space flight entity or preclude an action by a federal or state governmental entity to enforce a valid statute or regulation.

Provides that an agreement under Section 100A.003(a) (relating to requiring a space flight participant to sign an agreement and warning statement before participating in any space flight activity), Civil Practice and Remedies Code, is considered effective and enforceable if it meets certain criteria, including that it is signed by the space flight participant on behalf of the space flight participant and any heirs, executors, administrators, representatives, attorneys, successors, and assignees of the space flight participant and signed by a competent witness.

Prohibits money in the spaceport trust fund from being spent unless the Texas Economic Development and Tourism Office certifies to the comptroller of public accounts of the State of Texas that:

- a viable business entity has been established that has a business plan that demonstrates that the entity has available the financial, managerial, and technical expertise and capability necessary to launch and land a reusable launch vehicle or spacecraft and has committed to locating its facilities at a spaceport in this state;
- a development corporation for spaceport facilities under Chapter 507 (Spaceport Development Corporations), Local Government Code, has established a development plan for the spaceport project and has demonstrated the financial ability to fund at least 75 percent of the funding required for the project, and
- the spaceport or launch operator, if required by federal law, has obtained or applied for the appropriate Federal Aviation Administration license or other appropriate authorization.

Provides that certain noise arising from lawful space flight activities, if lawfully conducted, does not constitute "unreasonable noise" under Section 42.01, Penal Code.

Alcoholic Beverage Advertising on Vehicles—H.B. 1917

by Representatives Eddie Rodriguez and Geren—Senate Sponsor: Senator Carona

The Alcoholic Beverage Code prohibits outdoor advertising of alcoholic beverages unless specifically authorized in the code. Current law does not allow the placement of outdoor advertising for alcoholic beverages or for businesses engaged in the manufacture, sale, or distribution of alcoholic beverages on the outside of public transportation passenger vehicles or vehicles for hire, such as taxis, limousines, pedicabs, and rickshaws. Such advertising allows operators to keep fares low and encourages alternatives for consumers so they do not drink and drive. This bill:

Authorizes outdoor advertising of an alcoholic beverage or of the business of any person engaged in the manufacture, sale, or distribution of an alcoholic beverage to be placed on or affixed to the outside of a public transportation passenger vehicle or vehicle for hire.

Defines "public transportation passenger vehicle" to mean a vehicle operated by a political subdivision and used for the transportation of passengers for a fee.

Defines "vehicle for hire" to include a van, taxi, limousine, pedicab, and rickshaw and any other means of transportation available to the public for a fee.

Provides that an incorporated city or town may, by ordinance, prohibit outdoor advertising on or affixed to a vehicle for hire.

Payment For Liquor by a Retailer—H.B. 1953

by Representative Senfronia Thompson—Senate Sponsor: Senator Carona

Under state law, when a retailer buys liquor from a wholesaler, the payment must be made within a specified time period. This is intended to prevent a wholesaler from extending credit to a retailer, and therefore, having undue influence over the retailer. If the retailer does not pay the debt on time, the retailer is considered "delinquent" and is prohibited from purchasing liquor from any wholesaler until he or she is no longer delinquent.

Payments can be made by check, as long as the wholesaler receives the check within the specified time period. The Texas Alcoholic Beverage Commission has come across cases in which wholesalers are holding checks before depositing them in order to provide a retailer with more days of credit in violation of state credit laws. There is concern that in some cases the retailer is providing the wholesaler with a check the wholesaler knows would bounce. The wholesaler takes the check in order to create a paper trail that shows the payment was made on time. However, the wholesaler holds the check without depositing it. In effect, the retailer does not have to pay the bill on time, but the retailer can continue to make purchases, going even further into debt. Because the wholesaler is providing the retailer with this "perk," the retailer is further inclined to purchase from that particular wholesaler, going further into debt to the wholesaler. This bill:

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Requires a wholesale dealer who accepts a check or draft as payment from a retailer for the purchase of liquor to deposit the check or draft in the bank for payment or present the check or draft for payment within five business days after it is received.

Infrastructure Development by Economic Development Corporations—H.B. 1966 *by Representative Deshotel—Senate Sponsor: Senator Williams*

Current law permits an economic development corporation to expend funds only on certain authorized projects. Authorized projects in which an economic development corporation may expend funds do not include the development of infrastructure unless related to a new or expanded business enterprise. Certain counties experiencing high unemployment rates have a difficult time enticing new businesses in their community that will create new jobs, ad valorem tax base, and possibly sales tax revenues. Allowing the Port Arthur Economic Development Corporation to use sales tax revenue to construct or support the construction of much-needed infrastructure to develop or redevelop areas within a community would attract new businesses to Port Arthur. This bill:

Provides that Section 501.108, Local Government Code, applies only to a corporation the creation of which was authorized by a municipality that has a population of 10,000 or more; is located in a county bordering the Gulf of Mexico or the Gulf Intracoastal Waterway; and has, or is included in a metropolitan statistical area of this state that has, an unemployment rate that averaged at least two percent above the state average for the most recent two consecutive years for which statistics are available.

Provides that, for a corporation, a "project" includes expenditures found by the board of directors to be required or suitable for infrastructure improvements necessary to develop and revitalize areas in the corporation's authorizing municipality, including streets and roads, rail spurs, water and sewer utilities, electric utilities, gas utilities, drainage, site improvements, and related improvements; telecommunications, data, or Internet improvements; or facilities designed to remediate, mitigate, or control erosion, including coastal erosion along the Gulf of Mexico or the Gulf Intracoastal Waterway.

Use of Certain Tax Proceeds to Fund Job-Related Skills Training—H.B. 1967 *by Representative Deshotel—Senate Sponsor: Senator Williams*

Current law provides that an economic development corporation may spend tax revenue received under the Development Corporation Act for job training offered through a business enterprise only if the business enterprise commits in writing to create new jobs paying wages that are at least equal to the prevailing wage for the applicable occupation in the local labor market area or to increase its payroll to pay wages that are at least equal to that prevailing wage. Certain businesses in areas with high unemployment rates and a high percentage of citizens with limited skills are unlikely to spend funds to train someone lacking basic skills. The Port Arthur Economic Development Corporation, serving a community with a large unskilled population, would like to utilize certain funds to provide life and basic skills training to prepare individuals for job training programs. This bill:

Provides that Section 501.163 (Use Of Tax Revenue For Job-Related Skills Training By Certain Corporations), Local Government Code, applies only to certain corporations the creation of which was authorized by a municipality that has a population of 10,000 or more, is located in a county bordering the

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Gulf of Mexico or the Gulf Intracoastal Waterway, and has, or is included in a metropolitan statistical area of this state that has, an unemployment rate that averaged at least two percent above the state average for the most recent two consecutive years for which statistics are available.

Authorizes a corporation to spend certain tax revenue for job training that provides job-related life skills and job training skills sufficient to enable an unemployed individual to obtain employment.

Authorizes certain corporations to contract with any person to provide the job training authorized by Section 501.163, Local Government Code.

Interest on Commercial Loans—H.B. 1979

by Representative Villarreal—Senate Sponsor: Senator Carona

Commercial transactions are governed by Chapter 306 (Commercial Transactions) of the Finance Code. Current law authorizes calculating commercial interest based upon a 360-day year consisting of 12 30-day months (the "360/30 Day Month Method"). The current provision is silent as to any other acceptable methods of calculating interest and does not explicitly prohibit any methods. It is generally presumed that a lender may use any method that does not result in an effective rate of interest exceeding the applicable usury ceiling, which is the highest price, interest rate, or other numerical factor allowable in a financial transaction. Two commonly accepted methods to calculate commercial interest are the "365/360" method and "paid in kind."

The "365/360" method results in an interest rate that is slightly higher than what is stated in the promissory note. The reasoning behind this approach goes to the bank's attempts to standardize interest rates based on a 30-day month, while taking into account the 365-day calendar year. The "paid in kind" method refers to a type of compounded interest normally applicable to large commercial loans. The original promissory pays down the principal and some of the interest. The rest of the accruing, unpaid interest is rolled over into a new promissory note, which is paid down separately and at the same interest rate as the original promissory note for the principal.

Texas courts have long supported both methods, based on the reasoning that accrued interest is a separate obligation from the loan's principal, therefore the lender may lawfully charge interest on that separate obligation. Despite approval from the courts, practitioners are hesitant to apply either approach in large commercial transactions. This bill:

Authorizes a creditor and an obligor, in addition to any other method otherwise permitted, to agree to compute an annual interest rate on a commercial loan on a 365/360 basis or a 366/360 basis, as applicable, determined by applying the ratio of the percentage annual interest rate agreed to by the parties over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding.

Authorizes a creditor and an obligor to also agree to compute the term and rate of a commercial loan based on a 360-day year consisting of 12 30-day months.

Authorizes each interest rate ceiling under Chapters 302 (Interest Rates) and 303 (Optional Rate Ceilings), Finance Code, expressed as a rate per year to mean a rate per year computed.

Authorizes a creditor and an obligor to agree that one or more payments of interest due or that are scheduled to be due with respect to a commercial loan be paid on a periodic basis when due wholly or partly by adding to the principal balance of the loan the amount of unpaid interest due or scheduled to be due, regardless of whether the interest added to the principal balance is evidenced by an existing or a separate promissory note or other agreement.

Provides that on and after the date an amount of interest is added to the principal balance, that amount no longer constitutes interest, but instead constitutes part of the principal for purposes of calculating the maximum lawful rate or amount of interest on the loan.

Enterprise Zone Program—H.B. 1982 [VETOED]
by Representative Murphy—Senate Sponsor: Senator Hinojosa

The Texas Enterprise Zone Act authorizes the governing body of a county with a population of one million to nominate for designation as an enterprise project a project or activity of a qualified business that is located within the jurisdiction of a municipality located in the county. Interested parties contend that this provision effectively prevents such a county from nominating a company to receive the benefit of the enterprise zone if the project is located in the extraterritorial jurisdiction of a city that is not located in the county that nominates the project. This bill:

Redefines "qualified employee" and defines "veteran" in Section 2303.003, Government Code.

Authorizes the governing body of a county, notwithstanding that a territory that is in the municipal boundaries and the extraterritorial jurisdiction of a municipality is considered to be in the jurisdiction of the municipality, to nominate for designation as an enterprise project a project or activity of a qualified business that is located within the jurisdiction of a municipality located in the county.

Requires that a nominating county enter into an interlocal agreement with the municipality that has jurisdiction of the territory in which the nominated project or activity will be located, and that the agreement specifies that either the nominating county or the municipality has jurisdiction and has administrative authority of the territory in which the nominated project or activity will be located and that both the county and municipality approve the nomination.

Authorizes a county to use the maximum number of designations the county is permitted during any biennium for purposes of Section 2303.402 (Qualified Business), Government Code.

Provides that the governing body of an enterprise zone is the governing body of the municipality or county with jurisdiction over the area designated as an enterprise zone, except that the governing body with administration authority over an enterprise project nominated under Section 2303.004(c), Government Code, is determined under the terms of an interlocal agreement required by that subsection.

Requires that for the purpose of state benefits and local incentives in Chapter 2303 (Enterprise Zones), Government Code, a person engaged in a qualified business provide a substantial commitment to initiate the active conduct of trade or business in an enterprise zone with at least 25 percent of the person's new permanent jobs in the enterprise zone held by residents of any enterprise zone in Texas, economically

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disadvantaged individuals, or veterans; or in an area that does not qualify as an enterprise zone and at least 35 percent of the person's new permanent jobs in the enterprise zone are held by residents of any enterprise zone in Texas, economically disadvantaged individuals, or veterans.

Requires that the nominating body, before nominating the project or activity of a qualified business for designation as an enterprise project, submit to the bank a certified copy of the ordinance or order, as appropriate, or reference to an ordinance or order; a certified copy of the minutes of all public hearing conducted with respect to local incentives available to qualified businesses within the jurisdiction or the governmental entity nominating the project or activity; the name, title, address, telephone number, and electronic mail address of the nominating body's liaison; documentation showing the number of employment positions at the qualified business site if the business is seeking job retention benefits; any interlocal agreement required under Section 2303.004(c), Government Code; and any additional information the bank may require.

Authorizes an enterprise project designation to be split into two half designations, which uses one-half of one of the enterprise project designations allowed to a nominating body under Subsection (d) and to the bank under Section 2303.403 (Prohibition on Qualified Business Certification; Limit on Enterprise Project).

Prohibits the bank from designating a project as a triple jumbo enterprise project after the initial designation period approved by the bank under Section 2303.404(b), Government Code.

Provides that a state-mandated or federally mandated capital investment, including an investment in pollution abatement equipment, does not qualify as a committed capital investment in an enterprise project under Chapter 2303 (Enterprise Zones), Government Code.

Provides that the maximum number of jobs that the bank is authorized to allocate to an enterprise project split into two half designations is 250.

Defines "half enterprise project" in Section 2303.406 (d-1), Government Code, and Section 151.429, Tax Code.

Provides that a half enterprise project is eligible for a maximum refund not to exceed \$125,000 in each state fiscal year and is subject to the capital investment and job allocation requirements under Section 2303.407(b)(1), (2), or (3) (relating to entitling certain capital investments in enterprise projects to certain tax refunds if certain job allocation requirements are met), Government Code.

Qualification of Certain Nonprofit and Educational Institutions—H.B. 2000 *by Representative Senfronia Thompson—Senate Sponsor: Senator Hancock*

The federal government creates certain standards that colleges must meet for their students to be eligible for federal student loans and these requirements were recently updated for career schools and colleges. The changes in federal law require changes in state laws so that students of career schools and colleges can continue to be eligible to receive federal loans. This bill:

Authorizes a school or educational institution exempted from Chapter 132 (Career Schools and Colleges) to offer training in Texas allowed by the exemption.

Prohibits a school or educational institution that participates or intends to participate in student financial aid programs under Title IV, Higher Education Act of 1965 (20 U.S.C. Section 1070 et seq.), from being exempted by the Texas Workforce Commission (TWC) on the basis that a nonprofit school is owned, controlled, operated, and conducted by a bona fide religious, denominational, eleemosynary, or similar public institution exempt from property taxation under state laws, unless the school or institution demonstrates to TWC that either the school or institution is accredited by a regional or national accrediting organization recognized by the United States secretary of education; or the school, institution, or the primary campus of the school or institution, has been operating continuously in this state for at least 20 years in compliance with state career school regulatory requirements; or that the school or institution is owned, controlled, operated, and maintained by a religious organization lawfully operating as a nonprofit religious corporation and awards only degrees or certificates relating to religion.

Provides that, for purposes of Section 132.002 (h)(1)(B), Education Code, "primary campus" means, for two or more schools or educational institutions that are owned and operated by the same owner, the school or educational institution designated by the owner as the main or principal campus.

Authorizes a school or educational institution to demonstrate compliance with Section 132.002(h), Education Code, through the application process under Section 132.002(d); or if the school or institution has previously been granted an exemption from Chapter 132 and the most recent exemption was granted before June 30, 2013, by an affidavit submitted to TWC by the owner of the school or institution.

Requires that the Texas Higher Education Coordinating Board (THECB) take appropriate action, including making appropriate referrals to an accrediting agency or to the attorney general, to address any complaint received by THECB from a student or prospective student of a school or institution to which Section 132.002 (h), Education Code, applies is exempted from Chapter 132, Education Code, on the basis of Section 132.002 (a)(2), Education Code, and subject to regulation by THECB.

Classification of Government Contract Workers—H.B. 2015

by Representative John Davis—Senate Sponsor: Senators Watson and Garcia

Current law requires that quarterly employers report to the Texas Workforce Commission (TWC) the number of workers employed by them who are considered employees under the Texas Unemployment Compensation Act (Act). The employer then pays unemployment insurance (UI) taxes on the workers who are classified as employees each quarter. If an employer is found to have workers who are employees but have not been reported as such, TWC requires the employer to pay any retroactive UI taxes as well as any future UI taxes that are due for the employees. This bill:

Requires a person who contracts with a governmental entity to provide a service as defined by Section 2155.001 (Definitions), Government Code, to properly classify, as an employee or independent contractor in accordance with Chapter 201 (Unemployment Compensation Act—General Provisions), Labor Code, any individual the person directly retains and compensates for services performed in connection with the contract.

Defines "subcontractor."

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Requires a person who fails to properly classify an individual as an employee or independent contractor to pay to TWC a penalty equal to \$200 for each individual that the person has not properly classified.

Prohibits TWC from taking action to collect a penalty from an employer for failing to properly classify an individual as an employee or independent contractor after the third anniversary of the date on which the violation occurred.

UC Eligibility and Chargebacks For Persons Who Leave Work to Attend Training—H.B. 2034 *by Representatives Vo and Eddie Rodriguez—Senate Sponsor: Senator Ellis*

Section 207.052 (Leaving Work to Attend Educational Institution), Labor Code, recognizes that an individual is disqualified from benefits if he or she leaves work to attend school or training unless such training is approved by the Texas Workforce Commission (TWC). As currently written, Section 207.052(a), Labor Code, is an anachronistic reference to benefit disqualification provisions that are no longer applicable. In previous iterations of the Act's disqualification provisions, certain types of job separations carried with them set amounts of benefit periods for which a claimant was disqualified. This bill:

Prohibits benefits from being charged to the account of an employer, regardless of whether the liability for the chargeback arises in the employee's current benefit year or in a subsequent benefit year, if the employee's last separation from the employer's employment before the employee's benefit year was or would have been excepted from disqualification under Section 207.023(b)(2), Labor Code, or Section 207.045(j), Labor Code.

Provides that an individual is not disqualified for benefits under Section 207.045, Labor Code, if the individual left the individual's last work to attend TWC-approved training under Section 207.022, Labor Code, and the individual's last work did not constitute suitable work for the individual, as determined under Section 207.008 (Suitable Work), Labor Code.

Repeals Section 207.052 (Leaving Work to Attend Educational Institution), Labor Code.

Shared Work Unemployment Compensation Program—H.B. 2035 *by Representative Vo—Senate Sponsor: Senator Eltife*

New requirements enacted by the 112th Congress in H.R. 3630 provide for 100 percent federal funding of shared work benefits for up to 156 weeks or through August 2015 as well as a temporary chargeback protection for employers participating in the Shared Work Program while those benefits are funded by the federal government. If the state does not make the corresponding changes, it will be out of compliance with federal law and could lose federal funding. This bill:

Prohibits shared work benefits paid under Chapter 215 (Shared Work Unemployment Compensation Program), Labor Code, from being charged to the account of an employer if the benefits are reimbursed by the federal government under the federal Layoff Prevention Act of 2012 (Pub. L. No. 112-96, Subtitle D, Title II).

Authorizes the Texas Workforce Commission (TWC) to approve a shared work plan if the plan meets certain criteria and the employer certifies that the implementation of the shared work plan and the resulting reduction in work hours is in lieu of layoffs that would affect at least 10 percent of the employees in the affected unit and result in an equivalent reduction in work hours; the employer certifies that if the employer currently provides fringe benefits, the fringe benefits continue for employees in the affected unit unless those benefits are not continued for employees not participating in the shared work plan and participation in the shared work plan is consistent with the employer's obligations under state and federal law; and the employer agrees to furnish TWC reports relating to the operation of the plan as requested by TWC and any other information the United States secretary of labor determines is appropriate. Prohibits a shared work plan from being implemented to subsidize a seasonal employer during the off-season.

Air Conditioning and Refrigeration Licensing Requirements—H.B. 2294
by Representatives Kuempel and Lucio III—Senate Sponsor: Senator Carona

Smart home technology has evolved such that several companies offer products that allow a consumer to use one panel and wireless technology to adjust not only a burglar or fire alarm, but also thermostats, lighting, locks, electrical outlets, and window treatments. The thermostat component of this new technology has created a challenge for various companies and professionals in Texas because of the state's current air conditioning and refrigeration licensing requirements.

Section 1302.002 (Definitions), Occupations Code, stipulates that air conditioning and refrigeration contracting means performing or offering to perform the design, installation, construction, repair, maintenance, service, or modification of equipment or a product in an environmental air conditioning system, a commercial refrigeration system, or a process cooling or heating system. Section 1302.251 (License Required), Occupations Code, further provides that anyone who performs this work in Texas must possess a license from the Texas Department of Licensing and Regulation (TDLR). TDLR has interpreted this language so as to require anyone who installs or offers to install a thermostat to obtain an air conditioning and refrigeration contractor license, despite the fact that this specific work may not require the technical expertise of a licensed contractor. This bill:

Redefines "air conditioning and refrigeration contracting" to mean performing or offering to perform the design, installation, construction, repair, maintenance, service, or modification of equipment or a product in an environmental air conditioning system, a commercial refrigeration system, or a process cooling or heating system.

Provides that this provision does not include the performance of or an offer to perform the installation, repair, replacement, or modification of a thermostat or other temperature control interface by a person licensed or registered under Chapter 1702 (Private Security).

Sales of Portable Fire Extinguishers—H.B. 2447
by Representative "Mando" Martinez—Senate Sponsor: Senator Hinojosa

Current law requires a portable fire extinguisher to be tested for compliance under a recognized performance standard in order to receive a listing for such use by an approved laboratory. However, concerns have been raised that this consumer protection is often circumvented by certain portable fire

extinguisher retailers, which could compromise the safety of our citizens. A portable fire extinguisher can receive the required approval or classification by simply performing as the manufacturer claims the fire extinguisher will perform, as opposed to being tested for performance to a recognized performance standard by an approved testing laboratory. This bill:

Prohibits a person from using the term "portable fire extinguisher" or "fire extinguisher" in the sale or advertisement of an aerosol fire suppression device or similar fire suppression device unless the device conforms to NFPA Standard 10 (2010), "Standard for Portable Fire Extinguishers," or a successor standard adopted by the commissioner of insurance that is at least as stringent as the NFPA Standard 10, and is specifically listed for that use by a testing laboratory approved by the Texas Department of Insurance (TDI).

Provides that the purpose of this Act is to safeguard lives and property by prohibiting portable fire extinguishers, fixed fire extinguisher systems, or extinguisher equipment that is not listed by a testing laboratory approved by TDI.

Provides that the licensing provisions of this chapter do not apply to certain entities, including a firm that is engaged in the retail or wholesale sale of portable fire extinguishers that carry the listing of a testing laboratory approved by TDI, but that is not engaged in the installation or servicing of those extinguishers.

Provides that amendments made by this Act do not apply to the sale or advertisement of an aerosol fire suppression device or similar fire suppression device that, on or before September 1, 2013, is listed for use as a portable fire extinguisher by a testing laboratory approved by TDI, other than the National Fire Protection Association, and approved for use as a portable fire extinguisher by TDI. Provides that this Act expires September 1, 2015.

Amount Charged For Certain Debt Cancellation—H.B. 2459

by Representative Senfronia Thompson—Senate Sponsor: Senator Carona

Pursuant to Chapter 348 (Motor Vehicle Installment Sales), Finance Code, debt cancellation agreements, or guaranteed auto protection (GAP) waivers may be sold and financed in connection with motor vehicle retail installment contracts. GAP waivers protect consumers by eliminating an unpaid loan balance in the event that the covered vehicle is stolen or damaged beyond repair and are often triggered due to the fact that a vehicle's value begins to depreciate as soon as it is purchased. GAP waivers are not an insurance product, but rather they are two-party bank transactions.

Current law stipulates that GAP waivers must be created in good faith and be commercially reasonable. The statute does not provide a definition for "commercially reasonable," however, and this ambiguity has created confusion and uncertainty for the banks and other businesses involved with the transactions. In addition, banks fear that the statutory ambiguity leaves them vulnerable to actions by the Consumer Financial Protection Bureau or other lawsuits. This bill:

Prohibits the amount charged for a debt cancellation agreement made in connection with a retail installment contract from exceeding five percent of the amount financed pursuant to the retail installment contract.

Stamps Indicating the Payment of Taxes by Certain Permittees—H.B. 2460
by Representative Senfronia Thompson—Senate Sponsor: Senator Carona

Identification stamps are provided by the Texas Alcoholic Beverage Commission (TABC) to package store local distributors to be placed on bottles of distilled spirits sold to mixed beverage and private club permit holders. These stamps prove that the spirits were purchased through the proper legal channels. When a bottle is emptied by the bar or restaurant, the stamp is required to be immediately scratched or defaced. Concerns have been raised that TABC has discovered identification stamps that have been stolen from a local distributor or illegally sold to a retailer and used on bottles of distilled spirits purchased outside of the three-tier system. This action is an attempt to cheat on mixed beverage gross receipts taxes but unfortunately, under current law, being in possession of these stamps is not illegal. This bill:

Prohibits a mixed beverage permittee from possessing a stamp used to show payment of a tax unless the stamp is affixed to a bottle or container of liquor.

Prohibits a private club registration permittee from possessing a stamp used to show payment of a tax unless the stamp is affixed to a bottle or container of liquor.

Automobile Club Memberships With Motor Vehicle Retail Installment Contracts—H.B. 2462
by Representative Senfronia Thompson—Senate Sponsor: Senator Carona

Under current law, consumers may finance the purchase of automobile club memberships that provide roadside assistance and other services in connection with consumer loans. However, current law does not provide the same opportunity with regard to motor vehicle retail installment transactions, which are directly related to the services a consumer obtains through automobile club memberships. Despite this omission, motor vehicle retail installment transactions may be used to finance related items such as registration and title fees, taxes, insurance and warranty fees, and debt cancellation agreements, which are also known as GAP waivers. This bill:

Provides that an amount in a retail installment contract is an itemized charge if the amount is not included in the cash price and is the amount of fees for registration, certificate of title, and license, and any additional registration fees charged by a full service deputy or charges authorized for insurance, service contracts, warranties, automobile club memberships, or a debt cancellation agreement.

Authorizes a retail seller to, at the time a retail installment contract is executed, offer to sell to the retail buyer an automobile club membership.

Requires the retail seller to give the retail buyer written notice at the time the retail installment contract is executed that the retail buyer is not required to purchase the membership as a condition for approval of the contract and is entitled to cancel the membership and receive a full refund of the purchase price of the membership before the 31st day after the date the contract is executed.

Requires the retail seller to notify the retail buyer if the membership includes services that are provided by the manufacturer as part of the motor vehicle purchase.

Requires that the amount charged for a membership be reasonable.

Study Regarding Shortages in High-Wage, High-Demand Occupations—H.B. 2478
by Representatives Alvarado and John Davis—Senate Sponsor: Senators Watson and Garcia

The House Interim Committee on Manufacturing, 82nd Legislature, 2011, recommended that the legislature identify current and potential job shortages by class and develop additional training capacity for the most undersupplied classes of jobs. To remain economically competitive, Texas must obtain, provide, and act on useful data concerning which socioeconomic groups would best benefit from career training programs. With an understanding of the jobs and skills deficits of key industrial categories, lawmakers and the business community are better equipped to develop additional training capacities and programs for the most undersupplied classes of jobs. This bill:

Requires the Texas Workforce Commission (TWC) to gather and study information relating to existing and projected shortages in high-wage, high-demand occupations in industrial job sectors, including construction; manufacturing; agriculture; forestry; health care and social services; education; transportation and warehousing; mining, quarrying, and oil and gas extraction; utilities; wholesale trade; retail; trade, finance, and insurance; professional, scientific, and technical services; and hospitality and food services in this state.

Requires TWC, not later than January 1 of each year, to submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each standing committee or subcommittee of the legislature with primary jurisdiction over workforce development matters a detailed report summarizing the results of TWC's study for the most recent state fiscal year and any suggestions and recommendations for legislative action that TWC considers appropriate resulting from that study.

Study to Determine Why Major Manufacturers Invest in Other States Instead of Texas—H.B. 2482
by Representative Alvarado et al.—Senate Sponsor: Senators Taylor and Garcia

A manufacturing business considers current financial incentives and legal frameworks that would have a direct effect on business before launching a plant or investing in Texas. When a business declines to launch or invest in Texas, the reasons for its decision are not typically made public, and there is neither obligation nor occasion to explain its rationale for declining a business opportunity in Texas. Consequently, state lawmakers can do little to remedy those factors that prevent businesses from starting or expanding in Texas. This bill:

Defines "major manufacturer" to mean a person that is engaged in the business of manufacturing; invested \$1 million or more in developing, expanding, or maintaining manufacturing operations in another state after September 1, 2011, and before September 1, 2014, and was offered economic incentives by the state or a local government related to developing, expanding, or maintaining manufacturing operations in this state before choosing to make that investment.

Requires that the comptroller of public accounts of the State of Texas (comptroller) conduct a study on the reasons specific to the economic incentives and the promotion of manufacturing development that major

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manufacturers have chosen to invest in other states after the manufacturers were offered economic incentives by the state or a local government to develop in Texas.

Requires the comptroller's office to solicit interviews that address recommendations for this state to effectively compete with other states in promoting manufacturing development with an executive of each major manufacturer that declined the incentives.

Requires the comptroller, not later than December 1, 2014, to provide a report on the results of the study, including an analysis of the results, to the speaker of the house of representatives, the lieutenant governor, the governor, and each standing committee of the legislature that has relevant jurisdiction.

Business Leave Time Account For a Police Officer Employee Organization—H.B. 2509 *by Representative Anchia et al.—Senate Sponsor: Senator Carona*

Current law allows police officers, in municipalities with a population of one million or greater, who are members of a law enforcement association, to donate up to two hours of accumulated (municipal) vacation or compensatory leave time to a "business leave time" account. However, current law has been interpreted to require that every officer in an association must sign a form in agreement to allow business leave time to be donated. This bill:

Authorizes donations to the business leave time account of an employee organization by its members to be made without a majority affirmative vote of the membership by the employee organization to require contributions by the employee organization's members to its business leave time account if a police officer authorizes the donation in writing on a form provided by the employee organization and approved by the municipality. Establishes that after receiving the signed authorization on an approved form, the municipality is required to transfer donated time to the account monthly until the municipality receives the police officer's written revocation of the authorization.

Provides that donations to the business leave time account of an employee organization by its members can also be authorized if the majority of the membership of the employee organization has affirmatively voted to require contributions by the employee organization's members to its business leave time account. Establishes how and when the donated time is to be donated. Establishes that a police officer who is a member of the employee organization is authorized to inform the municipality in writing on a form provided by the employee organization and approved by the municipality that the police officer chooses to not donate time to the account.

Regulations on Surcharge for Use of a Credit Card—H.B. 2548 *by Representative Burkett—Senate Sponsor: Senator Carona*

The Finance Commission of Texas (finance commission) oversees the activities of three agencies: the Office of Consumer Credit Commissioner (CCC), the Texas Department of Banking, and the Department of Savings and Mortgage Lending. The finance commission has broad rulemaking authority with regard to financial services, but because the commission lacks a legal or investigative department, the Finance Code generally grants related enforcement authority to one of the three agencies under its purview.

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Section 339.001 (Imposition of Surcharge for Use of Credit Card), Finance Code, provides that a seller may not impose a surcharge on a buyer who uses a credit card for an extension of credit instead of cash, a check, or a similar means of payment. CCC regulates this kind of activity in the state, but Section 339.001 mistakenly delegates enforcement authority with regard to this specific provision to the finance commission. This bill:

Provides that the consumer credit commissioner (commissioner) has exclusive jurisdiction to regulate a surcharge use for a credit card.

Authorizes the finance commission to adopt rules relating to surcharge use for a credit card.

Requires the commissioner to enforce laws regarding the surcharge use for a credit card in person or through an assistant commissioner, examiner, or other employee of CCC.

Provides that investigative and enforcement authority under this subchapter (Investigation and Enforcement) applies only to laws regarding surcharge use for a credit card, loans, pawnshops, credit services organizations with respect to a credit access business, and debtor assistance.

Prohibits certain information or material obtained or compiled by the commissioner in relation to an examination or investigation by the commissioner or the commissioner's representative of a person regarding surcharge use for a credit card from being disclosed by the commissioner or an officer or employee of CCC.

Authorizes the commissioner to order a person who violates or causes a violation or a rule adopted regarding surcharge use for a credit card or a credit access business that violates or causes a violation or a rule to make restitution to an identifiable person injured by the violation.

Authorizes the commissioner to accept assurance of voluntary compliance from a person who is engaging in or has engaged in an act or practice in violation of certain provisions or rules, including rules regarding surcharge use for a credit card.

Provides that an assurance of voluntary compliance is not an admission of a violation of certain provisions, including assurance of voluntary compliance regarding a surcharge use for a credit card.

Provides that a subsequent failure to comply with the assurance is prima facie evidence of a violation of certain provisions or rules, including provisions and rules regarding surcharge use for a credit card, unless an assurance of voluntary compliance is rescinded by agreement or voided by a court for good cause.

Delinquent Payment For an Alcoholic Beverage Retailer's Account for Liquor—H.B. 2806 *by Representative Geren—Senate Sponsor: Senator Van de Putte*

Current law requires payment on purchases of liquor made from the 1st through the 15th day of a month to be made on or before the 25th day of the month and requires payment on purchases made on the 16th through the last day of the month to be made on or before the 10th day of the following month. The law also prohibits a wholesale dealer from selling any liquor to a retailer who is delinquent until the delinquent account is paid in full. In order to facilitate enforcement of this law, the Texas Alcoholic Beverage

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Commission publishes information regarding delinquent accounts. There have been indications of a need to publish the final information on the respective payment due date. Concerns have been raised that this would not allow time for on-time payments to be received that were sent by mail and would not allow for corrections to be made between the due date and the date the information becomes final. This bill:

Requires that payment on purchases made from the 1st through 15th day of a month be made on or before the 25th day of that month.

Requires that payment on purchases made on the 16th through the last day of a month be made on or before the 10th day of the following month.

Provides that an account is not delinquent if payment is received by the wholesale dealer not later than the fourth business day after the date payment is due.

Funding to Support Certain Joint Credit Courses—H.B. 3028 *by Representative John Davis—Senate Sponsor: Senator Birdwell*

Currently, the skills development fund may be used by public community and technical colleges, community-based organizations, and the Texas Engineering Extension Service as start-up or emergency funds for job training purposes, including developing customized training programs for businesses and trade unions and sponsoring small and medium-sized business networks and consortiums. In certain cases a business will develop a partnership with a college to submit proposals, develop curricula, and conduct training, as the skills development fund will pay for the training, the college will administer the grant, and the business will create new jobs and improve the skills of their current workers. This bill:

Authorizes an amount of money from the skills development fund not to exceed five percent of the amount of general revenue appropriated to the skills development fund for that biennium, in addition to the purposes described by Subsections (b) (relating to authorizing the skills development fund to be used by public community and technical colleges, community-based organizations, and the Texas Engineering Extension Service as start-up or emergency funds for certain job-training purposes) and (b-1) (relating to authorizing the Texas Workforce Commission (TWC) by rule to establish and develop certain additional job incentive programs), in each state fiscal biennium, to be used as provided by this subsection. Authorizes funds available to TWC from other sources to also be used as provided by this subsection. Authorizes funds to be awarded under this subsection to a lower-division institution of higher education to be used under an agreement with a school district to support courses offered for joint high school and college-level credit or offered under a college credit career or technical education program that leads to an industry-recognized license, credential, or certificate. Provides that appropriate uses of funds awarded under this subsection include purchasing or repairing necessary equipment for a course and developing a course curriculum.

Requires that a course or program in Section 303.003 (Skills Development Fund), Labor Code, have the endorsement of, or a letter of support from, at least one employer in this state and be targeted to address the needs of high-demand fields or occupations, as identified by the applicable local workforce development board.

Defines "lower-division institution of higher education" in this section.

Debit or Stored Valued Card Charges—H.B. 3068

by Representative Menéndez—Senate Sponsor: Senator Carona

Current law restricting surcharges on credit card transactions was enacted at a time when the use of debit cards for purchases was limited. As debit cards have become the preferred method of payment for a growing number of consumers, the need to provide similar protections to individuals who choose to utilize this form of payment has also grown. Furthermore, recent changes in federal law could result in financial alliances between large stores and large banks under which such stores could steer consumers toward those particular banks by creating financial disincentives for consumers to use the debit cards of smaller community banks. This practice is potentially discriminatory against smaller banks, the majority of which issue debit cards rather than credit cards to their customers. This bill:

Prohibits a merchant, in a sale of goods or services, from imposing a surcharge on a buyer who uses a debit or stored value card instead of cash, a check, credit card, or a similar means of payment.

Provides that this does not apply to a state agency, county, local governmental entity, or other governmental entity that accepts a debit or stored value card for the payment of fees, taxes, or other charges.

Malt Beverage Contract Arrangements—H.B. 3307

by Representative Geren—Senate Sponsor: Senator Watson

In 2005 the legislature amended the Alcoholic Beverage Code to grandfather the practice of contract brewing for breweries in business prior to 2005. Current law authorizes contracting arrangements for brewers in business prior to 2005, and allows an exception to the manufacturers permit requirement that only one brewery may be licensed at a single location. However, since that time, the Texas Alcoholic Beverage Commission (TABC) has discovered that it has granted manufacturing permits to entities that engage in contract brewing that were not in business prior to 2005.

In addition, the federal regulatory agency, the Alcohol and Tobacco Tax and Trade Bureau, has authorized a new business arrangement called the alternating brewery proprietorship, in which two breweries agree to contract for a period of time to share a manufacturing premises where each is allowed to manufacture its own beer. This new arrangement, though authorized under federal law, is not currently recognized in Texas law because of the prohibition against operating more than one brewery at a single location.

Clear authorization of these business arrangements will continue to encourage the development of small businesses by allowing them to start up and become established through contract and shared manufacturing facility arrangements that can help minimize and mitigate the costs associated with owning or constructing a brewery. This bill:

Authorizes the holder of a brewer's or nonresident brewer's permit that held a brewer's or nonresident brewer's permit or whose brand was legally sold in this state, to contract with the holder of a brewer's permit to provide brewing services, or for the use of the permit holder's brewing facilities under an alternating brewery proprietorship if each party to the proprietorship has filed the appropriate Brewer's Notice and Brewer's Bond, as required by the Alcohol and Tobacco Tax and Trade Bureau of the United

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States Department of the Treasury, and if applicable, has posted with TABC a bond in an amount determined by TABC.

Provides that an entity is not required to own its brewing facilities if the entity operates under an alternating brewery proprietorship, held a brewer's or nonresident brewer's permit, or whose brand was legally sold in this state.

Requires each entity that is a party to an alternating brewery proprietorship or contract brewing arrangement to hold a permit at the location where brewing services are conducted under the arrangement.

Authorizes TABC by rule, to require an entity that is a party to an alternating brewery proprietorship or contract brewing arrangement to post with TABC a bond in an amount determined by TABC not to exceed \$200,000.

Requires an entity that is a party to an alternating brewery proprietorship or contract brewing arrangement to post with TABC a bond in an amount determined by TABC of not less than \$30,000 if the entity does not own a fee interest in a brewing facility.

Authorizes more than one manufacturer's or nonresident manufacturer's license to be issued for a single premises if the license holder for the premises has contracted with an entity under an alternating brewery proprietorship or contract brewing arrangement, held a manufacturer's or nonresident manufacturer's license, or whose brand was legally sold in this state for the use of the license holder's premises for manufacturing purposes or to provide manufacturing services.

Authorizes the holder of a manufacturer's license to fulfill certain duties, including entering into an alternating brewery proprietorship or contract brewing arrangement.

Authorizes the holder of a manufacturer's or nonresident manufacturer's license that held a manufacturer's or nonresident manufacturer's license or whose brand was legally sold in this state to contract with the holder of a manufacturer's license to provide manufacturing services, or for the use of the license holder's manufacturing facilities under an alternating brewery proprietorship if each party to the proprietorship has filed the appropriate Brewer's Notice and Brewer's Bond as required by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury, and if applicable, has posted with TABC a bond in an amount determined by TABC.

Provides that an entity is not required to own its manufacturing facilities if the entity operates under an alternating brewery proprietorship, held a manufacturer's or nonresident manufacturer's license, or whose brand was legally sold in this state.

Requires each entity that is a party to an alternating brewery proprietorship or contract brewing arrangement to hold a license at the location where manufacturing services are conducted under the arrangement.

Authorizes TABC by rule to require an entity that is a party to an alternating brewery proprietorship or contract brewing arrangement to post with TABC a bond in an amount determined by TABC not to exceed \$200,000.

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Requires an entity that is a party to an alternating brewery proprietorship or contract brewing arrangement to post with TABC a bond in an amount determined by TABC of not less than \$30,000 if the entity does not own a fee interest in a manufacturing facility.

Authorizes the holder of a manufacturer's or nonresident manufacturer's license that held a manufacturer's or nonresident manufacturer's license or whose brand was legally sold in this state, to contract with the holder of a manufacturer's license to provide manufacturing services or for the use of the license holder's manufacturing facilities under an alternating brewery proprietorship if each party to the proprietorship has filed the appropriate Brewer's Notice and Brewer's Bond as required by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury, and if applicable, has posted with TABC a bond in an amount determined by TABC.

Provides that an entity is not required to own its manufacturing facilities if the entity operates under an alternating brewery proprietorship held a manufacturer's or nonresident manufacturer's license or whose brand was legally sold in this state is not required to own its manufacturing facilities if the entity operates under an alternating brewery proprietorship.

Requires each entity that is a party to an alternating brewery proprietorship or contract brewing arrangement to hold a license at the location where manufacturing services are conducted under the arrangement.

Authorizes TABC by rule, to require an entity that is a party to an alternating brewery proprietorship or contract brewing arrangement to post with TABC a bond in an amount determined by TABC not to exceed \$200,000.

Requires an entity that is a party to an alternating brewery proprietorship or contract brewing arrangement to post with TABC a bond in an amount determined by TABC of not less than \$30,000 if the entity does not own a fee interest in a manufacturing facility.

Requires a person who holds a permit issued under Chapter 12 (Brewer's Permit) or 13 (Nonresident Brewer's Permit) or a license issued under Chapter 62 (Manufacturer's License) or 63 (Nonresident Manufacturer's License) to verify to TABC on an annual basis that a brewing or manufacturing facility owned or controlled by the permit or license holder is not used to produce malt beverages primarily for a specific retailer or the retailer's affiliates.

Requires TABC to adopt a form for the verification.

Texas Economic Development Act—H.B. 3390

by Representative Hilderbran et al.—Senate Sponsor: Senator Deuell

Texas has higher property tax rates applying to a broader tax base than that many other states. Some interested parties state that this creates a disincentive in attracting new businesses to Texas. The Texas Economic Development Act (TEDA), codified as Chapter 313 (Texas Economic Development Act) of the Tax Code, allows school districts to offer a temporary limitation on the taxable value of new investment property to incentivize new business investments in the state. This bill:

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Sets forth legislative findings that:

- Texas's relatively high ad valorem taxes make it difficult for the state to compete for new capital projects without temporarily limiting ad valorem taxes imposed on new capital investments; and
- a significant portion of the Texas economy continues to be based in capital-intensive industries.

Strikes the finding regarding Texas's national ranking in terms of attracting major new manufacturing facilities.

Amends the purposes of TEDA:

- strikes a provision regarding encouraging large-scale capital investments in Texas in school districts that have an ad valorem tax base that is less than the statewide average ad valorem tax base of school districts in this state;
- includes references to the state regarding enabling government officials and economic development professionals to compete with other states by authorizing economic development incentives; and
- changes the provision regarding providing school districts with an effective local economic development option to providing state and local officials with an effective economic development tool.

Amends the legislative intent provisions:

- provides that economic development decisions involving school district taxes should occur at the local level with oversight by the state and should be consistent with identifiable statewide economic development goals;
- states that Chapter 313 should not be construed or interpreted to allow an entity not subject to the tax imposed by Chapter 171 (Franchise Tax), Tax Code, to receive an ad valorem tax benefit provided by this chapter; and
- requires the comptroller of public accounts of the State of Texas (comptroller), in implementing Chapter 313, to strictly interpret the criteria and selection guidelines provided by this chapter; and issue certificates for limitation on appraised value (LOAV) only for those applications for an ad valorem tax benefit provided by this chapter that create high-paying jobs, provide a net benefit to the state over the long term, and advance the economic development goals of this state.

Extends Subchapters B (Limitation on Appraised Value of Certain Property Used to Create Jobs) and C (Limitation on Appraised Value of Property in Certain Rural School Districts) to December 31, 2022.

Requires the state auditor to annually review at least three major agreements to determine whether the agreements comply with certain provisions of Chapter 313; and make recommendations relating to increasing the efficiency and effectiveness of the administration of Chapter 313.

Amends Sections 313.021 (Definitions), Tax Code:

- clarifies that the jobs created must be qualifying jobs;
- expands tangible personal property to include property first placed in service in a newly expanded building;
- strikes a provision regarding the use of the county average weekly wage for all jobs in a county; and
- provides that in determining whether a property owner has created the number of qualifying jobs required under Chapter 313, certain related jobs created in connection with the project may satisfy the minimum qualifying jobs requirement for the project if the Texas Workforce Commission (TWC)

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determines that the cumulative economic benefits to the state of these jobs is the same or greater than that associated with the minimum number of qualified jobs required to be created under this chapter.

Authorizes TWC to adopt rules to implement this provision.

Expands property eligible for an LOAV to include property for a Texas priority project.

Revises the requirements regarding whether a property owner is eligible for an LOAV to require the creation of a required number of new qualifying jobs and that the average weekly wage for all non-qualifying jobs must exceed the county average weekly wage.

Provides that new qualifying jobs created under an agreement between the property owner and another school district may be included in the total number of new qualifying jobs created in connection with the project if the Texas Economic Development and Tourism Office determines that the projects covered by the agreements constitute a single unified project.

Authorizes the Texas Economic Development and Tourism Office to adopt rules to implement this provision.

Defines a "Texas priority project."

Amends Section 313.025 (Application; Action on Application):

- requires the application to include certain information required by the comptroller;
- reduces the number of copies of an application that a governing body must submit to the comptroller in certain circumstances from three to one;
- requires the comptroller to conduct an economic impact evaluation;
- requires the comptroller to provide to the governing body of a school district a comptroller's certificate or written explanation within a set period;
- requires the Texas Education Agency to submit certain reports and determinations to the school district rather than to the comptroller; and
- requires the comptroller to either issue a certificate for an LOAV of the property and provide the certificate to the governing body of the school district or provide a written explanation of the comptroller's decision not to issue a certificate.
- Amends provisions regarding what an economic impact evaluation of the application must include to require any information the comptroller determines is necessary or helpful to:
 - the governing body of the school district in determining whether to approve the application; or
 - the comptroller in determining whether to issue a certificate for an LOAV for the property.

Requires the comptroller's determination whether to issue a certificate for an LOAV to be based on the economic impact evaluation.

Prohibits the comptroller from issuing a certificate for an LOAV unless the comptroller makes certain specified determinations.

Requires the comptroller to state in writing the basis for such determinations.

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Authorizes an applicant to submit certain information to the comptroller.

Authorizes the comptroller to issue the certificate if the comptroller makes a qualitative determination that other considerations associated with the project result in a net positive benefit to the state.

Amends Section 313.027 (Limitation On Appraised Value; Agreement), Tax Code:

- strikes a certain requirement that the person's application be approved by the governing body of the school district, for each of the first eight tax years that begin after the applicable qualifying time period;
- requires that the agreement between the person and a school district include certain provisions and be in a form approved by the comptroller;
- changes the period the property owner must maintain a viable presence in the school district from at least three years to at least five years;
- sets forth when the agreement may provide for the deferral of the date on which the qualifying time period is to commence; and
- bars a person and school district from entering into an agreement under which the person agrees to provide certain supplemental payments to a school district or any other entity on behalf of a school district.

Authorizes a person to request, and the comptroller to grant, a waiver of the penalty imposed under Section 313.0275 (Recapture of Ad Valorem Tax Revenue Lost), Tax Code, in the event of a casualty loss that prevents a person from complying with this section.

Adds Section 313.0276 (Penalty for Failure to Comply With Job-Creation Requirements) to the Tax Code:

- requires the comptroller to conduct an annual review and issue a determination as to whether a person with whom a school district has entered into an agreement satisfied the requirements of Chapter 313 regarding the creation of qualifying jobs;
- requires the comptroller, if the comptroller makes an adverse determination in the review, to notify the person of the cause of the adverse determination and the corrective measures necessary to remedy the determination;
- requires a person, if the person receives an adverse determination, fails to remedy the determination, and the comptroller makes an adverse determination with respect to the person's compliance in the following year, to submit to the comptroller a plan for remedying the determination by a certain date;
- requires the comptroller, if the person who receives an adverse determination fails to comply with this section and receives an adverse determination in the following year, to impose a penalty on the person;
- sets forth how the amount of the penalty is computed;
- provides that the penalty imposed under this section may not exceed a certain amount;
- sets forth when a job created by a person is considered not to be a qualifying job;
- provides that an adverse determination under this section is a deficiency determination under Section 111.008 (Deficiency Determination), Tax Code, and subject to Sections 111.0081 (When Payment is Required) and 111.009 (Redetermination);
- provides that a redetermination under Section 111.009 is a contested case;
- sets forth how a person who contends that the amount of the penalty is unlawful or that the comptroller may not legally demand or collect the penalty may challenge the determination;

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- authorizes the comptroller, if the comptroller imposes a penalty on a person under this section three times, to rescind the agreement between the person and the school district;
- sets forth how a person may contest a determination by the comptroller to rescind such agreement;
- requires the person, if the comptroller's determination to rescind the agreement is upheld on appeal, to pay the comptroller any tax that would have been due and payable to the school district during the pendency of the appeal; and
- requires the comptroller to deposit a penalty collected under this section to the credit of the foundation school fund.

Requires the comptroller to submit to the lieutenant governor, the speaker of the house of representatives, and each other member of the legislature a report on the agreements entered into under Chapter 313 that includes certain specified information.

Authorizes the comptroller, in preparing the report, to use standard economic estimation techniques.

Authorizes the comptroller to require a former recipient of an LOAV to submit information required to complete the report.

Requires each recipient of an LOAV to submit to the comptroller an annual report on a form provided by the comptroller providing information sufficient to document the number of qualifying jobs created.

Amends the heading to Subchapter C, Chapter 313, Tax Code, to read "Subchapter C. Limitation on Appraised Value of Property in Strategic Investment Area or Certain Rural School Districts."

Defines "strategic investment area."

Amends provisions setting forth which school districts are covered under Subsection C.

Requires the comptroller, not later than September 1 of each year, to determine areas that qualify as a strategic investment area and to publish a list and map of the designated areas.

Provides that such determination is effective for the following tax year.

Strikes a provision setting out requirements for qualifying jobs under Subchapter C.

Increases the minimum amounts of limitation set forth in the table in Subsection (a), Section 313.054 (Limitation on Appraised Value), Tax Code.

Repeals Subchapter D (School Tax Credits), Chapter 313, Texas Code.

Requires the comptroller to make the initial determination regarding areas that qualify as a strategic investment area not later than September 1, 2014, and to publish the initial list and map not later than October 1, 2014.

Allocation and Transfer of Money From the Capital Access Fund—H.B. 3578

by Representative John Davis—Senate Sponsor: Senator Hancock

The Texas Economic Development Bank (bank) created a capital access program to assist participating financial institutions make loans to businesses and nonprofit organizations that face barriers in accessing capital. The capital access program requires the bank to use money in the capital access fund to make a deposit in a participating financial institution's reserve account to be used as a source of money from which the institution may receive reimbursement for losses attributed to loans in the program. The capital access fund has expended almost \$20 million, which in turn leveraged more than \$95 million in loans to small businesses and nonprofits in Texas at a very small cost and risk to the state over a five-year period beginning with its inception in the late 1990s. It is estimated that during the initial five-year period the program has created more than 2,600 new jobs and retained more than 8,600 existing jobs. In 2003, the bank assumed responsibility for the capital access program and was authorized to allocate its resources as necessary to efficiently meet the level of demand experienced by various programs and services administered by the bank. It is thought that if the bank were to be provided with the flexibility to transfer surplus capital access program funds to the Texas product development fund and the Texas small business incubator fund, more loans could be made to businesses that also could have benefited from the capital access program. This bill:

Authorizes the bank, notwithstanding any other provision of Subchapter BB (Capital Access Program), Government Code, to allocate money held in or due to the capital access fund to programs administered by the bank under Section 489.108 (Programs, Services, and Funds Under Bank's Direction) or Subchapter D (Product Development and Small Business Incubators), Government Code.

Authorizes the bank to transfer money from the capital access fund to the Texas product development fund or the Texas small business incubator fund.

Authorizes the bank, notwithstanding Subchapter D, Chapter 489, Government Code, to use money transferred from the capital access fund to the Texas product development fund or the Texas small business incubator fund to make loans to small or medium-sized businesses, governmental entities, or nonprofit organizations.

Authorizes a business, governmental entity, or nonprofit organization that receives a loan to use the money for any project, activity, or enterprise in Texas that fosters economic development, or hold the money in a reserve account created as an extension of the loan.

Provides that certain funds comprise the product fund and the small business fund, and adds the amounts transferred from the capital access fund under Section 481.415, Government Code, to both lists.

Creation of the Office of Small Business Assistance Advisory Task Force—H.B. 3714

by Representatives Guerra and Muñoz—Senate Sponsor: Senator Hinojosa

Currently, there is no task force in Texas assigned the responsibility to review difficulties encountered by small businesses regarding the regulatory system and review information for small businesses to assure that such information is provided in plain language to the public. This bill:

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Requires the Office of Small Business Assistance to establish the Office of Small Business Assistance Advisory Task Force (task force).

Provides that the task force is to be composed of seven members, serving two-year terms, including two members appointed by the governor, three members appointed by the speaker of the house of representatives, and two members appointed by the lieutenant governor.

Provides that task force members are to serve without compensation but entitles them to reimbursement for reasonable and necessary expenses incurred in the discharge of their duties.

Requires the task force to meet as often as necessary but at least once a year.

Requires the task force to advise and assist the Office of Small Business Assistance with its duties to the extent that they relate to small businesses; advise and assist the governor, the lieutenant governor, and the speaker of the house of representatives with issues that relate to small businesses; and provide information in plain language to the public on certain issues related to small businesses.

Requires the governor, the lieutenant governor, and the speaker of the house of representatives, as soon as practicable, to appoint the members of the task force.

Joint Interim Study Regarding the Development of a Cruise Industry—H.C.R. 56

by Representative Hunter et al.—Senate Sponsor: Senator Hinojosa

Cruise operations have the capability to generate significant economic impact on a community, as witnessed in Galveston, Texas. South of Galveston, between Calhoun and Cameron counties, the area hosts three major deepwater ports, which may be viable sites for a cruise line headquarters or a port of embarkation. Both California and Florida benefit from a number of cruise ports, and an additional cruise ship port between Calhoun and Cameron counties could offer an attractive vacation option for many of the state's residents and provide economic stimulus to Texas. This resolution:

Provides that the 83rd Legislature requests that the lieutenant governor and the speaker of the house of representatives provide for a joint interim legislative study regarding the development of a cruise industry on the Texas coast between Calhoun and Cameron counties, including its potential economic impact and options for incentives to attract the cruise industry to South Texas.

Committee to Study the Effects on International Trade of Wait Times at Points of Entry—H.C.R. 80

by Representative Anchia—Senate Sponsor: Senator Carona

Since the implementation of the North American Free Trade Agreement in 1994, trade between the United States and Mexico has risen dramatically, and as the volume of goods crossing the border has increased, so have wait times at points of entry. Mexico is Texas' largest trade partner and the nation's third-largest trade partner. In 2012, more than \$229 billion in trade passed through the Laredo customs district and over \$86 billion passed through the El Paso customs district. Moreover, the United States and Mexican economies are linked because many products are manufactured jointly in Mexico and the United States,

and materials and parts often cross back and forth between factories on each side of the border during assembly.

The free flow of commerce across the Mexican border is of important, but the capacity of the ports of entry to accommodate the increase in traffic has not kept pace with the expansion of trade. Long and unpredictable wait times leave vehicles idling for hours during peak times, having a negative impact on the environment and the health of people living near the border, as well as on the economy. Congestion at points of entry along the border costs the United States and Mexico billions of dollars each year, and increasing efficiency at these crucial corridors would be a tremendous benefit to the prosperity of our state and nation. This resolution:

Provides that the 83rd Legislature requests the lieutenant governor and the speaker of the house of representatives to create a joint interim committee to study the effects on international trade of wait times at Texas points of entry between the United States and Mexico and that the committee submit a full report, including findings and recommendations, to the 84th Texas Legislature when it convenes in January 2015.

Committee to Study Education Policy Relating to Developing a Skilled Workforce—H.C.R. 82
by Representatives Hunter and Price—Senate Sponsor: Senator Hinojosa

The job market has changed significantly in recent years as a result of an increasingly global economy and individuals with only a high school diploma struggle to find employment; however, there is great demand for "middle jobs" that require no bachelor's degree but necessitate education and training beyond high school, referred to as career and technical education. It is expected that by 2020 approximately two out of every three jobs will require some postsecondary education and training. In order to ensure that there is not a shortage of skilled workers in Texas it is necessary to explore such topics as curriculum requirements, opportunities for new education-workforce partnerships, and the impact of emerging industrial sectors. This resolution:

Requests that the lieutenant governor and the speaker of the house of representatives create a joint interim committee to study education policy as it relates to developing a skilled workforce.

Drug Screening or Testing For Unemployment Compensation Benefits—S.B. 21
by Senator Williams et al.—House Sponsor: Representative Creighton et al.

Texas law requires that the Texas Workforce Commission (TWC) ensure that all individuals referred for unemployment benefits are ready to work. Recent changes in federal law allow states to require drug testing for claimants of unemployment benefits under certain circumstances. This bill:

Provides that an individual seeking suitable work in certain occupations that regularly conduct preemployment drug testing is eligible to receive unemployment benefits only by proving that the individual is available to work by complying with certain requirements for a drug screening and testing program administered by TWC under Section 207.026, Labor Code.

Requires TWC to adopt rules for determining the type of work that is suitable for an individual relating to unemployment benefits eligibility.

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Requires TWC to adopt a drug screening and testing program, which complies with the drug testing requirements of 49 C.F.R. Part 382 or other national requirements for drug testing programs, and be designated to protect the rights of benefit applicants and recipients, as part of the requirements for the receipt of unemployment benefits.

Provides that under the drug screening and testing program, each individual who files an initial claim and who has registered for work at an employment office must submit to and pass a drug screening assessment developed and administer by or on behalf of TWC as a prerequisite to receiving benefits under the Texas Unemployment Compensation Act.

Requires that the assessment tool used to screen unemployment benefit applicants consist of a written questionnaire to be completed by the individual applying for benefits and be designed to accurately determine the reasonable likelihood that an individual is using a substance that is subject to regulation under Chapter 481, Health and Safety Code.

Provides that an individual, if a drug screening assessment indicates that there is a reasonable likelihood that the individual is using a substance subject to regulation under Chapter 481, Health and Safety Code, must submit to and pass a drug test administered by or on behalf of TWC to establish the individual's eligibility for benefits under the Texas Unemployment Compensation Act.

Provides that an individual who fails a required drug test for the final determination of unemployment benefit eligibility is not eligible to receive unemployment benefits until the individual has passed a subsequent drug test administered by or on behalf of TWC not earlier than four weeks after the date the individual submitted to the failed drug test.

Provides that an individual is not ineligible to receive benefits based on the individual's failure to pass a drug test if, on the basis of evidence presented by the individual, TWC determines that the individual is participating in a treatment program for drug abuse, the individual enrolls in and attends a treatment program for drug abuse not later than the seventh day after the date initial notice of the failed drug test is sent to the individual, or the failure to pass the test is caused by the use of a substance that was prescribed by a health care practitioner as medically necessary for the individual.

Requires TWC to prescribe procedures for providing initial notice to an individual who fails a drug test, for an appeal under Chapter 212 (Dispute Resolution), Labor Code, and for the retaking of a failed drug test by an individual.

Provides an outline for a basic appeals procedure should an unemployment benefit applicant fail the necessary drug test required for unemployment benefit eligibility and wish to seek an appeal.

Requires TWC to administer the drug screening or testing program using existing administrative funds and any funds appropriated to TWC for the purposes of drug testing and screening of certain unemployment benefit applicants.

Security Freeze For a Person Under the Age of 16—S.B. 60
by Senator Nelson—House Sponsor: Representative Giddings

Currently, credit consumers may place freezes on their credit file to prevent identity thieves from opening lines of credit in their name. Because most children have not established a credit file, they are particularly susceptible to tarnished credit histories if their identity is stolen. This bill:

Defines "protected consumer," "record," "representative," and "security freeze."

Provides that this Act does not apply to the use of a protected consumer's consumer report or record by a person administering a credit file monitoring subscription service to which the protected consumer has subscribed, or the representative of the protected consumer who has subscribed on behalf of the protected consumer; a person providing the protected consumer or the protected consumer's representative with a copy of the protected consumer's consumer report on request of the protected consumer or the protected consumer's representative; a consumer reporting agency with respect to a database or file that consists entirely of information concerning, and is used solely for, one or more of the following: criminal history record information, personal loss history information, fraud prevention or detection, tenant screening, or employment screening; or an entity described by Section 20.038(11) (relating to a check service or fraud prevention service company that issues consumer reports to prevent or investigate fraud or to approve or process certain methods of payment), (12) (relating to a deposit account information service company that issues consumer reports related to account closures caused by certain negative consumer information to an inquiring financial institution), or (13) (relating to a consumer reporting agency that acts only to resell credit information and does not maintain a permanent database of credit information from which new consumer reports are produced).

Provides that this Act prevails above all other provisions in the same chapter.

Provides that documentation that shows a person has authority to act on behalf of a protected consumer is considered sufficient proof of authority for purposes of this subchapter, including an order issued by a court, or a written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer.

Provides that information or documentation that identifies a protected consumer or representative of a protected consumer is considered sufficient proof of identity for purposes of this subchapter, including certain forms of identification.

Prohibits a protected consumer's record from being created or used to consider the protected consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living for any purpose described by Section 20.01(4) (defining "consumer report").

Requires a consumer reporting agency to place a security freeze on a protected consumer's consumer file if the consumer reporting agency receives a request from the protected consumer's representative for the placement of the security freeze as provided by this section, and the protected consumer's representative submits the request to the consumer reporting agency according to certain procedure; provides to the consumer reporting agency sufficient proof of identification of the protected consumer and the representative; provides to the consumer reporting agency sufficient proof of authority to act on behalf of the protected consumer; and pays to the consumer reporting agency a certain fee.

Requires the consumer reporting agency, if a consumer reporting agency does not have a consumer file pertaining to a protected consumer when the consumer reporting agency receives a request and if certain requirements are met, to create a record for the protected consumer and place a security freeze on the protected consumer's record.

Requires the consumer reporting agency to place the security freeze on the protected consumer's consumer file or record, as applicable, not later than the 30th day after receiving a request that meets the requirements.

Prohibits a consumer reporting agency, unless a security freeze on a protected consumer's consumer file or record is removed, from releasing any consumer report relating to the protected consumer, information derived from the protected consumer's consumer report, or any record created for the protected consumer.

Provides that a security freeze on a protected consumer's consumer file or record remains in effect until the protected consumer or the protected consumer's representative requests that the consumer reporting agency remove the security freeze, or a consumer reporting agency removes the security freeze.

Authorizes a protected consumer or protected consumer's representative to remove a security freeze on a protected consumer's consumer file or record if the protected consumer or representative submits a request for the removal of the security freeze to the consumer reporting agency according to certain procedure; provides to the consumer reporting agency in the case of a request by the protected consumer, sufficient proof of identification of the protected consumer, and proof that the sufficient proof of authority for the protected consumer's representative is no longer valid, or in the case of a request by the representative of a protected consumer, sufficient proof of identification of the protected consumer and the representative, and sufficient proof of authority to act on behalf of the protected consumer; and pays to the consumer reporting agency a certain fee.

Requires the consumer reporting agency to remove the security freeze on the protected consumer's consumer file or record not later than the 30th day after the date the agency receives a request that meets the requirements.

Prohibits a consumer reporting agency from charging a fee for any service other than a fee authorized by this Act.

Authorizes a consumer reporting agency to charge a reasonable fee in an amount not to exceed \$10 for each placement or removal of a security freeze on the protected consumer's consumer file or record.

Prohibits a consumer reporting agency from charging a fee for the placement of a security freeze under this subchapter if the protected consumer's representative submits to the consumer reporting agency a copy of a valid police report, investigative report, or complaint involving the commission of an offense under Section 32.51 (Fraudulent Use or Possession of Identifying Information), Penal Code, or at the time the protected consumer's representative makes the request for a security freeze, the protected consumer is under the age of 16, and the consumer reporting agency has created a consumer report pertaining to the protected consumer.

Authorizes a consumer reporting agency to remove a security freeze on a protected consumer's consumer file or record or delete a record of a protected consumer, if the security freeze was placed or the record was created based on a material misrepresentation of fact by the protected consumer or the protected consumer's representative.

Hours of Sale and Consumption of Wine at Winery—S.B. 131
by Senator Nelson—House Sponsor: Representative Smith

Currently, wineries are authorized to remain open until midnight on any night. Authorizing wineries to remain open until 2 a.m. on January 1 would help accommodate New Year's Eve celebrations. This bill:

Authorizes the holder of a winery permit to sell, offer for sale, and deliver wine, and a person to consume wine on the premises of a winery between 8 a.m. and midnight on any day except Sunday; between 10 a.m. and midnight on Sunday; and between midnight and 2 a.m. on New Year's Day.

Ballot Language For Election to Approve and Finance Municipal or County Venue Project—S.B. 169
by Senator Hegar—House Sponsor: Representative Morrison

A county wishing to implement a venue tax must put it before voters in a ballot which states the name of the taxing authority, a description of the venue project, and the type and amount of the tax. The ballot measure requires majority approval. If the taxing authority later wishes to devote proceeds to another project, it must again seek voter approval; however, statutorily mandated ballot language does not make clear whether a taxing authority is proposing a new or increased tax or only seeking voter approval for expenditure of funds raised by an existing and already approved tax. This bill:

Requires that the ballot at the election held under Section 334.024, Local Government Code, be printed to permit voting for or against the proposition: "Authorizing _____ (insert name of municipality or county) to _____ (insert description of venue project) and to _____ (insert "impose a new" or "authorize the use of the existing") _____ tax (insert the type of tax) at the rate of _____ (insert the maximum rate of the tax) for the purpose of financing the venue project."

Governing Fund Transfers to Certain Remittance Transfers—S.B. 230
by Senator Carona—House Sponsor: Representative Deshotel

The enactment of the Dodd-Frank Act amended the federal Electronic Funds Transfers Act (EFTA), which governs the rights, liabilities, and responsibilities of consumers participating in electronic fund transfers. Under Texas law, Chapter 4A of the Uniform Commercial Code governs funds transfers. Currently, Chapter 4A exempts funds transfers that are governed by the EFTA, as the EFTA preempts state law in this area.

Prior to passage of the Dodd-Frank Act, remittance transfers, commonly referred to as consumer international wire transfers, were governed by the EFTA. However, the changes made to the EFTA by the Dodd-Frank Act created an inadvertent statutory gap, and as a result, remittance transfers are no longer governed by the EFTA or Texas law. This bill:

Provides that the Uniform Commercial Code—Funds Transfers provisions apply to a funds transfer that is a remittance transfer as defined in the federal Electronic Fund Transfer Act, unless the remittance transfer is also an electronic fund transfer as defined by the federal act.

Provides that, in the event of an inconsistency between the applicable provision of the Uniform Commercial Code—Funds Transfers and an applicable provision of the federal Electronic Fund Transfer Act, the federal act governs to the extent of the inconsistency.

Loss Damage Waiver in Rental Agreements—S.B. 289
by Senator Carona—House Sponsor: Representative Schaefer

A loss damage waiver is a clause contained in some rental-purchase agreements that provides that a merchant will not hold the purchasing consumer liable for the loss of all or part of the merchandise purchased. Although rental-purchase companies are not required to be licensed with the Texas Department of Licensing and Regulation (TDLR), under current law merchants who offer rental-purchase agreements that include a loss damage waiver clause must have such agreements reviewed and approved by TDLR. TDLR reviews the waivers to ensure that they contain a statutorily required disclosure notifying a consumer that the loss damage waiver is optional and may be redundant with other insurance policies.

Currently, there are approximately only 50 approved contracts on file with TDLR. Because of the small number, and the fact that there are no pending enforcement cases and no penalties have ever been assessed, TDLR believes the program is unnecessary. Additionally, because removing the review requirement would not affect consumer remedies under Chapter 92 (Rental-Purchase Agreements), Business & Commerce Code, or the Deceptive Trade Practices Act, the elimination of TDLR's program leaves recourses intact for consumers who encounter a problem with a rental-purchase agreement. This bill:

Prohibits a merchant from taking certain actions, including selling a loss damage waiver unless the contract containing the waiver complies with this chapter (Rental-Purchase Agreements), rather than prohibiting a merchant from selling a loss damage waiver unless TDLR has approved the form of the contract containing the waiver.

Repeals Sections 92.001(2) (defining "commission") and (4) (defining "department"), 92.158 (Rules for Review of Certain Contracts), 92.159 (Fees), and 92.160 (Administrative Enforcement of Subchapter), Business & Commerce Code.

Provides that an administrative proceeding pending on the effective date of this Act that is related to a complaint filed under Section 92.160, Business & Commerce Code, as that section existed immediately before the effective date of this Act, is dismissed.

Authorizes an administrative penalty assessed under Chapter 92, Business & Commerce Code, as that chapter existed immediately before the effective date of this Act, and Chapter 51 (Texas Department of Licensing and Regulation), Occupations Code, to be collected as provided by Chapter 51, Occupations Code.

Requires TDLR to return a prorated portion of the fee paid by a merchant to TDLR under Section 92.159, Business & Commerce Code, as that section existed immediately before the effective date of this Act.

Transferring Adult Education and Literacy Programs From TEA to TWC—S.B. 307 *by Senator Huffman et al.—House Sponsor: Representative Guillen et al.*

The Texas Education Agency (TEA) has primary responsibility for adult education programs providing training in literacy and basic academic skills through the high school level. The Sunset Advisory Commission, following its review of TEA, recommended that the responsibility for adult education be transferred from TEA to the Texas Workforce Commission (TWC). This bill:

Adds Chapter 315 (Adult Education and Literacy Programs) to the Labor Code:

- Defines "adult," "adult education," and "community-based organization."
- Sets forth the duties of TWC regarding a comprehensive statewide adult education program and related federal and state programs for the education and training of adults.
- Requires TWC, not later than December 1 of each even-numbered year, to report to the legislature regarding the educational and employment outcomes of students participating in adult education and literacy programs.
- Authorizes TWC to adopt rules for the administration of this chapter.
- Requires adult education programs to be: provided by public school districts, public junior colleges, regional education service centers, nonprofit agencies, and community-based organizations approved in accordance with state statutes and TWC rules; and designed to meet the education and training needs of adults.
- Authorizes bilingual education to be used to instruct students who do not function satisfactorily in English.
- Requires TWC, in consultation with the Texas Higher Education Coordinating Board and TEA, to review the standardized assessment mechanism required under this chapter and recommend changes necessary to align the assessment with the assessments designated under Section 51.3062 (Success Initiative), Education Code.
- Requires TWC to establish an adult education and literacy advisory committee (advisory committee) composed of not more than nine members appointed by TWC.
- Sets forth the qualifications for members of the advisory committee.
- Requires the advisory committee to meet at least quarterly and report to TWC at least annually.
- Sets forth the duties of the advisory committee.
- Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the size, composition, or duration of the advisory committee.
- Requires funds to be appropriated to implement statewide adult basic education, adult bilingual education, high school equivalency, and high school credit programs, and to support a statewide program to meet adult education and related skill training needs.
- Requires TWC to ensure that public school districts, public junior colleges, regional education service centers, nonprofit agencies, and community-based organizations have direct and equitable access to such funds.
- Authorizes the legislature to appropriate an additional amount to TWC for skill training in direct support of industrial expansion and new business development in locations, industries, and occupations designated by TWC; and that is conducted to support the expansion of civilian employment opportunities on United States

military reservations.

- Requires TWC by rule to establish a performance-based process for annually awarding funds to entities delivering adult education and literacy services under this chapter.
- Requires this process to be designed to reward those entities demonstrating exemplary performance in the delivery of services.
- Requires TWC, in developing the process, to prescribe certain criteria and procedures.
- Requires TWC to use a competitive procurement process to award a contract to a service provider of an adult education program.

Authorizes TWC to establish a need-based formula to allocate funds available under the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and the Workforce Investment Act of 1998 for adult education and literacy activities.

Provides that block grant funding under Section 302.062 (Block Grants to Local Workforce Development Areas), Labor Code, does not apply to the adult education and literacy programs under Chapter 315.

Strikes provisions in the Education Code regarding TEA's responsibility for adult education programs and makes conforming changes.

Repeals Chapter 312 (Interagency Literacy Council), Labor Code.

Requires that not later than January 1, 2014, the administration of adult education and literacy programs be transferred from TEA to TWC.

Requires TWC and TEA to enter into a memorandum of understanding relating to that transfer and sets forth the required contents of the memorandum.

Storage of Certain Imported Alcoholic Beverages—S.B. 350

by Senator Williams—House Sponsor: Representative Smith

Recently, Anheuser Busch InBev (ABI), Grupo Modelo, and Constellation Brands announced a transaction in which ABI would acquire the remaining equity it did not already own in Grupo Modelo. Grupo Modelo would contemporaneously sell its 50 percent interest in Crown Imports to Constellation Brands, making Crown Imports a wholly-owned subsidiary of Constellation Brands.

An unintended effect of the transaction is that upon the closing of the deal (expected in 2013) Crown Imports will no longer qualify for a Section 55.03 (Eligibility for Permit) warehouse permit because it will not be an entity "of which at least 50 percent of the ownership interests are owned by another entity that is located in the United Mexican States." This bill:

Authorizes a manufacturer's agent's warehousing permit to be issued to an entity that receives beer, ale, or malt liquor from another entity or that other entity's immediate successor in interest that meets certain criteria and whose employees hold certain permits and licenses.

Eligibility Under Major Events Trust Fund and Changes to Bowl Championship Series—S.B. 398
by Senator Hancock—House Sponsor: Representative Diane Patrick

The National Collegiate Athletic Association (NCAA) Bowl Championship Series is currently eligible to participate in the Major Events Trust Fund. Recently, the NCAA approved a new format to decide the Football Bowl Subdivision championship. This bill:

Redefines "event" to include a game of the National Collegiate Athletic Association Bowl Championship Series or its successor or a National Collegiate Athletic Association Division I Football Bowl Subdivision postseason playoff or championship game.

Establishment of the Texas Fast Start Program—S.B. 441
by Senators Birdwell and Schwertner—House Sponsor: Representative John Davis et al.

The Texas Fast Star Program, a career and technical education program, is designed to help students earn career certification and enter the workforce quickly. This bill:

Defines "fast start program," "public junior college," "public state college," and "public technical institute" in this section.

Requires the Texas Workforce Commission (TWC), in partnership with the Texas Higher Education Coordinating Board (THECB), to establish and administer the Texas Fast Start Program to identify and develop methods to support competency-based, rapid-deployment education delivery models for use by public junior colleges, public state colleges, and public technical institutes.

Requires that the models be designed to assist students in maximizing academic or workforce education program credit from public junior colleges, public state colleges, and public technical institutes to expedite the entry of those students into the workforce.

Requires TWC to work collaboratively with THECB, public junior colleges, public state colleges, and public technical institutes to establish the Texas Fast Start Program.

Authorizes a public junior college, public state college, or public technical institute to use the competency-based, rapid-deployment education delivery models in developing or expanding a fast start program at the college or institute.

Requires that a fast start program offered by a public junior college, public state college, or public technical institute:

- focus on the current and future needs of employers in this state;
- enable students to obtain postsecondary certificates and degrees at an accelerated pace in high-demand fields or occupations, as identified by local employers;
- incorporate competency-based learning techniques;
- feature a variety of access channels that are uniquely designed to maximize job preparedness for identified groups such as veterans, high school graduates, and current workforce members seeking retraining; and

- be designed for rapid deployment statewide.

Authorizes TWC, through the collaboration, to award grants to public junior colleges, public state colleges, and public technical institutes for the expansion of existing fast start programs, the development of new fast start programs, and any other activities related to the purposes the Texas Fast Start Program.

Authorizes a grant received under the Texas Fast Start Program to be used only to support a course or program that prepares students for career employment in fields or occupations that are identified as high-demand by local employers, finance the initial costs of developing a fast start program, including the costs of constructing or renovating facilities, purchasing equipment, and other associated expenses, finance the development or expansion of a fast start program leading to a postsecondary certificate or degree, or offer a new or expanded dual credit fast start program jointly with a public high school.

Requires TWC and THECB to administer the program using money appropriated to TWC or THECB, money received from federal or other sources, or money from holding accounts that are authorized to be used by TWC for the purpose of skills development.

Records Under the Secured Transaction Law—S.B. 474 *by Senator Carona—House Sponsor: Representative Villarreal*

The Texas Secretary of State (SOS) requires that secured creditors file financing statements in order to provide notice that the creditor has a legal interest in the borrower's collateral. Filing the financing statement is essential to perfecting, or establishing, the creditor's right to take possession of and sell the collateral for repayment of the borrower's debt.

SOS is obligated to accept financing statements filed on industry standard forms, which includes forms approved by the International Association of Commercial Administrators (IACA). The IACA financing statement form will be amended in July of 2013 to remove certain organizational information. However, this information is a listed requirement under Section 9.516 (What Constitutes Filing; Effectiveness of Filing) of the Business and Commerce Code. According to Texas law, a financing statement may be rejected or considered not effectively filed due to a failure to comply with any of the listed requirements. When the IACA financing statement form is amended, Texas law will require information no longer necessary on industry standard forms, resulting in confusion for those secured creditors relying on industry forms and the statutory requirements of SOS. This disconnect will create the need for an addendum to all IACA financing statements filed with SOS, resulting in additional work and costs for the filer and filing entity. This bill:

Provides that filing does not occur with respect to a record that a filing office refuses to accept because of certain conditions, including that the filing office is unable to index the record because, in the case of an initial financing statement or an amendment that provides a name of a debtor that was not previously provided in the financing statement to which the amendment relates, the record does not provide a mailing address for the debtor or indicate whether the name provided as the name of the debtor is the name of an individual or an organization.

Compensation From the Manufactured Homeowners' Recovery Trust Fund—S.B. 499

by Senator Lucio—House Sponsor: Representative Lucio III

Under current law, the manufactured housing division of the Texas Department of Housing and Community Affairs may rely only on a verdict from a contested jury trial or its own independent investigation to set the amount of reimbursement to a consumer who applies for assistance from the Manufactured Homeowners Recovery Trust Fund (fund).

Like other civil matters, claims related to mobile home transactions are often decided in trials heard by judges and not by juries. When a homeowner wins a bench trial (a trial heard by a judge without a jury) against a manufactured housing dealer, there is no reason for the manufactured housing division to undertake an inefficient and expensive inquiry into the same facts simply because the fact-finder at trial was a judge and not a jury. This bill:

Requires the executive director of the manufactured housing division of the Texas Department of Housing and Community Affairs, in determining the amount of actual damages, to make an independent inquiry as to the damages actually incurred, unless the damages have been previously established through a contested trial.

Beer Sales by a Brewpub—S.B. 515

by Senator Eltife et al.—House Sponsor: Representative Smith et al.

The Texas brewpub industry is increasing in the Texas economy, but like many new and emerging businesses, fledgling brewpub start-ups are not necessarily well-suited to fill traditional roles in longstanding business and regulatory models. The state has a vested interest in the expansion of capital investment, job creation, and the expansion of the local and state tax bases.

Texas brewpubs are currently allowed to brew beer, malt liquor, and ale for consumption on their premises in the amount of 5,000 barrels annually. These limitations are limiting the ability to attract a broader market for their products. As a result, the industry's entrepreneurs in Texas are asking for the option to either distribute themselves, on limited terms, the products they produce or otherwise enter into an agreement with a distributor that will allow them to operate in the traditional three-tier system. This bill:

Sets forth legislative findings relating to the regulation of the alcoholic beverage industry and the decision of the Supreme Court of the United States in *Granholm v. Heald*, 544 U.S. 460 (2005).

Authorizes the holder of a general class B wholesaler's permit to purchase malt and vinous liquors from holders of brewer's permits, holders of brewpub licenses, or other wholesalers in this state.

Authorizes the holder of a general distributor's license to receive beer in unbroken original packages from manufacturers and brewpubs and from general, local, or branch distributors.

Prohibits the total annual production of malt liquor, ale, and beer by a holder of a brewpub license from exceeding 10,000, rather than 5,000, barrels for each licensed brewpub operated or maintained by the holder in this state.

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Authorizes the holder of a brewpub license who holds a wine and beer retailer's permit and sells alcoholic beverages manufactured only on the brewpub's premises, in addition to the activities authorized by Section 74.01 (Authorized Activities), to sell malt liquor or ale produced under the license to those retailers or qualified persons to whom the holder of a general class B wholesaler's permit are authorized to sell malt liquor or ale under Section 20.01, and sell beer produced under the license to those retailers to whom the holder of a general distributor's license are authorized to sell beer under Section 64.01 (Authorized Activities) or qualified persons to whom the holder of a general distributor's license may sell beer for shipment and consumption outside the state under Section 64.01.

Provides that, with regard to a sale, the holder of a brewpub license has the same authority and is subject to the same requirements that apply to a sale made by the holder of a general class B wholesaler's permit.

Provides that, with regard to a sale, the holder of a brewpub license has the same authority and is subject to the same requirements that apply to a sale made by the holder of a general distributor's license.

Prohibits the total amount of malt liquor, ale, and beer sold under this section to persons in this state from exceeding 1,000 barrels annually for each licensed brewpub location or 2,500 barrels annually for all brewpubs operated by the same licensee.

Authorizes the holder of a brewpub license, in addition to the activities authorized by Section 74.01, to sell beer produced under the license to the holder of a general, local, or branch distributor's license.

Requires the holder of a brewpub license who sells beer to comply with the requirements of Section 102.51 (Setting of Territorial Limits).

Authorizes the holder of a brewpub license, in addition to the activities authorized by Section 74.01, to sell ale and malt liquor to the holder of a local class B wholesaler's permit.

Requires the holder of a brewpub license who sells ale or malt liquor to comply with the requirements of Section 102.81 (Ale and Malt Liquor).

Requires the holder of a brewpub license, not later than the 15th day of each month, to file a report with the Texas Alcoholic Beverage Commission (TABC) that contains information relation to the sales made by the brewpub to a retailer during the preceding calendar month.

Requires TABC by rule to determine the information that is required to be reported under this section and the manner in which the report must be submitted to TABC.

Authorizes TABC to require that the report contain the same information reported to the comptroller of public accounts of the State of Texas.

Makes the bill's passage contingent upon passage of S.B. 516, S.B. 517, S.B. 518, and S.B. 639.

Distribution by a Brewpub—S.B. 516

by Senator Eltife et al.—House Sponsor: Representative Smith et al.

The only segment of the American beer market that has shown any substantial increase in production volume and retail sales in recent years is the craft brew segment. In Texas, however, industry growth has not kept pace with other states due to regulatory obstacles that impede the craft brewers' access to markets and limit their ability to expose consumers to new and innovative products. These obstacles have been compounded by the pronouncements issued by federal courts concerning attempts made by certain states to establish preferences for in-state producers that unduly burden or hinder out-of-state producers. This type of deference to in-state market participants has consistently been struck down as a violation of the Commerce Clause by the lower federal courts, as well as the United States Supreme Court. Currently, Section 12.05 (Sales by Certain Brewers) of the Texas Alcoholic Beverage Code allows holders of a brewer's permit license to self-distribute ale up to 75,000 barrels annually; however, this right only applies to ale produced in Texas and does not extend to out-of-state brewers. This bill:

Sets forth legislative findings that the state is authorized under the Twenty-first Amendment to the United States Constitution to promote the public's interest in the fair, efficient, and competitive marketing of ale in this state; the United States Supreme Court in *Granholm v. Heald*, 544 U.S. 460 (2005), has recognized that the three-tier system of regulating the alcoholic beverage industry is unquestionably legitimate; in *Granholm*, the United States Supreme Court further recognized that while the states are entitled to regulate the production and sales of liquor within their borders, the right is nonetheless subject to the provisions of the Constitution of the United States, including the Interstate Commerce Clause, and laws regulating the alcoholic beverage industry may not discriminate against out-of-state participants or give undue deference to local participants and may not ignore other provisions of the constitution, including the Supremacy Clause, Commerce Clause, and the Privileges and Immunities Clause with its nondiscriminatory principles; the state is authorized to promote, market, and educate consumers about the emerging small brewing industry; it is in the state's interest to encourage entrepreneurial and small business development opportunities in the state that will lead to new capital investment in the state, create new jobs in the state, and expand the state and local tax base; and it is the public policy of the state to exercise the police power of the state to protect the welfare, health, peace, temperance, and safety of the people of Texas.

Authorizes a brewer's self-distribution permit to be issued only to the holder of a brewer's permit under Chapter 12 (Brewer's Permit) or the holder of a non-resident brewer's permit under Chapter 13 (Nonresident Brewer's Permit).

Authorizes a holder of a brewer's self-distribution permit whose annual production of ale under the brewer's permit, together with the annual production of beer by the holder of a manufacturer's or nonresident manufacturer's license at the same premises, does not exceed 125,000 barrels to sell ale produced under the brewer's or nonresident brewer's permit to those persons to whom the holder of a general class B wholesaler's permit to sell ale.

Prohibits the total combined sales of ale, together with the sales of beer by the holder of a manufacturer's self-distribution license under Section 62A.02 (Fee) at the same premises, from exceeding 40,000 barrels annually.

Provides that, with regard to a sale under this section, the holder of a brewer's self-distribution permit has the same authority and is subject to the same requirements that apply to a sale made by the holder of a

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general class B wholesaler's permit.

Authorizes ale sold under this section to be shipped only from a brewery in this state.

Provides that the annual state fee for a brewer's self-distribution permit is \$250.

Requires the holder of a brewer's self-distribution permit, not later than the 15th day of each month, to file a report with the Texas Alcoholic Beverage Commission (TABC) that contains information relating to the sales made by the permit holder to a retailer during the preceding calendar month.

Requires TABC to by rule determine the information that is required to be reported under this section and the manner in which the report is to be submitted to TABC.

Authorizes TABC to require that the report contain the same information reported to the comptroller of public accounts of the State of Texas.

Repeals Section 12.05 (Sales by Certain Brewers), Alcoholic Beverage Code.

Makes the bill's passage contingent upon passage of S.B. 515, S.B. 517, S.B. 518, and S.B. 639.

Distribution of Beer by Certain Manufacturers—S.B. 517 *by Senator Eltife et al.—House Sponsor: Representative Smith et al.*

The only segment of the American beer market that has shown any substantial increase in production volume and retail sales in recent years is the craft brew segment. In Texas, however, industry growth has not kept pace with other states due to regulatory obstacles that impede the craft brewers' access to markets and limit their ability to expose consumers to new and innovative products. These obstacles have been compounded by the pronouncements issued by federal courts concerning attempts made by certain states to establish preferences for in-state producers that unduly burden or hinder out-of-state producers. This type of deference to in-state market participants has consistently been struck down as a violation of the Commerce Clause by the lower federal courts, as well as the United States Supreme Court. Currently, Section 62.12 (Sales by Certain Manufacturers), Alcoholic Beverage Code, allows manufacturer licensees to self-distribute beer up to 75,000 barrels annually. This right extends only to beer manufactured in Texas, however, and does not extend to out-of-state manufacturers. This bill:

Sets forth certain legislative findings relating to the regulation of the alcoholic beverage industry and the decision of the Supreme Court of the United States in *Granholm v. Heald*, 544 U.S. 460 (2005).

Authorizes a manufacturer's self-distribution license to be issued only to the holder of a manufacturer's license under Chapter 62 (Manufacturer's License) or to the holder of a nonresident manufacturer's license under Chapter 63 (Nonresident Manufacturer's License).

Authorizes a holder of a manufacturer's self-distribution license whose annual production of beer under the manufacturer's or nonresident manufacturer's license, together with the annual production of ale by the holder of a brewer's or nonresident brewer's permit at the same premises does not exceed 125,000 barrels,

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to sell beer produced under the manufacturer's or nonresident manufacturer's license to those persons to whom the holder of a general distributor's license is authorized to sell beer.

Prohibits the total combined sales of beer under this section, together with the sales of ale by the holder of a brewer's self-distribution permit at the same premises, from exceeding 40,000 barrels annually.

Provides that, with regard to a sale, the holder of a manufacturer's self-distribution license has the same authority and is subject to the same requirements that apply to a sale made by the holder of a general distributor's license.

Authorizes beer sold under this section to be shipped only from a manufacturing facility in this state.

Provides that the annual state fee for a manufacturer's self-distribution license is \$250.

Requires the holder of a manufacturer's self-distribution license, not later than the 15th day of each month, to file a report with the Texas Alcoholic Beverage Commission (TABC) that contains information relating to the sales made by the license holder to a retailer during the preceding calendar month.

Requires TABC by rule to determine the information that is required to be reported and the manner in which the report is required to be submitted to TABC.

Authorizes TABC to require that the report contain the same information reported to the comptroller of public accounts of the State of Texas.

Makes the bill's passage contingent upon passage of S.B. 515, S.B. 516, S.B. 518, and S.B. 639.

Sale of Beer to Ultimate Consumers—S.B. 518

by Senator Eltife et al.—House Sponsor: Representative Smith et al.

Small craft brewers are currently prohibited from making sales directly to consumers and are typically underrepresented in the market as a whole. In the interest of stimulating demand for their products and allowing consumers access to the products, legislation is needed to provide for this demand.

This change in the Alcoholic Beverage Code does not suggest the three-tier system is broken. Rather, it constitutes a minor revision which will make the system more reflective of the changing dynamics of today's market. This bill:

Sets forth legislative findings regarding the United States Supreme Court decision in *Granholm v. Heald*, 544 U.S. 460 (2005).

Authorizes the holder of a brewer's permit whose annual production of ale together with the annual production of beer by the holder of a manufacturer's license at the same premises does not exceed a total of 225,000 barrels, in addition to activities authorized by Section 12.01 (Authorized Activities), to sell ale produced on the brewer's premises under the permit to ultimate consumers on the brewer's premises for responsible consumption on the brewer's premises.

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Prohibits the total combined sales of ale to ultimate consumers under this section, together with the sales of beer to ultimate consumers by the holder of a manufacturer's license at the same premises, from exceeding 5,000 barrels annually.

Authorizes a manufacturer's licensee whose annual production of beer, together with the annual production of ale by the holder of a brewer's permit at the same premises does not exceed 225,000 barrels, to sell beer produced on the manufacturer's premises under the license to ultimate consumers on the manufacturer's premises for responsible consumption on the manufacturer's premises.

Prohibits the total combined sales of beer to ultimate consumers under this section, together with the sales of ale to ultimate consumers by the holder of a brewer's permit at the same premises, from exceeding 5,000 barrels annually.

Authorizes the holder of a brewer's permit to sell, offer for sale, and deliver ale or malt liquor and authorizes a person to consume ale or malt liquor on the brewer's premises between 8 a.m. and midnight on any day except Sunday, and between 10 a.m. and midnight on Sunday.

Authorizes the holder of a manufacturer's license to sell, offer for sale, and deliver beer and authorizes a person to consume beer on the manufacturer's premises between 8 a.m. and midnight on any day except Sunday, and between 10 a.m. and midnight on Sunday.

Makes the bill's passage contingent upon passage of S.B. 515, S.B. 516, S.B. 517, and S.B. 639.

Offense For Installation of Phantom-Ware—S.B. 529

by Senator Ellis—House Sponsor: Representative Oliveira

Automated sales suppression devices and phantom-ware are devices or software used to commit tax fraud. They falsify sales data on electronic cash registers at the point of sale. Merchants using these devices and software collect the full sales tax from their customers, but remit only a portion of those collections to the state. Texas could be losing sales tax, mixed drinks tax, and franchise tax revenue to sales suppression software and devices. Furthermore, these devices put law-abiding businesses at a competitive disadvantage.

Current law prohibits the act of committing tax fraud, but says nothing about the software or devices used to commit the fraud. This bill:

Defines "automated sales suppression device," "electronic cash register," "phantom-ware," "transaction data," and "transaction report" in this chapter.

Provides that a person commits an offense if the person knowingly sells, purchases, installs, transfers, uses, or possesses an automated sales suppression device or phantom-ware.

Provides that this offense is a state jail felony.

Procedures For Securing the Deposit of Public Funds—S.B. 581

by Senator Carona—House Sponsor: Representative Villarreal

There is a strong public interest in the safety and management of public funds. For this reason, Texas and a number of other states have instituted laws to safeguard public funds. Under current Texas law, a depository institution is required to pledge securities to collateralize public funds deposited in excess of the per-account Federal Deposit Insurance Corporation deposit insurance limit, which currently stands at \$250,000. Once a depository institution pledges its collateral to a state public entity, the law requires that an approved custodian step in to hold and "safe keep" the collateral on behalf of the public entity.

In recent years, many custodian banks have moved away from a paper process and adopted a web-driven electronic system, in which a member depository institution could process custodial requests via a secure online network. In doing so, a depository institution would instantaneously receive trust receipts issued to both the depository institution and the public entity. Given that the secure network is accessible only to the depository institution, the depository institution prints the trust receipts and forwards them to the corresponding public entity.

While this process is efficient for both the depository institution and the public entity, it is not consistent with the procedures for the issuance and delivery of trust receipts mandated by the Texas Public Funds Collateral Act, which protects and governs public fund deposits. This bill:

Requires the custodian, for a deposit of public funds, to promptly issue and deliver to the comptroller of public accounts of the State of Texas a trust receipt for the pledged security.

Requires the custodian, for any other deposit of public funds under this chapter, at the written direction of the appropriate public entity officer, to issue and deliver to the appropriate public entity officer a trust receipt for the pledged security, or promptly issue and deliver a trust receipt for the pledged security to the public entity's depository and instruct the depository to deliver the trust receipt to the public entity officer immediately.

Requires the custodian to issue and deliver the trust receipt as soon as practicable on the same business day on which the investment security is received.

Requires the public entity's custodian, at the request of the appropriate public entity officer, to provide to the appropriate public entity officer a current list of all pledged investment securities.

Requires inclusion for each pledged investment security the name of the public entity; the date of the deposit for which the security was pledged to secure the public entity's deposit; the Committee on Uniform Security Identification Procedures number of the date the security was issued; the face value and maturity date of the security; and the confirmation number on the trust receipt issued by the custodian.

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Contract Agreements by a Brewer and Beer Manufacturer—S.B. 639

by Senator Carona et al.—House Sponsor: Representative Geren et al.

Concerns have been raised regarding several issues related to the manufacturing and distribution of beer as found under the Texas Alcoholic Beverage Code, specifically the practice of "reach-back pricing" and brand purchasing.

Reach-back pricing occurs when manufacturers—after the fact—alter the price charged to distributors based on the price a distributor has charged a retailer. This bill:

Prohibits any manufacturer from adjusting the price at which the manufacturer sells beer to a distributor based on the price at which a distributor resells the beer to a retailer, but provides that a manufacturer is free to set its own price so long as any price adjustment is based on factors other than a distributor's increase in the price it charges to a retailer and not intended to otherwise coerce illegal behavior under this subsection, or accepting payment in exchange for an agreement setting forth territorial rights.

Requires that nothing in this section interfere with the rights of a manufacturer or distributor to enter into contractual agreements that could be construed as governing ordinary business transactions, including, but not limited to, agreements concerning allowances, rebates, refunds, services, capacity, advertising funds, promotional funds, or sports marketing funds.

Provides that it is the public policy and in the interest of this state to assure the independence of members of the three-tier system, but prohibits anything in this code from being construed to prohibit contractual agreements between members of the same tier who hold the same licenses and permits.

Makes the bill's passage contingent on the passage of S.B. 515, S.B. 516, S.B. 517, and S.B. 518.

Sale of Distilled Spirits—S.B. 642

by Senator Van de Putte—House Sponsor: Representative Kuempel

Currently, the Texas Alcoholic Beverage Commission (TABC) grants industrial permits for food processors to buy distilled spirits at retail establishments for use in food production. However, these permits only authorize food processors to buy distilled spirits from retailers. By allowing a holder of a distiller's and rectifier's permit to sell the holder's bulk product to holders of industrial permits may attract out of state business and improve the economy. This bill:

Authorizes the holder of a distiller's and rectifier's permit to sell bulk alcohol produced by the permit holder to holders of industrial permits in this state.

Requires a holder of a distiller's and rectifier's permit who sells distilled spirits to a holder of an industrial permit to keep records of those sales in a manner prescribed by the Texas Alcoholic Beverage Commission (TABC) or administrator of TABC.

Exemption of Certain Property From Seizure by Creditors—S.B. 649
by Senator Rodríguez—House Sponsor: Representative Senfronia Thompson

The real estate, probate, and trust law section of the State Bar of Texas has proposed several updates to the law regarding decedents' estates, including provisions modernizing the property exempt from seizure by creditors in addition to the personal property exemptions in Chapter 42 (Personal Property), Property Code.

Currently, insurance proceeds are exempt from creditors. A question arises as to whether that exemption continues if insurance proceeds are paid to the estate of the insured decedent. A revision to Section 1108.052 (Exemptions Unaffected by Beneficiary Designation) needs to be clarified so that the insurance proceeds do not lose their exemption because they are paid to the estate of the insured.

Sections 42.0021(a) and (b), Property Code, currently provide that deductible contributions to a traditional individual retirement account and nondeductible contributions to a Roth individual retirement account are exempt from creditors. However, there is no exemption provided for nondeductible contributions to a traditional individual retirement account. This results in the need for parties or courts to determine whether the taxpayer claimed a deduction for all contributions to a traditional individual retirement account to determine what portion of the account is exempt. Revisions are needed to Sections 42.0021(a) and (b) to extend the exemption to nondeductible contributions to traditional individual retirement accounts, which simplifies the administration of the statute. This bill:

Provides that the exemptions provided by Section 1108.051 (Exemptions For Certain Insurance and Annuity Benefits) apply regardless of whether the insured or the insured's estate is a beneficiary.

Exempts a person's right to the assets held in or to receive payments, whether vested or not, under certain bonuses, pensions, annuities, deferred compensation, profit-sharing, accounts, or plans, including a Roth IRA or inherited Roth IRA, from attachment, execution, and seizure for the satisfaction of debts to the extent the plan, contract, annuity, or account is exempt from federal income tax, or to the extent federal income tax on the person's interest is deferred until actual payment of benefits to the person under Section 223, 401(a), 403(a), 403(b), 408(a), 408A, 457(b), or 501(a), Internal Revenue Code of 1986, including a government plan or church plan described by Section 414(d) or (e), Internal Revenue Code of 1986, in addition to the exemption prescribed by Section 42.001.

Provides that contributions to an individual retirement account that exceed the amounts permitted under the applicable provisions of the Internal Revenue Code of 1986 and any accrued earnings on such contributions are not exempt under this section unless otherwise exempt by law other than contributions to a Roth IRA described in Section 408A, Internal Revenue Code of 1986, or an annuity that exceed the amounts deductible under the applicable provisions of the Internal Revenue Code of 1986 and any accrued earnings on such contributions are not exempt unless otherwise exempt by law.

Transfer of Alcoholic Beverages For Manufacturing Purposes—S.B. 652

by Senator Van de Putte—House Sponsor: Representative Guillen

Currently, distilleries in Texas are permitted to buy bulk distilled spirits from out-of-state distilleries. However, distilleries are not permitted to buy in bulk from in-state distilleries or breweries. Distillers often use beer and other distilled spirits to produce their products. This bill:

Authorizes the holder of a distiller's or rectifier's permit to purchase distilled spirits, to be used only for manufacturing or rectification purposes, from holders of nonresident seller's permits or distiller's and rectifier's permits.

Provides that this section applies to the holder of a brewer's permit, distiller's and rectifier's permit, winery permit, wine bottler's permit, or manufacturer's license.

Authorizes a permittee or licensee to transfer in bulk an alcoholic beverage produced by the permittee or licensee to any other permittee or licensee provided that the alcoholic beverage transferred is only used for manufacturing purposes by the recipient and the transfer is permitted by federal law.

Provides that Section 102.32 (Sale of Liquor: Credit Restrictions) applies to the bulk purchase of liquor by the holder of an industrial permit from the holder of a wholesaler's permit.

Penalty For Fraudulently Obtaining Unemployment Compensation Benefits—S.B. 658

by Senator Deuell—House Sponsor: Representative Smith

Current state law requires only that an individual who is found to have received improper unemployment insurance benefits through wilful fraud repay the amount of the improper benefits. Current statute requires that any penalties and interest recovered by the Texas Workforce Commission (TWC) for improperly obtained benefits are deposited into the Unemployment Compensation Administration Fund. H.R. 2832, the federal generalized system of preferences bill passed by Congress in 2011, amended Section 303 of the Social Security Act to require that all states impose a minimum 15 percent penalty on fraudulently obtained state and federal unemployment benefits. The federal legislation further requires that these penalty amounts be deposited into the state's Unemployment Insurance Trust Fund. If Texas fails to conform to federal law, the state's federal grant for the administration of the Unemployment Insurance Program could be rescinded by the federal government. This bill:

Provides that the special administration fund consists of certain amounts, including all interest and penalties collected under the Texas Unemployment Compensation Act, other than a penalty addressed under Section 214.003(a)(2), Labor Code.

Deletes existing text providing that the special administration fund includes money transferred under Section 203.103, Labor Code.

Provides that if, by wilful nondisclosure or misrepresentation of a material fact, whether the nondisclosure or misrepresentation is made by the person or for the person by another, a person receives a benefit when a condition imposed by the Texas Unemployment Compensation Act for the person's qualifying for the benefit is not fulfilled or the person is disqualified from receiving the benefit the person forfeits the benefit

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received and rights to benefits that remain in the benefit year in which the nondisclosure or misrepresentation occurred; and TWC is required to require the person to pay a penalty in an amount equal to 15 percent of the amount of benefits received.

Provides that a forfeiture, cancellation, or penalty imposed under this section is effective only after the person has been afforded an opportunity for a fair hearing before TWC or its duly designated representative.

Provides that a person who is assessed the penalty by TWC is liable for the amount of the penalty.

Authorizes TWC to collect the penalty in the same manner as provided by Sections 213.031 (Collection Required; Methods), 213.032 (Service of Notice of Assessment; Contents as Prima Facie Evidence; Judicial Review; Effect), 213.033 (Limitations), 213.035 (Costs), and 213.051 (Forfeiture of Right to Employ Individuals In This State; Bond), Labor Code, for the collection of past-due contributions.

Requires TWC to deposit a penalty assessed in the unemployment compensation fund.

Cemeteries and Perpetual Care Cemetery Corporations—S.B. 661 *by Senator Carona—House Sponsor: Representative Laubenberg*

The 82nd Legislature, Regular Session, 2011, passed S.B. 1167, which clarified various aspects of perpetual care cemetery ownership, construction, and final disposition. S.B. 1167 also revised the application process and enforcement provisions for perpetual care cemeteries. However, several issues have been identified since the passage of that legislation.

In order to continue to improve the oversight of perpetual care cemeteries clarification is necessary to plat and file amended plats with a county clerk's office and to add criminal penalties for unauthorized multiple burials and removal of remains, and add Travis County as a venue for suit or quo warrant proceedings. This bill:

Adds Sections 711.063 (Construction; Default) and 711.064 (Contract Disclosures) to the list of sections relating to perpetual care cemeteries for which the Finance Commission of Texas (finance commission) is authorized to adopt rules to enforce and administer.

Adds Sections 711.063 and 711.064 to the list of sections relating to cemeteries that are not perpetual care cemeteries for which the finance commission is authorized to adopt rules to enforce and administer.

Requires the corporation to be a filing entity or foreign filing entity.

Provides that the formation and governance of a nonprofit corporation for cemetery purposes is subject to Sections 711.022 and 711.023 (Rights of Plot Owners in Cemetery Operated by Nonprofit Cemetery Corporation).

Requires the cemetery organization, if a change is made, to file an amended map or plat not later than the last day of the next calendar quarter and indicate any change in a specific unique number assigned to a plot, crypt, lawn crypt, or columbarium niche.

Provides that a cemetery organization that holds a certificate of authority to operate a perpetual care cemetery is not required to file an amended map or plat if the only change to the property is the placement of a cremains receptacle that contains not more than four niches on a plot or the alteration of an existing cremains receptacle plot, and the cemetery organization maintains records, as required by rules adopted by the finance commission, that specify the location of the cremains receptacle.

Provides that a cemetery corporation that violates this Act or state law forfeits the corporation's charter and right to do business in this state unless the corporation corrects the violation before the 30th day after the date of receiving notice of the violation from the attorney general.

Requires the attorney general, if the violation is not corrected before the 30th day after the notice, to bring suit or quo warranto proceedings for the forfeiture of the corporation's charter and dissolution of the corporation in a district court of Travis County or of any county in which the violation occurred.

Provides that a person who is an individual, firm, association, corporation, or municipality, or an officer, agent, or employee of an individual, firm, association, corporation, or municipality, commits an offense if the person makes more than one interment in a plot in a cemetery operated by a cemetery organization other than as provided by Section 711.0395 (Multiple Interments In Same Plot); or removes remains from a plot in a cemetery operated by a cemetery organization without complying with Section 711.004 (Removal of Remains).

Provides that, except as otherwise provided by this subsection, an offense under this section is a Class A misdemeanor.

Requires a corporation chartered on or after September 1, 1993, and before September 1, 2013, to have a minimum capital of \$75,000 and a minimum of \$75,000 in capital for each certificate of authority to operate a perpetual care cemetery issued to the corporation on or after September 1, 2013.

Requires a corporation whose certificate of formation takes effect on or after September 1, 2013, to have a minimum of \$75,000 in capital for each certificate of authority to operate a perpetual care cemetery issued to the corporation.

Requires the proposed transferee, if the proposed transferee would own more than 50 percent of the stock or other ownership or membership interest of the corporation and is not a certificate holder, to file any necessary documents with the secretary of state and an application for a certificate of authority with the Banking Department of Texas.

Prohibits the transfer of the perpetual care fund, if the proposed transferee is required to apply for a certificate of authority from occurring until after the date a certificate of authority is issued to the transferee applicant.

Authorizes the banking commissioner of Texas, if a violation described in Subsection (a) (relating to authorizing the banking commissioner to report violations to the attorney general) has not been corrected before the 31st day after the date the corporation receives written notice, rather than has not been corrected within 90 days after the receipt of written notice from the commissioner of the violation, to report the violation to the attorney general, who is required to bring suit or quo warranto proceedings for the

forfeiture of the corporation's charter and dissolution of the corporation in a district court of Travis County or any county in which the corporation's perpetual care cemetery is operated.

Assumed Name Certificate Filed by Certain Businesses or Professionals—S.B. 699 *by Senator Carona—House Sponsor: Representative Villalba*

Under Texas law, an entity is required to file an incorporated name on the entity's initial filing certificate with the Office of the Texas Secretary of State (SOS). Often, an entity will incorporate under one name but do business under another name. This is referred to as an assumed name and requires that an entity file a separate assumed named certificate with SOS. Section 71.102 (Contents of Certificate), Business and Commerce Code, requires a filing entity to provide the entity's registered office address on the original filing certificate and the assumed name certificate, if applicable. Including this information on an assumed name certificate is redundant since an assumed name certificate is meant to supplement, rather than override, the original filing certificate. Furthermore, any change to an entity's registered office address is completed through a separate statutory filing, making the address requirement on the assumed name certificate superfluous and creating unnecessary work for SOS.

Section 71.102, Business and Commerce Code, also requires a filing entity to provide the address of the entity's principal office to SOS. However, the section references both address and office, which has led to confusion over whether a single principal office address will suffice or if addresses from multiple locations need to be included. SOS cites this code as one of the common reasons for unnecessary information being provided to SOS during the filing process. This bill:

Requires that a certificate for an incorporated business or profession, limited partnership, limited liability partnership, limited liability company, or foreign filing entity state certain information, including the state, country, or other jurisdiction under the laws of which the registrant was incorporated or organized, and the street or mailing address of the registrant's principal office in this state or outside this state, as applicable; and the county or counties in this state where the registrant is or will be conducting business or rendering professional services under the assumed name.

Marketing Certain Alcoholic Beverages by Manufacturers and Their Agents—S.B. 828 *by Senator Van de Putte—House Sponsor: Representative Guillen*

Currently, out-of-state distilleries are allowed to designate agents who may conduct samplings of their products and also solicit and take orders from wholesalers. These agents are important as they help promote a distiller's brand and product. Unfortunately, in-state distilleries are at a disadvantage because they are not afforded the same rights under the current law.

Creating parity between in-state and out-of-state distilleries by creating a distiller's agent's permit for in-state distilleries would help circumvent the disparity between these distillery types. While resolution of the disparities is a goal, also the need for regulation cannot be compromised. As such, this bill:

Authorizes the Texas Alcoholic Beverage Commission (TABC) or administrator to suspend or revoke the permit of a person who is represented by the holder of an agent's permit under Section 15.01 (Authorized Activities), 35.01 (Authorized Activities), or 36.01 (Authorized Activities), Alcoholic Beverage Code, rather

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than as described by Section 35.01, or otherwise discipline the person based on an act or omission of the holder of the agent's permit only under certain circumstances.

Authorizes the holder of a distiller's agent's permit to represent the holder of a distiller's and rectifier's permit; solicit and take orders from a holder of a wholesaler's permit for the sale of distilled spirits manufactured by the permit holder represented by the agent; and conduct free distilled spirits tastings for consumers on the premises of the holder of a package store permit.

Provides that the annual state fee for a distiller's agent's permit is \$10.

Prohibits a distiller's agent's permit from being issued to a person until the person shows to the satisfaction of TABC that the person has been employed by or authorized to act as the agent of the permit holder the person proposes to represent.

Prohibits the holder of a distiller's agent's permit from soliciting business directly or indirectly from a holder of a mixed beverage permit or a private club registration permit unless the distiller's agent is accompanied by the holder of a wholesaler's permit or the wholesaler's agent.

Prohibits a holder of a distiller's agent's permit in soliciting or taking orders for the sale of liquor from representing that the permit holder is an agent of any person other than the person designated in the permit holder's application.

Authorizes a person to engage in the activities specified in Section 15.01 for an initial grace period of five days during which the person is required to procure a distiller's agent's permit from TABC.

Authorizes a person to engage in the activities specified for an initial grace period of five days during which the person is required to procure a manufacturer's agent's permit from TABC.

Authorizes the holder of a distiller's or rectifier's permit, distiller's agent's permit, nonresident seller's permit, or manufacturer's agent's permit or that permit holder's agent or employee to participate in and conduct product tastings of alcoholic beverages at a retailer's premises and may open, touch, or pour alcoholic beverages, make a presentation, or answer questions at the tasting.

Provides that this section does not authorize the holder of a distiller's or rectifier's permit, distiller's agent's permit, nonresident seller's permit, or manufacturer's agent's permit to withdraw or purchase an alcoholic beverage from the holder of a wholesaler's permit or provide an alcoholic beverage for tasting on a retailer's premises that is not purchased from the retailer.

Business and Commerce Code Relating to Partnerships and Limited Liability Companies—S.B. 847 *by Senator Carona—House Sponsor: Representative Oliveira*

The Business Organizations Code and the Business and Commerce Code govern laws relating to partnerships and limited liability companies (LLC). A number of issues relating to these laws have been identified that need to be resolved. Technical and conforming changes are needed to Texas law regarding leading corporate jurisdictions, while others are needed that are more substantive and serve to provide clarity for recently litigated issues.

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Series limited liability companies (series) are a relatively new type of LLC in Texas. Series operate as independent divisions within the LLC, shielded from liability by the LLC itself. Many issues relating to status of series and the power they possess are unresolved in law, leaving practitioners to litigate over these issues. Clarification is needed on those issues and a need to clarify that a series is not an independent entity but has the ability to acquire and sell assets as well as exercise all of the powers and privileges as necessary to conduct its business purpose. This bill:

Deletes text requiring that a restated certificate of formation that makes new amendments to the certificate of formation being restated identify by reference or description each added, altered, or deleted provision.

Authorizes the liability of a governing person to be limited or eliminated, rather than limited or restricted in a general partnership by its partnership agreement to the same extent Subsections (b) (authorizing a certificate of formation or similar instrument to provide that a governing person is not liable, or is liable only to a certain extent, for certain acts and omissions) and (c) (providing that Subsection (b) does not authorize the elimination or limitation of liability under certain circumstances) permit the limitation or elimination of liability of a governing person of an organization to which those subsections apply and to the additional extent permitted under Chapter 152 (General Partnerships); in a limited partnership by its partnership agreement to the same extent Subsections (b) and (c) permit the limitation or elimination of liability of a governing person of an organization to which those subsections apply and to the additional extent permitted under Chapter 153 (Limited Partnerships) and, to the extent applicable to limited partnerships, Chapter 152; and in a limited liability company by its certificate of formation or company agreement to the same extent Subsections (b) and (c) permit the limitation or elimination of liability of a governing person of an organization to which those subsections apply and to the additional extent permitted under Section 101.401 (Expansion or Restriction of Duties and Liabilities).

Requires the domestic entity requiring winding up to, if the domestic entity is not a general partnership, send a written notice of the winding up to each known claimant against the domestic entity.

Authorizes a company agreement to provide rights to any person, including a person who is not a party to the company agreement, to the extent provided by the company agreement.

Provides that a series has the power and capacity, in the series' own name, to acquire, sell, and hold title to assets of the series, including real property, personal property, and intangible property, and exercise any power or privilege as necessary or appropriate to the conduct, promotion, or attainment of the business, purposes, or activities of the series.

Provides that, to the extent not inconsistent with this subchapter, a series and the governing persons and officers associated with the series have the powers and rights provided by Subchapters C (Governing Persons and Officers) and D (Recordkeeping of Filing Entities), Chapter 3 (Formation and Governance), and Subchapter F (Property Transfers and Dispositions), Chapter 10 (Mergers, Interest Exchanges, Conversions, and Sales of Assets).

Provides that for purposes of this chapter and Title 1 (General Provisions), a series has the rights, powers, and duties provided by this subchapter to the series but is not a separate domestic entity or organization.

Authorizes a partnership agreement to provide rights to any person, including a person who is not a party to the partnership agreement, to the extent provided by the partnership agreement.

Repeals Section 24.003(c) (relating to determining the insolvency of a partnership), Business & Commerce Code.

Assignment of Rents to Holders of Security Interests in Real Property—S.B. 848

by Senator Carona—House Sponsor: Representative Sarah Davis

Lenders secure their interest in a borrower's collateral so that in the event of a default, the lender has a legal right to the collateral. For years, the standard practice in a commercial lease transaction was for a lender to obtain a security interest in both the property being purchased and the rent or other proceeds that the property generated. However, a 1981 Texas Supreme Court ruling complicated this process by holding that a lender's security interest is not established, or perfected, until the lender takes some proactive action to collect the proceeds from the property following a default by the property owner. As a result, the lender's security interest could potentially be subordinate to another party's security interest if that other party is able to establish its lien before the lender.

In 2011, the Texas Legislature passed the Assignment of Rents Act, S.B. 889, which clarified and made conforming changes to the law on perfecting a lien on proceeds from property. However, the Assignment of Rents Act requires clarification regarding the law's applicability to mineral interests and other technical changes conforming the law to the Property Code. This bill:

Sets forth the rules for giving notices to tenants.

Provides that notice given in accordance is deemed received on the earliest of the date the notice is received by the person to whom the notice is given; the fifth day after the date the notice is given; the date on which notice is deemed received in accordance with an agreement made by the person to whom the notice is given.

Requires that a notice be a document.

Provides that an enforceable security instrument creates an assignment of rents arising from real property described in that security instrument.

Provides that an assignment of rents creates a presently effective security interest in all accrued and unaccrued rents arising from the real property described in the security instrument creating the assignment, regardless of whether the security instrument is in the form of an absolute assignment, an absolute assignment conditioned on default or other event, an assignment as additional security, or any other form.

Authorizes a security instrument, rather than document, creating an assignment of rents to be recorded in the county in which any part of the real property is located in accordance with this code.

Provides that on recordation of a security instrument creating an assignment of rents, the security interest in the rents is perfected.

Provides that this subsection prevails over a conflicting provision in the security instrument creating the assignment of rents or a law of this state other than this chapter that prohibits or defers enforcement of the security interest until the occurrence of a subsequent event.

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Provides that an assignee with a perfected security interest in rents has the same priority over the rights of a person with respect to future advances as the assignee has with respect to the assignee's security interest in the real property from which the rents arise.

Authorizes an assignee to enforce an assignment of rents using one or more of certain methods or any other method sufficient to enforce an assignment of rents under a law of this state.

Entitles the assignee, on and after the date on which an assignee begins to enforce an assignment of rents, to collect all rents that have accrued.

Authorizes the assignee, after default, or as otherwise agreed by the assignor, to give a tenant of real property that is subject to an assignment of rents a notice demanding that the tenant pay to the assignee all unpaid accrued rents and all unaccrued rents as they accrue.

Requires the assignee to give a copy of the notice to the assignor.

Provides that any claim or defense that a tenant has under a law of this state after a tenant receives a notice the tenant has certain obligations, including the tenant is obligated to pay to the assignee all unpaid accrued rents and all unaccrued rents as they accrue, unless the tenant has previously received a notice under this section from another assignee of rents given by that assignee in accordance with this section and the other assignee has not canceled that notice, and except as otherwise agreed in a document signed by the tenant, the tenant is not obligated to pay to an assignee rent that was prepaid to the assignor before the tenant received the notice.

Provides that a tenant who has received a notice, except as otherwise agreed in a document signed by the tenant, is not in default for nonpayment of rents that accrue during the 30 days after the date the tenant receives the notice until the earlier of certain dates.

Requires an assignee that has given a notice to a tenant on receiving a notice from another assignee who has priority that the assignee with priority has conducted a foreclosure sale of the real property from which the rents arise or is enforcing the interest in rents of the assignee with priority by notice to the tenant, to immediately give another notice to the tenant canceling the earlier notice.

Provides that an assignee who collects rents under this chapter or collects on a judgment in an action under Section 64.060 (Turnover of Rents; Liability of Assignor), unless otherwise agreed, including reimbursement of any expenses incurred by the assignee to protect or maintain the real property that is subject to the assignment of rents.

Provides that the right of the assignee to collect rents from the tenant, unless otherwise agreed by a tenant, is subject to the terms of any agreement between the assignor and tenant or any claim or defense of the tenant arising from the assignor's nonperformance of that agreement.

Requires the assignor, if an assignor collects rents that the assignee is entitled to collect to turn over the proceeds to the assignee not later than the 30th day after the date the assignor receives notice from the assignee or within such other period agreed by the assignor and assignee in a security instrument or other document, less any amount representing payment of expenses agreed in that security instrument or other document.

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Provides that, unless otherwise agreed, if an assignee who has a security interest in rents that is subordinate to the security interest of another assignee under Section 64.052 (Recordation and Perfection of Security Interest in Rents; Priority of Interests in Rents) enforces the subordinate assignee's interest before the assignee with priority enforces the interests in rents of the assignee with priority, the subordinate assignee is not obligated to turn over any proceeds that the subordinate assignee collects before the subordinate assignee receives a signed notice from the assignee with priority informing the subordinate assignee that the assignee with priority is enforcing the interest in rents of the assignee with priority.

Requires the subordinate assignee to turn over to the assignee with priority any proceeds that the subordinate assignee collects after the subordinate assignee receives the notice from the assignee with priority that the assignee with priority is enforcing the interest in rents of the assignee with priority not later than the 30th day after the date the subordinate assignee receives the notice or as otherwise agreed between the assignee with priority and the subordinate assignee.

Requires that any proceeds subsequently collected by the subordinate assignee be turned over to the assignee with priority not later than the 10th day after the date the proceeds are collected or as otherwise agreed between the assignee with priority and the subordinate assignee.

Provides that the legislature finds that Section 64.051(c), Property Code, as added by Chapter 636 (S.B. 889), Acts of the 82nd Legislature, Regular Session, 2011, was intended by the 82nd Legislature to eliminate confusion arising from language in the Texas Supreme Court's decision in *Taylor v. Brennan*, 621 S.W.2d 592 (Tex. 1981), to the effect that an absolute assignment of rents is a pro tanto payment of a secured obligation.

Provides that in accordance with Section 64.051(c), Property Code, as added by Chapter 636 (S.B. 889), Acts of the 82nd Legislature, Regular Session, 2011, unless the parties expressly agree otherwise, a secured obligation is reduced only if and to the extent that the assignee collects rents and applies the rents to the obligation.

Provides that simply taking an assignment of rents does not reduce the secured obligation.

Provides that Chapter 64, Property Code, as added by Chapter 636 (S.B. 889), Acts of the 82nd Legislature, Regular Session, 2011, and amended by this Act, except as otherwise provided by this section, governs the enforcement of an assignment of rents, the perfection and priority of a security interest in rents, and the attachment and perfection of a security interest in proceeds regardless of whether the document creating the assignment of rents was signed and delivered before the effective date of this Act or before June 17, 2011.

Provides that Chapter 64, Property Code, as added by Chapter 636 (S.B. 889), Acts of the 82nd Legislature, Regular Session, 2011, and amended by this Act, does not affect an action or other proceeding commenced before June 17, 2011.

Provides that Section 64.051(a), Property Code, as added by Chapter 636 (S.B. 889), Acts of the 82nd Legislature, Regular Session, 2011, and amended by this Act, does not apply to a security instrument signed and delivered before June 17, 2011.

Provides that Chapter 64, Property Code, as added by Chapter 636 (S.B. 889), Acts of the 82nd Legislature, Regular Session, 2011, and amended by this Act, does not affect the enforceability of an assignee's security interest in rents or proceeds if, immediately before June 17, 2011, that security interest was enforceable; the perfection of an assignee's security interest in rents or proceeds if, immediately before June 17, 2011, that security interest was perfected; or the priority of an assignee's security interest in rents or proceeds with respect to the interest of another person if, immediately before June 17, 2011, the interest of the other person was enforceable and perfected and that priority was established.

Business Decisions Regarding Social Purpose—S.B. 849
by Senator Carona—House Sponsor: Representative Oliveira

Both federal income tax law and state corporate law have historically divided corporations into either for-profit or nonprofit corporations. The primary purpose of a for-profit corporation is creating financial gain for its shareholders. Nonprofit corporations can have a social purpose or cause, but cannot have economic owners or make dividends to investors.

Nationally, the movement of social entrepreneurship is on the rise and continuing to gain prominence in the corporate community. Broadly, social entrepreneurship refers to a person or entity who uses entrepreneurial principles to affect change in a particular social purpose or cause. This movement has reached both consumers and investors and more businesses are seeking to distinguish themselves by aligning with a particular social purpose. However, within the current legal framework in Texas, officers and directors of for-profit corporations would violate the duty they owe to shareholders to maximize shareholder profit if they were to pursue business decisions based solely on a social purpose. This bill:

Authorizes a for-profit corporation to include one or more social purposes in addition to the purpose or purposes required to be stated in the corporation's certificate of formation.

Authorizes the corporation to also include in the certificate of formation a provision that the board of directors and officers of the corporation are required to consider any social purpose specified in the certificate of formation in discharging the duties of directors or officers.

Authorizes the shareholders of a corporation to enter into an agreement that contains certain provisions, including a provision that, with regard to one or more social purposes specified in the corporation's certificate of formation, governs the exercise of corporate powers, the management of the operations and affairs of the corporation, the approval by shareholders or other persons of corporate action, or the relationship among the shareholders, the directors, and the corporation.

Entitles a director to, in discharging the duties of director under this code or otherwise and in considering the best interests of the corporation, consider the long-term and short-term interests of the corporation and the shareholders of the corporation, including the possibility that those interests may be best served by the continued independence of the corporation.

Entitles a director to, in discharging the duties of a director under this code or otherwise, consider any social purposes specified in the corporation's certificate of formation.

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Entitles an officer to, subject to direction by the board of directors of the corporation, in discharging the duties of an officer under this code or otherwise, consider the long-term and short-term interests of the corporation and of the corporation's shareholders, including the possibility that those interests may be best served by the continued independence of the corporation and any social purposes specified in the corporation's certificate of formation.

Provides that nothing in this section prohibits or limits a director or officer of a corporation that does not have a social purpose specified as a purpose in the corporation's certificate of formation from considering, approving, or taking an action that promotes or has the effect of promoting a social, charitable, or environmental purpose.

Purchases of Plastic Bulk Containers by Certain Businesses—S.B. 875

by Senator Eltife—House Sponsor: Representative Smith

Plastic bulk merchandise containers used primarily by soft drink, milk, and bread manufacturers and distributors have become a target for thieves because these containers can be resold for cash to individuals who are in the business of recycling, shredding, or destroying the containers. Incidents of theft of these containers are costly to companies that use them to transport their products.

Currently, a person in the business of recycling, shredding, or destroying plastic bulk merchandise containers is required to identify the seller before purchasing five or more containers but clarification of the law's requirements would provide more protection from theft. This bill:

Requires a person who is in the business of recycling, shredding, or destroying plastic bulk merchandise containers, before purchasing five or more plastic bulk merchandise containers from the same person, to obtain certain information and to verify in a manner determined by the purchaser that the individual is acting on behalf of a corporation, business, government, or governmental subdivision or agency.

Provides that a person who is in the business of recycling, shredding, or destroying plastic bulk merchandise containers and who purchases a plastic bulk merchandise container from an individual, unless the person verifies in a manner determined by the purchaser that the individual is acting on behalf of a corporation, business, government, or governmental subdivision or agency is prohibited from paying for the purchase of any plastic bulk merchandise container with cash, and is required, for each transaction in which the person purchases one or more plastic bulk merchandise containers, to record the method of payment used to purchase the containers.

Requires that a record made be attached or obtained if a record is required.

Provides that a person who violates the above is liable to this state for a civil penalty in an amount not to exceed \$5,000 for each violation.

Provides that each cash transaction made in violation is a separate violation for purposes of imposing a penalty.

Requires the court, in determining the amount of the civil penalty imposed to consider the amount necessary to deter future violations.

Authorizes the attorney general or appropriate prosecuting attorney to take certain actions, including to inspect a record retained by a person.

Sale of Distilled Spirits to Consumers by the Holder of a Distiller's and Rectifier's Permit—S.B. 905
by Senator Van de Putte et al.—House Sponsor: Representative Kuempel

The distilled spirits industry in Texas has seen tremendous growth over the last decade. In 2004, Texas issued three distiller's and rectifier's permits but presently this number has grown significantly. The Texas distilled spirits industry has potential for continued growth and can provide an economic benefit if the state modifies its current regulatory system.

Currently, a Texas distillery cannot sell its product to the ultimate consumer without utilizing the three-tier system which can compromise the state's ability to encourage developing businesses. This bill:

Authorizes the holder of a distiller's and rectifier's permit to engage in certain activities, including to dispense free distilled spirits for consumption on the permitted premises if located in a wet area, and sell distilled spirits to ultimate consumers.

Authorize the holder of a distiller's or rectifier's permit to dispense free samples or collect a fee for the sampling.

Authorizes the holder of a distiller's and rectifier's permit to sell to ultimate consumers for consumption on the permitted premises distilled spirits manufactured or rectified by the permit holder in an amount not to exceed 3,000 gallons annually.

Authorizes the holder of a distiller's and rectifier's permit to sell distilled spirits manufactured by the permit holder to ultimate consumers for off-premises consumption in unbroken packages containing not more than 750 milliliters of distilled spirits for off-premises consumption in an amount not to exceed 3,500 gallons annually.

Prohibits the holder of a distiller's and rectifier's permit from selling more than two 750 milliliter bottles of distilled spirits or the equivalent to the same consumer within a 30-day period.

Authorizes a sale to be made only to an individual who is physically present at the permit holder's premises and requires that such a sale be delivered to the purchaser in person during the purchaser's visit.

Prohibits a person from making a purchase as an agent for another person.

Requires the permit holder to check a purchaser's identification and keep records of purchases in a manner that enables the permit holder to comply.

Requires that a bottle of distilled spirits sold on the permit holder's premises bear a notice affixed to the bottle that does not obscure the label approved by the Alcohol and Tobacco Tax and Trade Bureau, states that the bottle is commemorative, states the month and year the bottle is sold, and is signed by an agent of the permit holder.

Authorizes the holder of a distiller's and rectifier's permit to sell and offer for sale distilled spirits for on-premises consumption and authorizes a person to consume distilled spirits on the permitted premises during the same hours mixed beverages may be sold and offered for sale by a mixed beverage permit holder.

Authorizes the holder of a distiller's and rectifier's permit to sell and offer for sale distilled spirits to ultimate consumers for off-premises consumption during the same hours as the holder of a package store permit is authorized to sell and offer for sale distilled spirits to ultimate consumers for off-premises consumption.

Repeals Sections 14.01(c) (relating to authorizing the holder of a distiller's and rectifier's permit to dispense distilled spirits for consumption on the permitted premises under Section 14.04) and Section 14.04(g) (relating to providing exclusions for the holder of a permit), Alcoholic Beverage Code.

Eligibility Requirements For Unemployment Compensation Benefits—S.B. 920

by Senator Eltife—House Sponsor: Representative Reynolds

H.R. 3630, passed by the United States Congress in 2011, amended federal law to require that states codify in statute a requirement that an individual be actively seeking work to be eligible for unemployment insurance benefits. The Texas Workforce Commission (TWC) already executes this eligibility requirement, but Texas must conform state law to federal law to ensure that the state continues to receive the federal grant for the administration of the unemployment insurance program. This bill:

Adds the requirement that an unemployed individual must actively be seeking work in accordance to the rules adopted by TWC to be eligible to receive unemployment compensation benefits for a benefit period, except as provided by Chapter 215 (Shared Work Unemployment Compensation Program), Labor Code.

Alcoholic Beverage Permittees to be the Primary American Source of Supply—S.B. 950

by Senator Carona—House Sponsor: Representatives Senfronia Thompson and Smith

Section 37.10 (Restriction as to Source of Supply), Alcoholic Beverage Code, states that no holder of a nonresident seller's permit may sell wine or spirits to a holder of any type of wholesaler's permit unless the nonresident seller is the "primary American source" for the brand of distilled spirit or wine. The term "primary American source" refers to the first point in the channel of commerce where a product can be secured by Texas wholesalers and Texas wineries. This is essential because of the need to protect the integrity of the product through the three-tier system and to protect consumers.

When this provision was written, wineries could not ship or sell wine that was not their own; thus they had no need to buy from a nonresident seller. Texas wineries are now permitted to ship and sell wine that is not their own, enabling them to buy from nonresident sellers that are not the primary American source for a brand. This bill:

Prohibits the holder of a nonresident seller's permit from soliciting, accepting, or filling an order for distilled spirits or wine from a holder of any type of wholesaler's or winery permit unless the nonresident seller is the primary American source of supply for the brand of distilled spirits or wine that is ordered.

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Requires the nonresident seller, in order to be the "primary American source of supply," to be the first source, that is, the manufacturer or the source closest to the manufacturer, in the channel of commerce from whom the product can be secured by Texas, except for the below provision.

Authorizes a product to have more than one primary American source of supply to Texas if the product is a wine that is bottled or produced outside of the United States.

Requires the permittee, before an authorized permittee is authorized to ship distilled spirits or wine into the state or sell distilled spirit or wine within the state, to register the distilled spirits or wine with the Texas Alcoholic Beverage Commission (TABC) and provide proof that the permittee is the primary American source of supply.

Requires that the registration application, except for rare or vintage wine that is acquired at auction and for which no certificate is available, to include a certificate of label approval issued by the United States Alcohol and Tobacco Tax and Trade Bureau for the product.

Requires rare or vintage wine purchased at auction and registered by TABC to comply with all other provisions of this code, including provisions regarding the sale, purchase, importation, and distribution of that wine.

Authorizes, rather than requires, TABC by rule to establish procedures for accepting federal certificates of label approval for registration under this section, and proof, such as a letter of authorization, that a permittee is the primary American source of supply of the product or brand.

Shareholder and Policy Dividends—S.B. 1006 *by Senator Carona—House Sponsor: Representative Sheets*

Policyholder dividends are refunds of insurance premiums that insurers pay to policyholders. Pursuant to Chapter 403 (Dividends) and Chapter 1806 (Prohibited Practices and Rebates Related to Policies), Insurance Code, the Texas Department of Insurance (TDI) must approve all policyholder dividends by formal order before the insurers are permitted to pay the amount, regardless of the amount of the distribution in proportion to the overall financial condition of the company. TDI reports that recently, most policyholder dividend filings received are minimal, when compared to the overall financial condition of most companies.

This review process requires TDI to review the payment of dividends by an insurer to make certain that they will not cause the insurer to be in a hazardous financial condition. TDI is then required to formally approve the dividends, which is done through an official order issued by the commissioner of insurance (commissioner). This can take time as TDI's staff must draft, refine, and administratively process official commissioner's orders. TDI estimates that the regulatory review takes only a few days; however, because of the formal approval requirement, the entire process typically takes 20 to 30 days or longer. This bill:

Prohibits an insurer organized under the laws of this state, including a life, health, fire, marine, or inland marine insurance company, from paying a shareholder dividend except from surplus profits arising from the insurer's business.

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Provides that this subchapter does not prohibit an insurer from distributing to policyholders who are on active duty in the United States Armed Forces any estimated profits resulting from service by those policyholders in a foreign country in a combat theater of operations after January 1, 1990.

Requires an insurer that elects to make distributions under this section to file a written application describing the insurer's distribution with the commissioner for approval of a policyholder dividend amount that exceeds 10 percent of surplus, or, notify the commissioner in writing of each distribution of a policyholder dividend amount that is not greater than 10 percent of surplus.

Provides that if the commissioner does not act on the application on or before the fifth business day after the date the commissioner receives the application the distribution is considered approved.

Provides that these provisions do not prohibit an insurer from sharing profits with policyholders who are part of a group program established by a nonprofit business association and who participate in the group program because of membership in the association.

Requires an insurer to obtain commissioner approval before distributing a policyholder dividend if the dividend amount exceeds 10 percent of surplus.

Prohibits the commissioner from approving a distribution of profits or dividends until the insurer has adequate reserves, rather than has provided adequate reserves.

Prohibits a distribution of profits or dividends to an insured from taking effect or being distributed until the insurer has adequate reserves.

Requires the insurer to notify the commissioner in writing of each distribution if the insurer's policyholder dividend amount is not greater than 10 percent of surplus.

Provides that this Act does not prohibit an insurer from sharing profits with policyholders who are part of a group program established by a nonprofit business association and who participate in the group program because of membership in the association.

Provides that a policyholder dividend under a workers' compensation insurance policy is required to be approved by TDI if the insurer's policyholder dividend amount exceeds 10 percent of surplus and is prohibited from being approved by TDI until the insurance company has adequate reserves.

Requires that reserves be computed on the same basis for all classes of insurance companies operating under this subtitle and Section 2051.002 (Construction of Certain Laws).

Requires an insurer to notify TDI in writing of a distribution if the insurer's policyholder dividend amount is not greater than 10 percent of surplus.

Alcoholic Beverage License Application Fees—S.B. 1035

by Senator Carona—House Sponsor: Representative Smith

The Alcoholic Beverage Code is divided into two parts: beer and liquor. Beer and liquor are treated differently throughout the code because beer, with a lower alcohol content, was legalized before liquor and regulated at the county level before the creation of the Texas Alcoholic Beverage Commission (TABC). Thus, many statutory provisions pertaining to beer reflect regulation at a more local level. One of the differences found under the Alcoholic Beverage Code is that permits are issued for liquor, while licenses are issued for beer.

Currently, applications for licenses must be heard before a county judge, while applications for permits do not have the same requirement. Once a license is granted, the place of business must pay the licensing fees to the local tax assessor-collector. The tax assessor-collector retains five percent of this fee and submits the rest to TABC. Permit applicants, on the other hand, send the licensing fee directly to TABC. This bill:

Authorizes a licensee to change the licensee's place of business by applying to the Texas Alcoholic Beverage Commission (TABC) on a form prescribed by TABC and obtaining TABC consent.

Authorizes the county judge, in the case of a required protest hearing, to deny the application for any cause for which an original license application may be denied.

Authorizes a person to file an application for a license to manufacture, distribute, or sell beer with TABC on forms prescribed by TABC.

Requires TABC or the administrator, on receipt of an application, to determine whether a protest has been filed against the application.

Requires TABC or the administrator to investigate the protest if a protest against the application has been filed.

Requires TABC or the administrator, if TABC or the administrator finds that no reasonable grounds exist for the protest, or if no protest has been filed, to issue a license if TABC or the administrator finds that all facts stated in the application are true and no legal ground to refuse the license exists.

Requires TABC or the administrator to reject the protested application and require the applicant to file the application with the county judge of the county in which the applicant desires to conduct business and submit to a hearing if TABC or the administrator finds that reasonable grounds exist for the protest.

Requires the county judge to set a protested application for a hearing to be held not less than five nor more than 10 days after the date the county judge receives the protested application, rather than the date the application is filed.

Requires each applicant for an original license, other than a branch or temporary license, to pay a hearing fee of \$25 to the county clerk at the time of the hearing.

Requires the county clerk to deposit the fee in the county treasury.

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Provides that the applicant is liable for no other fee except the annual license fee.

Requires the applicant, if the county judge enters an order favorable to the applicant, to present a copy of the order to TABC present a copy of the order to the assessor and collector of taxes of the county, and pay that officer the appropriate license fee.

Requires TABC or the administrator, on receiving an order to issue the appropriate license if TABC or the administrator finds that the applicant is entitled to a license.

Authorizes TABC or the administrator to refuse to issue a license after receiving the order from the county judge, if TABC or the administrator possesses information from which it is determined that any statement in the license application is false or misleading or that there is other legal reason why a license should not be issued.

Requires TABC or the administrator, if TABC or the administrator refuses to issue a license, to enter an order accordingly and entitles the applicant to a refund of any license fee the applicant paid in connection with the application.

Requires the applicant, if the judgment of the district court is in favor of the applicant, regardless of whether an appeal is taken, to present a copy of the judgment to TABC and present it to the county tax assessor-collector where the application was made.

Requires that each license application be accompanied by a cashier's check, a teller's check, a check drawn on the account of a corporation applying for license or on account of a corporation that is an agent for the person applying for a license, a money order, or payment by credit card, charge card, or other electronic form of payment approved by TABC rule for the amount of the state fee, payable to the order of the comptroller of public accounts of the State of Texas.

Prohibits the commissioner of TABC from refunding a license fee except when the licensee is prevented from continuing in business by a local option election or when an application for a license is rejected by TABC or the administrator.

Authorizes as much of the proceeds from license fees as is necessary to be appropriated for that purpose.

Requires TABC by rule to establish a method for transmitting five percent of the license fee to the assessor and collector of taxes of the county in which the applicant's business is located.

Requires every original applicant for a license to manufacture, distribute, or sell beer at retail to give notice of the application by electronic or nonelectronic publication at the applicant's own expense in two consecutive issues of a newspaper of general circulation published in the city or town in which the applicant's place of business is located.

Requires that the notice, if no newspaper is published in that city or town, be published in a newspaper of general circulation published in the county where the applicant's business is located.

Requires that the notice, if no newspaper is published in that county, be published in a qualified newspaper published in the closest neighboring county and circulated where the applicant's business is located.

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Requires that the notice be printed in 10-point boldface type and include the type of license applied for; the exact location of the business for which the license is sought; the name of each owner of the business and, if the business is operated under an assumed name, the trade name together with the name of each owner; and if the applicant is a corporation, the names and titles of all officers.

Provides that an applicant for a renewal license is not required to publish notice.

Authorizes the holder of an existing license to apply to TABC for the reinstatement of the license in the same manner and according to the same procedure as in the case of an original license application.

Requires that an application to renew a license be filed with TABC no earlier than 30 days before the license expires but not after it expires.

Requires that the application be accompanied by the appropriate license fee.

Authorizes TABC or the administrator, when the renewal application has been filed to, in its discretion, issue a renewal license or if an application for a renewal that has been protested, or reject the application and require the applicant to file an application with the county judge and submit it to a hearing as is required in the case of an original application.

Prohibits TABC, the administrator, or county judge from approving an application unless it is accompanied by the required sworn statement.

Prohibits TABC, the administrator, or county judge from issuing a brewpub license to an applicant who does not submit the required sworn statement with the application for a license.

Automated Dialing Announcing Services—S.B. 1040 *by Senator Taylor—House Sponsor: Representative Bohac*

Subchapter F (Automatic Dial Announcing Devices), Chapter 55 (Regulation of Telecommunications Services), Utilities Code, governs automated dial announcing devices (ADAD). An ADAD is automated equipment used for telephone solicitation or collection that can store telephone numbers to be called or produce numbers to be called, and conveys a message to the number called without the use of a live operator. Texas law requires each recorded message from an ADAD to contain the following information in the first 30 seconds of the call: the nature of the call; the identity of the person, company, or organization making the call; and the telephone number from which the call is made. The Public Utility Commission (PUC) is responsible for enforcing ADAD compliance. PUC is authorized to assess an administrative penalty for a violation of up to \$1,000 each day during which an ADAD is used in violation. In addition to the administrative fine, PUC is required, upon finding of a violation of Subchapter F, to direct a telecommunications utility to disconnect service to the violator.

ADAD calls have been made that do not contain the proper message disclosures. Although the phone messages urged listeners to perform an action, questions arose as to whether the calls were a "solicitation" and therefore subject to the disclosure provisions in the Utilities Code. ADAD telephone calls without proper identification information can deceive the public, and lack the transparency required by Texas law. This bill:

Expands the exemptions from provisions related to ADADs to include automated dial announcing devices used by a municipality to deliver information to citizens of the municipality regarding a public health, safety, or welfare issue, and ADADs used by an organization to a member of the organization.

Provides that this Act does not apply to the use of an ADAD under certain circumstances, including the use of an ADAD by a municipality or a person calling on behalf of a municipality to deliver information to citizens of the municipality regarding a public health, safety, or welfare issue, or by an organization to a member of the organization.

Provides that this subchapter applies to an ADAD used to make a telephone call that originates or terminates in this state.

Manufacture, Distribution, and Sale of Alcoholic Beverages—S.B. 1090
by Senator Carona—House Sponsor: Representatives Geren and Smith

The Alcoholic Beverage Code governs Texas law relating to the regulation and sale of beer, wine, and spirits. Clarification of various sections of the Alcoholic Beverage Code that have been found to be confusing, outdated, inconsistent, or even unconstitutional. These regulatory issues need to be rectified. This bill:

Requires the Texas Alcoholic Beverage Commission (TABC) to appoint an administrator to serve at its will and, subject to its supervision, administer this code.

Requires the administrator, unless TABC orders otherwise, to be manager, secretary, and custodian of all records.

Requires the administrator of TABC (administrator) to devote the administrator's entire time to the office and to receive a salary as appropriated by the legislature.

Provides that the administrator is also known as the executive director.

Requires the administrator to appoint an assistant administrator.

Requires the assistant administrator to meet the same qualifications as the administrator. Requires the assistant administrator to take the constitutional oath of office.

Requires the assistant administrator, in the absence of the administrator, or in case of the administrator's inability to act, to perform the duties conferred on the administrator by law or delegated to the administrator by TABC.

Requires the assistant administrator, if there is a vacancy in the office of administrator, to perform the duties of the administrator until an administrator has been appointed by TABC.

Requires the assistant administrator, at other times, to perform those duties and have those functions, powers, and authority as may be delegated to the assistant administrator by the administrator.

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Provides that the assistant administrator is also known as the deputy executive director.

Authorizes the attorney general to appoint as many as six assistant attorneys general, as TABC determines necessary, to enable TABC to more efficiently enforce the Alcoholic and Beverage Code.

Authorizes TABC to require persons engaged in the alcoholic beverage business to provide information, records, or other documents TABC finds necessary to accomplish the purposes of this code.

Authorizes TABC or the administrator to suspend or revoke the permit of a person who is represented by the holder of an agent's permit as described by Section 35.01 (Use of Permit in Marine Park) or a manufacturer's agent's permit as described by Section 36.01 (Authorized Activity) or otherwise discipline the person based on an act or omission of the holder of an agent's or manufacturer's agent's permit only if an individual employed by the person in a supervisory position was directly involved in the act or omission of the holder of an agent's or manufacturer's agent's permit, had notice or knowledge of the act or omission, or failed to take reasonable steps to prevent the act or omission.

Authorizes the holder of a winery permit, except as provided by Section 16.011 (Premises in Dry Area), to conduct certain activities, including purchase and import wine from the holder of a nonresidential seller's permit.

Authorizes the holder of a winery permit to, for blending purposes, import wines or grape brandy.

Authorizes the holder of a wine and beer retailer's off-premise permit to sell for off-premises consumption only, in unbroken original containers, but not for resale, wine, beer, and malt liquors containing alcohol in excess of one-half of one percent by volume but not more than 17 percent by volume.

Authorizes a person to engage in such activities for an initial grace period of five days during which the person is required to procure an agent's permit from TABC.

Authorizes a person to engage in the activities specified for an initial grace period of five days during which the person is required to procure a manufacturer's agent's permit from TABC.

Authorizes the holder of a storage permit to store liquor in a public bonded warehouse for which a permit has been issued or in a private warehouse owned or leased by the holder and operated by the holder.

Requires every original applicant for a license to manufacture, distribute, or sell beer at retail to give notice of the application by publication at the applicant's own expense in two consecutive issues of a newspaper of general circulation published in a city or town in which the applicant's place of business is located.

Requires that the notice, if no newspaper is published in that city or town, be published in a newspaper of general circulation published in the county where the applicant's business is located.

Requires that the notice, if no newspaper is published in that county, be published in a qualified newspaper published in the closest neighboring county and circulated in the county where the applicant's business is located.

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Requires that the notice be printed in 10-point boldface type and include the type of license applied for; the exact location of the business for which the license is sought; the name of each owner of the business and, if the business is operated under an assumed name, the trade name together with the name of each owner, rather than the trade name if operating under an assumed name; and if the applicant is a corporation, the names and titles of all officers.

Provides that an applicant for a renewal license is not required to publish notice.

Authorizes a permittee, notwithstanding any other provision, to preannounce a promotion to a consumer or preannounce the purchase of wine, distilled spirits, ale, or malt liquor to a consumer.

Provides that no manufacturer or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, is authorized to furnish, give, or lend any money or other thing of value to a person engaged or about to be engaged in selling brewery products for on-premises or off-premises consumption, or give the person any money or thing of value for his use, benefit, or relief, or guarantee the repayment of a loan or the fulfillment of a financial obligation of a person engaged in or about to be engaged in selling beer at retail.

Provides that the above provision does not prohibit a manufacturer or distributor from prearranging or preannouncing a promotional activity otherwise permitted by this code with a retailer about a promotional activity to be held on the retailer's premises.

Authorizes a manufacturer or distributor, notwithstanding any other provision, to preannounce a promotion to a consumer or preannounce the purchase of beer to a consumer.

Provides that no retail dealer is authorized to dispense draft beer, malt liquor, or ale unless each faucet or other dispensing apparatus is equipped with a sign clearly indicating the name or brand of the product being dispensed through the faucet or apparatus.

Provides that the fact that a person is 18, 19, or 20 years of age is not a ground for refusal of an original or renewal permit or license provided that such a person to whom a permit or license is issued is authorized to carry out the activities authorized by those chapters only while in the actual course and scope of the person's employment.

Authorizes a member of the manufacturing or wholesale tier, notwithstanding any other provision of the Alcoholic Beverage Code, to include information in its advertising that informs the public of where its products are authorized to be purchased.

Prohibits a member of the manufacturing tier from giving compensation to or receiving compensation from a licensed or permitted member of the wholesale or retail tier for advertising described in the above provision.

Prohibits a member of the wholesale tier from giving compensation to or receiving compensation from a licensed or permitted member of the manufacturing or retail tier for that advertising.

Authorizes a person who holds a brewer's permit, notwithstanding any other provision of this code, nonresident brewer's permit, manufacturer's license, or nonresident manufacturer's license, or the person's

agent or employee, to package alcoholic beverages in combination with other items if the package is designed to be delivered intact to the wholesaler or distributor and the additional items are branded and have no value or benefit to the retailer other than that of having the potential of attracting purchases and promoting sales.

Authorizes the holder of a manufacturer's or nonresident manufacturer's license or a nonresident seller's permit, notwithstanding any other provision of Alcoholic Beverage Code, to display a branded promotional vehicle on the licensed or permitted premises of a retailer, whether outside or inside a structure on the premises, for not more than five hours per day.

Repeals Section 1.08 (Criminal Negligence Defined), as added by Chapter 437 (S.B. 55), Acts of the 73rd Legislature, Regular Session, 1993, Section 1.08 (Criminal Negligence Standard for Administrative Action), as added by Chapter 934 (H.B. 1445), Acts of the 73rd Legislature, Regular Session, 1993, and Section 31.05 (Use of Permit in Marine Park), of the Alcoholic Beverage Code.

Residential Tenant's Lease Obligation After Loss of Leased Premises—S.B. 1120

by Senator West—House Sponsor: Representative Anchia

Many people are impacted in a natural disaster, including apartment/rental residents. After a natural disaster, an apartment or property management company often relocates a resident to another unit if the unit the tenant is renting is uninhabitable.

After a recent natural disaster, the April 3, 2012, tornado in Lancaster, Texas, an apartment management company tried to require impacted residents to sign new leases at a term longer than that of their existing lease term before they would relocate them. This bill:

Prohibits a landlord that allows a tenant to move to another rental unit owned by the landlord, if a rental premises is, as a practical matter, totally unusable for residential purposes as a result of a natural disaster such as a hurricane, tornado, flood, extended freeze, or widespread windstorm, from requiring the tenant to execute a lease for a term longer than the term remaining on the tenant's lease on the date the premises was rendered unusable as a result of the natural disaster.

Economic Development Programs Administered by the Department of Agriculture—S.B. 1214

by Senator Schwertner—House Sponsor: Representative Darby

Several modifications to the economic development programs of the Texas Department of Agriculture (TDA) are needed. This bill:

Changes a reference to the Texas Department of Economic Development to the Texas Economic Development and Tourism Office, and changes a reference to the Texas Agricultural Extension Service to the Texas AgriLife Extension Service.

Authorizes TDA, in addition to TDA's authority to maintain an economic development program for rural areas in this state, to request, accept, and use any gift, grant, loan, donation, aid, appropriation, guaranty, allocation, subsidy, or contribution of any item of value to further a program in this state.

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Provides that the Texas economic development fund (fund) is a fund in the state treasury.

Provides that the fund consists of:

- all interest, income, revenue, and other assets associated with programs established using money allocated and paid to TDA under the August 15, 2011, allocation agreement between TDA and the United States Department of the Treasury, as amended, to implement the State Small Business Credit Initiative Act of 2010 (12 U.S.C. Section 5701 et seq.);
- all money, deposits, distributions, dividends, earnings, gain, income, interest, proceeds, profits, program income, rents, returns of capital, returns on investments, royalties, revenue, or yields received or realized by TDA as a result of an investment made by or on behalf of TDA pursuant to the August 15, 2011, allocation agreement between TDA and the United States Department of the Treasury, as amended;
- gifts, loans, donations, aid, appropriations, guaranties, allocations, subsidies, grants, or contributions received under Section 12.027(g);
- interest and income earned on the investment of money in the fund; and
- other money required by law to be deposited in the fund.

Authorizes money in the fund to be appropriated only to TDA for the purpose of administering, establishing, implementing, or maintaining a program under this section; dedicates money in the fund; and authorizes it to be used only for the administration, establishment, implementation, or maintenance of one or more of TDA's programs.

Exempts the fund from Section 403.095 (Use of Dedicated Revenue), Government Code.

Requires TDA to provide assistance to a community if TDA finds that a community successfully meets the requirements of a Texas certified retirement community, not later than the 90th day after the application is submitted and approved.

Requires the board of the Texas Agricultural Finance Authority to establish an interest rate reduction program to foster the creation and expansion of enterprises based on agriculture in this state or development or expansion of business in rural areas of this state.

Repeals Section 12.040(f) (relating to requiring TDA to consult with the Texas Department of Rural Affairs to establish parameters for certification of rural communities under this section), Agriculture Code.

Employment Policy For Individuals With Disabilities—S.B. 1226 *by Senator Zaffirini—House Sponsor: Representative Perez*

Interested parties note that there is currently no policy in Texas that promotes competitive employment at a living wage in the general workforce for all working age Texans with disabilities. These parties assert that national surveys show that many persons with disabilities want to have a job in the community but also note that the current participation rate of citizens with disabilities in the workforce is low. The interested parties express concern that persons with disabilities are routinely placed into non-integrated settings instead of community-based employment despite the availability of common accommodations and recommend implementation of an employment-first policy. This bill:

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Provides that it is the policy of the state that earning a living wage through competitive employment in the general workforce is the priority and preferred outcome for working-age individuals with disabilities who receive public benefits.

Requires the Health and Human Services Commission (HHSC), the Texas Education Agency, and the Texas Workforce Commission (TWC) to jointly adopt and implement an employment-first policy in accordance with the policy of the state.

Requires that the policy affirm that an individual with a disability is able to meet the same employment standards as an individual who does not have a disability; ensure that all working-age individuals with disabilities are offered factual information regarding employment as an individual with a disability; ensure that individuals with disabilities are given the opportunity to understand and explore options for education or training as pathways to employment; promote the availability and accessibility of individualized training designed to prepare an individual with a disability for the individual's preferred employment; promote partnerships with employers to overcome barriers to meeting workforce needs with the creative use of technology and innovation; ensure that the staff of public schools, vocational service programs, and community providers are trained and supported to assist in achieving the goal of competitive employment for all individuals with disabilities; and ensure that competitive employment, while being the priority and preferred outcome, is not required of an individual with a disability to secure or maintain public benefits for which the individual is otherwise eligible.

Requires the executive commissioner of HHSC (executive commissioner) to establish an interagency employment-first task force, or authorizes the executive commissioner to use an existing committee or task force, to promote competitive employment of individuals with disabilities and the expectation that individuals with disabilities are able to meet the same employment standards, responsibilities, and expectations as any other working-age adult.

Sets forth provisions regarding the members of the task force, if the executive commissioner establishes a task force for these purposes.

Requires a task force established or an existing committee used for these purposes to design an education and outreach process targeted at working-age individuals with disabilities, the families of those individuals, the listed state agencies, and service providers, that is aimed at raising expectations of the success of individuals with disabilities in integrated, individualized, and competitive employment; develop recommendations for policy, procedure, and rules changes that are necessary to allow the employment-first policy to be fully implemented; and, not later than September 1 of each even-numbered year, prepare and submit to certain entities a report regarding the task force's findings and recommendations, including certain information regarding the employment-first policy and employment for individuals with disabilities.

Sets forth provisions regarding reimbursement for expenses for members of the task force.

Requires HHSC and the health and human services agencies to provide administrative support and staff to a task force established under these provisions.

Requires the executive commissioner, the commissioner of education, and TWC to evaluate recommendations made by a task force or committee under these provisions and adopt rules as necessary that are consistent with the employment-first policy.

Provides that the relevant section expires September 1, 2017.

Documentary Fee Charged in Connection With Sale of Certain Recreational Vehicles—S.B. 1248
by Senator Carona—House Sponsor: Representative Flynn

Under Section 345.251 (Documentary Fee for Certain Vehicles), Finance Code, a retail seller may charge a retail buyer a documentary fee to recoup costs associated with preparing documents relating to the sale of boats, motorcycles, and other recreational vehicles. Dealers use documentary fees to offset costs involved with producing and fulfilling registration and licensing requirements, title documents, loan documents, insurance coverage facilitation, and sales tax collection and remission. Motor vehicle dealers can charge a similar fee pursuant to Chapter 348 (Motor Vehicle Installment Sales), Finance Code; however, in 2009, the legislature removed the \$50 maximum fee for motor vehicle dealers that is still applicable to boat or motorcycle dealers.

If a boat or motorcycle dealer charges a documentary fee, the Finance Code requires that it be disclosed as a separate itemized charge accompanied with a statutorily required disclosure. In addition, current law sets a documentary fee maximum amount of \$50 per transaction for such dealers. This ceiling was codified in Chapter 345 (Retail Installment Sales) of the Finance Code in 1997, and it has not been adjusted to reflect current business costs. This bill:

Authorizes a retail seller to charge a documentary fee for services rendered to, for, or on behalf of a retail buyer in handling and processing documents relating to the sale of a motorcycle, motor-driven cycle, moped, all-terrain vehicle, boat, boat motor, boat trailer, or towable recreational vehicle.

Provides that if a documentary fee is charged the fee is prohibited from exceeding a reasonable amount agreed to by the retail seller and retail buyer for the documentary services and is subject to a reasonable maximum amount set by rule by the Finance Commission of Texas (finance commission), and is required to be disclosed on the buyer's order or retail installment contract as a separate itemized charge.

Requires that a preliminary worksheet on which a sale price is computed and that is shown to the retail buyer, an order from the buyer, or a retail installment contract include in reasonable proximity to the place on the document where the documentary fee is disclosed the amount of the fee and a certain notice in a certain format.

Authorizes the finance commission to adopt rules necessary to implement and enforce this Act.

Authorized Charges and Terms For Certain Consumer Loans—S.B. 1251
by Senator Carona—House Sponsor: Representative Villarreal

In Texas, traditional installment lenders who provide consumer loans can charge an effective interest rate higher than the usury limit under Subchapters E (Interest Charges on Non-Real Property Loans) and F (Alternate Charges for Certain Loans), Chapter 342 (Consumer Loans), Finance Code. Unlike payday and automobile title lenders who offer loans that must adhere to very few regulatory requirements, however, traditional installment lenders must comply with statutory limits that affect the size, term, interest rate, and

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fees charged pursuant to every loan. As a result of these limits, traditional installment loans tend to be much more affordable for consumers than any comparable payday or auto title loan product.

Both Subchapters E and F authorize lenders to impose a nonrefundable flat charge in addition to the amounts the lenders charge based on the amount and term of the loan. The flat charge a Subchapter E lender can assess is referred to as an "administrative fee," and the flat charge a Subchapter F lender can assess is referred to as an "acquisition charge." Currently lenders can use the rates in Subchapter E for any consumer loan, but the rates in Subchapter F are restricted to loans of \$1,300 or less.

The Subchapter E administrative fee is currently capped at \$25 for a loan of more than \$1,000, and the Subchapter F acquisition charge is currently capped at \$10 for a loan of more than \$100. These amounts have not been altered by the legislature since 1997 and 1981, respectively, and thus they are incompatible with current business costs and make it difficult for the traditional installment lending industry to compete within a skewed marketplace wherein payday and auto title lenders operate with minimal restrictions. Legislation is needed to promote competition among lenders. This bill:

Provides that the administrative fee is considered earned when the loan is made or refinanced and is not subject to refund.

Provides that an administrative fee is not interest.

Authorizes the Finance Commission of Texas (finance commission) by rule to prescribe a reasonable maximum amount of an administrative fee for a loan contract that is greater than the amount for the maximum amount of the loan.

Authorizes a loan contract, instead of the charges authorized by Section 342.201 (Maximum Interest Charge), to provide for on a cash advance of less than \$30, an acquisition charge that is not more than \$1 for each \$5 of the cash advance; on a cash advance equal to or more than \$30 but not more than \$100, an acquisition charge that is not more than the amount equal to one-tenth of the amount of the cash advance; and an installment account handling charge that is not more than \$3 a month if the cash advance is not more than \$35, \$3.50 a month if the cash advance is more than \$35 but not more than \$70, or \$4 a month if the cash advance is more than \$70; or on a cash advance of more than \$100, an acquisition charge that is not more than \$10; and an installment account handling charge that is not more than the ratio of \$4 a month for each \$100 of cash advance.

Authorizes the finance commission by rule, for an acquisition charge authorized, to prescribe a reasonable maximum amount for an acquisition charge that is greater than the maximum amount authorized by the applicable section of this subchapter for the amount of the cash advance.

Provides that an acquisition charge under this subchapter is not interest.

Provides that the maximum scheduled term of a loan for a loan of \$100 or less, the lesser of one month for each multiple of \$10 of cash advance or six months; and for a loan of more than \$100, one month for each multiple of \$20 of cash advance.

Provides that the above provision applies to a loan contract that includes certain precomputed interest does not apply, or that has a term of more than 60 months.

Authorizes a loan contract under this subchapter to provide for an interest charge computed using the true daily earnings method or the scheduled installment earnings method that does not exceed the equivalent rate or effective return of the installment account handling charge for the original scheduled term of the loan.

Prohibits the principal balance of a loan contract authorized by this section from including the acquisition charge, installment account handling charge, default charges, or deferment charges or the return check fees.

Authorizes interest to accrue on the principal balance from time to time unpaid at the rate provided for by the contract until the date of payment in full or demand for payment in full.

Requires that a payment on a loan contract authorized by this section be applied to the borrower's account in the following order or, at the lender's option, under another method of applying a payment that is more favorable to the borrower: the straight line allocation of the acquisition charge using the original scheduled term of the loan based on the proportional scheduled payment that was paid or scheduled to be paid; default charges; return check fees; any other charges authorized by this Act; accrued interest; and principal.

Recreational Vehicles and Recreational Vehicle Parks—S.B. 1268

by Senator Lucio—House Sponsor: Representative Guillen

Recreational vehicle parks play a vital role in the tourism industry, attracting many visitors to the state. Over the years, the legislature has enacted multiple policies to help these businesses operate more efficiently. Legislation is needed to ensure that these businesses can continue to operate efficiently and profitably. This bill:

Provides that this chapter applies only to the relationship between a landlord who leases property in a manufactured home community and a tenant leasing property in the manufactured home community for the purpose of situating a manufactured home, rather than a manufactured home or a recreational vehicle, on the property.

Provides that this chapter does not apply to the relationship between a landlord who owns a manufactured home and a tenant who leases the manufactured home from the landlord; a landlord who leases property in a manufactured home community and a tenant leasing property in the manufactured home community for the placement of personal property to be used for human habitation, excluding a manufactured home, rather than excluding a manufactured home or a recreational vehicle; or a landlord and an employee or an agent of the landlord.

Authorizes a person who operates a recreational vehicle park, notwithstanding any other law, to withhold electric, water, or wastewater utility services from a person occupying a recreational vehicle at the park if the occupant is delinquent in paying for utility services provided by the operator until the occupant pays the delinquent amount.

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Provides that a district that provides nonsubmetered master metered utility service to a recreational vehicle park is required to determine the rates for that service on the same basis the district uses to determine the rates for other commercial businesses that serve transient customers and receive nonsubmetered master metered utility services from the district and is prohibited from charging a person who owns or operates a recreational vehicle park that receives nonsubmetered master metered utility service from the district an administrative fee for the services provided.

Repeals Sections 94.001(8) (defining "park model unit") and (10) (defining "recreational vehicle"), Property Code.

Timeshare Owners' Associations—S.B. 1372 *by Senator Hinojosa—House Sponsor: Representative Phil King*

Timeshares are not, and may not be used as, primary homes under the timeshare instruments. They are generally used for one or two weeks per year for vacation accommodations. Timeshare associations perform functions similar to, but not identical to, traditional homeowners' associations (HOA) but timeshare owners have less engagement in association operations as they simply wish to enjoy their vacations. Timeshare owners do pay mandatory annual assessments, usually per week of their ownership and based on unit size (e.g., one-bedroom, two-bedroom, et cetera). The assessment usually includes expenses not covered by traditional HOAs, such as housekeeping services; reservation services; maintenance of unit interiors and furnishings; reserves for replacement of unit furniture, fixtures, and equipment; and real estate taxes.

Laws designed for traditional whole ownership associations are, at best, confusing for timeshare associations and, at worst, detrimental to the associations' operations. Creating a new subchapter in the Timeshare Act to add basic provisions for the governance of timeshare owners' associations and exclude timeshare associations from sections of the Property Code designed for whole ownership or primary home property associations would clear up this confusion. This bill:

Requires this Act to be known as the Texas Timeshare Owners' Association Act.

Provides that this Act applies to a timeshare plan, the project instrument governing the timeshare property subject to the timeshare plan, and the council or association composed of all persons who have purchased a timeshare interest (association) related to the timeshare plan, regardless of the date on which the timeshare plan was created.

Authorizes the association to be governed by a board of directors (board).

Authorizes the board, except as provided in the timeshare document covering restrictions and covenants (project instrument), or this chapter, to act in all instances on behalf of the association.

Prohibits the board, except as expressly authorized in the project instrument or otherwise permitted by the association, from acting on behalf of the association to amend the project instrument, terminate the timeshare plan, elect or remove board members, or determine the qualifications, powers, duties, or terms of board members.

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Authorizes the board, subject to the project instrument, to appoint a member to fill a vacancy on the board and provides that the member appointed serves for the unexpired portion of the term of the predecessor board member.

Authorizes the project instrument, except as otherwise provided in this section, to provide for a period of developer control of an association during which the developer, or a person designated by the developer, is authorized to appoint and remove board members and officers of the association.

Provides that, regardless of the period of developer control provided in the project instrument, that period expires not later than the earlier of the 120th day after the date that at least 95 percent of the timeshare interests that were created by the timeshare instrument are conveyed to owners other than the developer, or the fifth anniversary of the date the developer ceased to offer timeshare interests for sale in the ordinary course of business under the timeshare plan or under another timeshare plan in which the timeshare interests are included, whichever date is later.

Authorizes a developer to voluntarily surrender the developer's right to appoint and remove board members and officers of the association during the period of developer control by executing a written instrument stating that the developer's rights are surrendered and providing a copy of the instrument to the owners.

Authorizes the developer to provide in the surrender instrument that, during the remaining period otherwise designated for developer control, specified actions of the association or board as described in the project instrument are effective only on approval of the developer.

Requires that the surrender instrument be recorded in the real property records of the county in which the timeshare property is located.

Authorizes the developer, during the period of developer control and subject to the project instrument, to determine all matters governing the association, including the occurrence of special or regular meetings of the members and the notice requirements and rules for those meetings.

Requires the owners, including the developer to the extent of any developer-owned timeshare interests, not later than the termination, by expiration or surrender, of any period of developer control, to elect a board of at least three members.

Authorizes the board to include one or more representatives of the developer.

Requires the board to elect the officers of the association.

Provides that the board members and officers of the association take office on election.

Authorizes the owners, by a vote of at least two-thirds of the voting rights of persons entitled to vote and voting in person or by proxy at any meeting of the owners, notwithstanding any provision of a project instrument to the contrary, to remove a member of the board, with or without cause, other than a member appointed by the developer during the period of developer control, provided that the developer remains in control of the association.

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Provides that, unless the project instrument provides for a larger quorum requirement, the percentage of voting interests constituting a quorum at a meeting of the members of an association is 10 percent of the voting interests of owners who are not delinquent in assessments, voting in person or by proxy.

Authorizes the meeting, if a quorum is not present at any meeting of the association at which board members will be elected, to be adjourned and reconvened not later than the 90th day after the date of adjournment for the sole purpose of electing board members.

Provides that, unless the project instrument provides for a larger quorum requirement, the quorum for the reconvened meeting is 10 percent of the voting interests of owners who are not delinquent in assessments, voting in person or by proxy.

Provides that, unless the project instrument provides otherwise, a quorum of the board is considered present throughout a board meeting if the members entitled to cast a majority of the votes are present at the beginning of the meeting.

Authorizes an owner, if only one of the multiple owners of a timeshare interest is present at a meeting of the association, to cast all votes allocated to that timeshare interest.

Authorizes the votes allocated to that timeshare interest, if more than one of the multiple owners are present, to be cast only in accordance with the agreement of a majority of the timeshare interest held by the multiple owners unless the timeshare instrument expressly provides otherwise.

Provides that there is a majority agreement if any one of the multiple owners casts the votes allocated to that timeshare interest and no protest is made promptly to the person presiding over the meeting by any of the other owners of the timeshare interest.

Authorizes votes allocated to a timeshare interest to be cast under a proxy duly executed by an owner. Requires a proxy to expressly state the dates of execution and termination.

Authorizes an owner to only revoke a proxy given under this section by actual notice of revocation to the person presiding over a meeting of the association.

Provides that a proxy is revoked on presentation of a later dated proxy or other written revocation executed by the same owner.

Provides that a proxy terminates the 25th month after the date the proxy is executed, unless the proxy specifies a shorter period or states that the proxy is coupled with an interest and is irrevocable.

Authorizes the project instrument for a timeshare plan to authorize votes of members of an association to be cast by mail only if mail ballots are mailed or sent to each member in the manner prescribed for a notice of a special meeting; the period for return of mail ballots is not later than the 30th day after the date the ballots are mailed or sent to members; and the required minimum number of ballots that is required to be returned by members for the vote to be effective represents at least the percentage of voting interests required for a quorum.

Provides that only timeshare interests included in the timeshare plan have voting rights.

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Provides that, unless the project instrument provides otherwise, owners who are delinquent in assessments do not have the right to cast a vote.

Provides that the right to cast a vote is also subject to any additional limitations provided in the project instrument.

Provides that, notwithstanding any provision in the project instrument to the contrary, after the period of developer control, all meetings of the association and board are open to all members of the association and all members are required to be permitted to attend and listen to the deliberations and proceedings.

Requires that meetings be conducted as provided in the project instrument.

Authorizes the board to adjourn a board meeting and reconvene in a closed executive session to consider legal advice from an attorney for the board or the association; pending or contemplated litigation; financial information about an individual member of the association, an individual employee of the association, an individual employee of the managing entity, or an individual employee of a contractor for the association or managing entity; or matters relating to the job performance of, compensation of, health records of, or specific complaints against an individual employee of the association, an individual employee of the managing entity, or an individual employee of a contractor of the association or managing entity who works under the direction of the association or the managing entity.

Authorizes the board, if a board meeting is closed on final resolution of any matter for which the board received legal advice or that concerned pending or contemplated litigation, to disclose information about that matter in an open meeting, except to the extent that those matters are required to remain confidential by the terms of a settlement agreement or judgment.

Requires that a meeting of the members of the association be held annually after the termination of the period of developer control.

Authorizes special meetings of the members of the association to be called by the president, by a majority of the board, or by owners having at least 25 percent of the votes allocated to timeshare interests in the association or any lower percentage specified in the project instrument.

Requires the association or managing entity, unless the project instrument provides otherwise, to send notice of the meeting to the mailing address of each owner on record with the association not later than the 30th day or earlier than the 90th day before the date of an annual meeting, and not later than the 10th day or earlier than the 60th day before the date of a special meeting.

Requires that the notice of a meeting of the owners state the date, time, and place of the meeting.

Requires that the notice of a special meeting of the owners also state the purpose of the meeting.

Authorizes a notice of a meeting to be included in a list of upcoming meetings sent to owners, and the list is not required to be specific to one meeting.

Provides that the failure of an owner to receive actual notice of a meeting of the owners does not affect the validity of any action taken at that meeting.

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Requires the association or managing entity, unless the project instrument provides otherwise, to send notice of a board meeting held after the date the developer control period terminates to the mailing address of each owner on record with the association not later than the 10th day before the date of the meeting. Provides that notice to owners of a board meeting is not required if emergency circumstances require action by the board before notice can be given.

Requires that a notice of a board meeting state the date, time, and place of the meeting.

Authorizes a notice of a meeting to be included in a list of upcoming meetings sent to owners, and the list is not required to be specific to one meeting.

Provides that the failure of an owner to receive actual notice of a board meeting does not affect the validity of any action taken at that meeting.

Authorizes a notice to be provided in a newsletter or a similar mailing.

Authorizes notice to be provided by prepaid United States mail, email for those owners who have provided an email address, or any other reasonable method selected by the board.

Authorizes a notice to an owner, notwithstanding any other law related to notice by an association, to be provided by conspicuous disclosure on the association's website if the owner has consented to that alternative notice.

Requires that consent to that alternative notice be in writing and authorizes that consent to be revoked by the owner at any time.

Provides that an affidavit of notice by an officer of the association or the managing entity is prima facie evidence that notice was provided under this section.

Requires the association or managing entity of the association to maintain among its records a complete and current list of the names and addresses of all owners of timeshare interests in the timeshare plan.

Requires the association or managing entity to update this list not less than quarterly.

Prohibits the association or managing entity from publishing this owners list or providing a copy of the list to any owner or to any third party, except as reasonably required to conduct legitimate association business, or as authorized or required by law.

Requires the association or managing entity, on the termination of the period of developer control and on the written request of an owner, to send by first class mail to owners a list of any materials provided by any owner if the purpose of the mailing is for legitimate association business, including a proxy solicitation for the recall of a board member elected by the owners or the discharge of the managing entity.

Requires that the use of the solicited proxies comply with the project instrument and this Act.

Requires that materials required to be provided under this subsection be mailed not later than the 30th day after the date the request is received from an owner.

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Provides that the board or the managing entity is responsible for determining the appropriateness of a mailing requested and establishing reasonable procedures for exercising rights.

Provides that the association or managing entity does not have an obligation to mail an item that the board or managing entity reasonably believes based on advice of legal counsel may be libelous or otherwise actionable.

Requires an owner who requests the mailing of materials to reimburse the association or managing entity in advance for the actual costs of performing the mailing or a proportionate share of actual costs if the mailing is included in a mailing with other items.

Provides that, after the termination of the period of developer control, it is a violation to refuse to mail material provided by a requesting owner who has complied with the reasonable procedures established by the board or managing entity, if the sole purpose of the materials is to advance legitimate association business, and the requesting owner has tendered to the association or managing entity payment of the cost or requested an invoice for that cost and has not received the invoice before the 10th day after the date the request was delivered to the association or managing entity.

Prohibits the association or other managing entity, except as otherwise authorized or required by law, from furnishing the name, address, telephone number, or email address of any owner to any other owner or authorized agent of an owner unless the owner whose name, address, phone number, or email address is requested first approves the disclosure in writing.

Provides that a timeshare property subject to this Act is not subject to Section 5.008 (Seller's Disclosure of Property Condition) or Section 5.012 (Notice of Obligations Related to Membership in Property Owners' Association); Chapter 202 (Construction and Enforcement of Restrictive Covenants); Chapter 207 (Disclosure of Information by Property Owners' Associations); and Chapter 209 (Texas Residential Property Owners Protection Act), unless an individual timeshare owner continuously occupies a single timeshare property as the owner's primary residence 12 months of the year.

Provides that the provisions of this Act prevail over a conflicting or inconsistent provision of law applicable to timeshare owners' association.

Clarifies that provisions of this Act do not apply to a property owners' association.

Requires that a property, when a person expressly declares an intent to subject the property to a timeshare plan through the recordation of a timeshare instrument that sets forth certain information be established thenceforth as a timeshare plan.

Requires that the declaration made in a timeshare instrument recorded include certain provisions, including provisions regarding a project instrument, unless the provisions are included in one or more other project instruments.

Provides that a timeshare plan subject to Chapter 82 (Uniform Condominium Act) that complies with this chapter is exempt from the requirements of Section 82.0675 (Restriction Relating to Club Membership) relating to club membership; and Sections 82.103 (c) (relating to providing for a period of declarant control),

(d) (relating to electing members of the board of directors by unit owners), and (e) (relating to requiring unit owners to elect the board of directors) relating to declarant control.

Provides that a person, other than an owner of a timeshare interest who purchased the interest from a developer for the person's own personal use and occupancy, commits a false, misleading, or deceptive act or practice within the meaning of Sections 17.46(a) (relating to providing that false, misleading, or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful and are subject to certain actions) and (b) (defining "false, misleading, or deceptive acts or practices"), Business & Commerce Code, and an unconscionable action or course of action as defined by Section 17.45 (Definitions), Business & Commerce Code, by knowingly participating, for consideration or with the expectation of consideration, in any plan or scheme a purpose of which is to transfer a timeshare interest to a transferee who does not have the ability, means, or intent to pay all assessments and taxes for the timeshare interest.

Provides that an association or other managing entity does not commit an act or action by performing administrative acts and collecting fees or expenses as customary or required by law or under the project instruments in connection with a transfer by an owner of a timeshare interest in the timeshare property.

Identity Recovery Services—S.B. 1388

by Senator Carona—House Sponsor: Representative Bohac

Identity recovery service experts work to restore the identity of identity theft victims. These services are often offered through financing when buying different kinds of vehicle installment contracts. Under current law, this may be accomplished through a service contract, a vehicle protection product warranty, or a stand-alone identity recovery service contract. Contract providers who provide identity recovery through any of these financing options must register with the Texas Department of Licensing and Regulation (TDLR).

Requirements relating to identity recovery service contract providers who provide stand-alone contracts that are financed through a vehicle installment contract are so narrow that TDLR only has two registrants covered by these provisions, which are located in Chapter 1306 (Identity Recovery Service Contract Providers and Administrators), Occupations Code. This bill:

Authorizes a retail installment contract to include, as a separate charge, an amount for certain items, including an identity recovery service contract, rather than an identity recovery service contract as defined by Section 1306.003 (Identity Recovery Service Contract), Occupations Code.

Defines "identity recovery" and redefines "service contract" to mean an agreement that is entered into for a separately stated consideration and for a specified term under which a provider agrees to repair, replace, or maintain a product, or provide indemnification for the repair, replacement, or maintenance of a product, for operational or structural failure or damage caused by a defect in materials or workmanship or by normal wear, or provide identity recovery, if the service contract is financed under Chapter 348 (Motor Vehicle Installment Sales) or 353 (Commercial Motor Vehicle Installment Sales), Finance Code.

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Requires a provider, not later than the 30th day after the date each calendar quarter ends, to report to TDLR the number of service contracts that were sold or issued to consumers in this state during the most recent calendar quarter, and to submit a fee of \$1 for each of those service contracts to TDLR.

Provides that the report and fee are required only for a service contract that provides only for identity recovery service.

Authorizes a vehicle protection product to also include identity recovery, if the vehicle protection product is financed.

Repeals Chapter 1306 (Identity Recovery Service Contract Providers and Administrators), Occupations Code.

Required Notices Under the Texas Unemployment Compensation Act—S.B. 1537

by Senator Deuell—House Sponsor: Representative Cortez

Current law provides that when an individual applies for unemployment insurance (UI) benefits, an employer receives a notice of initial claim and the Texas Workforce Commission (TWC) also requests that information be provided relating to job separation. The Labor Code does not explicitly reflect the new federal requirements prohibiting states from relieving an employer from a chargeback for payable claims, when the employer or an agent of the employer fails to respond timely or adequately to the state's request for information during the adjudication of an UI claim that subsequently was paid but results in an overpayment, and has established a pattern of failing to respond timely or adequately to requests from the state agency for information relating to claims for UI benefits. To conform with federal law, Texas must make the appropriate statutory changes. This bill:

Provides that if a reimbursing employer pays a reimbursement to TWC for benefits paid to a claimant that are not in accordance with the final determination or decision under this subtitle, the employer is not entitled to refund of, or credit for, the amount paid by the employer to TWC unless the employer has complied with certain requirements.

Requires that a notification provided by a person under Section 208.004(a), Labor Code, including an initial response to a notice mailed to the person under Section 208.002, Labor Code, include sufficient factual information to allow TWC to make a determination regarding the claimant's entitlement to benefits.

Requires that benefits paid to a claimant that are not in accordance with the final determination or decision under the Texas Unemployment Compensation Act, notwithstanding Subchapter B (Chargebacks), Chapter 204, Labor Code, be charged to the account of a person if the person, or the person's agent, without good cause, fails to provide adequate notification and TWC determines that the person, or the person's agent, has failed to provide timely and adequate notification under this section on at least two prior occasions.

Provides that, for purposes of Section 208.004(c), Labor Code, a notification is not adequate if the notification merely alleges that a claimant is not entitled to benefits without providing sufficient factual information, other than a general statement of the law, to support the allegation, and provides that good cause is established only by showing that a person, or the person's agent, was prevented from complying with this section due to compelling circumstances that were beyond the person's control.

Authorizes TWC to adopt rules as necessary to implement Section 208.004, Labor Code.

Prohibits a chargeback, except as provided by Section 212.005(b), Labor Code, from being made to an employer's account as a result of payments made under a determination or decision to the claimant for any benefit period with regard to which the claimant is finally denied benefits by a modification or reversal of the determination or decision.

Requires a chargeback to be made to an employer's account for benefits paid to a claimant that are not in accordance with the final determination or decision under the Texas Unemployment Compensation Act if the benefits were paid due to the failure of the employer, or the employer's agents, to comply with Section 208.004, Labor Code.

Definition of "Qualified Employee" in an Enterprise Zone—S.B. 1548
by Senator Eltife—House Sponsor: Representative Lavender

The Texas Enterprise Zone Program is an economic development tool for local communities to partner with the State to promote job creation and capital investment in economically distressed areas. Local communities must nominate a company as an Enterprise Project to be eligible to participate in the Enterprise Zone Program. Designated projects are eligible to apply for state sales and use tax refunds on qualified expenditures. The level and amount of refund is related to the capital investment and jobs created or retained at the qualified business site. The current definition of a "qualified employee" under Section 2303.003 (Definitions), Government Code, disqualifies certain employees whose job is transporting goods and services to consumers from the qualified business site, but who do not spend their day working at the facility. This bill:

Redefines "qualified employee" to mean a person who works for a qualified business; receives wages from the qualified business from which employment taxes are deducted; and performs at least 50 percent of the person's service for the business at the qualified business site, unless the person's job responsibility is to transport or deliver the enterprise project's goods or services.

Eligibility, Reporting Requirements, and a Study Regarding the Major Events Trust Fund—S.B. 1678
by Senator Deuell et al.—House Sponsor: Representative Isaac et al.

Texas has a set of economic incentives programs intended to bring capital investment and jobs into the state at a low cost to the taxpayers. However, there are areas in which these programs could be improved through increased transparency and additional reporting to state leaders. This bill:

Redefines "event" to include the X Games, a mixed martial arts championship, or the largest event held each year at a sports entertainment venue in this state with a permanent seating capacity, including grandstand and premium seating, of not less than 125,000.

Provides that an event not listed under Subsection (a)(4), Section 5A, Chapter 1507 (S.B. 456), Acts of the 76th Legislature, Regular Session, 1999, is ineligible for funding under this section.

Authorizes a listed event to receive funding under this section only if:

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- a site selection organization selects a site located in this state for the event to be held one time or for an event scheduled to be held each year for a period of years under an event contract or an event support contract, one time each year for the period of years, after considering, through a highly competitive selection process, one or more sites that are not located in this state;
- a site selection organization selects a site in this state as the sole site for the event or the sole site for the event in a region composed of this state and one or more adjoining states;
- the event is held not more than one time in any year; and
- the amount of the incremental increase in tax receipts determined by the comptroller of public accounts of the State of Texas (comptroller) of this section equals or exceeds \$1 million, provided that for an event scheduled to be held each year for a period of years under an event contract or event support contract, the incremental increase in the receipts shall be calculated as if the event did not occur in the prior year.

Provides that certain restrictions do not apply to an event that is the largest event held each year at a sports entertainment venue in this state with a permanent seating capacity, including grandstand and premium seating, of not less than 125,000.

Provides that if an endorsing municipality or county requests the comptroller to make a determination for an event, the provisions of this section apply to that event as if it satisfied the eligibility requirements for an event.

Requires that a request for a determination of the amount of incremental increase in tax receipts as specified by Subsection (b), Section 5A, Chapter 1507 (S.B. 456), Acts of the 76th Legislature, Regular Session, 1999, be submitted to the comptroller not earlier than one year and not later than 45 days, rather than three months, before the date the event begins.

Authorizes the obligations, subject to Subsection (k), Section 5A, Chapter 1507 (S.B. 456), Acts of the 76th Legislature, Regular Session, 1999, to include the payment of costs relating to the preparations necessary for the conduct of the event and the payment of costs of conducting the event, including improvements or renovations to existing facilities or other facilities and costs of acquisition or construction of new facilities or other facilities.

Requires a local organizing committee, endorsing municipality, or endorsing county to provide information before and after the event required by the comptroller, including an estimate of the number of people expected to attend the event who are not residents of Texas.

Provides that if an obligation is incurred under a games support contract or event support contract to make a structural improvement to the site or to add a fixture to the site for purposes of an event and that improvement or fixture is expected to derive most of its value in subsequent uses of the site for future events, a disbursement from the trust fund made for purposes of that obligation is limited to five percent of the cost of the improvement or fixture and the remainder of the obligation is not eligible for a disbursement from the trust fund, unless the improvement or fixture is for a publicly owned facility.

Prohibits the comptroller from considering a contingency clause in an event support contract as relieving a local organizing committee's, endorsing municipality's, or endorsing county's obligation to pay a cost under the contract in considering whether to make a disbursement from the trust fund.

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Prohibits the comptroller from undertaking any of the responsibilities or duties set forth unless a request is submitted by the municipality or the county in which the event will be located, the event meets all the requirements for funding, and the request is accompanied by documentation from a site selection organization selecting the site for the event.

Requires the comptroller using existing resources, not later than 10 months, rather than 18 months, after the last day of an event eligible for disbursements from the Major Events Trust Fund (METF) for costs associated with the event, to complete a study in the market area of the event on the measurable economic impact directly attributable to the preparation for and presentation of the event and related activities.

Requires the comptroller to post on the comptroller's Internet website the results of the study conducted, including any source documentation or other information relied on by the comptroller for the study; the amount of incremental increase in tax receipts for the event; the site selection organization documentation; any source documentation or information that was relied on by the comptroller in making the determination of the amount of incremental increase in tax receipts; and documentation verifying that a request submitted by a local organizing committee, endorsing municipality, or endorsing county is complete and certified by the comptroller, the determination on the amount of incremental increases in tax receipts considered the information submitted by a local organizing committee, endorsing municipality, or endorsing county, and that each deadline established was timely met.

Provides that Subsection (w), Section 5A, Chapter 1507 (S.B. 456), Acts of the 76th Legislature, Regular Session, 1999, does not require disclosure of information that is confidential under Chapter 552, Government Code, or confidential or privileged under other law.

Requires the comptroller, after the conclusion of an event, to compare information in the actual attendance figures with the estimated attendance numbers used to determine the incremental increase in tax receipts.

Authorizes the comptroller to reduce the amount of a disbursement for an endorsing entity under the METF in proportion to the discrepancy between the actual and estimated attendance and in proportion to the amount contributed to the METF by the entity if the actual attendance figures are significantly lower than the estimated attendance numbers.

Requires the comptroller by rule to define "significantly lower" and to provide the manner in which a disbursement is authorized to be proportionately reduced.

Provides that a site selection organization selects a site for the event located in Texas to be held one time, or for an event scheduled to be held each year for a period of years under an event contract or events support contract, one time each year for the period of years, after considering through a highly competitive selection process, one or more sites that are not located in Texas.

Provides that the number of requests for funding that may be submitted by an endorsing county or endorsing municipality during any 12-month period for an event for which the comptroller determines that the total amount of the incremental increase in tax receipts is less than \$200,000 is limited to not more than 10 events, only three of which may be nonsporting events, during any 12-month period.

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Authorizes that obligations include the payment of costs relating to the preparations necessary for the conduct of the event and the payment of costs of conducting the event, including improvements or renovations to existing facilities or other facilities and costs of acquisition or construction of new facilities or other facilities.

Requires a local organizing committee, endorsing municipality, or endorsing county to provide certain information required by the comptroller, including data obtained by the local organizing committee, an endorsing municipality, or an endorsing county relating to attendance at the event, including an estimate of the number of people expected to attend the event who are not residents of this state, and to the economic impact of the event.

Requires the local organizing committee, an endorsing municipality, or an endorsing county, after the conclusion of the event and on the comptroller's request, to provide information relating to the event, such as attendance figures, including an estimate of the number of people who are not residents of Texas who attended the event.

Authorizes the comptroller to make a disbursement from the Events Trust Fund (ETF) on the prior approval of each contributing endorsing municipality or endorsing county for a purpose for which a local organizing committee, an endorsing municipality, or an endorsing county or the state is obligated under an event support contract, including an obligation to pay costs incurred in the conduct of the event and costs incurred in making preparations necessary for the event.

Provides that, if an obligation is incurred under an event support contract to make a structural improvement to the site or to add a fixture to the site for purposes of an event and that improvement or fixture is expected to derive most of its value in subsequent uses of the site for future events, a disbursement from the ETF made for purposes of that obligation is limited to five percent of the cost of the improvement or fixture and the remainder of the obligation is not eligible for a disbursement from the trust fund.

Provides that a contingency clause in an event support contract does not alleviate the local organizing committee's, endorsing municipality's, or endorsing county's obligation to pay a cost under the contract for purposes of a determination made by the comptroller or a disbursement from the trust fund under this section.

Prohibits a disbursement from being made from the ETF that the comptroller determines would be used for the purpose of soliciting the relocation of a professional sports franchise located in this state; constructing an arena, stadium, or convention center; or conducting usual and customary maintenance of a facility.

Provides that a disbursement from the ETF for the construction of temporary structures within an arena, stadium, or convention, if those structures are necessary for the conduct of the event or temporary maintenance of a facility that is necessary for the preparation for or conduct of the event, is not prohibited.

Authorizes the comptroller to adopt a model event support contract and to make the contract available on the comptroller's Internet website and provides that the adoption by the comptroller of a model event support contract does not require use of the model event support contract.

Authorizes the comptroller to adopt necessary rules.

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Requires the comptroller, after the conclusion of an event, to compare information in the actual attendance figures provided to the comptroller with the estimated attendance numbers used to determine the incremental increase in tax receipts and authorizes the comptroller to reduce the amount of a disbursement for an endorsing entity under the ETF in proportion to the discrepancy between the actual and estimated attendance and in proportion to the amount contributed to the ETF by the entity if the actual attendance figures are significantly lower than the estimated attendance numbers.

Requires the comptroller by rule to define "significantly lower" and to provide the manner in which a disbursement is authorized to be proportionately reduced.

Repeals Sections 5A(f) (relating to providing that this subsection applies only to an event that the comptroller determines under Subsection (b) of this section will generate at least \$15 million in state and local tax revenue), (s) (relating to prohibiting the term of a certain agreement to not exceed 10 years and is required to terminate on the final termination date provided in the agreement or if the event covered by the agreement is not held during any 18-month period covered by the agreement), (t) (relating to requiring that the total amount of the state's initial contribution under a certain agreement, on termination of the agreement, be repaid to the state from certain funds or from any other source specified in the agreement), and (u) (relating to requiring the comptroller to deposit a certain amount into the METF for the limited purpose of paying the costs of attracting and securing a certain event), Chapter 1507 (S.B. 456), Acts of the 76th Legislature, Regular Session, 1999 (Article 5190.14, V.T.C.S.).

Construction, Remodeling, or Rehabilitation of Certain Hotel Projects—S.B. 1719

by Senator Rodríguez—House Sponsor: Representative Moody

Currently, cities with populations in excess of 1.5 million have an economic development tool that can be used at the discretion of the local authority that authorizes the use of eligible taxable proceeds generated from a new or rehabilitated hotel development near a convention center to develop, build, and rehabilitate the hotel project. This bill:

Redefines "qualified hotel project" as a hotel proposed to be constructed, remodeled, or rehabilitated by a municipality or certain nonprofit municipally sponsored local government corporation that is within 3,000 feet of the property line of a convention center owned by a municipality having a population of more than 500,000 and that borders the United Mexican States.

Authorizes a municipality with a population of 1,500,000 or more or a municipality having a population of more than 500,000 and that borders the United Mexican States to agree to guarantee from hotel occupancy taxes the bonds of other obligations of certain municipally sponsored local government corporation, that were issued or incurred to pay the cost of construction, remodeling, or rehabilitation of a qualified hotel project.

Redefines "convention center facilities" or "convention center complex" to provide that the term also includes a hotel proposed to be constructed, remodeled, or rehabilitated by a municipality or certain nonprofit municipally sponsored local government corporation that is within 3,000 feet of the property line of a convention center owned by a municipality having a population of more than 500,000 and that borders the United Mexican States.

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Authorizes a municipality, subject to the limitations provided by Subchapter B (Use and Allocation of Revenue), Tax Code, to pledge the revenue derived from the tax imposed under Chapter 351 (Municipal Hotel Occupancy Taxes), Tax Code, for the payment of bonds that are issued under Section 1504.002(a) (relating to authorizing the governing body to issue revenue bonds to provide money), Government Code, for one or more of the purposes provided by Section 351.101 (Use of Tax Revenue), Tax Code, or, in the case of a municipality of 1,500,000 or more or a municipality having a population of more than 500,000 and that borders the United Mexican States, for the payment of principal of or interest on bonds or other obligations of a municipally sponsored local government corporation created under Chapter 431, Transportation Code, that were issued to pay the cost of the acquisition and construction of a convention center hotel or the cost of acquisition, remodeling, or rehabilitation of a historic hotel structure; provided, however, that such pledge is authorized to only be that portion of the tax collected at certain hotels.

Renewal of Concealed Handgun License—H.B. 48

by Representative Flynn et al.—Senate Sponsor: Senator Patrick

Under current law, a concealed handgun license (CHL) expires on the license holder's first birthday that occurs after the fourth anniversary of the date of issuance. Thus, license holders must go through the renewal process, which includes completion of a continuing education course in handgun proficiency, every five years. This bill:

Deletes the requirement that a CHL holder complete a continuing education course in handgun proficiency to renew a CHL.

Requires a CHL holder, in order to renew a license on or before the date the license expires, to submit by mail or on the Internet payment of renewal fee and the information form signed or electronically acknowledged by the applicant to the Department of Public Safety of the State of Texas.

Requires the public safety director to adopt a renewal application form and set the renewal fee to verify the information contained in the renewal application form; conduct any necessary investigation concerning the CHL holder's continued eligibility to hold a license; and issue the renewed license.

Hotel Firearms Policy—H.B. 333

by Representatives Guillen and Springer—Senate Sponsor: Senator Hinojosa

It has been reported that hotels and lodging businesses may be confusing concealed handgun license holders and gun owners by not disclosing a gun policy in the business transaction's terms or conditions. This bill:

Requires a hotel to include on the hotel's Internet reservation website the hotel's policy regarding the possession, storage, and transportation of firearms.

Requires a hotel, if a hotel provides a written confirmation or a written statement of terms and conditions to a consumer after accepting the consumer's hotel reservation by telephone, to include information specifying how the consumer may review applicable guest policies, which must indicate the hotel's policy regarding the possession, storage, and transportation of firearms by guests.

Provides that a hotel owner or keeper commits a misdemeanor offense punishable by a fine of not more than \$100 if the person does not comply.

Fees and Issuance of Concealed Handgun Licenses—H.B. 485

by Representative Sarah Davis et al.—Senate Sponsor: Senator Whitmire

Reserve peace officers often face situations similar to those faced by active duty peace officers but are currently not governed by the same concealed handgun license (CHL) eligibility laws as active duty officers and are not provided the same license fee discounts. This bill:

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Requires an applicant for a CHL who is a veteran honorably discharged more than 365 days preceding the date of the application from the branch of the service in which the applicant served to pay a fee of \$25 for the issuance of an original or renewed CHL.

Requires the Department of Public Safety of the State of Texas to reduce by 50 percent any fee required of veteran applicants for a duplicate or modified license.

Requires an applicant who is a correctional officer of the Texas Department of Criminal Justice to pay a fee of \$25 for the issuance of an original or renewed CHL.

Allows a person who is licensed as a peace officer and is employed full-time or part-time by a law enforcement agency, or a member of the Texas military forces to apply for a CHL under the provisions of this bill.

Fingerprints Submission For Concealed Handgun License—H.B. 698

by Representative Springer et al.—Senate Sponsor: Senator Estes

Current statute requires a person seeking to obtain a concealed handgun license (CHL) to submit two complete sets of legible and classifiable fingerprints taken by a person appropriately trained in recording fingerprints who is employed by a law enforcement agency or a certain designated private entity. Department of Public Safety of the State of Texas (DPS) rules require the fingerprints to be taken digitally at an approved facility. This bill:

Requires DPS to establish procedures for the submission of fingerprints by an applicant for a CHL who does not reside within a specified distance of a fingerprint processing facility.

Switchblade Knives—H.B. 1862

by Representative Dutton—Senate Sponsor: Senator Hinojosa

Sections 46.05(a), (d), and (e), Penal Code, state that a person commits an offense if the person intentionally or knowingly possesses, manufactures, transports, repairs, or sells an explosive weapon; a machine gun; a short-barrel firearm; a firearm silencer; a switchblade knife; knuckles; armor-piercing ammunition; a chemical dispensing device; a zip gun; or a tire deflation device. This bill:

Excludes "switchblade knife" from the list of prohibited weapons.

Right to Purchase a Firearm—H.B. 2407

by Representative Naishtat—Senate Sponsor: Senator Huffman

Subchapter A (Termination and Settlement of Guardianship), Chapter 1202 (Modification or Termination or Guardianship), Estates Code, provides that unless otherwise discharged as provided by law, a guardian remains in office until the estate is closed. A guardianship shall be settled and closed when the ward dies and, if the ward was married, the ward's spouse qualifies as survivor in community; is found by the court to have full capacity to care for himself or herself and to manage the ward's property; is no longer a minor; or

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no longer must have a guardian appointed to receive funds due the ward from any governmental source. This bill:

Allows a person whose guardianship was terminated because the person's capacity was completely restored to file an application with the court that created the guardianship for an order requesting the removal of the person's disability to purchase a firearm.

Requires the court, in determining whether to grant the relief sought, to hear and consider evidence about the circumstances that led to imposition of the firearms disability; the person's mental history; the person's criminal history; and the person's reputation.

Authorizes a court to not grant relief unless the court finds and enters in the record that the person or ward is no longer likely to act in a manner dangerous to public safety and that removing the person's or ward's disability to purchase a firearm is in the public interest.

Removal of Categories on Concealed Handgun Licenses—H.B. 3142 *by Representative Bell—Senate Sponsor: Senators Estes and Campbell*

Qualifying to obtain a Texas concealed handgun license does not currently guarantee the ability to carry any category of handgun. This bill:

Removes language from Section 11.041(a), Section 11.61(e), Section 61.11(a), and Section 61.71(f) Alcoholic Beverage Code, which limits a concealed handgun holder to possession of a concealed handgun of the same category that the person is licensed to carry.

Deletes existing text authorizing the Department of Public Safety of the State of Texas (DPS) to issue a license to carry handguns only of the categories for which the applicant has demonstrated proficiency in the form and manner required by DPS.

Deletes existing text requiring that a license include a statement of the category or categories of handguns the license holder may carry, which includes any handguns, whether semi-automatic or not.

Deletes existing text requiring DPS to suspend a license if the license holder carries a concealed handgun of a different category than the license holder is licensed to carry or fails to return a previously issued license after a license is modified as required by Section 411.184(d) (relating to requiring the license holder, on receipt of a modified license, to return the previously issued license to DPS), Government Code.

Changes language that requires the range instruction component of a handgun proficiency class and proficiency examination to provide an actual demonstration by the applicant of the applicant's ability to safely and proficiently use a handgun, rather than the applicable category of handgun or specific categories.

Deletes text authorizing a person serving in Texas as a judge or justice of a federal court, as an active judicial officer, as a district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney to establish handgun proficiency by obtaining from a handgun proficiency instructor approved by the Commission on Law Enforcement Officer Standards

and Education for purposes of Section 1702.1675 (Training Programs), Occupations Code, a sworn statement that designates the categories of handguns with respect to which the person demonstrated proficiency.

Requires a retired peace officer who obtains a handgun license to maintain, rather than to maintain for the category of weapon licensed, the proficiency required for a peace officer under Section 1701.355 (Continuing Demonstration of Weapons Proficiency), Occupations Code.

Provides that it is a defense to prosecution under Section 30.05(f), Penal Code, that the person was carrying a concealed handgun and a license issued under Subchapter H, Chapter 411, Government Code, to carry a concealed handgun, rather than a concealed handgun of the same category the person was carrying.

Provides that Section 46.02 (Unlawful Carrying Weapons), Penal Code, does not apply to certain individuals, including a person who is carrying a concealed handgun and valid license issued under Subchapter H, Chapter 411, Government Code, to carry a concealed handgun, and removes the specification that the license issued must be of the same category as the handgun the person is carrying.

Repeals Section 411.171(1) (relating to defining "action" as a single action, revolver, or sem-automatic action), Section 411.179(b) (relating to a category of handguns containing handguns that are not prohibited by law and are of certain actions), Section 411.184 (modification), and Sections 411.188(e) (relating to allowing only a qualified handgun instructor to administer the proficiency examination to modify a license) and (h) (relating to requiring a license holder who wishes to modify a license to apply in person to a qualified handgun instructor to demonstrate the required knowledge and proficiency), Government Code.

Authority of Certain People to Carry Certain Firearms—H.B. 3370

by Representative Craddick—Senate Sponsor: Senator Patrick

Current law exempts honorably retired peace officers and federal criminal investigators who hold a weapons proficiency certificate and a photo identification card issued by a state or local law enforcement agency in accordance with certain requirements from the offenses of unlawful carrying of a weapon and possessing or going with a weapon in a place where weapons are prohibited. These officers may demonstrate weapons proficiency by submitting an affidavit that includes, among other facts, that the officer honorably retired after not less than a total of 15 years of service as a commissioned officer with one or more state or local law enforcement agencies. This bill:

Authorizes a person who served as a reserve law enforcement officer not less than a total of 15 years with one or more state or local law enforcement agencies to apply for a license at any time.

Requires the applicant to submit to the Department of Public Safety of the State of Texas (DPS) two complete sets of legible and classifiable fingerprints and a sworn statement from the head of the law enforcement agency at which the applicant last served as a reserve law enforcement officer.

Prohibits a law enforcement agency from refusing to issue a statement and lists information that the statement must include.

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Allows DPS to issue a license to an applicant if the applicant was a reserve law enforcement officer for not less than a total of 15 years with one or more state or local law enforcement agencies and is physically and emotionally fit to possess a handgun.

Requires an applicant to pay a fee of \$25 for a license.

Requires a former reserve law enforcement officer who obtains a license to maintain, for the category of weapon licensed, the proficiency required for the person.

Requires DPS or the local law enforcement agency at which the person last served as a reserve law enforcement officer to allow the person an opportunity to annually demonstrate the required proficiency.

Adds "former reserve law enforcement officers" to the provisions of Section 1701.357 (Weapons Proficiency for Certain Retired Peace Officers and Federal Law Enforcement Officers and for Former Reserve Law Enforcement Officers), Occupations Code.

Intentional Display of a Handgun—S.B. 299

by Senators Estes and Schwertner—House Sponsor: Representative Sheets et al.

Current law prohibits the intentional failure to conceal a handgun by a person licensed to carry a concealed handgun. The Dallas Court of Appeals, in a recent decision, ruled that it is an affirmative defense for a concealed handgun licensee to draw a handgun only when use of deadly force is authorized. Section 9.04 (Threats as Justifiable Force), Penal Code, states that a threat to cause death or serious bodily injury by the production of a weapon or otherwise, as long as the actor's purpose is limited to creating an apprehension that he will use deadly force if necessary, does not constitute the use of deadly force. This bill:

Establishes that a license holder commits an offense if the license holder carries a handgun on or about the license holder's person and intentionally displays the handgun in plain view of another person in a public place.

Provides that is a defense to prosecution that the actor, at the time of the commission of the offense, displayed the handgun under circumstances in which the actor would have been justified in the use of force or deadly force under Chapter 9 (Justification Excluding Criminal Responsibility), Penal Code.

Handgun Proficiency Course—S.B. 864

by Senator Campbell—House Sponsor: Representative Flynn et al.

The handgun proficiency course required for a concealed handgun license (CHL) must include at least 10 hours and not more than 15 hours of instruction on the laws that relate to weapons and to the use of deadly force; handgun use, proficiency, and safety; nonviolent dispute resolution; and proper storage practices for handguns with an emphasis on storage practices that eliminate the possibility of accidental injury to a child. One part of the course must be classroom instruction and the other part must be range instruction. This bill:

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Establishes that the course to teach handgun proficiency is required for each person who seeks to obtain or renew a CHL.

Requires that the classroom instruction part of the course include not less than four hours and not more than six hours of instruction.

Authorizes the Department of Public Safety of the State of Texas to offer online, or allow a qualified handgun instructor to offer online, the classroom instruction part of the handgun proficiency course and the written section of the proficiency examination for license holders seeking to renew their CHLs.

Municipal or County Regulations Regarding Firearms, Ammunition, or Firearm Supplies—S.B. 987 *by Senators Hegar and Campbell—House Sponsor: Representative Harless*

Current law prohibits municipalities from adopting regulations regulating the ownership, transfer, possession, transport, licensing, and regulation of firearms, ammunition, or firearm supplies. This bill:

Authorizes the attorney general to bring an action in the name of the state to obtain a temporary or permanent injunction against a municipality adopting a regulation in violation of Section 229.001 (Firearms; Explosives), Local Government Code.

Authorizes the attorney general to bring action in the name of the state to obtain a temporary or permanent injunction against a county adopting a regulation, other than a regulation under Section 236.003 (Regulation of Outdoor Sport Shooting Range), Local Government Code, in violation of this section.

Disposition of Certain Firearms Seized by Law Enforcement—S.B. 1189 *by Senator Huffman—House Sponsor: Representative Fletcher*

Chapter 573.001 (Apprehension by Peace Officer Without Warrant), Health and Safety Code, currently allows peace officers to take a person in custody without a warrant, when the officer believes the person is in a mental health crisis and a danger to themselves or others. State law only addresses the procedures for the disposition of weapons seized in connection with an offense involving the use of a weapon or an offense under Chapter 46 (Weapons), Penal Code. State law does not address the disposition of weapons confiscated by peace officers from those persons in a mental health crisis who are detained under an emergency detention order and subsequently taken for an emergency mental health evaluation. This bill:

Authorizes a peace officer who takes a person into custody to immediately seize a firearm.

Requires a law enforcement officer who seizes a firearm from a person taken into custody under Section 573 (Emergency Detention), Health and Safety Code, to immediately provide the person with a written copy of the receipt for the firearm and written notice of the procedure and timelines for the return of the firearm.

Requires the law enforcement agency holding the firearm to contact the court within 30 days regarding the disposition of the case.

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Requires the court clerk to advise the requesting agency whether the person taken into custody was released or ordered to receive inpatient mental health services.

Requires the law enforcement agency, within 30 days from when the person was released, to verify whether the person may lawfully possess a firearm and to provide written notice to the person by certified mail that the firearm may be returned.

Requires the law enforcement agency, if the person taken into custody was ordered to receive inpatient mental health services, to provide written notice within 30 days to the person by certified mail that the person is prohibited from owning, possessing, or purchasing a firearm and may petition the court for relief from the firearms disability; and dispose of the of the firearm.

Provides that a person who receives notice may dispose of the firearm by releasing the firearm to the person's designee, if the law enforcement agency verifies that the designee may lawfully possess a firearm and confirms that the designee will not allow access to the firearm by the person who was taken into custody.

Provides that if a person to whom written notice is provided does not submit a written request to the law enforcement agency for the return of the firearm before the 121st day from when the person was notified, the law enforcement agency may have the firearm sold by a licensed firearms dealer, with the proceeds going to the owner of the seized firearm.

Provides that an unclaimed firearm that was seized from a person taken into custody may not be destroyed or forfeited to the state.

Municipal and County Regulation of Air Guns—S.B. 1400

by Senator Estes—House Sponsor: Representative Geren

Certain cities have passed regulations that outlaw any person within the city to sell, give to, or place in the possession of any person under the age of sixteen years, a BB gun. The regulation produces a burden on some parents and educational programs, such as the Reserve Officers' Training Corps and shooting classes. This bill:

Prohibits a municipality, notwithstanding any other law, including Section 43.002 (Continuation of Land Use), Local Government Code, and Chapter 251 (Effect of Nuisance Actions and Governmental Requirements on Preexisting Agricultural Operations), Agriculture Code, from adopting regulations relating to the transfer, private ownership, keeping, transportation, licensing, or registration of firearms, air guns, ammunition, or firearm or air gun supplies; or the discharge of a firearm or air gun at a sport shooting range.

Provides that a municipality maintains its authority to regulate the discharge of firearms or air guns within the limits of the municipality, other than at a sport shooting range; regulate the use of firearms or air guns in the case of an insurrection, riot, or natural disaster if the municipality finds the regulations necessary to protect public health and safety; regulate the carrying of a firearm or air gun by a person other than a person licensed to carry a concealed handgun under Subchapter H (License to Carry a Concealed Handgun), Chapter 411 (Department of Public Safety of the State of Texas), Government Code, at a public

park, public meeting of a municipality, county, or other governmental body, political rally, parade, or official political meeting, or non-firearms-related school, college, or professional athletic event; and regulate the carrying of an air gun by a minor on public property or private property without consent of the property owner.

Provides that an exception provided by Section 229.001(b)(6), Local Government Code, does not apply if the firearm or air gun is in or is carried to or from the area designated for use in a lawful hunting, fishing, or other sporting event and the firearm or air gun is of the type commonly used in the activity.

Provides that the exception to regulate the use of firearms or air guns in the case of an insurrection, riot, or natural disaster to protect public health does not authorize the seizure or confiscation of any firearm, air gun, or ammunition from an individual who is lawfully carrying or possessing the firearm, air gun, or ammunition.

Defines "air gun" and "sport shooting range."

Authorizes the commissioners court of a county by order to prohibit or otherwise regulate the discharge of firearms and air guns on lots that are 10 acres or smaller and are located in the unincorporated area of the county in a subdivision to promote the public safety.

Provides that this subchapter does not authorize the commissioners court to regulate the transfer, ownership, possession, or transportation of firearms or air guns and does not authorize the court to require the registration of firearms or air guns.

Prohibits a county, notwithstanding any other law, including Chapter 251, Agriculture Code, from adopting regulations relating to the transfer, private ownership, keeping, transportation, licensing, or registration of firearms, air guns, ammunition, or firearm or air gun supplies or the discharge of a firearm or air gun at a sport shooting range.

Authorizes a county, notwithstanding Section 236.002 (Firearms; Sports Shooting Range), Local Government Code, to regulate the discharge of a firearm or air gun at an outdoor sport shooting range as provided by Subchapter B (Firearms), Chapter 235 (County Regulation of Matters Relating to Explosives and Weapons).

Certification in School Safety For Concealed Handgun License Holders—S.B. 1857

by Senator Estes et al.—House Sponsor: Representative Geren

School personnel are currently provided with little or no training regarding how to respond to an active shooter situation, and the curriculum required to receive a concealed handgun license (CHL) does not cover an appropriate response to an active shooter. This bill:

Requires the Department of Public Safety of the State of Texas (DPS) to establish a process to enable qualified handgun instructors certified under Section 411.190 (Qualified Handgun Instructors), Government Code, to obtain an additional certification in school safety.

Requires that a school safety certification course include not less than 15 hours and not more than 20 hours of instruction in the following:

- the protection of students;
- interaction of license holders with first responders;
- tactics for denying an intruder entry into a classroom or school facility; and
- methods for increasing a license holder's accuracy with a handgun while under duress.

Authorizes a qualified handgun instructor, certified in school safety, to provide school safety training to employees of a school district or an open-enrollment charter school who hold a license to carry a concealed handgun.

Requires DPS to establish a fee in an amount that is sufficient to cover the costs of the school safety certification under this section.

Concealed Handguns in Private Vehicles on Campus—S.B. 1907
by Senator Hegar et al.—House Sponsor: Representative Kleinschmidt et al.

In order to qualify for a concealed handgun license (CHL), an applicant must be age 21 or older and have a clean criminal history record free from felonies and certain lesser offenses, among other requirements such as being free from chemical dependency and specified mental health afflictions. Should those prerequisites be met, an applicant must successfully complete a course of study and demonstrate shooting proficiency. Under current law, some Texas colleges and universities have policies that prohibit a CHL holder in attendance from storing a handgun in his or her locked vehicle while on campus. This bill:

Prohibits an institution of higher education or private or independent institution of higher education in this state from adopting or enforcing any rule, regulation, or other provision or take any other action, including posting notice under Section 30.06 (Trespass by Holder of License to Carry a Concealed Handgun), Penal Code, prohibiting or placing restriction on the storage or transportation of a firearm or ammunition in a locked, privately owned or leased motor vehicle by a person, including a student enrolled at that institution, who holds a license to carry a concealed handgun and lawfully possesses the firearm or ammunition on a street or driveway located on the campus of the institution or in a parking lot, parking garage, or other parking area located on the campus of the institution.

Texas Controlled Substances Act and Salvia Divinorum—H.B. 124
by Representative Anderson et al.—Senate Sponsor: Senator Campbell

The leaves of the Salvia divinorum plant contain the compound Salvinorin A, which is believed to be the active ingredient responsible for inducing a hallucinogenic high experienced by individuals through inhalation or tincture. The United States Drug Enforcement Administration currently includes the substance on its list of drugs and chemicals of concern. This bill:

Adds Salvia divinorum and its derivatives and extracts to Penalty Group 3 of the Texas Controlled Substances Act.

Consecutive Sentences For Certain Offenses—H.B. 220
by Representative Price et al.—Senate Sponsor: Senator Huffman

Current statute provides for the stacking of penalties for certain enumerated offenses if the accused is found guilty of more than one offense arising out of the same criminal episode. In those specific instances, the sentences for each offense may run concurrently or consecutively. Current law does not provide for the stacking of penalties for first degree felony offenses of injury to a child, an elderly individual, or a disabled individual. This bill:

Provides for the stacking of penalties if the accused is found guilty of an offense under Section 22.04 (Injury to a Child, Elderly Individual, or Disabled Individual), Penal Code, that is punishable as a felony of the first degree, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of more than one section; or for which a plea agreement was reached in a case in which the accused was charged with more than one offense.

Community Service and Alcohol Offenses—H.B. 232
by Representative Guillen—Senate Sponsor: Senator Zaffirini

The Alcoholic Beverage Code states that a minor placed on a deferred disposition or a minor convicted of an alcohol-related offense is required to attend an alcohol awareness course approved by the court. Defendants in rural areas, however, may not have access to such a course due to a lack of approved providers in their community. This bill:

Allows the court, if the defendant resides in a county with a population of 75,000 or less and access to an alcohol awareness program is not readily available in the county, to allow the defendant to take an online alcohol awareness program if the Department of State Health Services (DSHS) approves online courses or require the defendant to perform not less than eight hours of community service related to alcohol abuse prevention or treatment and approved by DSHS.

Parole Eligibility For Certain Convictions—H.B. 431

by Representative Riddle et al.—Senate Sponsor: Senator Huffman

Currently, the Texas Board of Pardons and Paroles (BPP) has the discretion not to consider offenders convicted of first degree felony injury to a child for parole for up to five years after incarceration. This is commonly known as a "set-back period."

However, in second and third degree felony injury to a child cases, BPP does not have the same discretion to look at the facts of the case and judge whether an offender should have his or her parole eligibility reassessed each year.

When an offender comes up for parole review, victims and their families are often an integral part of the decision-making process. With annual parole reviews, families may repeatedly be subjected to relive traumatic and painful experiences. This bill:

Deletes the requirement that BPP reconsider for release an inmate other than an inmate ineligible for mandatory supervision as soon as practicable after the first anniversary of the date of denial.

Provides that this Act be cited as "Emma's Law."

Persons Authorized to Take a Blood Specimen—H.B. 434

by Representative Riddle—Senate Sponsor: Senator Whitmire

Currently, only a physician, qualified technician, chemist, registered nurse, or licensed vocational nurse is authorized to take a blood specimen at the request or order of a peace officer for purposes of intoxication-related offenses. Satisfying this requirement involves transporting the individual suspected of committing the offense to a facility, such as a hospital, which demands additional time and resources. This bill:

Adds a licensed or certified emergency medical technician-intermediate or emergency medical technician-paramedic to the list of those allowed to take a blood specimen at the request or order of a peace officer.

Penalty For Assault on Emergency Services Personnel—H.B. 705

by Representative Howard et al.—Senate Sponsor: Senator Schwertner

Current Texas law enhances the penalty for assault from a Class A misdemeanor to a third degree felony if committed against emergency services personnel while providing emergency services. This law does not include hospital emergency room personnel. This bill:

Expands the definition of "emergency services personnel" to include emergency room personnel.

Vocational Training Programs Within the Windham School District—H.B. 797
by Representatives Senfronia Thompson and Miles—Senate Sponsor: Senator Garcia

The Windham School District (district) was established by the Texas Board of Corrections in 1969 to establish and operate schools at the various facilities of the Texas Department of Criminal Justice. The goals of the district in educating its students are to reduce recidivism; reduce the cost of confinement or imprisonment; increase the success of former inmates in obtaining and maintaining employment; and provide an incentive to inmates to behave in positive ways during confinement or imprisonment. This bill:

Requires the district to inform a person enrolling in a district vocational training program in writing of any rule or policy of a state agency that would impose a restriction or prohibition on the person in obtaining a certificate or license in connection with the training program; the total number of district students released during the preceding 10 years who have completed a training program that allows for an opportunity to apply for a certificate or license from a state agency; and procedures for requesting a criminal history evaluation letter providing evidence of fitness to perform the duties and discharge the responsibilities of a licensed occupation.

Vocational Training Programs Within the Windham School District—H.B. 799
by Representatives Senfronia Thompson and Miles—Senate Sponsor: Senator Whitmire

The Windham School District (district) was established by the Texas Board of Corrections in 1969 to establish and operate schools at the various facilities of the Texas Department of Criminal Justice. The goals of the district in educating its students are to reduce recidivism; reduce the cost of confinement or imprisonment; increase the success of former inmates in obtaining and maintaining employment; and provide an incentive to inmates to behave in positive ways during confinement or imprisonment. This bill:

Requires the district to continually assess job markets in this state and update, augment, and expand the vocational training programs as necessary to provide relevant and marketable skills to students.

Victims' Rights—H.B. 899
by Representative Perry et al.—Senate Sponsor: Senator Paxton

Current law entitles a victim, guardian of a victim, or close relative of a deceased victim to a number of rights within the criminal justice system relating to prosecution proceedings and the events leading up to the prosecution. This bill:

Provides that a victim, guardian of a victim, or close relative of a deceased victim is entitled to, if the offense is a capital felony, receive by mail from the court a written explanation of defense-initiated victim outreach if the court has authorized expenditures for a defense-initiated victim outreach specialist; not be contacted by the victim outreach specialist unless the victim, guardian, or relative has consented to the contact by providing a written notice to the court; and designate a victim service provider to receive all communications from a victim outreach specialist acting on behalf of any person.

Disposition of Certain Seized Weapons—H.B. 1421
by Representative Perry et al.—Senate Sponsor: Senator Estes

Under current law, law enforcement agencies are authorized to seize and hold firearms involved in the commission of certain weapons-related offenses until a court makes a ruling regarding the disposition of the weapon. The weapon may be returned within a specified time to the rightful owner if the court determines that there will be no prosecution or conviction for an offense involving the weapon seized. However, when the return of the weapon is prohibited, the court may order the weapon to be destroyed or forfeited to the state for use by the law enforcement agency holding the weapon or by a county forensic laboratory. This bill:

Requires the magistrate, if there is no prosecution or conviction for an offense involving the weapon seized, to order the weapon returned to the person found in possession of the weapon before the 61st day after the date the magistrate receives a request from the person.

Requires the magistrate, if the weapon is not requested before the 61st day after that date of notification, to order the weapon destroyed, sold at public sale by the law enforcement agency holding the weapon or by a licensed auctioneer, or forfeited to the state for use by the law enforcement agency holding the weapon or a county forensic laboratory designated by the magistrate.

Requires that proceeds from the sale of a seized weapon be transferred, after deduction of court costs and auction costs, to the law enforcement agency holding the weapon.

Offense of Money Laundering—H.B. 1523
by Representative Guillen—Senate Sponsor: Senator Whitmire

Texas law enforcement agencies have reported an increase in the number of people being detained with stored value cards on principal drug trafficking corridors in Texas. This bill:

Includes stored value cards, as defined in the Business and Commerce Code, in the list of "funds" listed in Section 34 (Money Laundering), Penal Code.

Private Vendors and Detention Facilities—H.B. 1544
by Representative Allen—Senate Sponsor: Senator Ellis

Commissioners courts in certain counties, such as Harris County, are reportedly not required to obtain written approval from the county sheriff before contracting with a private vendor for the provision of certain services or management of a jail, detention center, work camp, or related facility because the county can bypass that requirement if the county ensures that contracted services meet or exceed certain standards. This bill:

Requires the commissioners court before entering into a contract with a private vendor, if the county has a population of 2.8 million or more, to consult with the sheriff regarding the feasibility of ensuring that all services provided under the contract are required to meet or exceed standards set by the Commission on Jail Standards.

Notice of Bail Bond Surety Default—H.B. 1562

by Representatives Harless and Canales—Senate Sponsor: Senator Hinojosa

Section 17.11 (How Bail Bond is Taken), Code of Criminal Procedure, requires every court, judge, magistrate or other officer taking a bail bond to require evidence of the sufficiency of the security offered. Any person who has signed as a surety on a bail bond and is in default is disqualified to sign as a surety so long as he or she is in default on said bond. The clerk of the court is required to notify in writing the sheriff, chief of police, or other peace officer of such default. A surety shall be deemed in default from the time execution may be issued on a final judgment in a bond forfeiture proceeding under the Texas Rules of Civil Procedure, unless the final judgment is superseded by the posting of a supersedeas bond. This bill:

Requires the clerk of the court, if a bail bond is taken for an offense other than a Class C misdemeanor, to send notice of the default by certified mail to the last known address of the surety.

Prosecution of Harassment and Stalking—H.B. 1606

by Representative Moody—Senate Sponsor: Senator Carona

Section 42.07 (Harassment), Penal Code, defines "harassment" as a person committing certain acts with the intent to harass, annoy, alarm, abuse, torment, or embarrass another person. These acts of harassment include initiating obscene communication or threatening in an alarming manner by telephone, in writing, or by electronic communication. One of the criteria for the act of stalking states that the person knowingly engages in certain behavior that he or she knows or reasonably believes the victim will regard as threatening. This bill:

Provides that a person commits an offense if, with intent to harass, annoy, alarm, abuse, torment, or embarrass another, the person initiates communication and in the course of the communication makes a comment, request, suggestion, or proposal that is obscene, threatens in a manner reasonably likely to alarm the person receiving the threat, to inflict bodily injury on the person or to commit a felony against the person, a member of the person's family or household, or the person's property.

Provides that a person commits an offense if the person knowingly engages in conduct that constitutes an offense under Section 42.07 (Harassment), Penal Code, or that the actor knows or reasonably should know the other person will regard as threatening.

Provides that a person commits an offense if the person knowingly engages in conduct that causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended.

Defines "dating," "family," "household," and "member of a household" with meanings assigned by Chapter 71 (Definitions), Family Code.

Provides that "property" includes a pet, companion animal, or assistance animal, as defined by Section 121.002 (Definitions), Human Resources Code.

Licensing and Deferred Adjudication—H.B. 1659

by Representative Senfronia Thompson—Senate Sponsor: Senator Lucio

If certain licenses are denied to individuals who have completed deferred adjudication, these individuals may be prevented from pursuing opportunities to practice certain occupations, trades, and professions for which a license is required. This bill:

Authorizes the Texas Commission on Licensing and Regulation (TCLR) to deny, suspend, revoke, or refuse to renew a license or other authorization issued by a program regulated by the Texas Department of Licensing and Regulation (TDLR) if the person holding or seeking the license received deferred adjudication for any offense described by Article 62.001(5) (Sex Offender Registration Program; "reportable conviction or adjudication"), Code of Criminal Procedure, or other offense if the person completed the period of deferred adjudication or the person completed the period of deferred adjudication less than five years before the date the person applied for the license.

Authorizes TCLR to determine whether the deferred adjudication makes the person unfit for the license.

Authorizes a licensing authority to consider a person to have been convicted of an offense regardless of whether the proceedings were dismissed and the person was discharged if the person was charged with any offense described by Article 62.001(5), Code of Criminal Procedure, or other offense if the person has not completed the period of supervision or the person completed the period of supervision less than five years before the date the person applied for the license.

State Jail Felony Community Supervision—H.B. 1790 [VETOED]

by Representative Longoria et al.—Senate Sponsor: Senator Hinojosa

The state jail system was originally designed to restructure and improve the state criminal justice and corrections systems by redirecting individuals with lower-level offenses out of overcrowded prisons and back into communities through community supervision, thus reserving space in prisons for those who pose a greater risk to public safety. Reportedly, many offenders, primarily those convicted of minor drug or property offenses, have been sentenced directly to confinement in a state jail with little or no access to treatment or support typically provided in community supervision. Some reports indicate that incarceration in state jails usually results in higher recidivism rates and higher costs than incarceration alternatives such as community supervision. This bill:

Authorizes a judge to review a defendant's record, on written motion of the defendant after completion of two-thirds of the original community supervision and consider whether to amend the record of conviction to reflect a conviction for a Class A misdemeanor in lieu of a state jail felony.

Authorizes a judge, on discharge of the defendant, to amend the record of conviction to reflect a conviction for a Class A misdemeanor in lieu of a state jail felony if the offense was not one of several offenses under the Penal Code or involving family violence under the Family Code.

Statements Made in Custodial Interrogation—H.B. 2090
by Representative Canales—Senate Sponsor: Senator Hinojosa

The United States Constitution provides that no person shall be compelled in any criminal case to be a witness against himself or herself. Procedural safeguards under the United States Constitution and federal and state statutes protect this right but the Texas Code of Criminal Procedure does not require a written statement that is signed by an accused to be written in a language the accused can read and understand. Thus, a non-English speaker potentially could sign a statement in English without understanding the content of the statement and, as a result, could be compelled to be a witness against himself or herself in violation of the individual's constitutional right. This bill:

Defines a written statement of an accused as a statement made by the accused in his or her own handwriting or a statement made in a language the accused can read or understand that is signed by the accused or bears the mark of the accused, if the accused is unable to write and the mark is witnessed by a person other than a peace officer.

Pleas For Certain Defendants Detained in Jail Pending Trial—H.B. 2679
by Representative Guillen—Senate Sponsor: Senator Rodríguez

Accepting a plea from an arrested person who is detained in jail for an unadjudicated fine-only offense is widely practiced in jurisdictions across Texas. The practice is neither expressly sanctioned nor prohibited but some people reportedly are concerned that the location of a plea may create a coercive atmosphere that impairs the voluntary aspect of the plea. This bill:

Authorizes a justice or judge, if a defendant is detained in jail before trial, to permit the defendant to enter a plea of guilty or not guilty; nolo contendere; or the special pleas of double jeopardy.

Authorizes a justice or judge, if the defendant who is detained in jail enters a plea of guilty or nolo contendere, to accept the defendant's plea; assess a fine, determine costs, and accept payment of the fine and costs; give the defendant credit for time served; determine whether the defendant is indigent; or discharge the defendant.

Provides that following a plea of guilty or nolo contendere, a motion for new trial must be made not later than 10 days after the rendition of judgment and sentence, and not afterward.

Prosecution of Certain Computer Crimes—S.B. 222
by Senator Watson—House Sponsor: Representative Dukes

Under current law, there is no provision for venue for prosecution of a computer crime in the jurisdiction where a victim resides if it is different from the offender. This bill:

Establishes that an offense under Chapter 33 (Computer Crimes), Penal Code, may be prosecuted in any county in which an individual who is a victim of the offense resides.

Penalty For Leaving the Scene of an Accident—S.B. 275
by Senators Watson et al.—House Sponsor: Representative Fletcher et al.

The penalty for failure to stop and render aid (third degree felony) is lower than the penalty for intoxication manslaughter (second degree felony), despite the fact that a failure to stop and render aid can lead to the victim's death. A second degree felony carries a punishment of two to 20 years in prison and an optional fine not to exceed \$10,000; whereas, a third degree felony carries a penalty of two to 10 years in prison and an optional fine not to exceed \$10,000. This bill:

Establishes that a person commits a second degree felony if the person does not stop when involved in an accident resulting in the death of a person.

Programs For Inmates—S.B. 345
by Senator Whitmire—House Sponsor: Representative Parker

Correctional boot camps increased in popularity during the 1980s, with 52 camps being established across the United States and in Texas. In Texas, the Texas Department of Criminal Justice (TDCJ) was directed to operate a sentencing program and several community supervision and corrections departments also developed and operated correctional boot camp programs. All are now closed due to research that has proven them to be ineffective and costly, with high recidivism rates. This bill:

Requires TDCJ to adopt a policy that requires each warden to identify volunteer and faith-based organizations that provide programs for inmates housed in facilities operated by TDCJ.

Requires that the policy require each warden to actively encourage volunteer and faith-based organizations to provide literacy and education programs; life skills programs; job skills programs; parent-training programs; drug and alcohol rehabilitation programs; support group programs; and arts and crafts programs for inmates in the warden's facility.

Requires that the policy require that each warden submit a report to the board of TDCJ not later than December 31 of each year that includes, for the preceding fiscal year, a summary of the programs provided to inmates and the actions taken by the warden to identify volunteer and faith-based organizations willing to provide programs to inmates and to encourage those organizations to provide programs in the warden's facility.

Repeals sections of the Code of Criminal Procedure and the Government Code relating to state boot camp programs for the limited purpose of the orderly abolition of the state boot camp program created by those provisions.

Training Leave For Reserve Law Enforcement Officers—S.B. 443
by Senator Birdwell—House Sponsor: Representative Orr

Currently, state employees who are also volunteer firefighters and emergency medical services personnel are granted five days of leave per year to keep their certification by taking the mandated courses.

However, reserve peace officers are currently left out and have to take personal leave in order to complete training during the week. This bill:

Provides that a state employee who is a reserve law enforcement officer is entitled to a leave of absence not to exceed five working days without a deduction in salary to attend required training.

Prostitution Prevention Program—S.B. 484

by Senators Whitmire and West—House Sponsor: Representative Sylvester Turner

The high recidivism rate among offenders charged with prostitution signifies that incarceration has not provided convicted prostitutes with the rehabilitation needed to break the cycle. This bill:

Defines "prostitution prevention program" as a program that has the integration of services in the processing of cases in the judicial system; the use of a nonadversarial approach involving prosecutors and defense attorneys to promote public safety, to reduce the demand for the commercial sex trade and trafficking of persons by educating offenders, and to protect the due process rights of program participants; early identification and prompt placement of eligible participants in the program; access to information, counseling, and services relating to sex addiction, sexually transmitted diseases, mental health, and substance abuse; a coordinated strategy to govern program responses to participant compliance; monitoring and evaluation of program goals and effectiveness; continuing interdisciplinary education to promote effective program planning, implementation, and operations; and development of partnerships with public agencies and community organizations.

Provides that if a defendant successfully completes a prostitution prevention program, regardless of whether the defendant was convicted of the offense for which the defendant entered the program or whether the court deferred further proceedings without entering an adjudication of guilt, after notice to the state at a hearing on whether the defendant is otherwise entitled to the petition, including whether the required time has elapsed, and whether issuance of the order is in the best interest of justice, the court shall enter an order of nondisclosure as if the defendant had received a discharge and dismissal with respect to all records and files related to the defendant's arrest for the offense for which the defendant entered the program.

Authorizes the commissioners court of a county or governing body of a municipality to establish a prostitution prevention program for defendants charged with an offense in which the defendant offered or agreed to engage in or engaged in sexual conduct for a fee.

Provides that a defendant is eligible to participate in a prostitution prevention program only if the attorney representing the state consents to the defendant's participation in the program.

Requires the court in which the criminal case is pending to allow an eligible defendant to choose whether to participate in the prostitution prevention program or otherwise proceed through the criminal justice system.

Authorizes the commissioners court of two or more counties, or the governing bodies of two or more municipalities, to elect to establish a regional prostitution prevention program for the participating counties or municipalities.

CRIMINAL JUSTICE—GENERAL

Requires that a prostitution prevention program ensure that a person eligible for the program is provided legal counsel before volunteering to proceed through the program and while participating in the program; allow any participant to withdraw from the program at any time before trial on the merits of the case has been initiated; provide each participant with information, counseling, and services relating to sex addiction, sexually transmitted diseases, mental health, and substance abuse; and provide each participant with instruction related to the prevention of prostitution.

Authorizes a prostitution prevention program, in order to provide each program participant with information, counseling, and services, to employ a person or solicit a volunteer who is a health care professional; a psychologist; a licensed social worker or counselor; a former prostitute; a family member of a person arrested for soliciting prostitution; a member of a neighborhood association or community that is adversely affected by the commercial sex trade or trafficking of persons; or an employee of a nongovernmental organization specializing in advocacy or laws related to sex trafficking or human trafficking or in providing services to victims of those offenses.

Requires a prostitution prevention program to establish and publish local procedures to promote maximum participation of eligible defendants in programs established in the county or municipality in which the defendants reside.

Authorizes the lieutenant governor and the speaker of the house of representatives to assign to appropriate legislative committees duties relating to the oversight of prostitution prevention programs.

Authorizes a legislative committee or the governor to request the state auditor to perform a management, operations, or financial or accounting audit of a prostitution prevention program.

Authorizes a legislative committee to require a county that does not establish a prostitution prevention program due to a lack of sufficient funding to provide the committee with any documentation in the county's possession that concerns federal or state funding received by the county.

Requires a prostitution prevention program to notify the criminal justice division of the Office of the Governor before or on implementation of the program and provide information regarding the performance of the program to the division on request.

Authorizes a prostitution prevention program to collect from a participant in the program a nonrefundable program fee in a reasonable amount not to exceed \$1,000, to cover a counseling and services fee; a victim services fee; and a law enforcement training fee.

Allows fees to be paid on a periodic basis or on a deferred payment schedule at the discretion of the judge, magistrate, or program director administering the prostitution prevention program and requires that the fees be based on the participant's ability to pay.

Requires the commissioners court of a county to establish a prostitution prevention program if the county has a population of more than 200,000 and a municipality in the county has not established a prostitution prevention program.

Requires a county required to establish a prostitution prevention program to apply for federal and state funds available to pay the costs of the program.

Authorizes the criminal justice division of the Office of the Governor to assist a county in applying for federal funds.

Requires a county to establish a prostitution prevention program if the county receives sufficient federal or state funding specifically for that purpose.

Establishes that a county that does not establish a prostitution prevention program and maintain the program is ineligible to receive from the state funds for a community supervision and corrections department.

Authorizes the judge or magistrate administering the program, in order to encourage participation in a prostitution prevention program, to suspend any requirement that, as a condition of community supervision, a participant in the program work a specified number of hours at a community service project.

Authorizes a judge or magistrate, on a participant's successful completion of a prostitution prevention program, to excuse the participant from any condition of community supervision.

Requires that a nonrefundable program fee for a prostitution prevention program be collected in a reasonable amount based on the defendant's ability to pay and not to exceed \$1,000, which includes a counseling and services; a victim services fee; and a law enforcement training fee.

Includes a prostitution prevention program in the definition of a specialty court.

Penalties For Engaging in Organized Criminal Activity—S.B. 549

by Senators Williams and Estes—House Sponsor: Representatives Carter and Wu

Existing statutes, including Section 37.07 (Verdict Must Be General; Separate Hearing on Proper Punishment), Code of Criminal Procedure, Section 508.145 (Eligibility for Release on Parole; Computation of Parole Eligibility Date), Government Code, Section 71.02 (Engaging in Organized Criminal Activity), Penal Code, and Section 71.023 (Directing Activities of Certain Criminal Street Gangs), Penal Code, provide requirements for parole eligibility and sentencing for crimes involving criminal gang leadership that directs felony gang activity. This bill:

Provides that an inmate may not be released to mandatory supervision if the inmate is serving a sentence for or has been previously convicted of a first degree felony under Section 71.02 (Engaging in Organized Criminal Activity), Penal Code.

Establishes that the offense under Section 71.02, Penal Code, is a first-degree felony punishable by imprisonment in the Texas Department of Criminal Justice (TDCJ) for life without parole, if the most serious offense is an aggravated sexual assault and if at the time of that offense the defendant is 18 years of age or older and the victim of the offense is younger than six years of age or the victim of the offense is younger than 14 years of age and the actor commits the offense in a manner described by Section 22.021(A) (Aggravated Sexual Assault), Penal Code.

Establishes that a person commits an offense if the person, as a part of the identifiable leadership of a criminal street gang, knowingly finances, directs, or supervises the commission of, or a conspiracy to

commit, one or more of certain offenses listed in the Code of Criminal Procedure, involving the use of a controlled substance and/or a deadly weapon to commit an offense, and the Health and Safety Code, involving the manufacture, possession, or delivery of substances in certain penalty groups by members of a criminal street gang.

Establishes that an offense under this section is a first-degree felony punishable by imprisonment in TDCJ for life or for any term of not more than 99 years or less than 25 years.

Strikes language defining "criminal street gang" in Section 71.023 (Directing Activities of Certain Criminal Street Gangs), Penal Code.

Defense to Prosecution For Criminal Trespass—S.B. 701
by Senator Hegar—House Sponsor: Representative Herrero

H.B. 2609, 81st Legislature, Regular Session, 2009, addressed issues related to the prosecution and punishment of the offense of criminal trespass. Among other things, the 2009 legislation amended Section 30.05(e) of the Penal Code to allow an employee or agent of a utility performing a duty within the scope of his or her employment or agency to claim an affirmative defense to a charge of trespass. H.B. 2609 failed to include employees and agents of all electric and gas utilities among those able to claim the affirmative defense. This bill:

Provides that it is a defense to prosecution for criminal trespass that the actor at the time of the offense was a person who was an employee or agent of a gas utility or an electric cooperative or municipally owned utility.

Community Supervision or Release on Parole For Certain Defendants—S.B. 727
by Senator Taylor—House Sponsor: Representative Greg Bonnen

Subsection (a), Section 3g, Article 42.12 (Community Supervision), Code of Criminal Procedure, prohibits persons convicted of certain serious and violent crimes from receiving judge-ordered community supervision. These offenses, often referred to as "3g offenses," are murder, capital murder, indecency with a child, aggravated kidnapping, aggravated sexual assault, aggravated robbery, sexual assault, injury to a child, elderly individual, or disabled individual, certain offenses relating to human trafficking, sexual performance of a child, certain drug offenses, and certain felonies involving use of a deadly weapon. Most defendants convicted of one of these offenses are ineligible for release on parole until the actual time served equals one-half of the sentence imposed or 30 years, whichever is less, without consideration of any good conduct time. Under current law, the crime of burglary with intent to commit a sexual offense is not included among the "3g offenses." This bill:

Adds burglary with intent to commit a sexual offense to the list of "3g offenses" for which an offender is ineligible for judge-ordered community supervision.

Provides that an inmate serving a sentence for burglary with intent to commit a sexual offense is ineligible for release on parole until the inmate's actual calendar time served, without consideration of good conduct time, equals one-half of the sentence or 30 calendar years, whichever is less.

Penalties For Repeated Violations of Certain Court Orders—S.B. 743

by Senator Nelson—House Sponsor: Representative Lucio III

Currently, violating a protective order is a Class A misdemeanor under Section 25.07 (Violation of Certain Court Orders or Conditions of Bond in a Family Violence Case), Penal Code. Repeat violations can be prosecuted as a third degree felony if two or more violations are adjudicated within a 12-month period, but it can take more than a year to adjudicate each violation. This bill:

Establishes that a person commits an offense if the person violates certain court orders or conditions of bond in a family violence case two or more times during a period of 12 months or less.

Requires the jury, if the jury is the trier of fact, to agree unanimously that the defendant violated a court order or conditions of bond in a family violence case during a period of 12 months or less.

Provides that a defendant may not be convicted in the same criminal action of another offense unless the other offense is charged in the alternative; occurred outside the period in which the offense alleged; or is considered by the trier of fact to be a lesser included offense.

Provides that the defendant may not be charged with more than one count if all the specific conduct that is alleged to have been engaged in is alleged to have been committed in violation of a single court order or single setting of bond.

Provides that an offense under this section is a third-degree felony.

Prosecution of Theft, Fraud, or Other Deceptive Practices—S.B. 821

by Senator Schwertner—House Sponsor: Representative Pitts

Current law addresses the issue of "hot checks," or paper transactions, but does not address insufficiently funded electronic funds transfers, or "hot drafts." Currently, district and county attorneys lack the authority to file charges against individuals or corporations that submit insufficiently funded accounts for electronic funds transfers. This bill:

Amends the Penal Code, the Code of Criminal Procedure, and the Tax Code to include "similar sight order," "order," or "sight orders" to offenses involving theft by check, issuance of a bad check, and dishonored checks.

Proceeds From Criminal Asset Forfeiture—S.B. 878

by Senator Patrick—House Sponsor: Representative Carter

Currently, Article 59.06 (Disposition of Forfeited Property), Code of Criminal Procedure, establishes the procedures for the disposition of forfeited property by either the attorney representing the state or the law enforcement agency. Forfeited property is contraband used in the commission of a crime that is subject to seizure and forfeiture. The disposition of forfeited assets is determined at a forfeiture hearing.

The purpose for which proceeds from forfeited assets may be used is limited to an "official purpose of the office" or a "law enforcement purpose." As currently written, however, the statute is silent as to which purposes and expenses those terms do, and do not, include. This bill:

Establishes that an expenditure of proceeds or property received is considered to be for a law enforcement purpose if the expenditure is made for an activity of a law enforcement agency that relates to the criminal and civil enforcement of the laws of the state, including an expenditure made for equipment; supplies; travel expenses; conferences and training expenses; investigative costs; crime prevention and treatment programs; facility costs; witness-related costs; and audit costs and fees.

Establishes that an expenditure of proceeds or property received is considered to be for an official purpose of an attorney's office if the expenditure is made for an activity of an attorney or office of an attorney representing the state that relates to the preservation, enforcement, or administrative of the laws of the state, including equipment; supplies; travel expenses; conferences and training expenses; investigative costs; crime prevention and treatment programs; facility costs; legal fees; and state bar and legal association dues.

Law Enforcement Employment Termination Reports—S.B. 965
by Senator Williams—House Sponsor: Representative Bohac

Under current law, when a peace officer is discharged, the chief of police of the terminating agency must file a Separation of Licensee (F-5) form to indicate whether the employee was discharged honorably, dishonorably, or generally. The head of the agency completes this form after all appeals for termination have been exhausted. The F-5 is filed with the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) and serves as a reference for other law enforcement agencies that may seek to hire the individual. The employee may contest the category of discharge through a hearing at the State Office of Administrative Hearings. This bill:

Requires the administrative law judge, if alleged misconduct is not supported by a preponderance of the evidence, to order TCLEOSE to change the report.

Requires the law enforcement agency to replace the original employment termination report with the changed report.

Review of the Use of Adult and Juvenile Administrative Segregation—S.B. 1003
by Senator Carona et al.—House Sponsor: Representative Guillen

According to recent data, the Texas Department of Criminal Justice (TDCJ) housed more than five percent of the total number of Texas inmates in administrative segregation (ad seg) facilities, compared with the national average of one to two percent. TDCJ reported that more than 20 percent of the inmates in ad seg were identified with a serious mental health or mental retardation diagnosis. This bill:

Defines "disciplinary seclusion" as the separation of a resident from other residents for disciplinary reasons and the placement of the resident alone in an area from which egress is prevented for more than 90 minutes.

Requires the Texas Juvenile Justice Department to collect data during the annual registration of juvenile facilities and make the data publicly available.

Requires that the collected data include the number of placements in disciplinary seclusion lasting at least 90 minutes but less than 24 hours; the number of placements in disciplinary seclusion lasting 24 hours or more but less than 48 hours; and the number of placements in disciplinary seclusion lasting 48 hours or more.

Defines "facility."

Requires the Criminal Justice Legislative Oversight Committee (committee) to appoint an independent third party to conduct a review of facilities regarding the use of adult and juvenile ad seg and related statistics.

Authorizes the committee to apply for and accept gifts, grants, and donations; federal grants; and donations from an individual or a private entity.

Requires the independent third party to provide a report of findings and recommendations to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing legislative committees with primary jurisdiction over criminal justice matters.

Requires that the report, at a minimum, contain detailed recommendations to reduce the ad seg population in facilities; divert adults and juveniles with mental illness from ad seg; and decrease the length of time adults and juveniles are confined in ad seg in facilities.

Establishes that the review, the report, and all information collected, created, or stored by the committee is public information.

Mental Health Jail Diversion Pilot Program—S.B. 1185

by Senator Huffman et al.—House Sponsor: Representative Senfronia Thompson

In 2012, Harris County identified 18,679 people with mental health service needs incarcerated in its criminal justice facilities. Additionally, at any given time in the jail, more than 2,100 people are receiving prescribed psychotropic medication. This group represents approximately one-quarter of the total jail population. However, the issue of increasing numbers of mentally ill inmates incarcerated within the criminal justice system does not exist solely in Harris County. Texas does not have an effective service model to treat people with mental health needs who frequently cycle through the county jails and the Texas Department of Criminal Justice. The criminal justice system is the most expensive and least effective way to treat mental illness and stop the repeated arrests of those with mental health diagnoses through evidence-based intervention strategies. Community-based mental health services are much less costly and more successful at treating the underlying symptoms that often are responsible for recurrent incarceration of the mentally ill. This bill:

Requires the Department of State Health Services (DSHS), in cooperation with the county judge, to establish a pilot program in Harris County to be implemented by the Harris County judge for the purpose of reducing recidivism and the frequency of arrests and incarceration among persons with mental illness in that county.

CRIMINAL JUSTICE—GENERAL

Requires the Harris County judge to design and test through the pilot program a criminal justice mental health service model oriented toward reducing the recidivism and frequency of arrests and incarceration of persons with mental illness in the Harris County jail.

Requires that the model initially apply the critical time intervention principle and include low caseload management; multilevel residential services; easy access to integrated health, mental health, and chemical dependency services; benefits acquisition services; and multiple rehabilitation services.

Requires the Harris County judge, in designing the criminal justice mental health service model, to seek input from and coordinate the provision of services with the Harris County Sheriff's Office; the mental health division of the Harris County district attorney's office; the Harris County public defender; mental health courts; specially trained law enforcement crisis intervention teams; providers of competency restoration services; providers of guardianship services; providers of forensic case management; providers of assertive community treatment; providers of crisis stabilization services; providers of intensive and general supportive housing; and providers of integrated mental health and substance abuse inpatient, outpatient, and rehabilitation services.

Requires the Harris County judge, in implementing the pilot program, to ensure that the program has the resources to provide mental health jail diversion services to not fewer than 200 individuals.

Requires the Harris County judge to endeavor to serve each year the program operates not fewer than 500 or more than 600 individuals cumulatively.

Requires DSHS and the Harris County judge jointly to establish clear criteria for identifying a target population to be served by the program and prioritize serving a target population composed of members with the highest risk of recidivism and the most severe mental illnesses.

Authorizes the Harris County judge, in consultation with the appropriate entities, to adjust the criteria during the operation of the program providing that the adjusted criteria are clearly articulated.

Provides that the creation of the pilot program is contingent on the continuing agreement of the Commissioners Court of Harris County to contribute to the program each year in which the program operates services for persons with mental illness equivalent in value to funding provided by the state for the program.

Establishes that it is the intent of the legislature that appropriations made to fund the pilot program are made in addition to and will not reduce the amount of appropriations made in the regular funding of the Mental Health and Mental Retardation Authority of Harris County or the Harris County Psychiatric Center.

Authorizes the Commissioners Court of Harris County to seek and receive gifts and grants from federal sources, foundations, individuals, and other sources for the benefit of the pilot program.

Authorizes DSHS to make inspections of the operation of and provision of mental health jail diversion services through the pilot program on behalf of the state to ensure that state funds appropriated for the pilot program are used effectively.

Requires the DSHS commissioner to evaluate and submit a report concerning the effect of the pilot program in reducing recidivism and the frequency of arrests and incarceration among persons with mental illness in Harris County to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of the senate and house of representatives having primary jurisdiction over health and human services issues and over criminal justice issues.

Requires that the report include a description of the features of the criminal justice mental health service model developed and tested under the pilot program and the commissioner's recommendation whether to expand use of the model statewide.

Requires DSHS to compare the rate of recidivism in Harris County among persons in the target population before the date the program is implemented in the community to the rate of recidivism among those persons two years after the date the program is implemented in the community and three years after the date the program is implemented in the community.

DNA Testing of Biological Evidence—S.B. 1292

by Senator Ellis et al.—House Sponsor: Representative Sylvester Turner et al.

Article 38.43 (Evidence Containing Biological Material), Code of Criminal Procedure, includes the definition of "biological evidence" and relevant collection, storage, preservation, and destruction of biological evidence. This bill:

Requires either the Department of Public Safety of the State of Texas (DPS) or one of its laboratories or other accredited laboratory, before a defendant is tried for a capital offense in which the state is seeking the death penalty, to perform DNA testing, in accordance with the laboratory's capabilities at the time the testing is performed, on any biological evidence that was collected as part of an investigation of the offense and is in the possession of the state.

Requires the laboratory that performs the DNA testing to pay for all DNA testing performed.

Requires the court, as soon as practicable after the defendant is charged with a capital offense, or on a motion by the state or the defendant in a capital case, unless the state has affirmatively waived the death penalty in writing, to order the state and the defendant to meet and confer about which biological materials collected as part of an investigation of the offense qualify as biological evidence that is required to be tested.

Authorizes the state or the defendant, if the state and the defendant do not agree on which biological materials qualify as biological evidence, to request a hearing.

Requires the court to set a date for the hearing and provide written notice of the hearing date to the state and the defendant.

Establishes that the hearing is a rebuttable presumption regarding biological evidence required for testing when the state is seeking the death penalty and in no way prohibits the state from testing other biological evidence in the state's possession.

CRIMINAL JUSTICE—GENERAL

Requires the laboratory that tested the evidence, if an item of biological evidence is destroyed or lost as a result of DNA testing performed, to provide to the defendant any bench notes prepared by the laboratory that are related to the testing of the evidence and the results of that testing.

Establishes that the defendant's exclusive remedy for testing that was not performed as required is to seek a writ of mandamus from the court of criminal appeals at any time on or before the date an application for a writ of habeas corpus is due to be filed in the defendant's case.

Establishes that a writ of mandamus does not toll any period of limitations applicable to a habeas petition under state or federal law.

Establishes that the defendant is entitled to only one application for a writ of mandamus.

Allows the defendant, at any time after the date an application for a writ of habeas corpus is filed in the defendant's case, to file one additional motion for forensic testing under Chapter 64 (Motion for Forensic DNA Testing), Code of Criminal Procedure.

Allows a defendant to have another accredited laboratory perform additional testing of any biological evidence required to be tested.

Allows a defendant, on an ex parte showing of good cause to the court, to have an accredited laboratory perform testing of any biological material that is not required to be tested.

Establishes that the defendant is responsible for the cost of any additional requested testing.

Punishment For Witness and Evidence Tampering—S.B. 1360 *by Senator Rodríguez—House Sponsor: Representative Herrero et al.*

According to the United States Department of Justice, witness intimidation is widespread and increasing. In domestic violence cases, witness tampering is the most common crime. Without the victim's testimony, prosecutors face significant legal and practical barriers to moving forward with a criminal case against the batterer.

The doctrine of "forfeiture of wrongdoing" represents a United States Supreme Court-sanctioned and constitutional tool for holding battering wrongdoers accountable when the batterers' own bad acts have caused the victim's unavailability in court. This bill:

Establishes that if the underlying official proceeding involves family violence, an offense under Section 36.05 (Tampering with Witness), Penal Code, is the greater of a felony of the third degree or the most serious offense charged in the criminal case.

Establishes that if the underlying official proceeding involves family violence and it is shown at the trial of the offense that the defendant has previously been convicted of an offense involving family violence, an offense of tampering with a witness is the greater of a felony of the second degree or the most serious offense charged in the criminal case.

Establishes that a person is considered to coerce a witness or prospective witness if the person commits an act of family violence that is perpetrated, in part, with the intent to cause the witness's or prospective witness's unavailability or failure to comply.

Applies to the prosecution of tampering with a witness in which the underlying official proceeding involved family violence or the actor is alleged to have violated Section 36.05, Penal Code, by committing an act of family violence against a witness or prospective witness.

Allows each party, in the prosecution of an offense, to offer testimony or other evidence of all relevant facts and circumstances that would assist the trier of fact in determining whether the actor's conduct coerced the witness or prospective witness, including the nature of the relationship between the actor and the witness or prospective witness.

Prohibits a party to a criminal case who wrongfully procures the unavailability of a witness or prospective witness from benefiting from the wrongdoing by depriving the trier of fact of relevant evidence and testimony and forfeits the party's right to object to the admissibility of evidence or statements based on the unavailability of the witness through forfeiture by wrongdoing.

Establishes that evidence and statements related to a party that has engaged or acquiesced in wrongdoing that was intended to, and did, procure the unavailability of a witness or prospective witness are admissible and may be used by the offering party to make a showing of forfeiture by wrongdoing.

Requires the court, in determining the admissibility of the evidence of statements, to determine out of the presence of the jury whether forfeiture by wrongdoing occurred by a preponderance of the evidence.

Requires the court, if practicable, to make the determination before the trial.

Establishes that the party offering the evidence of statements is not required to show that the actor's sole intent was to wrongfully cause the witness's or prospective witness's unavailability; the actions of the actor constituted a criminal offense; or any statements offered are reliable.

Money Laundering and Forfeiture of Contraband—S.B. 1451

by Senator Hinojosa—House Sponsor: Representative Sheets

Increasingly sophisticated criminal organizations utilize advanced tactics to integrate into mainstream circulation the proceeds acquired or derived directly or indirectly from unlawful activity.

"Structuring" is the act of depositing money in smaller increments in order to avoid the reporting requirements set forth in the Bank Secrecy Act. Current law requires anyone who executes a cash transaction of \$10,000 or more to file a currency transaction report. In an effort to skirt this regulatory requirement, many suspects engaged in money laundering will make multiple deposits on the same day in increments of less than \$10,000 to avoid this. This is a felony under federal law. This bill:

Defines "substitute property" as property that is not contraband and that is owned by a person who is or was the owner of, or has or had an interest in, contraband with an aggregate value of \$200,000 or more.

CRIMINAL JUSTICE—GENERAL

Allows substitute property to be seized under authority of a search warrant if property that is contraband can no longer be located after the exercise of reasonable diligence; has been transferred, conveyed, sold to, or deposited with a person other than the owner or interest holder; is not within the jurisdiction of the court; has substantially diminished in value; has been commingled with other property and cannot be readily distinguished or separated; or was used to acquire other property that is not within the jurisdiction of the court.

Authorizes the district court to issue a search warrant authorizing a peace officer to seize substitute property if the officer submits an appropriate affidavit as described by this bill.

Requires the attorney representing the state to prove by a preponderance of the evidence in the disposition of the property that the contraband was subject to seizure and forfeiture; the highest fair market value of that contraband; the fair market value of the substitute property at the time of it was seized; and that the owner of the substitute property owned or had an interest in contraband with an aggregate value of \$200,000 or more.

Provides that, for the purposes of determining the aggregate value of contraband, the owner or interest holder is not required to have simultaneously owned or had an interest in all of the property constituting the contraband.

Requires the court to make appropriate orders to ensure that property equal in value to the excess is returned to the person or persons from whom the substitute property was seized.

Requires a peace officer who identifies contraband located outside the state to provide the attorney representing the state a sworn statement that identifies the contraband and the reasons the contraband is subject to seizure.

Requires the attorney representing the state to request that citation be served on any person who owns or is in possession or control of the contraband.

Authorizes the attorney to move to have the court order that the contraband be returned or brought to the jurisdiction of the court or delivered to an agent of the state for transportation to the jurisdiction of the court.

Entitles the attorney to all reasonable discovery to assist in identifying and locating contraband.

Establishes that the contraband is subject to seizure and forfeiture after it is returned.

Establishes how the court may proceed if it is found that any person has transported, concealed, disposed of, or otherwise acted to prevent the seizure and forfeiture of contraband.

Requires a peace officer who identifies proceeds that are gained from the commission of an offense to provide the attorney representing the state with an affidavit that identifies the amount of the proceeds and that states probable cause that the proceeds are contraband subject to forfeiture.

Authorizes the attorney to file for a judgment in the amount of the proceeds in the appropriate district court.

Establishes that each person who is shown to have been a party to an underlying offense for which the proceeds are subject to forfeiture is jointly and severally liable in a suit, regardless of whether the person has been charged for the offense.

Prohibits the court, if property or proceeds are awarded or forfeited to the state for an underlying offense, from awarding or forfeiting additional property or proceeds that would exceed the highest fair market value of the contraband subject to forfeiture for that offense.

Jail-Based Restoration of Competency Pilot Program—S.B. 1475

by Senator Duncan—House Sponsor: Representative Zerwas

By law, all criminal defendants must be competent to stand trial and assist in their defense. Those who are found by a court to be incompetent to stand trial are committed to a state mental health hospital, residential care facility, or an outpatient treatment program for competency restoration treatment. Most persons found incompetent to stand trial are treated at state mental health hospitals or private facilities, which are managed by the Department of State Health Services (DSHS), until their competency is restored or for the maximum statutorily prescribed time—60 or 120 days, depending on the offense.

For years, the state mental hospital system has had inadequate bed capacity to provide immediate competency restoration treatment to defendants. As a result, many defendants must wait weeks or months in county jails before receiving the competency restoration treatment at a state mental health hospital or other facility.

In 2012, a Texas court ruled that keeping incompetent individuals in jail for an unreasonable amount of time prior to being admitted to a state mental health facility or residential health facility to receive treatment violated their due process rights. The court's order required DSHS to make beds available for incompetent defendants within 21 days from the date it receives a criminal court's commitment order. DSHS increased bed capacity in 2012 to accommodate competency restoration needs, but there have been significant costs to the state in order pay for additional beds either at state hospitals or by contracting with private facilities. This bill:

Requires that a defendant for whom an order committing the defendant to a mental health facility or residential care facility be provided competency restoration services at the jail under the pilot program if the service provider at the jail determines the defendant will immediately begin to receive services.

Requires that, if the service provider at the jail determines the defendant will not immediately begin to receive competency restoration services, the defendant be transferred to the appropriate mental health facility or residential care facility.

Requires DSHS, if the legislature appropriates the funding, to develop and implement the pilot program in one or two counties that choose to participate in the pilot program and to coordinate and allow for input from each participating county.

Requires DSHS to contract with a provider of jail-based competency restoration services to provide services.

CRIMINAL JUSTICE—GENERAL

Requires the DSHS commissioner, not later than November 1, 2013, in consultation with a stakeholder workgroup, to adopt rules to implement the pilot program and specify the types of information DSHS must collect during the operation of the pilot program for use in evaluating the outcome.

Requires the DSHS commissioner to establish a stakeholder workgroup to participate in developing and establishing rules for the pilot program and establishes the composition of the workgroup.

Requires a provider of jail-based competency restoration services to demonstrate to DSHS that the provider has previously provided jail-based competency restoration services or is a local mental health authority that has provided competency restoration services.

Requires a provider of jail-based competency restoration services to demonstrate to DSHS that the program uses a multidisciplinary treatment team; employs or contracts for the services of at least one psychiatrist; assigns staff member to defendants; and provides weekly treatment hours commensurate to the treatment hours at an inpatient mental health facility.

Requires a provider of jail-based competency restoration services to demonstrate to DSHS that the provider is certified by a nationwide nonprofit organization that accredits health care organizations and programs.

Requires a provider of jail-based competency restoration services to demonstrate to DSHS that the provider has a demonstrated history of successful jail-based competency restoration outcomes.

Requires that a contract require the designated provider to collect and submit to DSHS the information specified.

Requires the designated provider to enter into a contract with the participating county or counties.

Requires the psychiatrist for the provider to conduct at least two full psychiatric evaluations of the defendant during the period the defendant receives restoration services in jail.

Requires the psychiatrist, if the psychiatrist determines that the defendant has attained competency to stand trial, to promptly issue and send the court a report demonstrating that fact.

Requires the psychiatrist, if the psychiatrist determines that the defendant's competency to stand trial is unlikely to be restored in the foreseeable future, to promptly issue and send the court a report demonstrating that fact.

Requires the defendant, if the psychiatrist determines that a defendant has not been restored to competency by the end of 60 days, to be transferred to the first available facility that is appropriate for that defendant.

Authorizes the court, for a defendant charged with a misdemeanor, to order a single extension and the transfer of the defendant to the appropriate mental health facility or residential facility for the remainder of the period of extension.

Requires the DSHS commissioner, if DSHS develops and implements a jail-based restoration of competency pilot program, to submit a report concerning the pilot program to the presiding officers of the standing committees of the senate and house of representatives having primary jurisdiction over health and human services issues and over criminal justice issues.

License Plate Flippers—S.B. 1757

by Senator Uresti—House Sponsor: Representative Zedler

A license plate flipper is a device designed to allow an individual to rotate or flip between two license plates within a matter of seconds. The device works by push of a button or pull of a cord. Such devices can be home-made. More sophisticated devices can be purchased online.

While it is currently illegal under Texas law to have false or obscured license plates showing on a vehicle, it is not illegal to have a license plate flipper device on a vehicle with false license plates not showing. This bill:

Defines a "license plate flipper" as a manual, electronic, or mechanical device designed or adapted to be installed on a motor vehicle and switch between two or more license plates or hide a license plate from view by flipping the license plate so that the number is not visible.

Establishes that a person commits a Class B misdemeanor if the person with criminal negligence purchases or possesses a license plate flipper.

Establishes that a person commits a Class A misdemeanor if the person with criminal negligence manufactures, sells, offers to sell, or otherwise distributes a license plate flipper.

Human Trafficking Prevention Task Force Recommendations—H.B. 8

by Representative Senfronia Thompson et al.—Senate Sponsor: Senator Van de Putte et al.

The 81st Legislature created the Human Trafficking Prevention Task Force in an effort to create a statewide partnership among law enforcement agencies, social service providers, nongovernmental organizations, legal representatives, and state agencies that fight against human trafficking. The task force worked to develop policies and procedures to assist in the prevention and prosecution of human trafficking crimes and to propose legislative recommendations that better protect both adult and child victims. Based upon those recommendations, this bill:

Allows a parent or guardian acting on behalf of a person younger than 18 years of age who is the victim of an offense listed in Section 20A.02 (Trafficking of Persons) or 43.05 (Compelling Prostitution), Penal Code, to file an application for a protective order.

Allows a victim of an offense listed in Article 7A.01 (a)(1) (relating to application for a protective order) who is 17 years of age or older or a parent or guardian acting on behalf of a victim who is younger than 18 years of age to file at any time an application with the court to rescind the protective order.

Requires the Board of Pardons and Paroles to develop educational materials specifically for persons convicted of or placed on deferred adjudication community supervision for an offense the person committed solely as a victim of trafficking of persons and to include a detailed description of the process by which the person may submit a request to the board for a written signed recommendation advising the governor to grant the person a pardon.

Defines "trafficking of persons" as any offense that results in a person engaging in forced labor or services and that may be prosecuted under certain sections of the Penal Code, and that results in a person engaging in forced labor or services or otherwise becoming a victim of the offense.

Includes a victim of trafficking of persons to the list of those eligible to receive a onetime-only assistance payment and other services provided for victims of family violence.

Adds "abuse, stalking, or trafficking" to the title of Section 38.112, Penal Code.

Establishes that an offense under Section 43.02 (Prostitution), Penal Code, is a second-degree felony if the person solicited is younger than 18, rather than 14, years of age, regardless of whether the actor knows the age of the person solicited at the time the actor commits the offense.

Allows a conviction to be used for purposes of enhancement of penalties under certain conditions.

Provides that an offense under Section 43.03(b) (relating to providing that an offense of promotion of prostitution is a Class A misdemeanor), Penal Code, is a state jail felony if the actor has been previously convicted of an offense or a felony of the second degree if the actor engages in conduct involving a person younger than 18 years of age engaging in prostitution, regardless of whether the actor knows the age of the person at the time the actor commits the offense.

Provides that an offense under Section 43.04(b) (relating to providing that an offense of aggravated promotion of prostitution is a felony of the third degree), Penal Code, is a felony of the first degree if the

prostitution enterprise uses as a prostitute one or more persons younger than 18 years of age, regardless of whether the actor knows the age of the person at the time the actor commits the offense.

Increases the punishment for certain offenses under Section 43.23 (Obscenity), Penal Code, to a second-degree felony if it is shown that obscene material visually depicts activities engaged by a child younger than 18 years of age.

Provides that a person commits an offense if the person knowingly or intentionally accesses with intent to view visual material that depicts a child younger than 18 years of age, including a child who engages in sexual conduct as a victim of trafficking.

Provides that it is a defense to prosecution that the actor is a law enforcement officer or a school administrator who possessed or accessed the visual material in good faith solely as a result of an allegation or allowed other law enforcement or school administrative personnel to possess or access the material.

Establishes that a person commits an offense of engaging in organized criminal activity if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, the person commits or conspires to commit, among other offenses, continuous sexual abuse of a young child or children or solicitation of a minor.

Human Trafficking Prevention Task Force—H.B. 1272

by Representative Senfronia Thompson et al.—Senate Sponsor: Senator Van de Putte et al.

The 81st Legislature created the Human Trafficking Prevention Task Force (task force) in an effort to create a statewide partnership among law enforcement agencies, social service providers, nongovernmental organizations, legal representatives, and state agencies that fight against human trafficking. The task force worked to develop policies and procedures to assist in the prevention and prosecution of human trafficking crimes and to propose legislative recommendations that better protect both adult and child victims. This bill:

Requires a state or local law enforcement agency, district attorney, or county attorney that assists in the prevention of human trafficking, at the request of the task force, to cooperate and assist the task force in collecting any statistical data on the nature and extent of human trafficking in the possession of the law enforcement agency or district or county attorney.

Requires the task force to work with the Texas Education Agency (TEA), the Department of Family and Protective Services (DFPS), and the Health and Human Services Commission (HHSC) to develop key indicators that a person is victim of human trafficking.

Requires the task force to work with TEA, DFPS, and HHSC to develop and use standardized curriculum for training doctors, nurses, emergency medical services personnel, teachers, school counselors, school administrators, and personnel from DFPS and HHSC to identify and assist victims of human trafficking.

Victims of Trafficking Shelters—H.B. 2725

by Representative Senfronia Thompson et al.—Senate Sponsor: Senator Van de Putte

Interested parties contend that there is a need for the development of minimum standards for human trafficking centers and for confidentiality safeguards for those centers and the persons associated with those centers. This bill:

Defines "victims of trafficking shelter center" as a program that is operated by a public or private nonprofit organization and provides comprehensive residential and nonresidential services to persons who are victims of trafficking, or a child-placing agency that provides services to persons who are victims of trafficking.

Exempts information maintained by certain entities, including a victims of trafficking shelter center, from the requirements of Section 552.021 (Availability of Public Information), Government Code, if it is information that relates to the home address, home telephone number, or Social Security number of an employee or a volunteer worker of these entities, regardless of whether the employee or worker complies with Section 552.024 (Electing to Disclose Address and Telephone Number), Government Code; the location or physical layout of certain entities of these entities; the name, home address, home telephone number, or numeric identifier of a current or former client of these entities; the provision of services, including counseling and sheltering, to a current or former client of these entities; the name, home address, or home telephone number of a private donor to these entities; or the home address or home telephone number of a member of the board of directors or the board of trustees of these entities, regardless of whether the board member complies with Section 552.024, Government Code.

Authorizes a governmental body to redact information noted above concerning an employee, a volunteer worker, or a member of the board of directors or the board of trustees of these entities maintained by these entities, including a victims of trafficking shelter center, that is authorized to be withheld from any information the governmental body discloses under Section 552.021, Government Code, without the necessity of requesting a decision from the attorney general under Subchapter G (Attorney General Decisions), Chapter 552 (Public Information), Government Code.

Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) by rule to adopt minimum standards that apply to general residential operations (GROs) that provide comprehensive residential and nonresidential services to persons who are victims of trafficking; and requires the executive commissioner, in adopting the minimum standards, to consider the special circumstances and needs of victims of trafficking of persons and the role of the GROs in assisting and supporting victims of trafficking of persons.

Civil Prosecution of Racketeering Related to Trafficking of Persons—H.B. 3241

by Representative Senfronia Thompson et al.—Senate Sponsor: Senator Whitmire

The human trafficking prevention task force report noted that approximately one out of every five human trafficking victims are trafficked through Texas on Interstate Highway 10. The Texas Legislature has addressed trafficking through legislative action that increases penalties for traffickers. This bill:

Defines "acquire," "enterprise," "gain," "proceeds," and "racketeering."

Establishes that a person or enterprise commits racketeering if, for financial gain, the person or enterprise commits an offense under Chapter 20A (Trafficking of Persons), Penal Code, and the offense or an element of the offense occurs in more than one county in this state or is facilitated by the use of United States mail, email, telephone, facsimile, or a wireless communication from one county in this state to another.

Authorizes the attorney general to bring suit against a person or enterprise for racketeering and to seek civil penalties, costs, reasonable attorney's fees and appropriate injunctive relief.

Provides that this legislation does not authorize suit by a person or enterprise that sustains injury as a result of racketeering.

Requires that a suit be brought in a district court in a county in which all or part of the alleged racketeering offense giving rise to the suit occurred.

Authorizes a court to prevent, restrain, and remedy racketeering by issuing appropriate orders that may include a temporary restraining order, a temporary or permanent injunction, the creation of a receivership, and the enforcement of a constructive trust in connection with any property or other interest, prejudgment writs of attachment for the purpose of freezing, preserving, and disgorging assets, or another order for a remedy or restraint the court considers proper.

Authorizes the court, following a final determination of liability, to issue an appropriate order, including an order that requires a person to divest any direct or indirect interest in an enterprise; imposes reasonable restrictions on the future activities or investments of a person that affect the laws of this state; requires the dissolution or reorganization of an enterprise involved in the suit; orders the recovery of reasonable fees, expenses, and costs incurred in obtaining injunctive relief or civil remedies or in conducting investigations, including court costs, attorney's fees, witness fees, and deposition fees; orders payment to the state of an amount equal to the gain acquired; orders payment to the state of a civil penalty; orders payment of damages to the state for racketeering shown to have materially damaged the state; or orders that property attached be used to satisfy an award of the court.

Requires the court, in determining the amount of a civil penalty, to consider the seriousness of the racketeering offense and the consequent financial or personal harm to the state or to any identified victim and the duration of the racketeering activity.

Authorizes the court, if any property attached is not necessary to satisfy an award of the court after a finding of liability for racketeering of the person or enterprise having an interest in the property, to order that the property be disgorged to the state if the property was acquired or maintained by the person or enterprise through racketeering.

Requires the court, in determining the amount of damages, to consider loss of tax revenue to the state; unpaid state unemployment taxes; unpaid state licensing and regulatory fees; medical and counseling costs incurred by the state on behalf of any victim of the racketeering; and other material damage caused to the state by the racketeering.

Provides that remedies and awards ordered by a court may be assessed against and paid from money or property awarded.

CRIMINAL JUSTICE—HUMAN TRAFFICKING

Establishes that the involuntary trustee or any other person or enterprise, other than a bona fide purchaser, holds the property and the proceeds of the property in constructive trust for the benefit of any person entitled to remedies.

Provides that a bona fide purchaser who was reasonably without notice of unlawful conduct and who did not knowingly take part in an illegal transaction is not an involuntary trustee and is not subject to a constructive trust.

Establishes that in a proceeding under this chapter, the state bears the burden of proof by a preponderance of the evidence.

Provides that a person convicted in a criminal proceeding is precluded, in a proceeding, from subsequently denying the essential allegations of the criminal offense of which the person was convicted and that a verdict or plea, including a plea of nolo contendere, is considered a conviction.

Provides that neither an individual nor an enterprise may be held liable based on the conduct of another person unless the finder of fact finds by a preponderance of the evidence that the individual or a director or high managerial agent performed, authorized, requested, commanded, participated in, ratified, or recklessly tolerated the unlawful conduct of the other person.

Provides that a bank or savings and loan association insured by the Federal Deposit Insurance Corporation, a credit union insured by the National Credit Union Administration, or the holder of a money transmission license may not be held liable in damages or for other relief unless the finder of fact finds by a preponderance of the evidence that the person or agent acquiring or maintaining an interest in or transporting, transacting, transferring, or receiving the funds on behalf of another did so knowing that the funds were the proceeds of an offense.

Provides that a proceeding may be commenced only if the proceeding is filed on or before the seventh anniversary of the date on which the racketeering offense was actually discovered.

Authorizes the attorney general to file a certificate stating that the case is of special public importance and requires the clerk to immediately furnish a copy of the certificate to the administrative judge of the district court of the county in which the proceeding is pending who must immediately designate a judge to hear and determine the proceeding.

Requires the attorney general, in a reasonable time before initiating suit or an investigation on racketeering, to provide notice to the district attorney, criminal district attorney, or county attorney with felony criminal jurisdiction that appears to have primary jurisdiction over the criminal prosecution.

Authorizes a district attorney, criminal district attorney, or county attorney with felony criminal jurisdiction that receives notice to notify the attorney general of a related pending criminal investigation or prosecution.

Requires the attorney general, on receipt of notice, to coordinate and cooperate with the district attorney, criminal district attorney, or county attorney with felony criminal jurisdiction to ensure that the filing of a suit does not interfere with an ongoing criminal investigation or prosecution and update the officials on matters affecting the suit or the investigation.

Authorizes prosecutors, if prosecutors determine that a suit would interfere with an ongoing criminal investigation or prosecution after notifying the attorney general of the investigation or prosecution, to request in writing that the attorney general abate the suit and, upon receipt of the request, requires the attorney general to do so.

Requires, after a deduction of any costs of suit, including reasonable attorney's fees and court costs, that 80 percent of the amount of the award remaining be paid to the state, and the remaining 20 percent be paid to each law enforcement agency, district attorney's office, criminal district attorney's office, and office or a county attorney with felony jurisdiction found by the court to have assisted in the suit.

Requires that the first \$10 million, after any costs of suit are appropriately distributed, that is paid to the state in a fiscal year be dedicated to the compensation to victims of crime fund.

Joint Interim Committee on Human Trafficking in Texas—H.C.R. 57
by Representative Hunter et al.—Senate Sponsor: Senator Van de Putte

A multibillion-dollar business, human trafficking is second only to drug dealing in criminal profitability and is the fastest-growing illegal enterprise, according to the Polaris Project, a Washington, D.C.-based organization that maintains the National Human Trafficking Resource Center.

Texas is a major point of legal and illegal entry into the United States. The state's large geographic size along with its demographics make the state appealing to traffickers. This resolution:

Requests the lieutenant governor and the speaker of the house of representatives to create a joint interim committee to study the problem of human trafficking in Texas to report findings and recommendations to the 84th Texas Legislature in January 2015.

Program For Certain Juveniles Who Are Human Trafficking Victims—S.B. 92
by Senators Van de Putte and Paxton—House Sponsor: Representative Senfronia Thompson

The majority of minors involved in prostitution are domestic sex trafficking victims. H.B. 2015, 82nd Legislature, Regular Session, 2011, reclassified prostitution by a minor as conduct indicating a need for supervision. Several counties are creating programs focusing on these domestic sex trafficking victims. Advocates argue that there is a need for diversion programs providing treatment and services for minors involved in sex trafficking, instead of strictly punishing them. This bill:

Authorizes a county juvenile board, if the court designated as the juvenile court does not have jurisdiction over proceedings under Title 5, Subtitle E (Protection of the Child), Family Code, to designate at least one other court that has such jurisdiction over proceedings as a juvenile court or alternative juvenile court.

Authorizes the designated juvenile court to simultaneously exercise jurisdiction over juvenile justice proceedings and proceedings under Subtitle E if there is probable cause to believe that the child who is the subject of those proceedings engaged in delinquent conduct or conduct indicating a need for supervision; and may be the victim of conduct that constitutes an offense under Section 20A.02 (Trafficking of Persons), Penal Code.

Provides that if a juvenile justice proceeding is instituted in a juvenile court that does not have jurisdiction over proceedings under Subtitle E, the court must assess the case and may transfer the proceedings to a court designated as a juvenile court or alternative juvenile court if the receiving court agrees and if evidence is presented that constitutes cause to believe that the child who is the subject of those proceedings is a victim of human trafficking.

Provides that the guidelines adopted by a county juvenile board for the disposition of a certain juvenile in the juvenile justice system may not allow for the case of a child to be so disposed if there is probable cause to believe that the child engaged in delinquent conduct or conduct indicating a need for supervision and that the child may be the victim of conduct that constitutes an offense under Section 20A.02.

Authorizes a designated juvenile court to defer adjudication proceedings under Section 54.03 (Adjudication Hearing), Family Code, until the child's 18th birthday and to require that child to participate in a program established under Section 152.0016 (Trafficked Persons Program), Human Resources Code, if the child is alleged to have engaged in delinquent conduct or conduct indicating a need for supervision and may be a victim of conduct that constitutes an offense under Section 20A.02; and presents to the court an oral or written request to participate in the program.

Requires a court, at the time the child presents satisfactory evidence that the child successfully completed the program, to dismiss the case with prejudice.

Authorizes a designated juvenile court to:

- require a child adjudicated to have engaged in delinquent conduct or conduct indicating a need for supervision and who is believed to be a victim of conduct that constitutes an offense under Section 20A.02 to participate in a trafficked persons program (program);
- require a child participating in the program to periodically appear in court for monitoring and compliance purposes; and
- following the child's successful completion of the program, order the sealing of the records as provided under this Act.

Authorizes a juvenile court to order the sealing of records concerning a child found to have engaged in delinquent conduct or conduct indicating a need for supervision or taken into custody to determine whether the child engaged in delinquent conduct or conduct indicating a need for supervision if the child successfully completed a program, by ordering the sealing of the records immediately and without a hearing; or holding a hearing to determine whether to seal the records.

Authorizes a prosecuting attorney or juvenile probation department, if a court orders the sealing of a child's records, to maintain until the child's 18th birthday a separate record of the child's name and date of birth and the date the child successfully completed the trafficked persons program.

Requires the prosecuting attorney or juvenile probation department to send the record to the court as soon as practicable after the child's 18th birthday to be added to the child's other sealed records.

Authorizes a juvenile board to establish a program for the assistance, treatment, and rehabilitation of children who are alleged to have engaged in or adjudicated as having engaged in delinquent conduct or

conduct indicating a need for supervision; and may be victims of conduct that constitutes an offense under Section 20A.02.

Sets forth the requirements for a program.

Juvenile Justice System Examinations—H.B. 144

by Representative Raymond—Senate Sponsor: Senator Nelson

At any stage of a juvenile court proceeding the court may order a child who is referred to the juvenile court or who is alleged by a petition or found to have engaged in delinquent conduct to be examined by a disinterested expert, including a physician, psychiatrist, or psychologist, qualified by education and clinical training in mental health or mental retardation and experienced in forensic evaluation, to determine whether the child has a mental illness or is a person with mental retardation as defined by Section 591.003, Health and Safety Code. This bill:

Allows a judge to order, in addition to psychological reviews, a screening for chemical dependency for any juvenile in the juvenile justice system to determine whether a child has any chemical dependency.

Procedures in Juvenile Cases—H.B. 2862

by Representative McClendon—Senate Sponsor: Senator West

In 2012, a work group of juvenile justice practitioners held a series of meetings to conduct a comprehensive evaluation of laws governing Texas's system of juvenile justice to identify needed statutory revisions that would improve the administration of juvenile justice at the state and county level. This bill:

Requires that a child who is transferred to an adult facility be detained under conditions meeting the requirements of Section 51.12 (Place and Condition of Detention), Family Code.

Requires the judge of the criminal court having jurisdiction over the person, on the 17th birthday of a person who is detained in a certified juvenile detention facility, to order the person to be transferred to an adult facility.

Provides that a witness younger than 17 years of age held in custody may be placed in a certified juvenile detention facility for a period not to exceed 30 days unless extended in increments of 30 days by the court that issued the original bench warrant.

Provides that while a child is the subject of a suit under Title 5 (The Parent-Child Relationship and the Suit Affecting the Parent-Child Relationship), Family Code, the child is considered to reside in the county in which the court of continuing exclusive jurisdiction over the child is located.

Requires the juvenile probation department of the sending county, not later than 10 business days after a receiving county has agreed to provide interim supervision of a child, to provide the juvenile probation department of the receiving county with a copy of, among other things, if applicable, documentation that the sending county has required the child to provide a DNA sample to the Department of Public Safety of the State of Texas (DPS).

Establishes requirements for all documentation relating to the transfer of probation supervision.

Establishes guidelines and considerations for interim supervision and return of a child to a receiving county.

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Provides that a child may be detained in a nonsecure correctional facility until the child is released or until a detention hearing is held if the nonsecure facility has been registered and certified; a certified secure detention facility is not available in the county in which the child is taken into custody; the nonsecure facility complies with the short-term detention standards adopted by the Texas Juvenile Justice Department (TJJD); and the nonsecure facility has been designated by the county juvenile board for the county in which the facility is located.

Provides that a witness held in custody may be placed in a certified juvenile detention facility for a period not to exceed 30 days, unless extended in 30-day increments by the court that issued the original bench warrant.

Allows a status offender to be detained for a necessary period, not to exceed the period allowed under the Interstate Compact for Juveniles, to enable the child's return to the child's home in another state.

Requires the juvenile court, if the juvenile court orders a person detained in a certified juvenile detention facility, to set or deny bond for the person required by the Code of Criminal Procedure and other law applicable to the pretrial detention of adults accused of criminal offenses.

Provides that the person's parent, custodian, guardian, or guardian ad litem is not considered a party to a proceeding and it is not necessary to provide the parent, custodian, guardian, or guardian ad litem with notice.

Provides that a waiver of jurisdiction may be made without the necessity of conducting the diagnostic study or complying with the requirements of discretionary transfer proceedings.

Requires the court, if requested by the attorney for the person at least 10 days before the transfer hearing, to order that the person be examined pursuant to Section 51.20 (Physical or Mental Examination), Family Code, and that the results of the examination be provided to the attorney for the person and the attorney for the state at least five days before the transfer hearing.

Requires the court, on or before the second day before the date of the disposition hearing, to provide the attorney for the child and the prosecuting attorney with access to all written matter to be considered by the court in disposition.

Changes all references to the Texas Youth Commission to TJJD.

Provides that if the court or jury makes the finding allowing the court to make a disposition in the case, the court may place the child in a suitable nonsecure correctional facility that is registered and meets the applicable standards for the facility.

Requires the juvenile probation department, if the victim does not make a claim for payment of restitution on or before the 30th day after the date of being notified that a payment has been received, to notify the victim by certified mail, sent to the last known address of the victim, that a payment has been received.

Requires that a hearing be conducted before the person's 19th birthday, or before the person's 18th birthday if the offense for which the person was placed on probation occurred before September 1, 2011, and be conducted in the same manner as a hearing to modify disposition.

Provides that after a transfer to district court, only the petition, the grand jury approval, the judgment concerning the conduct for which the person was placed on determinate sentence probation, and the transfer order are a part of the district clerk's public record.

Allows the court to consider written reports and supporting documents from probation officers, professional court employees, professional consultants, or employees of TJJD.

Establishes that all written matter is admissible in evidence at the hearing.

Allows the court or jury, if the juvenile court exercises jurisdiction over a person who is 18 or 19 years of age or older, as applicable, if the person is otherwise eligible, to place the person on probation.

Authorizes TJJD, on certification of records in a case, to permit access to the information in the juvenile justice information system relating to the case of an individual only by the person who is the subject of the records on an order from the juvenile court granting the petition filed by or on behalf of the person who is the subject of the records; with the permission of the juvenile court at the request of the person who is the subject of the records; or with the permission of the juvenile court, by a party to civil suit if the person who is the subject of the records has put facts relating to the person's records at issue in the suit.

Establishes that Section 58.204(b) (relating to access to information in the juvenile justice information system) for access to records relating to the case does not apply if the subject of an order issued is under the jurisdiction of the juvenile court or TJJD or the agency has received notice that the records are not subject to restricted access.

Provides that with permission of the subject of the records, the juvenile probation department, the court clerk, the prosecutor's office, and a law enforcement agency may permit the state military forces or the United States military forces to have access to juvenile records held by that agency.

Requires a probation officer or official at TJJD, when a child is placed on probation for an offense that may be eligible for automatic restricted access at age 17 or when a child is received by TJJD on an indeterminate commitment, to explain that if the child is under the jurisdiction of the juvenile court of TJJD on or after the child's 17th birthday, the law regarding restricted access will not apply until the person is discharged from the jurisdiction of the court or department, as appropriate.

Defines "disciplinary seclusion" and "juvenile facility."

Requires TJJD to collect during the annual registration of juvenile facilities and make the data publicly available the number of placements in disciplinary seclusion lasting at least 90 minutes but less than 24 hours; the number of placements in disciplinary seclusion lasting 24 hours or more but less than 48 hours; and the number of placements in disciplinary seclusion lasting 48 hours or more.

Requires a court that commits a child to TJJD, in addition to the information provided under Section 243.004 (Information Provided by Committing Court), Human Resources Code, to provide, along with several other documents, the TJJD standard assessment tool results for the child; the DPS CR-43J form or tracking incident number concerning the child; and documentation that the committing court has required the child to provide a DNA sample to DPS.

Upshur County Juvenile Board—H.B. 3161

by Representatives Simpson and Hughes—Senate Sponsor: Senator Eltife

Currently, the Human Resources Code states that the Upshur County Juvenile Board is composed of the county judge, the district judge, and the judges of any statutory court. This bill:

Removes the provision that includes judges of any statutory court as members of the Upshur County Juvenile Board.

Provides that the county judge of Upshur County be the chairman of the board and its chief administrative officer.

Juvenile Board of Val Verde County—H.B. 3952

by Representative Nevárez—Senate Sponsor: Senator Uresti

The Val Verde County Court-At Law (court) was initiated in January 1, 1982, and has participated in juvenile board meeting state standards and budget approvals. In mid-2012, the court was made aware that the county judge was not included in the statute pertaining to Val Verde County. This bill:

Establishes that the juvenile board of Val Verde County is composed of the county judge, the district judges in Val Verde County, and the judge of the County Court at Law of Val Verde County.

Deferral of Prosecution of Children Accused of Certain Class C Misdemeanors—S.B. 393

by Senator West et al.—House Sponsor: Representatives Lewis and Senfronia Thompson

Under current law, children ticketed at schools for Class C misdemeanors are adjudicated in the criminal court system, while children who commit other misdemeanors and felonies are adjudicated in the juvenile justice system. Using the municipal and justice courts for school discipline issues exposes children to the adult criminal system. Fines and courts costs can impose hardships on children and their families. S.B. 393 encodes recommendations made by the juvenile justice committee of the Texas Judicial Council regarding the prosecution of minors for Class C misdemeanors arising from conduct at schools. This bill:

Authorizes a judge to allow a child defendant to elect to discharge any fine and costs by performing community service or receiving tutoring.

Requires that such election be made in writing, signed by the defendant, and, if present, by the defendant's parent, guardian, or managing conservator.

Requires the court to maintain the election as a court record and provide a copy to the defendant.

Provides that the requirement that an offense occur in a building or on the grounds of the primary or secondary school at which the defendant was enrolled at the time of the offense does not apply to the performance of community service or the receipt of tutoring to discharge a fine or costs.

Authorizes a court to waive payment of a fine or cost imposed on a child defendant if alternative methods of discharging the fine or cost would impose an undue hardship on the defendant.

Provides that the records of a child who has received a dismissal after deferral of disposition for a misdemeanor offense punishable by fine only, other than a traffic offense, are confidential.

Authorizes a county court, justice court, municipal court, school district, juvenile probation department, or other appropriate governmental entity, upon approval of the commissioners court, or other appropriate authority, to employ a case manager to provide services in cases involving juvenile offenders who are referred to a court by a school administrator for misconduct within the court's statutory powers prior to a case being filed, with the consent of the juvenile and the juvenile's parents or guardians.

Authorizes a county or justice court on approval of the commissioners court or a municipality or municipal court on approval of the city council to employ juvenile case managers to provide prevention services to children at risk of entering the juvenile justice system and intervention services to juveniles engaged in misconduct prior to cases being filed.

Requires a court to dismiss a truancy complaint or referral made by a school district that is not accompanied by a statement from the student's school certifying that the school's adopted and applied truancy prevention measures failed to meaningfully address the student's school attendance.

Authorizes a school district peace officer to dispose of cases in accordance with Section 52.03 (Disposition Without Referral to Court) or 52.031 (First Offender Program), Family Code.

Amends the Education Code to provide that it is an exception to an offense under Section 37.124 (Disruption of Classes) and Section 37.126 (Disruption of Transportation) if, at the time the person engaging in such conduct was younger than 12 years of age at the time.

Adds Subchapter E-1 (Criminal Procedure) to Chapter 37, Education Code:

- Defines "child" and "school offense."
- Provides that this subchapter controls over any other law applied to a school offense committed by a child.
- Prohibits a peace officer from issuing a citation to a child alleged to have committed a school offense.
- Provides that this subchapter does not prohibit a child from being taken into custody under Section 52.01 (Taking into Custody; Issuance of Warning Notice), Family Code.
- Authorizes a school district that commissions peace officers to develop a system of graduated sanctions to be imposed on a child before a complaint is filed for certain school offenses.
- Requires that such a system include multiple graduated sanctions.
- Authorizes the system to require the issuance of warning letters, behavior contracts, the performance of school-based community service by the child, and referring the child to counseling or other services aimed at addressing the child's behavioral problems.
- Authorizes the school, if a child fails to comply with or complete graduated sanctions, or if the school district has not elected to adopt a system of graduated sanctions, to file a complaint against the child with a criminal court.
- Requires that a complaint alleging the commission of a school offense meet certain criteria.

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- Authorizes an attorney representing the state to adopt rules pertaining to the filing of a complaint under this subchapter in order to determine whether there is probable cause, and that the allegations are legally sufficient.

Amends Section 51.08 (Transfer From Criminal Court), Family Code, to require a court to waive original jurisdiction for a complaint against a child alleging a violation of a misdemeanor offense punishable by fine only, other than a traffic offense, and refer the child to juvenile court if the court or another court has previously dismissed a complaint against the child under Section 8.08 (Child with Mental Illness, Disability, or Lack of Capacity), Penal Code.

Authorizes a law-enforcement officer to dispose of the case of a child accused of a Class C misdemeanor, other than a traffic offense, without charging the child in a court of competent criminal jurisdiction, if certain criteria are met.

Expands the provisions of Section 52.031, Family Code, to include the referral and disposition of children accused prior to the filing of a criminal charge of a Class C misdemeanor, other than a traffic offense.

Provides that a person may not be prosecuted for or convicted of a misdemeanor punishable by fine only or a violation of a penal ordinance of a political subdivision if the person was younger than 10 years of age at the time of the offense.

Provides that person who is at least 10 years of age, but younger than 15 years of age, is presumed incapable of committing such offenses, other than an offense under a juvenile curfew ordinance or order.

Provides that this presumption may be refuted if the prosecution proves to the court by a preponderance of the evidence that the actor had sufficient capacity to understand that the conduct engaged in was wrong at the time. The prosecution is not required to prove that the actor at the time knew that the act was a criminal offense or knew the legal consequences of the offense.

Adds Section 8.08 (Child With Mental Illness, Disability, or Lack of Capacity), to the Penal Code:

- Requires a court, upon a motion by the state, the defendant, or a person standing in parental relation to the defendant, or on the court's own motion, to determine whether probable cause exists to believe that a child, including a child with a mental illness or developmental disability, lacks the capacity to understand the proceedings in criminal court or to assist in the child's own defense and is unfit to proceed; or lacks substantial capacity either to appreciate the wrongfulness of the child's own conduct or to conform the child's conduct to the requirement of the law.
- Authorizes the court to dismiss the complaint if the court determines that probable cause exists for such a finding.
- Provides that the dismissal of a complaint may be appealed.
- Defines "child."

Restricting Access to Records of Children Receiving Deferred Disposition—S.B. 394

by Senator West—House Sponsor: Representatives Herrero and Wu

Under current law, all records and files and information relating to a child who is convicted of and has satisfied the judgment for a fine-only offense, other than a traffic offense, are confidential and generally may not be disclosed to the public. However, this confidentiality does not apply to the records of children who received dismissal following deferred disposition for misdemeanor offenses punishable by fine only, other than a traffic offense. S.B. 394 encodes recommendations made by the juvenile justice committee of the Texas Judicial Council. This bill:

Expands current confidentiality requirements to all records and files and information, including those held by law enforcement and information stored by electronic means or otherwise, relating to a child who has received a dismissal after deferral of disposition for a fine-only misdemeanor offense, other than a traffic offense.

Fines and Court Costs Imposed on a Child in Criminal Case—S.B. 395

by Senator West—House Sponsor: Representative Herrero

Under current law, a court may waive a fine for an indigent adult defendant or require that the defendant complete community service in lieu of a fine. Fines and court costs can impose hardships on child defendants and their families. S.B. 395 encodes recommendations made by the juvenile justice committee of the Texas Judicial Council. This bill:

Authorizes a judge, including a judge of a justice or municipal court, to allow a child defendant to elect at the time of conviction to discharge the fine and costs by performing community service or receiving tutoring.

Requires that such election be in writing and signed by the defendant, and, if present, by the defendant's parent, guardian, or managing conservator.

Requires the court to maintain the election as a court record and provide a copy to the defendant.

Provides that the requirement that an offense occur in a building or on the grounds of the primary or secondary school at which the defendant was enrolled at the time of the offense does not apply to the performance of community service or the receipt of tutoring to discharge a fine or costs.

Authorizes a court, including a justice or municipal court, to waive payment of a fine or cost imposed on a child defendant if the alternative methods of discharging the fine or cost would impose an undue hardship on the defendant.

Alternative Sentencing System For Local Juvenile Authorities—S.B. 511

by Senator Whitmire—House Sponsor: Representative Workman

The Youth Offender Diversion Alternative (YODA) targets youth offenders ages 17-25 and provides intensive counseling to show participants how to make better choices in stressful situations or arguments. YODA is a community-based volunteer diversion program for youth charged with domestic assault against

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a non-intimate family member. The program is an attempt to increase non-offending behaviors through a three-phase program using solution-focused brief therapy. If the juvenile completes the program, the charges are dismissed and erased from his or her record.

In 2007, the Texas Legislature implemented a significant series of reforms for the Texas Juvenile Justice Department (TJJD) in order to help implement diversions programs, including community-based probation programs and services and rehabilitation of youthful offenders. This bill:

Defines "post-adjudication secure correctional facility" as a facility operated by or under contract with a juvenile board or local juvenile probation department.

Establishes that Section 54.04011 (Commitment to Post-Adjudication Secure Correctional Facility), Family Code, applies only to a county in which the juvenile board or local juvenile probation department operates or contracts for the operation of a post-adjudication secure correctional facility.

Authorizes the juvenile court of the county to commit a child who is found to have engaged in delinquent conduct that constitutes a felony to a post-adjudication secure correctional facility without a determinate sentence if the child is found to have engaged in conduct that violates a penal law of the grade of felony and the petition was not approved by the grand jury; the child is found to have engaged in conduct that violates a penal law of the grade of felony and the petition was approved by the grand jury but the court or jury does not make the finding; or the disposition is modified.

Authorizes the juvenile court of the county to commit a child who is found to have engaged in delinquent conduct that constitutes a felony to a post-adjudication secure correctional facility with a determinate sentence if the child is found to have engaged in conduct that included a violation of a penal law listed in Section 53.045 (Violent or Habitual Offenders), Family Code, or that is considered habitual felony conduct as described by Section 51.031 (Habitual Felony Conduct), Family Code, the petition was approved by the grand jury and, if applicable, the court or jury makes the finding, or the disposition is modified.

Establishes that a juvenile court or jury retains the authority to place a child on probation on such reasonable and lawful terms as the court may determine, including placement in a public or private post-adjudication secure correctional facility and to place a child adjudicated on probation for a term of not more than 10 years.

Provides that the attorney representing the state retains the authority to file a motion concerning a child who has been placed on probation and that the juvenile court maintains the authority to hold a hearing.

Establishes that Section 152.0016 (Post-Adjudication Secure Correctional Facilities; Release Under Supervision), Human Resources Code, applies only to a county that has a population of more than one million and less than 1.5 million.

Requires a juvenile board to establish a policy that specifies whether the juvenile board or a local juvenile probation department that serves the county may operate or contract for the operation of a post-adjudication secure correctional facility to confine children committed to the facility and operate a program through which a child committed to a post-adjudication secure correctional facility may be released under supervision and place the child in the child's home or in any situation or family approved by the juvenile board or local juvenile probation department.

Requires the juvenile board or local juvenile probation department, before placing a child in the child's home, to evaluate the home setting to determine the level of supervision and quality of care that is available in the home.

Requires a juvenile board or a local juvenile probation department to accept a person properly committed to it by a juvenile court in the same manner in which TJJD accepts a person, even though the person may be 17 years of age or older at the time of the commitment.

Requires a juvenile board or a local juvenile probation department to establish a minimum length of stay for each child committed without a determinate sentence in the same manner that TJJD determines a minimum length of stay for a child committed to TJJD.

Prohibits the local juvenile probation department, if a child is committed to a post-adjudication secure correctional facility, from releasing the child under supervision without approval by the juvenile court that entered the order of commitment, unless the child has been confined not less than 10 years for capital murder; three years for an aggravated controlled substance felony or a first-degree felony; two years for a second-degree felony; and one year for a third-degree felony.

Authorizes the juvenile board or local juvenile probation department to release a child who has been committed to a post-adjudication secure correctional facility with a determinate sentence under supervision without approval of the juvenile court that entered the order of commitment if not more than nine months remain before the child's discharge.

Authorizes the juvenile board or local juvenile probation department to resume the care and custody of any child released under supervision at any time before the final discharge of the child in accordance with the rules governing TJJD regarding resumption of care.

Authorizes the juvenile board or local juvenile probation department to, after a child committed to a post-adjudication secure correctional facility with a determinate sentence becomes 16 years of age, but before the child becomes 19 years of age, refer the child to the juvenile court that entered the order of commitment for approval of the child's transfer to TJJD for confinement if the child has not completed the sentence and the child's conduct indicates that the welfare of the community requires the transfer or while the child was released under supervision, a juvenile court adjudicated the child as having engaged in delinquent conduct constituting a felony offense; a criminal court convicted the child of a felony offense; or the child's release under supervision was revoked.

Requires a juvenile board or local juvenile probation department to develop a comprehensive plan for each child committed to the facility, regardless of whether the child is committed with or without a determinate sentence, to reduce recidivism and ensure the successful reentry and reintegration of the child into the community following the child's release under supervision of final discharge from the facility.

Establishes that the previous section expires on December 31, 2018.

Copying of Records in Juvenile Proceedings—S.B. 670
by Senator Whitmire—House Sponsor: Representative Sylvester Turner

Current statute allows the inspection of juvenile court records and files but does not specify whether copying is permissible. There have been reported cases where the defense attorney for a juvenile was not permitted to copy the records of the attorney's client. This bill:

Provides that records and files of a juvenile court may be inspected or copied by the judge, probation officers, and professional staff or consultants of the juvenile court; a juvenile justice agency; an attorney for a party to the proceeding; a public or private agency or institution providing supervision of the child or having custody of the child; or with leave of the juvenile court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

Care For Juveniles Who Have Experienced Traumatic Events—S.B. 1356
by Senator Van de Putte—House Sponsor: Representatives McClendon and Riddle

Research in Texas shows that a youth's past experience with trauma is the single largest predictor of how deeply involved that youth will become in the Texas juvenile justice system. Current law does not require the Texas Juvenile Justice Department (TJJD) or county juvenile departments to train appropriate staff in trauma-informed care. This bill:

Requires the Texas Juvenile Justice Board (TJJB), in adopting rules, to require probation officers, juvenile supervision officers, and court-supervised community-based program personnel to receive trauma-informed care training.

Requires that the training provide knowledge, in line with best practices, of how to interact with juveniles who have experienced traumatic events.

Requires TJJD to evaluate the practices and screening procedures used by juvenile probation departments for the early identification of juveniles who are victims of sex trafficking for the purpose of developing a recommended set of best practices that may be used by a juvenile probation department to improve juvenile probation department's ability to identify a juvenile who is a victim of sex trafficking.

Establishes that best practices may include examining referral history; making inquiries into a juvenile's history of sexual abuse; assessing a juvenile's need for services; and asking the juvenile a certain series of questions.

Requires TJJD to provide trauma-informed care training during the preservice training TJJD provides for juvenile probation officers, juvenile supervision officers, juvenile correctional officers, and juvenile parole officers.

Requires that the training provide knowledge, in line with best practices, of how to interact with juveniles who have experienced traumatic events.

Requires that training provide each juvenile correction officer employed by TJJD with information and instruction concerning human trafficking and trauma-informed care.

Requires in the duties of the Texas Crime Stoppers Council (TCSC) that TCSC create specialized programs targeted at detecting specific crimes or types of crime, including at least one program that encourages individuals to report criminal activity relating to the trafficking of persons and to financially reward each individual who makes a report that leads or substantially contributes to the arrest of a person suspected of engaging in conduct that constitutes an offense under Chapter 20A (Trafficking of Persons), Penal Code.

Advisory Committee on Fingerprinting Practices Regarding Juveniles—S.B. 1769
by Senator Rodríguez—House Sponsor: Representative White

The vast majority of youth who come into contact with the juvenile justice system learn from their mistakes and go on to become productive, law-abiding citizens. County juvenile probation departments in Texas process tens of thousands of misdemeanor referrals each year for low-level adolescent behavior that does not lead to future crime. As a result, a main purpose of the juvenile justice system, as set out in the Texas Family Code, is "to remove, where appropriate, the taint of criminality from children committing certain unlawful acts." This bill:

Requires the Texas Juvenile Justice Board (TJJB) to appoint an advisory committee (committee) to develop a plan to end the practice of fingerprinting children referred to a juvenile probation department for delinquent conduct, other than felony conduct.

Requires that the plan ensure that public safety and due process rights are protected.

Requires TJJB to appoint committee members, including chief juvenile probation officers; juvenile prosecutors; juvenile defense attorneys; peace officers; representatives of the Department of Family and Protective Services; juvenile justice advocates; and members of the public.

Requires TJJB to designate one of the members as presiding officer of the committee.

Requires the committee to submit the plan to TJJB not later than December 1, 2014.

Notice of Sex Offender Status to Residents of Group Home—H.B. 424

by Representative Burkett et al.—Senate Sponsor: Senator Deuell

Interested parties express concern that certain group homes are not required to notify the residents of the home of a resident or a newly admitted resident who is a registered sex offender. This bill:

Defines "director" and "resident" in the added Chapter 325 (Notice of Sex Offender Status of Residents of Group Home), Health and Safety Code.

Defines in Chapter 325, Health and Safety Code, "group home" as including an assisted living facility; a boarding home facility; a facility as defined by Section 246.002 (Definitions), Chapter 246 (Continuing Care Facilities), Health and Safety Code; a supportive housing facility operated by the state, a local government, or a private agency that provides supportive services to persons with mental illness, substance use conditions, or physical disabilities who require access to rehabilitative services and a stable living arrangement to maintain consistent treatment regimens; and a transitional housing facility designed to facilitate the transition from inpatient to outpatient care or, within a reasonable time, the transition from homelessness to permanent housing for persons with serious mental illnesses, substance use conditions, or physical disabilities and who may require intensive case management and assistance with long-term goal planning and independent living skills.

Provides that Chapter 325, Health and Safety Code, does not apply to a group home that accepts or is assigned only residents who are sex offenders who are required to register, if the residents receive treatment at the group home from a licensed sex offender treatment provider.

Requires the director of a group home, except as provided otherwise, as soon as practicable after a person requests to live at a group home or is assigned to live at a group home as a condition of community supervision or as a condition of release on parole or to mandatory supervision, to ascertain whether the person is registered under Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure, by consulting the Internet website maintained by the Department of Public Safety of the State of Texas that contains the sex offender database.

Requires the director, if based on the information obtained the director ascertains that a person is a registered sex offender, not later than the third day after the date the person becomes a resident of the group home, to provide notice that the person is a sex offender to the legal guardian of each current resident who has a legal guardian and directly to each other resident and requires the notice to contain all of the information about the person that is available on that website.

Provides that a group home or its director is not liable under any law for damages arising from conduct required under Chapter 325, Health and Safety Code.

Requires the director of a group home, not later than March 1, 2014, to ascertain, in the manner provided above, whether any resident of the group home is registered under Chapter 62, Code of Criminal Procedure, and to provide to the legal guardian of each current resident who has a legal guardian, and directly to each other resident, notice about each resident who is required to register, as provided in the notice above; and provides that the related section expires April 1, 2014.

Sentence and Restrictions For Certain Sex Offenders—H.B. 1302

by Representative Clardy et al.—Senate Sponsor: Senator Nichols

Current law requires a defendant convicted of continuous sexual abuse of a young child or children, aggravated sexual assault, or continuous trafficking of persons to be punished by imprisonment in the Texas Department of Criminal Justice for life without parole if the defendant has previously been convicted of such an offense. This bill:

Requires the judge in the trial of a sexually violent offense to make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines that the victim or intended victim was younger than 14 years of age at the time of the offense.

Requires the judge, if the judge places on community supervision a defendant charged with a sexually violent offense, to make an affirmative finding of the fact and file a statement of that affirmative finding with the papers in the case if the judge determines that the victim or intended victim was younger than 14 years of age at the time of the offense.

Requires that before a person who will be subject to register as a sex offender is due to be released from a penal institution, the Texas Department of Criminal Justice (TDCJ) or the Texas Juvenile Justice Department determine the person's level of risk to the community using the sex offender screening tool and assign to the person a numeric risk level of one, two, or three.

Requires an official of the penal institution, before releasing the person, to inform the person that certain types of employment are prohibited for a person with a reportable conviction or adjudication for a sexually violent offense involving a victim younger than 14 years of age occurring on or after September 1, 2013.

Requires a local law enforcement authority that provides a sex offender registration form for verification to include with the form a statement summarizing the types of employment that are prohibited for that person.

Prohibits a person subject to sex offender registration under Article 62.063 (Sex Offender Registration Program), Code of Criminal Procedure, from operating or offering to operate for compensation a bus, passenger taxicab, or limousine transportation service.

Prohibits a person subject to sex offender registration from providing or offering to provide any type of service in the residence of another person unless the provision of service will be supervised.

Prohibits a person subject to sex offender registration from operating or offering to operate any amusement ride.

Requires a defendant to be punished by imprisonment in TDCJ for life without parole if it is shown on the trial of an offense under Section 20A.03 (Continuous Trafficking of Persons), Penal Code, or of a sexually violent offense, committed by the defendant on or after the defendant's 18th birthday that the defendant has previously been finally convicted of an offense under Section 20A.03 or of a sexually violent offense.

Reporting of Images of Child Pornography—H.B. 2539

by Representative Chris Turner et al.—Senate Sponsor: Senator Davis

Due to recent technological advancements, information has become readily accessible and available via the Internet. This increase in access to information has also led to increased access to child pornography, which is illegal under both state and federal law. Cases of child exploitation often go unreported or unprosecuted due to the anonymous nature of the Internet and computer hard drives. This bill:

Defines "child pornography," "commercial mobile service provider," "computer technician," "information service provider," "sexual conduct," "sexual performance," and "telecommunications provider."

Requires a computer technician who, in the course and scope of employment or business, views an image on a computer that is or appears to be child pornography to immediately report the discovery of the image to a local or state law enforcement agency or the Cyber Tipline® at the National Center for Missing and Exploited Children.

Provides that except in a case of wilful or wanton misconduct, a computer technician may not be held liable in a civil action for reporting or failing to report the discovery of an image.

Provides that a telecommunications provider, commercial mobile service provider, or information service provider may not be held liable for the failure to report child pornography that is transmitted or stored by a user of the service.

Establishes that a person who intentionally fails to report an image commits a Class B misdemeanor offense.

Provides that it is a defense to prosecution that the actor did not report the discovery of an image of child pornography because the child in the image appeared to be at least 18 years of age.

Fraudulent Use of Identifying Information—H.B. 2637

by Representative Frullo—Senate Sponsor: Senator Whitmire

Certain individuals required to register as a sex offender in the Texas Sex Offender Registry are doing so through the fraudulent use of identifying information and by assuming the identity of another individual. Other fraudulent use of identifying information includes using multiple aliases, using various identifying information such as Social Security numbers or dates of birth, stealing identifying information from family members, manipulating either the offender's own name or changed name through marriage, using the address of family members or friends, and altering physical appearance. This bill:

Establishes that if a person fraudulently used identifying information in violation of Section 32.51 (Fraudulent Use or Possession of Identifying Information), Penal Code, during the commission or attempted commission of the offense requiring registration as a sex offender, the punishment for the offense is increased to the punishment for the next highest degree of felony.

Establishes that if the offense was committed against an elderly individual or the actor fraudulently used identifying information with the intent to facilitate an offense under Article 62.102 (Failure to Comply with

Registration Requirements), Code of Criminal Procedure, the punishment is increased to the next higher category of the offense.

Centralized Sex Offender Registration—H.B. 2825

by Representatives Ken King and J.D. Sheffield—Senate Sponsor: Senator Seliger

The commissioners court in counties with a population of 100,000 or more may designate the office of the sheriff of the county or the chief of police as a mandatory countywide registration location for sex offenders. Counties with a population less than 100,000 are prohibited from establishing a centralized registration authority. This bill:

Provides that the commissioners court of a county may designate the office of the sheriff of the county or may, through interlocal agreement, designate the office of a chief of police of a municipality in that county to serve as a mandatory countywide registration location for persons subject to sex offender registration.

Requires a person who is required to register as a sex offender to perform the registration and verification requirements and the change of address requirements with respect to the centralized registration authority for the county, regardless of whether the person resides in any municipality located in that county.

Admissibility of Evidence in Prosecution of Certain Sexual Offenses—S.B. 12

by Senator Huffman—House Sponsor: Representative Riddle

Currently, the Texas Rules of Evidence allow evidence related to prior offenses to be admitted at trial only when the victim is under 17 years of age and was also the victim in the previous offense. This bill:

Requires, notwithstanding Rule 404 (Character Evidence Not Admissible to Prove Conduct; Exceptions; Other Crimes) and Rule 405 (Methods of Proving Character), Texas Rules of Evidence, that evidence of other crimes, wrongs, or acts committed by the defendant against the child who is the victim of the alleged offense be admitted for its bearing on relevant matters.

Establishes that the provisions of this bill apply only to the trial of a defendant for an offense involving sex trafficking of a child; continuous sexual abuse of a young child or children; indecency with a child; sexual assault of a child; aggravated sexual assault of a child; online solicitation of a minor; sexual performance by a child; or possession or promotion of child pornography or an attempt or conspiracy to commit such an offense.

Allows, notwithstanding Rules 404 and 405, Texas Rules of Evidence, evidence to be admitted in the trial of an alleged offense for any bearing the evidence has on relevant matters, including character of the defendant and acts performed in conformity with the character of the defendant.

Requires the trial judge, before evidence may be introduced, to determine that the evidence likely to be admitted at trial will be adequate to support a finding by the jury that the defendant committed the separate offense beyond a reasonable doubt and to conduct a hearing out of the presence of the jury for that purpose.

Care Provided to a Sexual Assault Survivor—S.B. 1191

by Senators Davis and Zaffirini—House Sponsor: Representative Senfronia Thompson

According to the United States Department of Justice, two out of three rapes and sexual assaults go unreported. This is due to a variety of factors, but one potential barrier is access to health care facilities that are capable of treating and collecting evidence from sexual assault survivors. This bill:

Requires each health care facility that has an emergency department to comply with Section 323.004 (Minimum Standards for Emergency Services), Health and Safety Code.

Requires a facility that is not a health care facility designated in a community-wide plan as the primary health care facility in the community for treating sexual assault survivors to provide the survivor with the name and location of the designated facility and inform the survivor that the survivor is entitled to receive care at that facility or to be stabilized and be transferred to and receive care at a health care facility designated in a community-wide plan as the primary facility for treating sexual assault survivors.

Prohibits a person from performing a forensic examination on a sexual assault survivor unless the person has the basic training or the equivalent education and training.

Requires a person who performs a forensic examination on a sexual assault survivor to have at least basic forensic evidence collection training or the equivalent education.

Provides that a person who completes a continuing medical or nursing education course in forensic evidence collection that is approved or recognized by the appropriate licensing board is considered to have basic sexual assault forensic evidence training.

Requires each health care facility that has an emergency department and that is not a designated facility to develop a plan to train personnel on sexual assault forensic evidence collection.

Requires the Department of State Health Services (DSHS) to post on the DSHS website a list of all hospitals that are designated in a community-wide plan as the primary health care facility for treating sexual assault survivors.

Rights of Certain Victims of Sexual Assault—S.B. 1192

by Senator Davis—House Sponsor: Representative Senfronia Thompson

Current law entitles certain victims of sexual assault to general crime victims' rights within the criminal justice system and additional rights to counseling and testing for certain sexually transmitted diseases. This bill:

Expands the definition of "sexual assault" to include "indecent with a child" and "aggravated sexual assault."

Provides that, in addition to other crime victim rights, if the offense is a sexual assault, the victim, guardian of a victim, or close relative of a deceased victim is entitled to, if requested, the right to a disclosure of information regarding any evidence that was collected during the investigation; the right to a disclosure of

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information regarding the status of any analysis being performed of any evidence that was collected during the investigation of the offense; the right to be notified of the results of the comparison of any biological evidence collected during the investigation with DNA profiles maintained in a state or federal DNA database; the right to counseling regarding acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV) infection; testing for AIDS, HIV, or infection with any other probable causative agent of AIDS; and the right to a forensic medical examination.

Allows a victim, guardian, or relative to designate a person, including an entity that provides services to victims of sexual assault, to receive any notice requested.

Fixed Tuition Price—H.B. 29

by Representative Branch et al.—Senate Sponsor: Senator Seliger

Increases in the cost of attending a public university in Texas can create challenges for financial planning and may result in college tuition becoming cost prohibitive for some high school graduates in the state. This bill:

Requires the governing board of a general academic teaching institution to offer undergraduate students the opportunity to participate in a fixed tuition price plan under which the institution agrees not to increase tuition charges per semester hour for a participating student for at least the first 12 consecutive semesters that occur after the date of the student's initial enrollment at any public or private institution of higher education.

Establishes that one or more summer terms occurring in the same summer is considered a semester.

Authorizes an institution, unless the institution does not offer other tuition payment options, to require an entering undergraduate student to accept or reject participation in the fixed tuition price plan offered before the date of the student's initial enrollment at the institution.

Provides that fees charged in a fixed tuition price plan may not exceed the fees charged to a similarly situated student who elects not to participate in the plan.

Requirements For Meetings of Higher Education Governing Boards—H.B. 31

by Representative Branch et al.—Senate Sponsor: Senator Zaffirini

Current law does not require governing boards of public general academic teaching institutions or university systems to broadcast board meetings online. This bill:

Requires the governing board of a general academic teaching institution or of a university system that includes one or more component general academic teaching institutions, for any regularly scheduled meeting of the governing board, to post as early as practicable in advance of the meeting on the Internet website of the institution or university system any written agenda and related supplemental written materials provided to the governing board members in advance of the meeting by the institution or system for the members' use during the meeting; broadcast the meeting; and record the broadcast and make that recording publicly available in an online archive.

Weatherford College District Service Area—H.B. 407

by Representative Phil King et al.—Senate Sponsor: Senator Birdwell

S.B. 397, 74th Legislature, Regular Session, 1995, assigned Texas community colleges to certain service areas where community colleges are able to assess certain taxes to pay for construction projects with voter approval. It was realized after the fact that certain counties were omitted in the designation of college district service areas, including Hood County. This bill:

Provides that the territory within Hood County is added to the Weatherford College service area.

Technical Education and Workforce Development Grant Programs—H.B. 437
by Representative John Davis et al.—Senate Sponsor: Senator Seliger

The Jobs and Education for Texans (JET) Grant Program was created by the Texas Legislature in 2009 to address the demand for skilled workers in Texas. This bill:

Requires the Texas Higher Education Coordinating Board to designate the governing board of a junior college district primarily located in a municipality with a population of 750,000 or more that is primarily located in a county with a population of 1.5 million or less as the grant administrator of JET.

Authorizes the grant administrator to participate in the program if the grant administrator is otherwise an eligible organization.

Requires the comptroller of public accounts to establish the Texas Innovative Adult Career Education (ACE) Grant fund as a dedicated account in the general revenue fund.

Requires that any amounts appropriated by the legislature; interest earned on the investment of money in the fund; and gifts, grants, and other donations for the fund be deposited in the fund.

Requires the grant administrator to establish a program advisory board that provides input and recommendations for the awarding of grants.

Requires the program advisory board to be composed of members representing the philanthropic community, the business employer community, and public junior colleges and public technical institutes and to include the mayor of one of the five most populous municipalities in the state.

Authorizes the grant administrator to appoint a nonvoting, ex officio member and requires the advisory board to elect a chair of the board among its members.

Requires the program advisory board to provide oversight to ensure that the grant administrator establishes and adheres to an appropriate system; enters into a written grant agreement or contract with each grantee; acts with due diligence to monitor the implementation of a grant agreement; and takes prompt appropriate corrective measures on becoming aware of any evidence of a violation by a grantee.

Requires the program advisory board to meet as needed to review received grant applications and make recommendations to the grant administrator regarding awarding grants.

Requires the grant administrator to establish and administer ACE to provide grants to eligible nonprofit workforce intermediary and job training organizations.

Provides that grants may be awarded from the ACE fund only to develop, support, or expand programs of eligible nonprofit workforce intermediary and job training organizations to prepare low-income students to enter careers in high-demand and significantly higher-earning occupations.

Establishes eligibility requirements for nonprofit workforce intermediary and job training organizations, including the provision of matching funds.

Provides that required matching funds may be obtained from any source available to the organization, including in-kind contributions, community or foundation grants, individual contributions, and local governmental agency operating funds.

Participation in the Research Development Fund—H.B. 870
by Representative Bell et al.—Senate Sponsor: Senators Hegar and West

Scientific research at higher education institutions is vital for development. In 2000, the Texas Higher Education Coordinating Board (THECB) established the "Closing the Gaps by 2015" approach to higher education. This bill:

Establishes that Prairie View A&M University is an eligible institution for purposes of eligibility for a distribution from the research development fund if the university is not an eligible institution for an appropriation or distribution from the Texas competitive knowledge fund.

State Medical Education Board—H.B. 1061
by Representative Branch—Senate Sponsor: Senator Birdwell

A Legislative Budget Board (LBB) performance report issued to the legislature in the mid-1980s found the success of the State Rural Medical Education Board (since renamed the State Medical Education Board) questionable and recommended that the board be abolished. LBB found that only a small percentage of the people who had received loans administered by the board were practicing medicine in rural Texas counties, with only a slightly larger percentage of those individuals practicing in areas designated as medically underserved. No new loans have been made by the board in more than 25 years, and the board currently has no appointees and receives no program funding. This bill:

Repeals the statutory authority for the State Medical Education Board.

False Alarms Involving Institutions of Higher Education—H.B. 1284
by Representative Johnson et al.—Senate Sponsor: Senator Huffman

It has been reported that multiple instances of false bomb threats have disrupted the normal course of business of some of the state's institutions of higher education. When students and administrators must respond to false bomb threats on a regular basis, each new threat may seem less urgent and response to a report that presents a real threat may not be taken seriously. This bill:

Requires each institution of higher education and private or independent institution of higher education to notify all incoming students of the penalty for the offense of making a false alarm or report involving a public or private institution of higher education.

Provides that an offense under Section 42.06 (False Alarm or Report), Penal Code, is a Class A misdemeanor unless the false report is of an emergency involving a public or private institution of higher education or involving a public primary or secondary school, public communications, public transportation, public water, gas, or power supply or other public service, in which event the offense is a state jail felony.

Texas Teacher Residency Program—H.B. 1752

by Representative Diane Patrick et al.—Senator Sponsor: Senator Seliger

Some research indicates that teacher quality is directly linked to student achievement and that studies in underserved and economically disadvantaged schools are least likely to have effective teachers in the classroom. This bill:

Requires the commissioner of higher education to, through a competitive selection process, establish a Texas Teacher Residency Program at a public institution of higher education that has developed a commitment to investing in teacher education.

Requires that the public institution of higher education form a partnership with an area school district or open-enrollment charter school to provide employment to residents in the program.

Requires that the program be designed to award teaching residents a master's degree and lead to certification for participating teaching residents who are not already certified teachers.

Requires the public institution of higher education to reward faculty instructing in the teacher residency program; identify faculty who can prepare teachers to impact student achievement in high-need schools; provide institutional support of faculty who work with the teacher residency program by providing time to teach the courses and valuing the faculty's contribution with rewards in the university tenure process; and develop and implement a program that acknowledges and elevates the significance and professional nature of teaching at the primary and secondary levels.

Requires that the teacher residency program include competitive admission requirements with multiple criteria; integration of pedagogy and classroom practice; rigorous master's level course work, while undertaking a guided apprenticeship at the partner area school district or open-enrollment charter school; a team mentorship approach to expose teaching residents to a variety of teaching methods, philosophies, and classroom environments; clear criteria for the selection of mentor teachers; measures of appropriate progress; the collaboration with one or more regional education service centers or local nonprofit education organizations; a livable stipend for teaching residents; a post-completion commitment to serve four years at schools that are difficult to staff; job placement assistance; support for teaching residents for not less than one year; demonstration of the integral role and responsibilities of the partner area school district; and monetary or in-kind contributions.

Establishes that to be eligible to be admitted and hired as a teaching resident, an individual must have received the individual's initial teaching certificate not more than two years before applying, with 18 months of full-time equivalency teaching experience as a certified teacher; or hold a bachelor's degree and be a mid-career professional from outside the field of education; or be a noncertified educator such as a substitute teacher or teaching assistant.

Requires the teaching residency program to establish criteria for selection of individuals to participate in the program that must include a demonstration of comprehensive subject area knowledge or a record of accomplishment in the field or subject area to be taught; strong verbal and written communication skills; and attributes linked to effective teaching.

University of Texas System Authorization to Acquire Property—H.B. 1753*by Representative Diane Patrick—Senate Sponsor: Senator Hancock*

Currently, public institutions of higher education are required to seek approval from the Texas Higher Education Coordinating Board in order to acquire certain property. The University of Texas System would like authorization to acquire a tract of land at the eastern edge of The University of Texas at Arlington campus as it becomes available for the purpose of redeveloping the area to complement the College Park district development and other adjacent improvements. This bill:

Authorizes the board of regents of The University of Texas System to acquire by purchase, exchange, gift, or otherwise, for campus expansion and other university purposes of The University of Texas at Arlington, all or part of the property in the city of Arlington, Tarrant County, Texas, that is included within specified boundaries.

Limitations on Automatic Admission of Undergraduate Students—H.B. 1843*by Representative Branch—Senate Sponsor: Senator Seliger*

Automatic admission of undergraduate students to general academic teaching institutions under the state's top 10 percent rule is limited by the number of qualified applicants exceeding a specified percentage of the institution's enrollment capacity designated for the next year's incoming class of first-time resident undergraduate students. This bill:

Provides that The University of Texas at Austin may not offer automatic admission for an academic year after the 2017-2018 academic year.

Provides that a general academic teaching institution may not offer automatic admission for an academic year after the 2017-2018 academic year if a court order applicable to the institution prohibits the institution from considering an applicant's race or ethnicity as a factor; or the institution's governing board by rule, policy, or other manner has provided that an applicant's race or ethnicity may not be considered as a factor in the institution's decisions relating to first-time undergraduate admissions for that academic year.

Official Name of The University of Texas Southwestern Medical Center—H.B. 1844*by Representative Branch et al.—Senate Sponsor: Senator West*

The University of Texas Southwestern Medical Center is currently referenced in statute as The University of Texas Southwestern Medical Center at Dallas, although in practice, the institution does not reference the City of Dallas on printed materials related to the institution. This bill:

Changes the name of The University of Texas Southwestern Medical Center at Dallas to The University of Texas Southwestern Medical Center throughout statute.

Deletes from Section 572.003 (Appointed Officer of Major State Agency), Government Code, the Texas Department of Economic Development, the Texas Workers' Compensation Commission, the Texas Board of Mental Health and Mental Retardation, the Texas Board of Aging, and the Texas Board of Human

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Services; and renames the Texas State Board of Medical Examiners to the Texas Medical Board and the Texas Board of Health and Human Services Commission to the Health and Human Services Commission.

Bicentennial Texas 2036 Commission—H.B. 2036

by Representative Branch—Senate Sponsor: Senators Watson and Garcia

Texas will celebrate 200 years of independence in the year 2036. Texas has one of the largest economies in the world, as well as one of the fastest growing populations in the country. With additional population growth expected, and with the state's long-term master education plan coming to an end, a new plan may be needed to produce the educated workforce necessary to compete in a global economy. This bill:

Creates the Texas 2036 Commission (commission).

Establishes that the commission be composed of the presiding officer of the legislative standing committee in each house of the legislature with primary jurisdiction over higher education; the commissioner of higher education; the chair of the Texas Higher Education Coordinating Board; the chair of the Texas Workforce Commission; the chair of the governing board of an institution of higher education; a trustee of a public junior college district; two persons appointed by the lieutenant governor, one of whom must possess experience in the field of education; and two persons appointed by the speaker of the house of representatives, one of whom must possess experience in the field of education.

Provides that a member of the commission serves without compensation but is entitled to reimbursement for actual and necessary expenses incurred in performing functions of the commission.

Requires the commission to meet at the call of the presiding officers.

Authorizes the commission to adopt rules as necessary for its procedures.

Requires the commission to assess and identify future higher education and workforce needs in the state and the state's ability to meet those needs and develop recommendations for meeting those needs by the state's bicentennial in 2036.

Requires the commission to report its assessment to the legislature not later than January 1 of each odd-numbered year.

Higher Education and Technology Commercialization—H.B. 2051

by Representative Villalba et al.—Senate Sponsor: Senator Carona

Current law allows public institutions of higher education to make investments in certain newly created companies through centers for technology development and transfer established by the institutions, with the purpose of further developing intellectual property. This bill:

Authorizes an institution of higher education to accept equity interests in, convertible promissory debt instruments issued by, or a combination of equity interests in and convertible promissory debt instruments

issued by organizations that license, manage, or otherwise administer rights to technology belonging to the institution or under its control in exchange for such rights, in whole or in part.

Authorizes an institution of higher education to accept equity interests in, convertible promissory debt instruments issued by, or a combination of equity interests in an convertible promissory debt instruments issued by organizations that license or otherwise have rights in the institution's technology as consideration for its providing monetary, business, scientific, or engineering services or technical assistance.

Access to Nursing Education Programs—H.B. 2099

by Representative Guillen—Senate Sponsor: Senators Hinojosa and West

Facilitating access to nursing education programs by requiring the implementation of a common admission application form for an individual seeking admission to such a program could increase the number of students enrolling in nursing programs and could help alleviate the shortage of nurses in the state. This bill:

Requires the Texas Higher Education Coordinating Board (THECB) to adopt by rule, if THECB determines that adoption of the form would be cost-effective for nursing schools, an electronic common admission application form for use by a person seeking admission as a student to an undergraduate nursing education program at an institution of higher education.

Authorizes THECB to adopt by rule, if THECB determines that adoption of the form would be cost-effective for nursing schools, an electronic common admission application form for use by a person seeking admission as a transfer student to an undergraduate nursing education program at an institution of higher education.

Requires THECB, if THECB directs an advisory committee to assist THECB in exercising its authority regarding an off-campus course in nursing education, to require the advisory committee to include or consult with one or more private postsecondary educational institutions or private career schools and colleges in this state that offer degree programs.

Requires THECB to establish and administer a program to provide assistance in the repayment of student loans for nurses who are serving on the faculties of nursing degree programs at institutions of higher education or private or independent institutions of higher education in positions that require an advanced degree in professional nursing and apply and qualify for the assistance.

Requires a nurse, to be eligible to receive loan repayment assistance, to apply to THECB; to have been employed full-time for at least one year as a faculty member of a nursing degree program at an institution of higher education or a private or independent institution of higher education; and to comply with any additional requirements adopted by THECB.

Allows a nurse to receive repayment assistance for each year of full-time employment as a faculty member of a nursing degree program at an institution of higher education or private or independent institution of higher education, not to exceed five years.

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Establishes that the amount of loan repayment assistance received by a nurse may not exceed \$7,000 in any one year.

Establishes that the total amount of loan repayment assistance provided may not exceed the total amount of gifts and grants accepted by THECB for the repayment assistance and other funds available to THECB for repayment assistance.

Authorizes THECB to provide repayment assistance for the repayment of any student loan for education assistance for the repayment of any student loan for education at any public or private institution of higher education, including a loan for undergraduate education, received by an eligible person through any lender.

Prohibits THECB from providing repayment assistance for a student loan that is in default at the time of the nurse's application.

Requires THECB to deliver any repayment in a lump sum payable to both the lender or other holder of the loan and the nurse or directly to the lender or other holder of the loan on the nurse's behalf.

Requires THECB, in each state fiscal year, to reallocate for loan repayment assistance for a particular year any money in the physician education loan repayment program account that exceeds the amount necessary in that fiscal year for purposes of repayment assistance.

Authorizes THECB to solicit and accept gifts and grants from any source.

Requires THECB to adopt and distribute rules with pertinent information to each institution of higher education and private independent institution of higher education; any appropriate state agency; and any appropriate professional association.

Sharing of Data From Education Research Centers—H.B. 2103

by Representatives Villarreal and Branch—Senate Sponsor: Senator Seliger

Interested parties assert that student data collected by the Texas Education Agency (TEA), the Texas Higher Education Coordinating Board (THECB), and the Texas Workforce Commission (TWC) should be made more accessible to researchers so that it can be used to improve the state's education system. This bill:

Defines "cooperating agencies" as TEA, THECB, and TWC.

Requires THECB to establish not more than three centers for education research.

Requires that a center be established as part of a public junior college, public senior college or university, or public state college, or a consortium of those institutions.

Requires THECB to solicit requests for proposals from appropriate institutions to establish centers and to select one or more institutions to establish each center based on criteria adopted by THECB.

Requires that a center be operated under an agreement between THECB and the governing board of each institution operating or participating in the operation of the center.

Requires that the agreement provide for the operation of the center, so long as the center meets contractual and legal requirements for operation, for a 10-year period.

Requires a center to conduct education and workforce preparation studies or evaluations for the benefit of this state, including studies or evaluations relating to the impact of local, regional, state, and federal policies and programs, including an education program, intervention, or service at any level of education from preschool through postsecondary education.

Establishes that any cooperating agency may request a center to conduct certain studies or evaluations considered of particular importance to the state, as determined by THECB if the cooperating agency provides to the center sufficient funds to finance the study or evaluation.

Authorizes a center to use student and educator data, including data that is confidential if permitted under the Family Education Rights and Privacy Act, that the center has collected from a cooperating agency or any other agency, a public or private institution of higher education, a school district, a provider of services to a school district or public or private institution of higher education, or an entity explicitly named in an approved research project of the center.

Requires that a center comply with state and federal law governing the confidentiality of student information and provide for the review of all study and evaluation results to ensure compliance with those laws and any rules adopted or regulatory guidance issued under those laws.

Authorizes a center to provide researchers access to shared data only through secure methods and require each researcher to execute an agreement regarding compliance with the Family Educational Rights and Privacy Act.

Requires a center to conduct regular security audits and report the audit results to THECB and the advisory board.

Authorizes the cooperating agencies and the education institution or institutions operating a center to accept gifts and grants and to impose reasonable charges.

Requires cooperating agencies to execute agreements for the sharing of data for the purpose of facilitating the studies or evaluations at education research centers.

Requires THECB to maintain the data contributed by cooperating agencies in a repository to be known as the P-20/Workforce Data Repository operated by THECB.

Authorizes THECB to enter into data agreements for data required for approved studies or evaluation with the state education agency of another state, giving priority to the agencies of those states that send the highest number of postsecondary education students to this state or that receive the highest number postsecondary education students from this state.

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Authorizes THECB to enter into data agreements with local agencies or organization that provide education services to students in this state or that collect data that is relevant to current or former students of public schools and is useful to the conduct of research that may benefit education in this state.

Requires the commissioner of higher education to create, chair, and maintain an advisory board for the purpose of reviewing study or evaluation proposals and ensuring appropriate data use, including compliance with applicable state and federal laws governing use of and access to the data.

Establishes the composition of the advisory board and requires that the advisory board meet at least quarterly.

Authorizes the advisory board to create committees and subcommittees that the advisory board determines are convenient or necessary.

Tuition For Certain Junior College Students—H.B. 2448

by Representative Sylvester Turner—Senate Sponsor: Senator Whitmire et al.

Section 130.0032 (Tuition for Students Residing Outside of District), Chapter 130 (Junior College Districts), Title 3 (Higher Education), Education Code, includes provisions regarding tuition and fees for students who reside outside of a public junior college district. This bill:

Requires the governing board of a public junior college district that includes at least six campuses to allow a person who resides outside the district and in the taxing district of a contiguous public junior college district to pay tuition and fees at the rate applicable to a student who resides in the district for enrollment at a campus located within an area in which the person resides that, as of January 1, 2013, is designated as a super neighborhood by a municipality with a population greater than two million.

Taxes and Bonds For Junior College District Branch Campuses—H.B. 2474

by Representative Phil King—Senate Sponsor: Senator Estes

Current law authorizes counties and school districts, with voter approval, to levy a junior college district branch campus maintenance tax for the operation, maintenance, and support of a junior college branch campus within their boundaries. In addition to the branch campus maintenance tax, certain counties have issued bonds to finance the construction and acquisition of branch campus facilities for the purpose of leasing them to the junior college district. These county bonds are issued as lease-revenue bonds, secured by and payable from lease payments made by the junior college district to the county. This bill:

Establishes that bonds payable from revenue and issued by the governing body of a county or school district to finance the purchase of land or the construction of a facility to be used for a branch campus, center, or extension facility may be secured by a trust indenture, a deed of trust, or a mortgage granting a security interest in the applicable land or facility.

Establishes that proceeds of the junior college district branch campus maintenance tax may be used only to operate and maintain a junior college district branch campus and support its programs and services in the area of the political subdivision that levied the tax and under an agreement by the applicable junior college

district and the political subdivision levying the tax, to make lease payments to the political subdivision for facilities used exclusively by the branch campus that are owned by the political subdivision.

Partnerships Between School Districts and Institutions of Higher Education—H.B. 2550

by Representative Diane Patrick—Senate Sponsor: Senator Zaffirini

Stronger partnerships with school districts and institutions of higher education could improve participation rates in higher education. This bill:

Requires the institution of higher education in closest geographic proximity to a public high school in this state identified by the Texas Higher Education Coordinating Board (THECB) as substantially below the state average in the number of graduates who enroll in higher education institutions to enter into an agreement with that high school to develop a plan to increase the number of students from that high school enrolling in higher education institutions.

Requires the institution to collaborate with the high school to provide prospective students information related to enrollment in an institution of higher education or a private or independent institution of higher education, including admissions, testing, and financial aid information.

Requires the institution to collaborate with the high school to assist those prospective students in completing applications and testing related to enrollment in those institutions; target efforts to increase the number of Hispanic students and African American male students enrolled in higher education institutions; and actively engage with local school districts to provide access to rigorous, high-quality dual credit opportunities for qualified high school students as needed.

Requires an institution of higher education to include a plan developed by the institution and the results of that plan in its annual report to THECB.

Requires THECB to include in its annual "Closing the Gaps" higher education plan progress report a summary of the results of the plans developed and administered.

Requires THECB to allocate appropriated funds and to adopt necessary rules regarding the allocation of those funds.

Requires THECB to award one-time planning grants to entities located in this state that have never had a graduate medical education program and are eligible for Medicare funding of graduate medical education.

Requires THECB to award planning grants on a competitive basis according to criteria adopted by THECB and to determine the number of grants awarded and the amount of each grant consistent with any conditions provided by legislative appropriation.

Requires that a grant be used for the purpose of planning additional first-year residency positions.

Requires that an application for a planning grant for a state fiscal year must be submitted to THECB not later than July 15 preceding that fiscal year.

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Requires THECB to make decisions about grant awards for the following state fiscal year not later than August 15.

Provides that an entity that is awarded a planning grant and establishes new first-year residency positions after receipt of the grant is eligible for additional funds for each such position established.

Requires THECB to award grants to graduate medical education programs to enable those programs to fill accredited but unfilled first-year residency positions and to determine the number of grants awarded and the amount of each grant consistent with any conditions provided by legislative appropriation.

Requires that a grant be expended to support the direct resident costs to the program, including resident stipend and benefits, and include proof of the accredited but unfilled positions to which the application applies.

Authorizes THECB to distribute a grant amount for a residency position only on receiving verification that the applicable residency position has been filled.

Requires THECB, for each first-year residency position for which a program receives an initial grant amount in a fiscal year, to award the program an equal grant amount for the following fiscal year.

Requires THECB to award grants to enable existing graduate medical education programs to increase the number of first-year residency positions or to provide for the establishment of new graduate medical education programs with first-year residency positions and determine the number of grants awarded and the amount of each grant consistent with any conditions provided by legislative appropriation.

Requires that a grant be expended to support the direct resident costs to the program, including the resident stipend and benefits, and include a plan for receiving accreditation for the increased number of positions or for the new program, as applicable.

Authorizes THECB to distribute a grant amount for a residency position only on receiving verification that the applicable residency position has been filled.

Provides that grant amounts are awarded for three consecutive state fiscal years.

Authorizes THECB, if THECB determines that the number of first-year residency positions proposed by eligible applicants exceeds the number authorized by appropriation, to give priority for up to 50 percent of the funded first-year residency positions to be in primary care or other critical shortage areas and not reduce grant amounts awarded per resident position, but proportionately reduce the number of positions funded for each program.

Authorizes THECB, if THECB determines that, based on applications received, the entire appropriation will not be awarded for that year for graduate medical education residency expansion, to transfer and use the funds for the purpose of planning grants and adjust the number of grants awarded accordingly.

Requires THECB, if THECB determines that funds appropriated are available after all eligible grant applications have been funded, to award grants from excess funds to support residents who have completed at least three years of residency and whose residency program is in a field in which this state

has less than 80 percent of the national average of physicians per 100,000 population, as determined by THECB.

Requires that grants be awarded in amounts, in number, and in the residency fields determined by THECB, subject to any conditions provided by legislative appropriation and be expended to support the direct resident costs to the program, including the resident stipend and benefits.

Authorizes THECB to distribute grant amounts only on receiving verification that the applicable residency position has been filled and award grants from funds appropriated for the state fiscal year beginning September 1, 2016, or for a subsequent state fiscal year.

Requires THECB, subject to available funds, to establish a grant program under which THECB awards incentive payments to medical schools that administer innovative programs designed to increase the number of primary care physicians in this state.

Authorizes THECB, in addition to other money appropriated by the legislature, to solicit, accept, and spend gifts, grants, and donations from any public or private source.

Requires THECB, in consultation with each medical school in this state, to adopt rules for the administration of the program that must include administrative provisions and methods for tracking the effectiveness of grants.

Requires THECB to administer the Resident Physician Expansion Grant Program as a competitive grant program to encourage the creation of new graduate medical education positions through community collaboration and innovative funding and to award grants to physician residency programs at teaching hospitals and other appropriate health care entities.

Requires THECB to establish criteria for the grant program in consultation with the executive commissioner of the Health and Human Services Commission (HHSC), with one or more physicians, teaching hospitals, medical schools, independent physician residency programs, and with other persons considered appropriate by THECB.

Requires that the program criteria take into account certain factors and support certain goals.

Authorizes THECB to provide grants only to support a residency position that is created and accredited on or after January 1, 2014, or was created and accredited before January 1, 2013, but as of that date had not yet been filled.

Provides that a grant award may be used only to pay direct costs associated with the position, including the salary of the resident physician.

Requires that each grant application specify the number of residency positions expected to be created with the grant money and the grant amount requested for each year.

Requires THECB to monitor physician residency programs receiving grants as necessary to ensure compliance with the grant program and require the return of any unused grant money by, or shall decline to award additional grants to, a residency program that receives a grant but fails to create and fill, within a

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reasonable period, the number of residency positions proposed in the program's grant application or satisfy any other conditions of the grant imposed by THECB.

Requires THECB to use money forfeited to award grants to other eligible applicants.

Requires THECB, not later than January 1 of each year, to prepare and submit a report to the governor, the lieutenant governor, the speaker of the house of representatives, the standing committees of the senate and house of representatives with responsibility for oversight of health and human services issues, and the Legislative Budget Board.

Establishes eligibility requirements for physicians to receive repayment assistance.

Requires a physician to complete one or more years of practice required in a location other than a health professional shortage area designated by the Department of State Health Services if, during the applicable year or years, the physician provides health care services to a designated number of patients who are recipients under the medical assistance program or the Texas Women's Health Program according to criteria established by THECB in consultation with HHSC.

Requires THECB to annually solicit and collect information regarding the specific number of patients who are treated by each physician receiving loan repayment assistance.

Provides that money deposited to the credit of the loan repayment account may be used only to provide loan repayment assistance to physicians who establish eligibility for the assistance.

Requires HHSC to seek any federal matching funds that are available.

Texas State Technical College System and Public Junior Colleges—H.B. 2760

by Representative Branch et al.—Senate Sponsor: Senator Birdwell

The Education Code makes a provision for partnerships between community or junior colleges and other institutions of higher education, but does not grant the same authority to public technical institutes, such as the Texas State Technical College (TSTC). Currently TSTC is not able to offer education programs outside of its campuses or extension centers without a partnership agreement. This bill:

Authorizes the Texas Higher Education Coordinating Board (THECB) and a public junior college to enter into a partnership agreement designed to coordinate the management and operations of the institutions and to enhance the delivery of technical education programs across this state.

Requires that a partnership agreement provide that the participating institutions, in conjunction with a local community, identify and offer courses that will meet the educational and workforce development goals for the region; provide that program offerings receive approval from THECB; provide for the distribution of responsibilities regarding specific program offerings and resulting awards; provide for the distribution of tuition, fees, and state funds associated with formula funding regarding program offerings; and comply with applicable rules of THECB relating to contractual agreements.

Authorizes the governing boards of the participating institutions to fill by joint appointment any administrative, faculty, or support position necessary for the operation of the institutions.

Authorizes the governing boards of the participating institutions to assign the management and operation of selected services, including maintenance of buildings and grounds, operation of auxiliary enterprises, and operation of a jointly supported library, to one of the institutions in order to achieve cost-effectiveness.

Allows the participating institutions to make provisions for adequate physical facilities for use by the institutions.

Allows the participating institutions to individually or collectively lease, purchase, finance, construct, or rehabilitate physical facilities appropriate to partnership needs.

Allows a participating institution of higher education to lease facilities from or to another participating institution for administrative and instructional purposes.

Allows participating institutions to solicit, accept, and administer, on terms and conditions acceptable to the participating institutions, gifts, grants, or donations of any kind and from any source for facilities and equipment.

Entitles the system and any other participating institution of higher education to receive state appropriations on the same formula basis as if the system did not enter into a partnership agreement and as other similar institutions of higher education.

Authority of The Texas A&M University System Board of Regents—H.B. 2892
by Representative Raney—Senate Sponsor: Senator Hegar

The Education Code authorizes The Texas A&M University (TAMU) System board of regents (board) to grant, sell, or lease lands and mineral interests under its jurisdiction that do not comprise TAMU's original main campus. The Education Code, with certain specific exceptions, prohibits the board from granting, selling, or leasing the surface estate of the original main campus unless approved by an act of the legislature. This bill:

Authorizes the board to grant, sell, lease, or otherwise dispose of the lands and mineral interests under its jurisdiction to other units or agencies or government, or to any individual, groups of individuals, corporation, or other entity, under the terms and conditions the board considers best in the public interest.

Junior College District Territory Annexation—H.B. 3332
by Representative Keffer—Senate Sponsor: Senator Fraser

While counties, cities, and school districts in a college's service area are generally free to petition for annexation to the college district, in 1999, Section 130.063(d), Education Code, was added to prohibit annexation by a junior college of a territory that includes a Texas State Technical College (TSTC) "campus" within that county. TSTC established facilities in the City of Brownwood in Brown County in 1991, first as an extension center and then as a part of the West Texas campus. This bill:

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Establishes that Section 130.063 (Extension of Junior College District Boundaries), Education Code, does not prevent a junior college district from annexing territory located in Brown County.

Extension Center of the Texas State Technical College—H.B. 3640

by Representative Pitts—Senate Sponsor: Senator Birdwell

The Texas State Technical College (TSTC) System is a system of coeducational, two-year institutions of higher education offering courses of study in technical-vocational education. This bill:

Adds an extension center located in Ellis County to the TSTC System.

Houston Community College System District Service Area—H.B. 3659

by Representative Reynolds—Senate Sponsor: Senator Ellis

Certain educational reform reports have stressed the need for increased cooperation between educational institutions to address problems like high dropout rates, a workforce lacking the job skills needed by high-tech industries, and the absence of clearly defined career goals among high school and college students. This bill:

Adds the part of the Fort Bend Independent School District that is located in the municipalities of Houston and Pearland to the service area of the Houston Community College System District.

Intercollegiate Athletics Fee at Texas Southern University—H.B. 3792

by Representative Coleman—Senate Sponsor: Senator Ellis

H.B. 4501, 81st Legislature, 2009, authorized Texas Southern University to charge an intercollegiate athletics fee up to \$10 per semester credit hour for the purpose of development and maintenance of intercollegiate athletic programs. H.B. 4501 provided that the fee could not be imposed unless the fee was approved by a majority of the students voting in an election held for that purpose or by a majority of the student government of the institution. This bill:

Establishes that Section 54.5223 (Intercollegiate Athletics Fee: Texas Southern University), Education Code, expires on the next September 1 that follows the fifth anniversary of the effective date of the most recent act of the legislature amending or reenacting this section unless the legislature reenacts this section before that date.

Elimination of State Medical Education Board and State Medical Education Fund—H.J.R. 79

by Representatives Branch and Scott Turner—Senate Sponsor: Senator Birdwell

A Legislative Budget Board (LBB) performance report issued to the legislature in the mid-1980s found the success of the State Rural Medical Education Board (since renamed the State Medical Education Board) questionable and recommended that the board be abolished. This resolution proposes a constitutional amendment to:

Eliminate an obsolete requirement for a State Medical Education Board and a State Medical Education Fund be submitted to voters on November 5, 2013.

Formula Funding For Certain Semester Credit Hours for Dual Course Credit—S.B. 31
by Senator Zaffirini—House Sponsor: Representative Diane Patrick

As dual credit courses have increased in popularity, some courses are offered that rarely transfer, limiting the effectiveness of dual credit as a means for expanding college access and success. With the exception of physical education, current law allows institutions of higher education to receive formula funding for dual credit coursework, regardless of whether the course is likely to transfer. This bill:

Prohibits the Texas Higher Education Coordinating Board from including any semester credit hours earned for dual course credit by a high school student for high school and college credit at the institution unless those credit hours are earned through a course in the core curriculum of the institution providing course credit; a career and technical education course that applies to any certificate or associate's degree offered by the institution providing course credit; or a foreign language course.

Human Stem Cell Research Reporting Requirements For Institutions of Higher Education—S.B. 67
by Senator Nelson—House Sponsor: Representative Branch

As noted in the Senate Committee on Health and Human Services interim report to the 82nd Legislature, stem cell research is currently being conducted at universities across Texas and such research is supported by a variety of sources, including governmental, private for-profit, and nonprofit entities. The report notes that there is currently no mechanism in place at either the state or federal level to collect data on the type, location, and funding sources of this research. This bill:

Adds the requirement that each institution of higher education's yearly report to the Texas Higher Education Coordinating Board (THECB) regarding all research conducted at that institution during the last preceding year include the amounts spent on human embryonic stem cell research and adult stem cell research during the year covered by the report and the source of the funding for that research.

Requires THECB, not later than January 1 of each year, to submit to the legislature information regarding human stem cell research obtained by THECB from these reports.

Intercollegiate Athletics Fee at Texas A&M--Texarkana—S.B. 691
by Senator Eltife—House Sponsor: Representative Lavender

In the fall of 2010, Texas A&M University--Texarkana (TAMU--Texarkana) took several major steps in its transition from a small upper-level institution to a comprehensive regional institution. In addition to relocating to the new Bringle Lake campus, TAMU--Texarkana enrolled its initial freshman and sophomore students. In the fall of 2011 the first campus residence hall opened. Over the last three years, downward expansion has changed the scope of the institution, from a mostly commuter upper-level institution to a four-year institution with a residential student population.

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TAMU--Texarkana has significantly expanded curricular and co-curricular campus activities, including new academic-based student organizations, student honors and research colloquia, study abroad opportunities, a student leadership summit, and expanded student life programming, including athletics. This bill:

Authorizes the board of regents of TAMU--Texarkana to impose on each student enrolled at TAMU--Texarkana an intercollegiate athletics fee in an amount not to exceed \$9 per semester credit hour for each regular semester or summer session.

Provides that the fee may not be imposed unless approved by a majority vote of the students who participate in a general student election for that purpose.

Provides that the amount of the fee may be increased from one academic year to the next only if approved by a majority vote of the students participating in a general student election or, if the amount of the increase does not exceed five percent, by a majority of vote of the legislative body of the student government of the university.

Requires a student enrolled in more than 12 semester credit hours to pay the fee in an amount equal to the amount imposed on a student enrolled in 12 semester hours during the same semester or session.

Establishes that the fee may be used to develop and maintain an intercollegiate athletics program at the university.

Establishes that the fee is in addition to any other fee authorized by law and may not be considered in determining the amount of student services fee that may be imposed.

Establishes that the fee may not be charged after the fifth academic year in which the fee is first charged.

Name of Texas State University--San Marcos—S.B. 974

by Senators Campbell and Zaffirini—House Sponsor: Representative Isaac et al.

When the Texas State University System was expanded and the legislature changed the name of Southwest Texas State University to Texas State University--San Marcos, it was with the goal that other universities in the system would similarly change their names to reflect the new system. However, the other universities are named for founding fathers of Texas such as Sam Houston, Sul Ross, and Mirabeau Lamar, and do not wish to change their names. In addition, Texas State University--San Marcos opened a campus in Round Rock. This bill:

Changes the name of Texas State University--San Marcos to Texas State University, with campuses located in the city of San Marcos and in the city of Round Rock.

Temporary Approval For Participation in the Tuition Equalization Grant Program—S.B. 976

by Senator West—House Sponsor: Representatives Branch and Rose

Currently, a private or independent college or university must be accredited by the Southern Association of Colleges and Schools (SACS) to participate in the Tuition Equalization Grant (TEG) program. In some

instances, and for various reasons, a private or independent college or university may lose its SACS accreditation. If a private or independent college or university is on track to restore its SACS accreditation, it should be granted temporary approval to continue participating in the TEG program while it seeks accreditation. This bill:

Authorizes the Texas Higher Education Coordinating Board (THECB) to temporarily approve a private or independent institution of higher education that previously qualified but no longer holds the same accreditation as public institutions of higher education.

Requires that for an institution to qualify, the institution must be accredited by an accreditor recognized by THECB; be actively working toward the same accreditation as public institutions of higher education; be participating in the federal financial aid program; and be a "part B institution."

Authorizes THECB to grant temporary approval for a period of two years and to renew the approval once.

Investment of Funds by Governing Boards of Institutions of Higher Education—S.B. 1019

by Senator Estes—House Sponsor: Representative Frank

The current law states that an institution with an endowment of less than \$25 million must invest its funds (cash and non-endowment funds) as outlined in the Public Funds Investment Act (PFIA), Chapter 2256 (Public Funds Investment), Government Code.

Section 51.0031(c), Education Code, authorizes a governing board, if it has under its control at least \$25 million in book value of endowment funds, to invest all funds described in this section under prudent person standards. This bill:

Authorizes a governing board of an institution of higher education, if a governing board does not have under its control at least \$25 million in book value of endowment funds, to contract to pool its funds with another institution that meets the \$25 million in book value of endowment funds threshold and have its funds invested by that governing board under prudent person standards.

Disabled Veteran Parking Privileges at Institutions of Higher Education—S.B. 1061

by Senator Van de Putte—House Sponsor: Representative Menéndez

Interested parties assert that it is our duty as a nation to properly care for those who volunteer to protect us, and providing such care includes making amenities for veterans with limited physical mobility. Disabled veterans who meet specified requirements, such as displaying a specialized license plate, are allowed to park in spaces designated for persons with physical disabilities. S.B. 1061 seeks to clarify that institutions of higher education must also allow access to those designated parking spaces for eligible vehicles, regardless of the institution's parking permit requirements. This bill:

Establishes that a vehicle operated by or for the transportation of certain veterans that is otherwise authorized under statute to be parked for an unlimited period in a parking space or area designated specifically for persons with physical disabilities is also authorized to be parked for an unlimited period in a parking space or area that is designated specifically for persons with physical disabilities on the property of

an institution of higher education, regardless of whether a permit is generally required for the use of the space or area. Authorizes an institution of higher education to require such a vehicle to display a parking permit issued by the institution specifically for the purpose of implementing the bill's provisions, but prohibits the institution from charging a fee for that permit. Provides that the bill does not entitle a person to park such a vehicle in a parking space or area that has not been designated specifically for persons with physical disabilities on the property of the institution if the vehicle has not been granted or assigned a parking permit required by the institution.

Provides that the bill excludes from its provisions a parking space or area located in a controlled access parking facility if at least 50 percent of the number of parking spaces or areas designated specifically for persons with physical disabilities on the property of the institution of higher education are located outside a controlled access parking facilities; an area temporarily designated for special event parking; or an area where parking is temporarily prohibited for health or safety concerns.

Intercollegiate Athletics Fee at Prairie View A&M University—S.B. 1145
by Senator Hegar—House Sponsor: Representative Bell

The current cap on the athletic fee at Prairie View A&M University (Prairie View) is \$10.00 per semester credit hour, with a total cap of \$150. In exchange for the fee, students receive free admittance to all home games and take immeasurable pride in being known as a home of champions. The return on this investment can be measured by an increase in enrollment, retention, and graduation rates, especially in athletes.

In November 2009, Prairie View students wrote and passed a student referendum increasing the fee to \$12.60 per semester credit hour, to provide what they deemed to be appropriate support for Prairie View's Division I athletic programs. The student referendum also replaced the \$150 cap with a structure for student review and approval of any future fee increases. The intent of the referendum was to give students control of the intercollegiate athletics fee the students pay. This bill:

Authorizes the board of regents of The Texas A&M University System to impose an intercollegiate athletics fee on each student enrolled at Prairie View in an amount not to exceed \$12.60 per semester credit hour.

Provides that the fee may be increased from one academic year to the next if the increase is approved by a majority of the students in a general student election held for that purpose or the amount of the increase does not exceed five percent and is approved by a majority vote of the legislative body of the student government of the university.

Transfer of Property From Board of Criminal Justice to Texas State University System—S.B. 1157
by Senator Schwertner—House Sponsor: Representative Otto

The addition of land to the Texas State University System (TSUS) will allow Sam Houston State University (SHSU) to construct new academic facilities. This bill:

Requires the Texas Board of Criminal Justice (TBCJ), not later than January 1, 2014, to donate and transfer property to the TSUS board of regents for use by SHSU.

Requires that the deed for the land include provisions that require SHSU to use the property for a purpose that benefits the public interest of the state and indicates that ownership of the property will automatically revert to TBCJ if SHSU fails to use the property primarily for a purpose that benefits the public interest of the state.

Establishes the boundaries of the 78.823 acres of land to be donated.

Higher Education For Certain Military Personnel and Their Families—S.B. 1158
by Senator Van de Putte et al.—House Sponsor: Representative Menéndez

A veteran who transitions from serving in the military to being a student has unique requirements. Interested parties report that a large percentage of veterans returning from Afghanistan have some type of disability, ranging from varying degrees of post-traumatic stress disorder and traumatic brain injury to physical wounds, including severe burns and loss of limbs. Such parties further report that since the enactment of the Post-9/11 GI Bill, there has been unprecedented growth in the utilization of veterans programs in Texas. Interested parties assert that the growth of veteran presence on campuses coupled with the complex physical and emotional needs of those veterans creates a need to standardize existing support systems across the state's agencies and its higher education campuses. S.B. 1158 seeks to make higher education campuses more veteran friendly by proposing policies to better serve veterans throughout Texas, including transferring the administration of certain benefits from the Texas Higher Education Coordinating Board to the Texas Veterans Commission, creating veteran college resource counselors modeled after other effective veteran service programs, and establishing a state award recognizing universities and colleges for excellence in veteran education. This bill:

Clarifies that certain exemptions available for veterans and other military personnel from payment of tuition, dues, fees, and other required charges of an institution of higher education also apply to the spouse or child of a member of the U.S. military, the Texas National Guard, or the Texas Air National Guard who become totally and permanently disabled or meet the eligibility requirements for individual unemployability according to the disability ratings of the Department of Veterans Affairs. Provides that a person who received such an exemption before the 2014-2015 academic year continues to be eligible for the exemption provided by the applicable statutory provision as it existed on January 1, 2013.

Changes the deadline by which an applicant seeking an exemption from the payment of tuition, dues, fees, and other required charges of an institution of higher education must submit the application and necessary evidence of qualification to a date that is not later than the official day of record for the semester or term to which the exemption applies on which the institution must determine the enrollment that is reported to the Texas Higher Education Coordinating Board or on another day, not later than the end of the semester, as determined by the institution's governing board.

Provides that these provisions apply beginning with tuition and fees for the 2014 fall semester. Transfers certain duties relating to tuition and fee benefits, waivers, and exemptions for veterans, other military personnel, and their dependents from the Texas Higher Education Coordinating Board (THECB) to the Texas Veterans Commission (TVC). Requires the institution of higher education providing an exemption to electronically report to TVC certain information relating to each individual receiving an exemption from fees and charges for the preceding fiscal year not later than December 31 of each year. Authorizes TVC to

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adopt rules to provide for the efficient and uniform application of such benefits, waivers, and exemptions and requires TVC, in developing such rules, to consult with the coordinating board and institutions of higher education. Requires TVC by rule to prescribe procedures allowing a person who becomes eligible for an exemption to waive the person's right to any unused portion of the cumulative credit hours, for which the person could receive the exemption and instead assign the exemption for those credit hours to the person's child. Requires TVC by rule to prescribe procedures by which a child assigned that exemption who suffers from a severe illness or other debilitating condition that affects the child's ability to use the exemption may be granted additional time to use the exemption.

Requires procedures prescribed by THECB rule to also provide a procedure permitting a person who waived the exemption and designated a child to receive the exemption to revoke that designation as to any unused portion of the assigned credit hours. Requires a child, in order to be eligible to receive an exemption, to be 25 years of age or younger on the first day of the semester or other academic term for which the exemption is claimed and revises the conditions under which a person is considered to be the child of another person for purposes of claiming an exemption. Requires THECB and TVC to coordinate to provide each respective agency with any information required to ensure the proper administration of and the execution of each agency's statutory responsibilities concerning the exemption from the payment of tuition, dues, fees, and other required charges of institutions of higher education.

Defines "trust company." Requires the trust company to administer the fund and to determine the amount available for distribution from the fund in accordance with a distribution policy that is adopted by the comptroller of public accounts and designed to preserve the purchasing power of the fund's assets and provide a stable and predictable stream of annual distributions. Requires the expenses of managing the fund's assets to be paid from the fund and prohibits money in the fund from being used for any purpose except as otherwise provided in the bill's provisions. Authorizes the trust company, in managing fund assets and through procedures and subject to restrictions the trust company considers appropriate, to acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment.

Authorizes the amount available for distribution from the fund to be appropriated only to offset the cost to institutions of higher education of such exemptions and requires the amount appropriated to the fund to be distributed to eligible institutions in proportion to each institution's respective share of the aggregate cost to all institutions of such exemptions, as determined by the Legislative Budget Board. Requires the amount appropriated to be distributed annually to each eligible institution of higher education. Authorizes the governing board of an institution of higher education entitled to receive money from the fund to solicit and accept gifts and grants from the fund. Requires such gifts and grants to be distributed and appropriated for the purposes of the fund, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

Sets forth the provisions and requirements for duties regarding certain tuition and fee exemptions for veterans and family members.

Transfers and redesignates provisions of the Education Code relating to the electronic system that monitors the use of tuition exemptions for veterans at institutions of higher education to the portion of the Government Code prescribing the duties of TVC. Defines "institution of higher education." Requires TVC to

ensure that a system is developed to electronically monitor the use of tuition and fee exemptions for veterans, other military personnel, and their dependents at institutions of higher education, removes the requirement that THECB develop such a system, and updates statutory provisions to reflect that change and redesignation. Adds a temporary provision, set to expire September 1, 2015, requiring THECB, under an agreement with TVC, not later than January 1, 2014, to provide access to the system developed by THECB that meets specified requirements of the transferred and redesignated provisions.

Requires TVC by rule to establish an award program under which institutions of higher education may receive recognition from TVC for excellence in providing education and related services to veterans. Requires TVC to evaluate an institution, for purposes of receiving such an award, regarding the existence and quality at the institution of certain criteria as specified by the bill, including any criteria considered necessary or appropriate by TVC. Authorizes TVC to adopt rules as necessary to administer the veteran education excellence recognition award network. Requires TVC, in developing such rules, to consult with THECB and institutions of higher education.

Defines "commission" and "institution of higher education." Requires TVC to designate a TVC employee as a program manager whose primary duty is to coordinate with institutions of higher education in ensuring that veterans' programs at institutions of higher education fulfill specified objectives and take authorized actions relating to the enhancement of the educational opportunities of veterans and their family members in the applicable higher education region and throughout Texas. Requires each institution of higher education to cooperate with TVC to provide information, as permitted by law, related to student veterans at the institution, to provide access to veterans resource centers or other student meeting areas, and to otherwise support veterans education counseling. Authorizes TVC to adopt rules to implement a veterans education counselors program and requires the commission, in developing such rules, to consult with the coordinating board and institutions of higher education.

Repeals a statutory provision that would repeal Section 54.203(h), Education Code, effective September 1, 2013, and provides that such repeal does not take effect. Clarifies that Section 54.341(h), Education Code, which was redesignated from that section, remains in effect as amended by the bill.

Requires TVC, in adopting rules, including implementing authority transferred from THECB, to engage institutions of higher education in a negotiated rulemaking process as described by the Act.

Repeals Section 9.01(b)(4), Chapter 1049 (S.B. 5), Acts of the 82nd Legislature, Regular Session, 2011.

Higher Education For Certain Military Personnel and Their Dependents—S.B. 1159
by Senator Van de Putte—House Sponsor: Representative Diane Patrick

Recently enacted legislation sought to update provisions of the Hazlewood Act; however, interested parties report that the reorganization of those provisions had unintended consequences for some veterans. The Texas Higher Education Coordinating Board responded by making recommendations to clarify existing law and codify provisions necessary to effectively administer Hazlewood benefits for Texas veterans. S.B. 1159 seeks to implement those recommendations by amending current law relating to tuition and fee exemptions for certain veterans and other military personnel and their dependents. This bill:

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Sets forth the provisions and requirements relating to the readmission of certain military personnel who were previously offered admission to, or were enrolled in, a graduate program or professional program at a general academic teaching institution or medical and dental unit; who did not initially enroll in a program, or withdrew from the program, as applicable, because of deployment with the United States military serving on active duty for the purpose of engaging in a combative military operation outside the country; and who seek readmission to the program following such military deployment. Requires the institution or unit, regardless of the time since such a person was initially offered admission to, or withdrew from, the program, to readmit the person to the applicable graduate or professional program, to apply credit toward the program for any course work previously completed by the person under the program, and to accept a standardized test score previously submitted by that person for admission to the program.

Establishes as an alternative to the in-state residency required for eligibility for the tuition and fee exemption for certain military veterans a residency outside of Texas that is due to the person's military assignment or the military assignment of the person's spouse. The bill, beginning with tuition and fees for the 2013 fall semester, clarifies that the extension of the military veterans exemption to the spouses and children of certain disabled veterans applies to the spouses and children of members of the U.S. military, Texas National Guard, or Texas Air National Guard who became totally and permanently disabled or who meet the eligibility requirements for individual unemployability according to the disability ratings of the Department of Veterans Affairs as a result of a service-related injury.

Adds a temporary provision, set to expire January 31, 2015, to require the Legislative Budget Board (LBB), in consultation with the Texas Higher Education Coordinating Board (THECB) and the Texas Veterans Commission (TVC), as the LBB considers necessary, to study and evaluate the tuition and fee exemptions provided to veterans and other military personnel and their dependents. Requires the LBB to consider in the study any available historical data and the projected data regarding recipients of such tuition and fee exemptions, disaggregated by veteran, dependent, spouse, and legacy recipient, for specified categories of information. Requires the LBB, to the greatest extent possible, to include in its study a review of all federal education benefits for veterans in order to comprehensively review the sustainability of state and federal benefits for veterans, and to use applicable data from the 2008-2009 academic year or a more recent academic year as a baseline in the study. Requires institutions of higher education, to the greatest extent possible, to cooperate with the LBB by providing any requested data and ensuring the reliability and validity of the data collected and submitted for the purpose of the study. Requires the LBB, not later than December 1, 2014, to submit to THECB, TVC, the governor, the lieutenant governor, and the speaker of the house of representatives a written report of the results of the study, together with any recommendations for legislative or administrative action, including any changes to eligibility criteria or other changes necessary to promote sustainability, fiscal efficiency, and effectiveness in the use of the exemption provided to veterans and other military personnel and their dependents. Requires a recommendation included in the report to include an explanation of the basis for that recommendation.

Tuition and Fee Exemptions and Waivers at Public Institutions of Higher Education—S.B. 1210 *by Senators Zaffirini and West—House Sponsor: Representative Branch*

Many tuition exemptions or waivers currently include no academic performance requirements or credit hour limitations. This means that students who benefit from tuition exemptions or waivers may take as many courses as they wish without showing satisfactory academic progress, and institutions must continue to

provide them with tuition exemptions or waivers. Institutions are sensitive to the cost that exemptions or waivers impose in terms of foregone tuition in an era of decreased state appropriations. This bill:

Provides that after initially qualifying for a mandatory or discretionary exemption or waiver from the payment of all or part of the tuition or other fees for enrollment during a semester or term at an institution of higher education, a person may continue to receive the exemption or waiver for a subsequent semester or term only if the person maintains a certain grade point average and has not completed a number of semester hours that is considered to be excessive.

Provides that, in determining whether credit hours are excessive, semester credit hours include transfer credit hours that count toward the person's undergraduate degree or certificate program course requirements but exclude hours earned exclusively by examination; hours earned for a course for which the person received credit toward the person's high school academic requirements; and hours earned for development coursework that an institution of higher education required the person to take.

Provides that, if on the completion of any semester or term, a person fails to meet any requirement, the person may not receive the exemption or waiver for the next semester or term in which the person enrolls. Provides that a person may become eligible to receive an exemption or waiver in a subsequent semester or term if the person completes a semester or term during which the person is not eligible for an exemption or waiver and meets each requirement.

Requires each institution of higher education to adopt a policy to allow a student who fails to maintain a certain grade point average to receive an exemption or waiver in any semester or term on a showing of hardship or other good cause.

Requires an institution of higher education to maintain documentation of each exception granted to a student.

Correctional Management Institute of Texas at Sam Houston State University—S.B. 1313
by Senator Schwertner—House Sponsor: Representative Otto

The Correctional Management Institute of Texas (CMIT) serves to train criminal justice professionals. CMIT's headquarters are located at Sam Houston State University (SHSU) under the direction of the president of SHSU. This bill:

Establishes CMIT statutorily for the training of criminal justice professionals at SHSU under the supervision and direction of the president of SHSU.

Authorizes the SHSU president to establish rules relating to CMIT.

Requires the SHSU president to establish reasonable charges for participation in CMIT training programs by participants who are not residents of this state.

Requires that participation costs of participants who are residents of this state be paid from the Correctional Management Institute of Texas and Criminal Justice Center Account in the general revenue fund.

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Authorizes CMIT to provide fee-based training and professional development programming using funds other than appropriated funds.

Disability Awareness Training in Risk Management Programs—S.B. 1525

by Senator Zaffirini—House Sponsor: Representative Diane Patrick

The Texas Education Code requires that risk management programs for members and advisors of student organizations at institutions of higher education address possession of alcoholic beverages and illegal drugs, including penalties that may be imposed for possession or use; hazing; sexual abuse or harassment; fire and other safety issues, including the possession and use of a firearm or other weapon or explosive device; travel to a destination outside the area in which the institution is located; behavior at parties or other events held by a student organization; and adoption of a risk management policy. This bill:

Requires that issues regarding persons with disabilities, including a review of applicable requirements of federal and state law, and any related policies of the institution, for providing reasonable accommodations and modifications to address the needs of students with disabilities, including access to the activities of the student organization, be addressed in risk management programs.

Information Promoting Timely Graduation—S.B. 1531

by Senators Seliger and West—House Sponsor: Representative Branch

Chapter 51 (Provisions Generally Applicable to Higher Education), Education Code, includes all general and miscellaneous statutory provisions relating to undergraduate students entering into institutions of higher education. This bill:

Applies only to a general academic teaching institution other than a public state college.

Requires an institution to provide to each first-time entering undergraduate student information that includes a comparison of the average total amounts of tuition and fees paid by a full-time student who graduates from the institution in the four years, five years, and six years and an estimate of the average earnings lost by a recent graduate of the institution as a result of graduating after five or six years instead of four years.

Requires an institution to include in the information provided a list of actions that the student can take to facilitate graduating from the institution in a timely manner and contact information for available academic, career, and other related support services at the institution to assist the student in that effort.

Personal Financial Literacy Training—S.B. 1590

by Senator Zaffirini—House Sponsor: Representative Branch

Statute requires general academic teaching institutions to offer personal financial literacy training. The Texas Higher Education Coordinating Board (THECB) is directed to determine the topics that would be covered in the training, and while statute suggests topics that could be covered, insurance is not included in

the list. Similarly, statute also describes potential financial literacy topics that could be covered in the Texas Education Agency's financial literacy pilot program, but does not mention insurance. This bill:

Includes "insurance" among the topics that may be covered by the training.

Requires that the curriculum and instructional materials include information about the use of insurance as a means of protecting against financial risk.

Asset Management and Acquisition of Institutions of Higher Education—S.B. 1604

by Senator Zaffirini—House Sponsor: Representative Howard

When the 82nd Legislature streamlined the administration of institutions of higher education, some asset management and acquisition issues remained that require more cost-effective flexibility in regard to asset management. This bill:

Provides that a University of Texas M.D. Anderson Cancer Center contract for acquiring goods or services automatically includes any provision required by law, without regard to whether the provision appears on the face of the contract or whether the contract has a provision to the contrary.

Establishes that Chapter 64 (Assignment of Rents to Lienholder), Property Code, does not apply to residential property for which an institution of higher education is a co-owner.

Requires that the board of directors of a nonprofit corporation that the board of regents (board) of The University of Texas System (UT System) may have entered into a contract with to invest funds under the control and management of the board, have seven members appointed by the board and that one be a qualified individual as determined by the board.

Allows, rather than requires, the chancellor of UT System to be a member of the governing board of UT Investment Management Company.

Repeals an obsolete provision of law relating to the lease of hospital property by UT Medical Branch at Galveston.

Mathematics and Science Scholars Loan Repayment Program—S.B. 1720

by Senators Patrick and Campbell—House Sponsor: Representative Clardy

Texas is experiencing a critical shortage of certified mathematics and science teachers in the public school system. This shortage affects the state economy as many technology-based companies are searching nationally and even internationally for capable workers. Studies show that the shortages have increased dramatically in the past five years and are projected to continue to increase in the next five years. This bill:

Requires the Texas Higher Education Coordinating Board (THECB) to provide assistance in the repayment of eligible student loans for eligible persons who agree to teach mathematics or science for a specified period in school districts that receive federal funding under Title I, Elementary and Secondary Education Act of 1965.

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Requires a person, in order to be eligible to receive loan repayment assistance, apply annually; be a United States citizen; have completed an undergraduate or graduate program in mathematics or science; have a cumulative grade point average of at least 3.5 on a 4.0 scale or the equivalent; be certified to teach mathematics or science in a public school or be enrolled in an educator preparation program to obtain certification; have been employed for at least one year as a teacher teaching mathematics or science at a public school that receives funding under Title I, Elementary and Secondary Education Act; not be in default on any other education loan; not receive any other state or federal loan repayment assistance; enter into an agreement with THECB; and comply with any other requirement adopted by THECB.

Requires that an initial application for loan repayment assistance include a transcript of the applicant's postsecondary work.

Requires that THECB determine the annual amount of the loan assistance payments in any year to an eligible person.

Requires THECB to reduce the amount of a single assistance payment or refrain from making a loan assistance payment to an eligible person as necessary to avoid making total payments to the person in an amount greater than the total amount of principal and interest due on the person's eligible loans.

Requires THECB to excuse, under certain circumstances, an otherwise eligible person from a requirement that the employment qualifying the person for loan repayment assistance be performed in consecutive years.

Authorizes THECB to provide repayment assistance for the repayment of any student loan that is for education at a public or private institution of higher education and is received by an eligible person through an eligible lender.

Prohibits THECB from providing loan repayment assistance for a student loan that is in default at the time of the person's application for repayment assistance.

Requires THECB to pay any loan repayment assistance in a lump sum delivered on the eligible person's behalf directly to the holder of the loan.

Provides that loan repayment assistance provided may be applied to any amount due on the loan.

Requires THECB, each biennium, to attempt to allocate all money available to THECB for the purpose of providing loan repayment assistance.

Establishes that the mathematics and science teacher investment fund is a dedicated account in the general revenue fund and consists of gifts, grants, and other donations and interest and other earnings from the investment fund.

Establishes that the fund may be used only to provide repayment assistance.

Restricts the provision of loan repayment assistance to not more than 4,000 eligible persons.

Establishes the number of eligible persons who may be provided loan repayment assistance in specified school years.

Provides that an eligible person may continue to receive loan repayment assistance if the person continues to teach in a public school after the first four years required for eligibility.

Intercollegiate Athletics Fee at Texas Southern University—S.B. 1810

by Senator Ellis—House Sponsor: Representative Coleman

In 2009, the legislature authorized Texas Southern University (TSU) to charge an intercollegiate athletics fee up to \$10 per semester credit hour for the purpose of development and maintenance of intercollegiate athletic programs. The fee could not be imposed unless the fee was approved by a majority of the students voting in an election held for that purpose or by a majority of the student government of the institution.

Legislation in 2009 also prohibited the fee from being charged after the fifth academic year unless, before the end of that academic year, TSU had issued bonds payable in whole or in part from the fee, in which event the fee would be prohibited from being charged after the academic year in which all such bonds, including refunding bonds for those bonds, had been fully paid. Because the fee requested by TSU was never intended for construction, TSU has never issued any bonds; and, therefore, TSU is required to discontinue the collection of said fees unless a reauthorization to do so is granted by the state. This bill:

Provides that Section 54.5223 (Intercollegiate Athletics Fee; Texas Southern University), Education Code, expires on the next September 1 that follows the fifth anniversary of the effective date of the most recent act of the legislature amending or reenacting this section unless the legislature reenacts this section before that date.

Texarkana College District—S.B. 1855

by Senator Eltife—House Sponsor: Representative Lavender

In November 2012, Bowie County residents voted to annex all of Bowie County into the Texarkana College taxing district. Texarkana College now requests an amendment to Section 130.203 (Texarkana College District Service Area), Education Code, to reflect the expansion of the district to include all of Bowie County. In addition, current members of the Texarkana College board of trustees (board) want to ensure the newly annexed portions of Bowie County have a direct voice in the governance of the college. To enable the board to restructure, Texarkana College is requesting permission to reduce its governing board from nine places to seven places, align the structure of the board with the existing four county commissioners districts, and add three at-large positions to the board structure. This bill:

Authorizes the governing board of the Texarkana College District to decrease the number of board members from nine to seven, with four members elected from respective commissioner precincts and three members elected at large.

Requires that a resolution or order of the governing board establish transition terms of office to conform to elections held in even-numbered years and staggered six-year terms.

Public School Accountability—H.B. 5

by Representative Aycock et al.—Senate Sponsor: Senators Patrick and Schwartner

Current law provides for three public high school graduation plans: minimum, recommended, and distinguished. All students are required to begin high school under the recommended program, satisfying four credits each in English language arts, mathematics, science, and social studies. To opt out of this default program, students and their parents must sign a permission form.

The Foundation School Program (FSP) is the primary source of state funding for Texas school districts. The program is administered by the Texas Education Agency (TEA). The FSP, in its current form, is meant to ensure that all school districts, regardless of property wealth, receive "substantially equal access to similar revenue per student at similar tax effort." The Foundation High School Program (FHSP) allows students to earn endorsements in specific areas of study by completing four additional credits. In the following categories, this bill:

Career and Technology Consortium

Requires the commissioner of education (commissioner) to investigate available options for the state to join a consortium of states for the purpose of developing sequences of academically rigorous career and technology courses in career areas that are high-demand, high-wage career areas in this state.

Requires that the curricula for the courses include the appropriate essential knowledge and skills.

Authorizes the commissioner to join a consortium of states on behalf of the state if the commissioner determines that joining a consortium would be beneficial for the educational and career success of students in the state.

School Day Interruptions

Requires the board of trustees for each school district to adopt and strictly enforce a policy limiting the removal of students from class for remedial tutoring or test preparation.

Prohibits a district from removing a student from a regularly scheduled class for remedial tutoring or test preparation if, as a result of the removal, the student would miss more than 10 percent of the school days on which the class is offered, unless the student's parent or another person standing in parental relation to the student provides to the district written consent for removal from class for such purpose.

Minimum Attendance for Class Credit or Final Grade

Establishes that a student in any grade level from kindergarten through grade 12 may not be given credit or a final grade for the class unless the student is in attendance for at least 90 percent of the days the class is offered.

Provides that a student who is in attendance for at least 75 percent but less than 90 percent of the days a class is offered may be given credit or a final grade for the class if the student completes a plan approved by the school's principal that provides for the student to meet the instructional requirements of the class.

Provides that a student under the jurisdiction of a court in a criminal or juvenile justice proceeding may not receive credit or a final grade without the consent of the judge presiding over the student's case.

Required Curriculum

Requires the State Board of Education (SBOE), as a condition of accreditation, to require each district to provide instruction in the essential knowledge and skills at appropriate grade levels and to make available to each high school student in the district an Algebra II course.

Authorizes a district to also offer a course or other activity including an apprenticeship or training hours needed to obtain an industry-recognized credential or certificate that is approved by the board of trustees for credit without obtaining SBOE approval if the district develops a program under which the district partners with a public or private institution of higher education and local business labor and community leaders to develop and provide the courses and the course or other activity allows students to enter a career or technology training program in the district's region of the state; an institution of higher education without remediation; an apprenticeship training program; or an internship required as part of accreditation toward an industry-recognized credential or certificate for course credit.

Requires each school district to annually report to TEA the names of the course programs, institutions of higher education, and internships in which the district's students have enrolled so that TEA can make the information available to other districts.

Requires SBOE, in approving career and technology courses, to determine that at least 50 percent of the approved courses are cost-effective for a school district to implement.

Increase in Advanced Technology and Career-Related Courses

Requires SBOE, not later than September 1, 2014, to ensure that at least six advanced career and technology education or technology applications courses, including courses in personal financial literacy and statistics, are approved to satisfy a fourth credit in mathematics.

Requires the commissioner, not later than January 1, 2015, to review and report to the governor and the legislature regarding the progress of increasing the number of courses approved for the career and technology education or technology applications curriculum and include in the report a detailed description of any new courses, including instructional materials and required equipment, if any.

College Preparatory Courses

Requires each school district to partner with at least one institution of higher education to develop and provide courses in college preparatory mathematics and English language arts.

Requires that the courses be designed for students at the 12th grade level whose performance on an end-of-course assessment instrument does not meet college readiness standards or coursework, a college entrance examination, or an assessment instrument indicates that the student is not ready to perform entry-level college coursework.

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Requires that a course developed for these purposes be provided on the campus of the high school offering the course or through distance learning or as an on line course provided through an institution of higher education with which the school district partners.

Requires appropriate faculty of each high school offering the courses and appropriate faculty of each institution of higher education with which the school district partners to meet regularly as necessary to ensure that each course is aligned with college readiness expectations.

Requires each school district to provide a notice to each district student to whom the courses apply and the student's parent or guardian regarding the benefits of enrolling in a course.

Allows a student who successfully completes an English language arts course developed under this section to use the credit earned in the course toward satisfying the advanced English language arts curriculum requirement for the FHSP.

Allows a student who successfully completes a mathematics course developed under this section to use the credit earned in the course toward satisfying an advanced mathematics curriculum requirement after completion of the mathematics curriculum requirements for the FHSP.

Provides that a course provided under this section may be offered for dual credit at the discretion of the institution of higher education with which a school district partners.

Requires each school district, in consultation with each institute of higher education with which the district partners, to develop or purchase instructional materials for a course developed under this section consistent with Chapter 31 (Instructional Materials), Education Code.

Requires the commissioner, in certifying whether sufficient funds have been appropriated statewide, to consider the average cost per student per assessment instrument administration; the number of students who require accelerated instruction because the student failed to perform satisfactorily on an assessment instrument; whether sufficient funds have been appropriated to provide support to students in grades three through 12 identified as being at risk of dropping out of school; and whether sufficient funds have been appropriated to provide instructional materials that are aligned with the assessment instruments.

Provides that the commissioner may not consider the FSP funds except for compensatory education funds.

Junior High or Middle School Personal Graduation Plan

Requires a principal of a junior high or middle school to designate a school counselor, teacher, or other appropriate individual to develop and administer a personal graduation plan for each enrolled student.

High School Personal Graduation Plan

Requires TEA, in consultation with the Texas Workforce Commission (TWC) and the Texas Higher Education Coordinating Board (THECB), to prepare and make available to each school district in English and Spanish information that explains the advantages of the distinguished level of achievement and each endorsement.

Requires that the information provided to each school district contain an explanation concerning the benefits of choosing a high school personal graduation plan that includes the distinguished level of achievement under the FHSP and includes one or more endorsements to enable the student to achieve a class rank in the top 10 percent for students at the campus and that encourages parents, to the greatest extent practicable, to have the student choose a high school personal graduation plan.

Requires a school district to publish the information provided to the district on the Internet website of the district and ensure that the information is available to students in the language in which the parents or legal guardians are most proficient, if at least 20 students in a grade level primarily speak that language.

Requires a principal of a high school to designate a school counselor or school administrator to review personal graduation plan options with each student entering grade nine together with that student's parent or guardian.

Requires that personal graduation plan options reviewed include the distinguished level of achievement and the endorsements.

Requires the student and the student's parent or guardian, before the conclusion of the school year, to confirm and sign a personal graduation plan for the student.

Requires that a personal graduation plan identify a course of study that promotes college and workforce readiness and career placement and advancement and facilitates the student's transition from secondary to postsecondary education.

Prohibits a school district from preventing a student and the student's parent or guardian from confirming a personal graduation plan that includes pursuit of a distinguished level of achievement or an endorsement.

Allows a student to amend the student's personal graduation plan after the initial confirmation of the plan and requires the school to send written notice to the student's parents regarding the change.

Accelerated Instruction for High School Students

Requires the school district, each time a student fails to perform satisfactorily on an assessment instrument, to provide to the student accelerated instruction in the applicable subject area, using funds appropriated for accelerated instruction.

Provides that accelerated instruction may require participation of the student before or after the normal school hours and may include participation at times of the year outside normal school operations.

Requires a school district to ensure that each student, on entering ninth grade, indicates in writing an endorsement that the student intends to earn.

Requires the district to permit a student to choose at any time to earn an endorsement other than the endorsement the student previously indicated.

Allows a student to graduate under the FHSP without earning an endorsement if, after the student's sophomore year, the student and the student's parent or person standing in parental relation to the student

are advised by a school counselor of the specific benefits of graduating from high school with one or more endorsements and the student's parent or person standing in parental relation to the student files with a school counselor written permission on a form adopted by TEA allowing the student to graduate under the FHSP without earning an endorsement.

Requires SBOE by rule to require that the curriculum requirements for the FHSP include a requirement that students successfully complete:

- four credits in English language arts, including one credit in English I, one credit in English II, one credit in English III, and one credit in an advanced English course;
- three credits in mathematics, including one credit in Algebra I, one credit in geometry, and one credit in any advanced mathematics course;
- three credits in science, including one credit in biology, one credit in any advanced science course, and one credit in integrated physics and chemistry or in an additional advanced science course;
- three credits in social studies, including one credit in United States history, at least one-half credit in government, at least one-half credit in economics, and one credit in world geography or world history;
- five elective credits;
- one credit in fine arts; and
- one credit in physical education.

Requires SBOE, in adopting rules, to provide for a student to comply with the curriculum requirements for an advanced English course taken after successful completion of English I, English II, and English III, for an advanced mathematics course taken after the successful completion of Algebra I and geometry, and for any advanced science course by successfully completing a course in the appropriate content area that has been approved as an advanced course by SBOE rule or that is offered as an advanced course for credit without SBOE approval.

Requires SBOE to approve a variety of advanced English, mathematics, and science courses that may be taken to comply with FHSP requirements, provided that each approved course prepares students to enter the workforce successfully or postsecondary education without remediation.

Provides that, notwithstanding other provisions in the Education Code and any school district policy, a student who has completed the core curriculum of an institution of higher education, as certified by the institution in accordance with commissioner rule, is considered to have earned a distinguished level of achievement under the FHSP and is entitled to receive a high school diploma from the appropriate high school as that high school is determined in accordance with commissioner rule.

Provides that a student who is considered to have earned a distinguished level of achievement under the FHSP may apply for admission to an institution of higher education for the first semester or other academic term after the semester or other academic term in which the student completes the core curriculum.

Provides that a school district, with the approval of the commissioner, may allow a student to satisfy the fine arts credit required by participating in a community-based fine arts program not provided by the school district in which the student is enrolled.

Requires that the fine arts program provide instruction in the essential knowledge and skills identified for fine arts by SBOE.

Requires SBOE, in adopting rules, to adopt criteria to allow a student to comply with the curriculum requirements for the two credits in a language other than English if the student, in completing the first credit, demonstrates that the student is unlikely to be able to complete the second credit.

Requires that the SBOE rules establish the standards and, as applicable, the appropriate school personnel for making a determination and appropriate substitute courses.

Requires SBOE, in adopting rules, to allow a student who, due to disability, is unable to complete two courses in the same language in a language other than English, to substitute for those credits two credits in English language arts, mathematics, science, or social studies, or two credits in career and technology education, technology applications, or other academic electives.

Provides that a credit allowed to be substituted may not also be used by the student to satisfy a graduation credit requirement other than credit for completion of a language other than English.

Requires that the rules provide that the determination regarding a student's ability to participate in language-other-than-English courses will be made according to whether the student receives special education services or if the student does not receive special education services but is covered by Section 504, Rehabilitation Act of 1973.

Allows a student to earn a distinguished level of achievement under the FHSP by successfully completing:

- four credits in mathematics, which must include Algebra II;
- four credits in science;
- the remaining curriculum requirements; and
- the curriculum requirements for at least one endorsement.

Allows a student to satisfy an elective credits with a credit earned to satisfy the additional curriculum requirements for the distinguished level of achievement under the FHSP or an endorsement and to apply to more than one elective.

Requires SBOE to adopt rules to ensure that a student may comply with the curriculum requirements by successfully completing an advanced career and technical course, including a course that may lead to an industry-recognized credential or certificate or an associate degree.

Requires SBOE, in adopting rules, to allow a student to comply with curriculum requirements by successfully completing a dual credit course.

Requires SBOE, in adopting rules, to adopt criteria to allow a student to comply with curriculum requirements for the world geography or world history by successfully completing a combined world history and world geography course developed by SBOE.

Allows a student to earn an endorsement on the student's diploma and transcript by successfully completing curriculum requirements for that endorsement adopted by SBOE by rule.

Requires SBOE, by rule, to provide students with multiple options for earning each endorsement, including, to the greatest extent possible, coherent sequences of courses.

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Requires SBOE, by rule, to permit a student to enroll in courses under more than one endorsement curriculum before the student's junior year that may be earned in:

- science, technology, engineering, and mathematics (STEM);
- business and industry;
- public services;
- arts and humanities; and
- multidisciplinary studies.

Requires SBOE, in adopting rules, to require a student in order to earn any endorsement to successfully complete four credits in mathematics, four credits in science, and two elective credits in addition to the elective credits required; to develop additional curriculum requirements for each endorsement with the direct participation of educators and business, labor, and industry representatives; and to require each school district to report to TEA the categories of endorsements for which the district offers all courses for curriculum requirements.

Requires each school district to make available to high school students courses that allow a student to complete the curriculum requirements for at least one endorsement.

Requires a school that offers only one endorsement curriculum to offer the multidisciplinary studies endorsement.

Allows a student to earn a performance acknowledgment on the student's diploma and transcript by satisfying the requirements for that acknowledgment adopted by SBOE.

Provides that an acknowledgment may be earned for outstanding performance in a dual credit course; in bilingualism and biliteracy; on a college advanced placement test or international baccalaureate examination; on the PSAT, the ACT-Plan, the SAT, or the ACT; or for earning a nationally or internationally recognized business or industry certification or license.

Requires each school district to report the academic achievement record of students who have completed the FHSP on transcript forms adopted by SBOE.

Requires a school district to clearly indicate a distinguished level of achievement under the FHSP, an endorsement, and a performance acknowledgment on the diploma and transcript of a student who satisfies the applicable requirements.

Requires each school district, at the end of each school year, to report through the Public Education Information Management System the number of district students who, during that school year, were:

- enrolled in the FHSP;
- pursued the distinguished level of achievement in the FHSP; and
- enrolled in a program to earn an endorsement.

Requires that the information be disaggregated by all student groups served by the district, including categories of race, ethnicity, socioeconomic status, sex, and populations served by special programs, including students in special education programs.

Requires the commissioner to adopt a transition plan to implement and administer the amendments made by H.B. 5, 83rd Legislature, Regular Session, 2013, replacing the minimum recommended and advanced high school programs with the FHSP beginning with the 2014-2015 school year and establishing guidelines and student options for the transition plan.

Establishes that a student who receives a high school diploma through the pilot program referenced in Section 28.025 (Pilot Program: High School Diplomas for Students Who Demonstrate Early Readiness for College), Education Code, is considered to have earned a distinguished level of achievement under the FHSP.

Allows a student who receives a high school diploma through the early readiness pilot program to apply for admission to an institution of higher education for the first semester or other academic term after the semester or other academic term in which the student earns a diploma through the pilot program.

Notice of Requirements for Automatic College Admission and Financial Aid

Requires the board of trustees of a school district and the governing body of each open-enrollment charter school that provides a high school to require each high school in the district or provided by the charter school to post appropriate signs in each counselor's office, in each principal's office, and in each administrative building indicating the substance of Section 51.803 (Automatic Admission: All Institutions), Education Code, regarding automatic college admission and stating the curriculum requirements for financial aid.

Requires the district or charter school to require that each high school counselor and class advisor be provided a detailed explanation of the substance of Section 51.803 and the curriculum requirements for financial aid; and to provide each district or school student, at the time the student registers for one or more classes, written notification, including a detailed explanation in plain language, of the substance of Section 51.803, the curriculum requirements for financial aid, and the benefits of completing the requirements for that automatic admission and financial aid.

Requires that the notice be signed by the student's counselor in addition to being signed by the student and the student's parent or guardian.

Requires each school district to offer, before the next scheduled administration of the assessment instrument, without cost to the student, additional accelerated instruction to each student in any subject in which the student failed to perform satisfactorily on an end-of-course assessment instrument required for graduation.

Requires a district that is required to provide accelerated instruction to separately budget sufficient funds for that purpose.

Requires a district to evaluate the effectiveness of accelerated instruction programs and annually hold a public hearing to consider the results.

Collaborative Drop-Out Reduction

Establishes that a "student at risk of dropping out of school" includes each student who is under 26, rather than 21, years of age and meets other descriptors.

Career and Technology Education

Requires that the state plan for career and technology education referenced in Section 29.182, Education Code, include procedures designed to ensure that a school district provides, to the greatest extent possible, to a student participating in a career and technology education program opportunities to enroll in dual credit courses designed to lead to a degree, license, or certification as part of the program.

Requires that a plan developed to increase enrollment in institutions of higher education under Section 29.904, Education Code, establish an accurate method of measuring progress toward the goals that may include the percentage of district high school students and the percentage of students attending a district high school who are enrolled in courses that meet the curriculum requirements for the distinguished level of achievement under the FHSP.

Instructional Material Allotment Purchases

Requires the commissioner, as early as practicable during each fiscal year, to notify each school district and open-enrollment charter school of the estimated amount allotted for instructional material purchases to which the district or charter school will be entitled during the next fiscal year.

Authorizes the commissioner to allow a school district or open-enrollment charter school to place an order for instructional materials before the beginning of a fiscal year and to receive instructional materials before payment, but requires the commissioner to limit the cost of an order to 80 percent of the estimated amount to which a school district or open-enrollment charter school is estimated to be entitled and to first credit any balance in a district or charter school instructional materials account to pay for an order.

Requires the commissioner to make payments for orders as funds become available to the instructional materials fund and to prioritize payment of orders placed over reimbursement of purchases made directly by a school district or open-enrollment charter school.

Requires the commissioner to ensure that publishers of instructional materials are informed of any potential delay in payment and that payment is subject to the availability of appropriated funds.

Authorizes a school district to purchase with the district's instructional materials allotment or otherwise acquire instructional materials for use in college preparatory courses.

Requires the commissioner to adopt rules regarding the purchase of instructional materials.

Counseling Regarding Postsecondary Education

Changes the name of Section 33.007 (Counseling Regarding Higher Education), Education Code, to Counseling Regarding Postsecondary Education.

Public School System Accountability

Requires TEA to develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program, including assessment instruments approved by the commissioner that measure growth.

Requires that the alternative assessment instruments developed or adopted provide a district, to the extent allowed under federal law, with options for the assessment of students.

Requires TEA, in conjunction with appropriate interested persons, to redevelop assessment instruments for administration to significantly cognitively disabled students in a manner consistent with federal law.

Establishes that an assessment instrument for disabled students may not require a teacher to prepare tasks or materials for a student who will be administered such an assessment instrument.

Requires that the English I and English II end-of-course assessment instruments each assess essential knowledge and skills in both reading and writing in the same assessment instrument and must provide a single score.

Requires TEA, during the 2014-2015 and 2015-2016 school years, to release the questions and answer keys to assessment instruments each year.

Requires TEA, for the 2012-2013 school year, to release the questions and answer keys to each assessment instrument administered, excluding any assessment instrument administered to a student for the purpose of retaking the assessment instrument, after the last time the instrument is administered for that school year.

Requires TEA, for the 2013-2014 school year, to release questions and answer keys to each assessment instrument administered, excluding any assessment administered to a student for the purpose of retaking the assessment instrument and any assessment instrument covering a subject for which the questions and answer keys for the 2012-2013 assessment instrument covering that subject or course were released, after the last time the instrument is administered for the 2013-2014 school year.

Requires TEA, for the 2013-2014 school year, to release the questions and answer keys to each assessment instrument during the 2013-2014 school year after the last time any assessment instrument is administered for the 2013-2014 school year.

Requires TEA to notify school districts and campuses of the results of assessment instruments administered not later than the 21st day after the date the assessment instrument is administered.

Requires the school district to disclose to each district teacher the results of assessment instruments administered to students taught by the teacher in the subject for the school year in which the assessment instrument is administered.

Use of End-of-Course Assessment Instrument as Placement Instrument; Certain Uses Prohibited

Provides that a student's performance on an end-of-course assessment instrument may not be used in determining the student's class ranking for any purpose, including entitlement to automatic college admission or as a sole criterion in the determination of whether to admit the student to a general academic teaching institution in this state but does not prohibit a general academic teaching institution from implementing an admission policy that takes into consideration a student's performance on an end-of-course assessment instrument in addition to other criteria.

Adoption and Administration of Postsecondary Readiness Assessment Instruments

Requires TEA, in addition to other assessment instruments, to adopt or develop appropriate postsecondary readiness assessment instruments for Algebra II and English III that a school district may administer at the district's option.

Requires TEA, to the extent possible, to ensure that each postsecondary readiness assessment instrument assesses essential knowledge and skills and growth, is developed in a manner that measures a student's performance under the college readiness standards, and is validated by national postsecondary education experts for college readiness content and performance standards.

Requires SBOE, in adopting a schedule for the administration of postsecondary readiness assessment instruments, to require the annual administration of the postsecondary readiness assessment instruments to occur not earlier than the second full week in May.

Requires TEA to adopt a policy requiring each school district that elects to administer postsecondary readiness assessment instruments to annually administer the applicable postsecondary readiness assessment instrument to each student enrolled in a course for which a postsecondary readiness assessment instrument is adopted or developed, including Algebra II, and report the results of the postsecondary readiness assessment instruments to TEA.

Requires TEA to annually deliver a report to the governor and the legislature that includes a summary of student performance on the preceding year's postsecondary readiness assessment instruments.

Provides that results of a postsecondary readiness assessment instrument may not be used by TEA for accountability purposes for a school campus or school district; a school district for the purpose of teacher evaluations or in determining student's final course grade or determining a student's class rank for the purpose of high school graduation; or an institution of higher education for admission purposes or to determine eligibility for a Towards EXcellence, Access, and Success (TEXAS) grant.

Prohibits a school district from administering an additional benchmark assessment instrument solely for the purpose of preparing for a postsecondary readiness assessment instrument.

Requires TEA to acknowledge a school district that elects to administer the postsecondary readiness assessment instruments.

Requires a student to achieve a scale score that indicates satisfactory performance on each end-of-course assessment instrument that is administered to the student.

Requires the commissioner, for each scale score that is not based on a 100-point scale scoring system, to provide for conversion of the scale score to an equivalent score based on a 100-point scale scoring system.

Provides that a student enrolled in a college preparatory course who satisfies the Texas Success Initiative (TSI) college readiness benchmarks prescribed by THECB on an assessment instrument designated by THECB administered at the end of the college preparatory course satisfies the requirements concerning an end-of-course assessment in an equivalent course.

Requires the commissioner to determine a method by which a student's satisfactory performance on an advanced placement test, an international baccalaureate examination, an SAT Subject Test, the SAT, the ACT, or any nationally recognized norm-referenced assessment instrument used by institutions of higher education to award course credit based on satisfactory performance on the assessment instrument shall be used to satisfy the requirements concerning end-of-course assessment instrument in an equivalent course.

Allows a student who fails to perform satisfactorily on a test or other assessment instrument other than the PSAT or the ACT-Plan, to retake that test or other assessment instrument or take the appropriate end-of-course assessment instrument.

Requires a student who fails to perform satisfactorily on the PSAT or the ACT-Plan to take the appropriate end-of-course assessment instrument.

Requires the admission, review, and dismissal committee of a student in a special education program to determine whether, to receive a high school diploma, the student is required to achieve satisfactory performance on end-of-course assessment instruments.

Allows a student who fails to achieve a score requirement each time an end-of-course assessment instrument is administered to retake the assessment instrument.

Provides that if a school district determines that a student on completion of grade 11 is unlikely to achieve the score requirement for one or more end-of-course assessment instruments administered to the student, the district shall require the student to enroll in a corresponding content-area college preparatory course for which an end-of-course assessment instrument has been adopted, if available.

Requires the commissioner to adopt rules requiring a student in the FHSP to be administered each end-of-course assessment instrument.

Requires a student to achieve a scale score that indicates satisfactory performance on each end-of-course assessment instrument.

Administration of District-Required Benchmark Assessment Instruments

Defines "benchmark assessment instrument" as a district-required assessment instrument designed to prepare students for a corresponding state-administered assessment instrument.

Prohibits a school district from administering to any student more than two benchmark assessment instruments to prepare the student for a corresponding state-administered assessment instrument.

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Establishes that the prohibition does not apply to the administration of a college preparation assessment instrument, including the PSAT, the ACT-Plan, the SAT, or the ACT, an advanced placement test, an international baccalaureate examination or an independent classroom examination designed or adopted and administered by a classroom teacher.

Allows a parent of or person standing in parental relation to a student who has special needs to request administration to the student of additional benchmark assessment instruments.

Provides that, unless a student is enrolled in a school in the United States for a period of at least 60 consecutive days during a year, the student may not be considered to be enrolled in a school in the United States for that year.

Requires the commissioner, in establishing procedures for the administration of assessment instruments, to ensure that the procedures are designed to minimize disruptions to school operations and the classroom environment.

Restriction on Appointments to Advisory Committees

Provides that a person who is an agent of an entity that has been contracted to develop or implement assessment instruments commits a Class B misdemeanor offense if the person makes or authorizes a political contribution to or takes part in, directly or indirectly, the campaign of any person seeking election to or serving on SBOE.

Provides that a person who is an agent of an entity that has been contracted to develop or implement assessment instruments commits a Class B misdemeanor offense if the person serves as a member of a formal or informal advisory committee established by the commissioner, TEA staff, or SBOE to advise the commissioner, TEA staff, or SBOE regarding policies or implementation of the requirements.

Performance Indicators: Student Achievement

Requires that indicators of student achievement must include the percentage of students who successfully completed the curriculum requirements for the distinguished level of achievement under the FHSP; the percentage of students who successfully completed the curriculum requirements for an endorsement; and at least three additional indicators of student achievement to evaluate district and campus performance.

Requires that the additional indicators include either the percentage of students who satisfy the TSI college readiness benchmarks on an assessment instrument in reading, writing, or mathematics or the number of students who earn at least 12 hours of postsecondary credit required for the FHSP to earn an endorsement, an associate's degree, or an industry certification.

Provides that an indicator that would measure improvements in student achievement cannot negatively affect the commissioner's review of a school district or campus if that district or campus is already achieving at the highest level for that indicator.

Requires the commissioner to determine a method by which a student's performance may be included in determining the performance rating of a school district or campus if, before the student graduates, the student satisfies the TSI college readiness benchmarks or performs satisfactorily on an assessment.

Requires the commissioner, in computing dropout and completion rates, to exclude students who were previously reported to the state as dropouts, including a student who is reported as a dropout, reenrolls, and drops out again, regardless of the number of times of reenrollment and dropping out.

Methods and Standards for Evaluating Performance

Requires the commissioner to adopt rules to evaluate school district and campus performance and assign each district a performance rating of A, B, C, D, or F.

Requires the commissioner, in adopting rules, to determine the criteria for each designated letter performance rating.

Establishes that a district performance rating of A, B, or C reflects acceptable performance and a district performance rating of D or F reflects unacceptable performance.

Requires the commissioner to assign each campus a performance rating of exemplary, recognized, acceptable, or unacceptable.

Establishes that a campus performance rating of exemplary, recognized, or acceptable reflects acceptable performance, and a campus performance rating of unacceptable reflects unacceptable performance.

Provides that a district may not receive a performance rating of A if the district includes any campus with a performance rating of unacceptable.

Requires the performance rating of each district and campus to be made publicly available not later than August 8 of each year.

School District Evaluation of Performance in Community and Student Engagement Compliance

Requires each school district to evaluate the district's performance and the performance of each campus in the district in community and student engagement and in compliance and assign the district and each campus a performance rating of exemplary, recognized, acceptable, or unacceptable for both overall performance and each individual evaluation factor.

Requires the district to report performance ratings to TEA and make the performance ratings publicly available not later than August 8 of each year.

Requires a school district, for purposes of assigning the performance ratings, to evaluate at each campus:

- fine arts;
- wellness and physical education;
- community and parental involvement;
- the 21st Century Workforce Development program;
- the second language acquisition program;
- the digital learning environment;
- dropout prevention strategies; and
- educational programs for gifted and talented students.

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Requires a school district, for purposes of assigning the performance ratings, to evaluate the record of the district and each campus regarding compliance with statutory reporting and policy requirements.

Requires a school district to use criteria developed by a local committee to evaluate the performance of the district's campus programs and categories of performance and the record of the district and each campus regarding compliance.

Requires a district that takes action with regard to the recommendations provided by the investigators to make a reasonable effort to seek assistance from a third party in developing an action plan to improve district performance using improvement techniques that are goal oriented and research based.

Special Accreditation Investigations

Requires the commissioner to authorize special accreditation investigations to be conducted when a disproportionate number of students of a particular demographic group is graduating with a particular endorsement and when an excessive number of students is graduating with a particular endorsement.

Development and Implementation

Requires the commissioner, in consultation with the comptroller of public accounts of the state of Texas, to develop and implement separate financial accountability rating systems for school districts and open-enrollment charter schools that include processes for anticipating the future financial solvency of each school district and open-enrollment charter school, including analysis of district and school revenues and expenditures for preceding school years.

Requires that the financial accountability rating system include uniform indicators by which to measure the financial management performance and future financial solvency of a district or open-enrollment charter school.

Requires the commissioner, in adopting indicators, to assign a point value to each indicator to be used in a scoring matrix developed by the commissioner.

Requires the commissioner to evaluate indicators at least once every three years.

Requires that under the financial accountability rating system, each school district or open-enrollment charter school be assigned a financial accountability rating.

Establishes that a district or open-enrollment charter school receive the lowest rating under the system if the district or school fails to achieve a satisfactory rating on an indicator relating to financial management or solvency that the commissioner determines to be critical or a category of indicators that suggest trends leading to financial distress as determined by the commissioner.

Requires the commissioner, before assigning a final rating, to assign each district or open-enrollment charter school a preliminary rating.

Allows a district or school to submit additional information to the commissioner relating to any indicator on which performance was considered unsatisfactory.

Requires the commissioner to consider any additional information submitted by a district or school before assigning a final rating.

Prohibits the commissioner, if the commissioner determines that the additional information negates the concern raised by the indicator on which performance was considered unsatisfactory, from penalizing the district or school on the basis of the indicator.

Requires the commissioner to adopt initial rules to implement the changes made by the 83rd Legislature, Regular Session, 2013, not later than March 1, 2015.

Requires that the financial accountability rating of each school district or open-enrollment charter school be made publicly available not later than August 8 of each year.

Authorizes TEA to require a district or open-enrollment charter school to submit additional information needed to produce a financial report.

Authorizes the commissioner, if a district or school fails to provide requested information or if the commissioner determines that the information submitted by a district or school is unreliable, to order the district or school to acquire professional services.

Corrective Action Plan

Requires a school district or open-enrollment charter school assigned the lowest rating to submit to the commissioner a corrective action plan to address the financial weaknesses of the district or school.

Requires that a corrective action plan identify the specific areas of financial weakness, such as financial weakness in transportation, curriculum, or teacher development, and include strategies for improvement.

Authorizes the commissioner to impose appropriate sanctions against a district or school failing to submit or implement a corrective action plan.

Distinction Designations

Requires the commissioner to award distinction designations for outstanding performance not later than August 8 of each year.

Requires that a distinction designation awarded to a district or campus be referenced directly in connection with the performance rating assigned to the district or campus and made publicly available together with the performance ratings.

Academic Distinction Designation for Districts and Campuses

Requires the commissioner to establish an academic distinction designation for districts and campuses for outstanding performance in attainment of postsecondary readiness.

Requires the commissioner to adopt criteria for the academic designation including percentages of students who earned a nationally or internationally recognized business or industry certification or license; students

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who completed a coherent sequence of career and technical courses; students who completed a dual credit course or an articulated postsecondary course provided for local credit; students who achieved applicable College Readiness Benchmarks or the equivalent on the PSAT, SAT, ACT, or the Act-Plan assessment program; and students who received a score on either an advanced placement test or an international baccalaureate examination to be awarded college credit.

Campus Distinction Designations

Requires the commissioner to award a campus a distinction designation for outstanding performance in improvement in student achievement; outstanding performance in closing student achievement differentials; and outstanding performance in mathematics, science, or social studies.

Authorizes the commissioner to award a distinction designation for outstanding performance in advanced middle or junior high school student achievement to a campus with a significant number of students below grade nine who perform satisfactorily on an end-of-course assessment instrument.

Texas School Accountability Dashboard

Requires TEA to develop and maintain an Internet website, separate from TEA's Internet website, to be known as the Texas School Accountability Dashboard (TSAD) for the public to access school district and campus accountability information.

Requires the commissioner to adopt, for use on the TSAD, a performance index in:

- student achievement;
- student progress;
- closing performance gaps; and
- postsecondary readiness.

Requires that the TSAD include performance information for each school district and campus and allow for comparison between districts and campuses in each of the areas; a comparison of the number of students enrolled in each school district; and a comparison of performance information for each district and campus disaggregated by race, ethnicity, and populations served by special programs, including special education, bilingual education, and special language programs; and a comparison of performance information by subject area.

Comprehensive Annual Report

Requires that TEA's comprehensive annual report for each school district contain an evaluation of the availability of endorsements, including the endorsements for which the district offers all courses for curriculum requirements and the district's economic, geographic, and demographic information as determined by the commissioner.

Notice on Agency Website

Requires TEA, not later than October 1 of each year, to make available to the public on TEA's Internet website the letter performance rating assigned to each school district and campus and each distinction

designation awarded to a school district or campus; the performance rating assigned to a school district and each campus in the district by the district; and the financial accountability rating assigned to each school district and open-enrollment charter school.

Success Initiative

Provides that a student who successfully completes a college preparatory course is exempt from the requirements at an institution of higher education with respect to the content area of the course.

Requires the commissioner of higher education to establish the period for which an exemption is valid.

Provides that the exemption applies only at the institution of higher education that partners with the school district in which the student is enrolled to provide the course, except that the commissioner of higher education may determine the manner in which the exemption may be applied to institutions of higher education other than the partnering institution.

Automatic Admission: All Institutions

Includes provisions for the "distinguished level of achievement under the FHSP" for automatic admission to an institution of higher education.

Requires THECB and the commissioner to jointly adopt rules to establish eligibility requirements for admission as to curriculum requirements for high school graduation for students participating under the recommended or advanced high school program so that the admission of those students is not affected by their participation in the recommended or advanced high school program.

Other Admissions

Allows a graduating student who does not qualify for automatic admission to apply to any general academic teaching institution if the student successfully completed, at a public high school, the curriculum requirements established for the FHSP or the curriculum requirements at a high school with a curriculum that is equivalent in content and rigor to the FHSP; or satisfied ACT's College Readiness Benchmarks on the ACT assessment applicable to the applicant; or earned on the SAT assessment a score of at least 1,500 out of 2,400 or the equivalent.

Requires THECB and the commissioner to jointly adopt rules to establish eligibility requirements for admission as to curriculum requirements for high school graduation for students participating in the minimum, recommended, or advanced high school program so that the admission requirements for those students are not more stringent than the admission requirements for students participating in the FHSP.

Student Financial Assistance

Requires THECB and the commissioner to jointly adopt rules to modify, clarify, or otherwise establish for affected programs as they existed prior to this legislation appropriate eligibility requirements regarding high school curriculum.

Texas Academy of International Studies

Establishes that the Texas Academy of International Studies of Texas A&M International University allows students to complete graduation requirements for the FHSP and the distinguished level of achievement under the FHSP and earn appropriate endorsements.

Courses for Joint High School and Junior College Credit

Prohibits a student from enrolling in more than three courses at a junior college if the junior college does not have a service area that includes the student's high school.

Provides that a student enrolled at an early college high school may enroll in a greater number of courses to the extent approved by the commissioner.

Transition, Implementation, and Review

Authorizes the commissioner to adopt a transition plan to implement the amendments made by H.B. 5 relating to end-of-course testing requirements during the 2013-2014 and 2014-2015 school years.

Requires TEA, in collaboration with THECB and TWC, to, through an external evaluator at a center for education research, evaluate the implementation of the changes made by H.B. 5 to the curriculum requirements for high school graduation.

Requires that the evaluation include an estimation of H.B. 5's effect on high school graduation rates, college readiness, college admissions, college completion, obtainment of workforce certificates, employment rates, and earnings.

Requires the commissioner to submit an initial report regarding the review to the governor and the legislature not later than December 1, 2015, and to submit a final report not later than December 1, 2017.

Types of Beverages That May be Sold to Students on Public School Campuses—H.B. 217 [VETOED]
by Representative Alvarado et al.—Senate Sponsor: Senators Uresti and Garcia

Sodas, whole milk, and sugary electrolyte drinks are currently allowed to be sold on school campuses. Interested parties assert that these types of drinks may contain high amounts of fat and sugar and, with the exception of whole milk, generally provide minimal nutritional value. This bill:

Prohibits a public elementary, middle, or junior high school, except as otherwise provided by this bill, from selling or allowing to be sold to a student on the school campus any type of beverage other than the following: water without added sweetener; milk with a fat content of one percent or less; fluid milk substitutions permitted by the United States Department of Agriculture under 7 C.F.R. Section 210.10; 100 percent vegetable juice; or 100 percent fruit juice.

Provides that the preceding restriction does not apply on a day that school is not in session; before the beginning of the breakfast period; after the end of the last instruction period of the day; or to the sale of a

beverage to a high school student on a school campus on which a high school is colocated with an elementary, middle, or junior high school.

Authorizes the Texas Department of Agriculture to adopt rules as necessary to administer this section.

School District Recognition of and Education Regarding Traditional Winter Celebrations—H.B. 308
by Representative Bohac et al.—Senate Sponsor: Senator Nichols et al.

Current law does not define traditional winter celebrations or provide for school districts, administrators, teachers, and students to celebrate on school property with displays associated with those holidays, including menorahs, Christmas trees, and nativity scenes. This bill:

Authorizes a school district to educate students about the history of traditional winter celebrations, and allow students and district staff to offer traditional greetings regarding the celebrations, including: "Merry Christmas"; "Happy Hanukkah"; and "happy holidays."

Authorizes a school district, except as provided below, to display on school property scenes or symbols associated with traditional winter celebrations, including a menorah or a Christmas image such as a nativity scene or Christmas tree, if the display includes a scene or symbol of more than one religion, or one religion and at least one secular scene or symbol.

Prohibits a display relating to a traditional winter celebration from including a message that encourages adherence to a particular religious belief.

Filing of Financial Disclosure Statements by Trustees of Certain School Districts—H.B. 343
by Representative Márquez—Senate Sponsor: Senator Rodríguez

State officers and employees file their personal financial statements as required by certain rules and regulations adopted by the Texas Ethics Commission. Although school board members handle important budgetary and policy matters, they are not required to file personal financial statements. This bill:

Provides that this bill does not apply to the board of trustees of an independent school district to which Section 11.0641 (Filing of Financial Statement by Trustee Required for Certain School Districts) applies. Provides that this provision in the bill expires January 1, 2019.

Provides that this bill applies only to the board of trustees of an independent school district that is located in a county that is located on the international border and in which a municipality with a population of 600,000 or more is located.

Requires each member of the board of trustees of an independent school district to file a financial statement with the board of trustees and with the commissioners court of the county in which the school district's central administrative office is located.

Provides that the provisions of Subchapter B (Personal Financial Statement), Chapter 572 (Personal Financial Disclosure, Standards of Conduct, and Conflict of Interest), Government Code, governing the

contents, timeliness of filing, and public inspection of a statement apply to a statement filed under this section as if the trustee were a state officer and the commissioners court of the county were the Texas Ethics Commission.

Provides that a trustee commits an offense if the trustee fails to file the statement required by this bill. Provides that an offense under this bill is a Class B misdemeanor.

Requires the commissioners court of the county to determine from any available evidence whether a statement required to be filed under this bill is late. Requires the commissioners court, on making a determination that the statement is late, to immediately mail a notice of the determination to the individual responsible for filing the statement. Provides that the individual responsible for filing the statement, if a statement is determined to be late, is liable to the county for a civil penalty of \$500. Requires the commissioners court, if a statement is more than 30 days late, to issue a warning of liability by registered mail to the individual responsible for the filing. Provides that the individual, if the penalty is not paid before the 10th day after the date on which the warning is received, is liable for a civil penalty in an amount determined by the commissioners court, but not to exceed \$10,000.

Provides that a trustee is not required to file a statement under this bill for financial activity occurring on or after January 1, 2018. Provides that this provision in the bill expires January 1, 2019.

Provides that Section 11.0641, Education Code, as added by this Act, applies beginning January 1, 2015. Provides that a trustee is not required to include financial activity occurring before January 1, 2014, in a statement filed under that section.

Provides that the change in law made by this Act applies only to an offense committed on or after January 1, 2014. Provides that an offense, for purposes of this bill, is committed before January 1, 2014, if any element of the offense occurs before that date.

Provides that an offense committed before January 1, 2014, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

Provides that the expiration of Section 11.0641, Education Code, as added by this Act, does not affect the prosecution of an offense under or the collection of a civil penalty for the violation of that section as it existed before it expired, and the former law is continued in effect for that purpose.

Excused Absences From Public School For Certain Students—H.B. 455
by Representatives Dukes and Collier—Senate Sponsor: Senator Davis

Under current statute in the Education Code, it is not mandated that students with dependents receive excused absences from school when they must take their child to an appointment with a physician. H.B. 455 requires a school district to excuse a temporary absence for a student taking his or her dependent to an appointment with a health care professional, so long as the student comes to school the day of the appointment. Requiring that the student come to school the day of the appointment in order to receive the excused absence is a measure that will help ensure that the student is missing as little class time as possible. This bill:

Requires a school district to excuse a student from attending school under certain circumstances, including for a temporary absence resulting from an appointment with health care professionals for the student or the student's child if the student commences classes or returns to school on the same day of the appointment.

Prohibitions Relating to the Adoption of Common Core State Standards—H.B. 462
by Representative Huberty et al.—Senate Sponsor: Senators Patrick and Campbell

Interested parties assert that federal education legislation has often included statements indicating that the federal government's role in education is limited. The parties assert that the United States Constitution can be interpreted to provide that the states have the ultimate responsibility for education. The parties contend that, despite these principles, the federal government is seeking to increase its authority over education by using funds appropriated in the federal American Recovery and Reinvestment Act to coerce states to adopt national education standards and national tests. H.B. 462 seeks to address these matters as they relate to state control of teacher appraisal criteria, curriculum standards, and standardized tests. This bill:

Defines "common core state standards." Prohibits the State Board of Education (SBOE) from adopting common core state standards to comply with a duty imposed under this chapter (Courses of Study; Advancement).

Prohibits a school district from using common core state standards to comply with the requirement to provide instruction in the essential knowledge and skills at appropriate grade levels under Subsection (c) (relating to requiring SBOE by rule to identify the essential knowledge and skills of each subject of the required curriculum). Prohibits a school district or open-enrollment charter school, notwithstanding any other provision of this code, from being required to offer any aspect of a common core state standards curriculum.

Prohibits the Texas Education Agency from adopting or developing a criterion-referenced assessment instrument under this section based on common core state standards as defined by Section 28.002(b-1). Provides that this bill does not prohibit the use of college advanced placement tests or international baccalaureate examinations as those terms are defined by Section 28.051.

Collection of Data Relating to Military-Connected Students Through PEIMS—H.B. 525
by Representative Aycock et al.—Senate Sponsor: Senators Fraser and Rodríguez

Interested parties contend that creating a military student identifier for students to be counted and recorded through the Public Education Information Management System (PEIMS) would provide lawmakers and educators with essential data needed to make reality-based and informed decisions, allow educational institutions to monitor critical elements of education success for children who are dependents of military personnel, and show the state's commitment to military personnel and their children. H.B. 525 seeks to provide for the collection of data relating to military-connected students through PEIMS. This bill:

Requires the Texas Education Agency (TEA) to collect data each year from school districts and open-enrollment charter schools through the PEIMS relating to the enrollment of military-connected students. Provides that the data relating to the enrollment of military-connected students under this section is required to include the number of active duty military-connected students and the number of National

Guard or reserve military-connected students enrolled in the school district or open-enrollment charter school on a date at the beginning of the school year specified by TEA and a date at the end of the school year specified by TEA and is prohibited from being used for purposes of determining a campus or district performance rating under Section 39.054 (Methods and Standards for Evaluating Performance).

Defines "military-connected student."

Eligibility For Special Education Program on the Basis of Visual Impairment—H.B. 590
by Representative Naishtat—Senate Sponsor: Senator Zaffirini

Orientation and Mobility (O&M) is a special education service specific to children who are visually impaired. These services include long cane skills; use of distance optical devices (hand-held telescopes); getting around the home, playground, and neighborhood; using other senses effectively; and developing motor skills and concepts needed for purposeful movement. O&M services are fundamental to the successful education of children with visual impairments because it teaches the skills to move safely in their home, school, and community.

Because a certified teacher of students with visual impairments (TVI) must make a recommendation regarding the need for an O&M evaluation (rather than a certified orientation and mobility specialist) many children with visual impairments are not receiving the evaluations and services they need.

Texas law references the need to specifically address O&M in the individual education plan (IEP) and in statewide plans for this population. It does not specifically say that O&M must be part of the evaluation, although it is implied since IEPs must be based on evaluation. This bill:

Requires that the full individual and initial evaluation of a student required by Section 29.004 (Full Individual and Initial Evaluation), to implement Subsection (c)(1) (relating to requiring the comprehensive statewide plan for the education of children with visual impairments to include the procedures, format, and content of an individualized education program for each child with a visual impairment) and to determine a child's eligibility for a school district's special education program on the basis of a visual impairment, in accordance with commissioner of education (commissioner) rule; include an orientation and mobility evaluation conducted by a person who is appropriately certified as an orientation and mobility specialist, as determined under commissioner rule; and in a variety of lighting conditions and in a variety of settings, including in the student's home, school, and community and in settings unfamiliar to the student; and provide for a person who is appropriately certified as an orientation and mobility specialist to participate, as part of a multidisciplinary team, in evaluating data on which the determination of the child's eligibility is based.

Requires that the scope of any reevaluation by a school district of a student who has been determined, after the full individual and initial evaluation, to be eligible for the district's special education program on the basis of a visual impairment be determined, in accordance with 34 C.F.R. Sections 300.122 and 300.303 through 300.311, by a multidisciplinary team that includes, as provided by commissioner rule, a person described by Subsection (c-1)(1)(A).

Transition and Employment Services For Students in Special Education Programs—H.B. 617
by Representative Eddie Rodriguez et al.—Senate Sponsor: Senator Zaffirini

Current state law requires the commissioner of education to adopt procedures for compliance with federal requirements relating to transition services for students who are enrolled in special education programs. Federal law requires transition services for students with disabilities to be in effect when the child reaches the age of 14 and stipulates that an individualized education plan must include appropriate measurable postsecondary goals based on age-appropriate transition assessments and services. This bill:

Requires the commissioner of education (commissioner) to require each school district or shared services arrangement to designate at least one employee to serve as the district's or shared services arrangement's designee on transition and employment services for students enrolled in special education programs under this subchapter (Special Education Program). Requires the commissioner to develop minimum training guidelines for a district's or shared services arrangement's designee. Requires an individual designated under this bill to provide information and resources about effective transition planning and services and interagency coordination to ensure that local school staff communicate and collaborate with students enrolled in special education programs under this subchapter and the parents of those students, and, as appropriate, local and regional staff of certain state agencies.

Requires the Texas Education Agency (TEA), with assistance from the Health and Human Services Commission (HHSC), to develop a transition and employment guide for students enrolled in special education programs and their parents to provide information on statewide services and programs that assist in the transition to life outside the public school system. Authorizes TEA to contract with a private entity to prepare the guide.

Requires that the transition and employment guide contain certain information specific to this state.

Requires that the transition and employment guide be produced in an electronic format and posted on TEA's website in a manner that permits the guide to be easily identified and accessed.

Requires TEA to update the transition and employment guide posted on TEA's website at least once every two years.

Requires a school district to post the transition and employment guide on the district's website if the district maintains a website; and provide written information and, if necessary, assistance to a parent regarding how to access the electronic version of the guide at certain admission, review, and dismissal committee meetings.

Requires TEA, with assistance from HHSC, to complete development of the guide required by Section 29.0112, Education Code, as added by this Act, not later than September 1, 2014. Requires a school district to comply with Section 29.0112(e), Education Code, as added by this Act, beginning on the date the guide is available.

Continuing Education Requirements For Certain Educators—H.B. 642

by Representative Diane Patrick—Senate Sponsor: Senator Lucio

Currently, establishing the process for continuing education requirements for classroom teachers is under the authority of the State Board for Educator Certification (SBEC). Under SBEC rule, each classroom teacher is required to obtain 150 hours every five years in continuing professional education in order to renew their respective certifications. Principals and counselors are required to obtain 200 hours every five years in continuing professional education in order to renew their certifications. These requirements are extremely broad and, oftentimes, not meaningful for current public schools, classrooms, and students. This bill:

Requires that continuing education requirements for a classroom teacher provide that not more than 25 percent of the training required every five years include instruction regarding collecting and analyzing information that will improve effectiveness in the classroom; recognizing early warning indicators that a student may be at risk of dropping out of school; integrating technology into classroom instruction; educating diverse student populations, including students with disabilities, including mental health disorders; students who are educationally disadvantaged; students of limited English proficiency; and students at risk of dropping out of school; and increasing knowledge of the subject area taught by the educator.

Requires that continuing education requirements for a principal provide that not more than 25 percent of the training required every five years include instruction regarding effective and efficient management, including collecting and analyzing information, making decisions and managing time, and supervising student discipline and managing behavior; recognizing early warning indicators that a student may be at risk of dropping out of school; integrating technology into campus curriculum and instruction; educating diverse student populations, including students with disabilities, including mental health disorders; students who are educationally disadvantaged; students of limited English proficiency; and students at risk of dropping out of school; and providing instructional leadership, including providing teacher support, maintaining community involvement, building professional learning communities, and recruiting, coaching, remediating, and retaining campus educators.

Requires that continuing education requirements for a counselor provide that not more than 25 percent of training required every five years include instruction regarding assisting students in developing high school graduation plans; implementing dropout prevention strategies; and informing students concerning college admissions, including college financial aid resources and application procedures, and career opportunities.

Requires SBEC, not later than January 1, 2014, to propose rules implementing Section 21.054, Education Code, as amended by this Act.

Provides that an educator subject to continuing education requirements immediately before the effective date of this Act is not required to comply with the continuing education requirements described by Sections 21.054(d), (e), or (f), Education Code, as added by this Act, for any continuing education requirements period that ends before January 1, 2017.

Employment of Persons by Open-Enrollment Charter Schools—H.B. 647
by Representative Diane Patrick—Senate Sponsor: Senator Davis

Charter schools are currently prohibited from hiring employees with certain misdemeanors on their record. H.B. 647 modifies the law to allow any person who could be hired to teach or work in a traditional public school with such a record to also be eligible for employment by public charter school. This bill:

Authorizes an open-enrollment charter school, notwithstanding Subsection (a) (relating to prohibiting a person from serving as a member of the governing board of a charter holder, as a member of the governing body of an open-enrollment charter school, or as an officer or employee of an open-enrollment charter school under certain circumstances), subject to Section 12.1059 (Agency Approval Required for Certain Employees), to employ a person as a teacher or educational aide if a school district could employ the person as a teacher or educational aide, or a school district could employ the person as a teacher or educational aide if the person held the appropriate certificate issued under Subchapter B (Certification of Educators), Chapter 21 (Educators), and the person has never held a certificate issued under Subchapter B, Chapter 21; or in a position other than a position described by Subdivision (1) if a school district could employ the person in that position.

Grant Program For Certain School Districts to Provide Summer Instruction—H.B. 742
by Representative Strama et al.—Senate Sponsor: Senator Watson et al.

Within the education system, there remain three persistent, critical deficiencies that contribute to the suppression of student achievement. First, the amount of learning loss experienced by economically disadvantaged students during the summer recess increases the achievement gap between these students and their peers who are not economically disadvantaged. Second, a lack of real-world, classroom-based training and development for new teachers impedes growth and increases new teacher attrition. Finally, the education system fails to compensate the best teachers for taking on meaningful additional responsibility while remaining classroom teachers. This bill:

Defines "new teacher" and "program." Requires the commissioner of education (commissioner) to establish and administer a competitive program to provide grants to not more than 10 school districts to use in providing instructional programs to students in prekindergarten through eighth grade during the period in which school is recessed for the summer. Requires that the program be designed to encourage participation in the program by a district's most educationally disadvantaged students; close the academic achievement gap between students who are educationally disadvantaged and students who are not educationally disadvantaged; ensure that during the period in which school is recessed for the summer, students participating in the program retain knowledge and skills learned during the school year and continue learning; provide apprenticeship, mentorship, and other professional development opportunities for new teachers and student teachers; and add to the compensation of a district's highest performing teachers by providing those teachers with summer employment teaching students, new teachers, and student teachers.

Requires a school district, to be eligible to participate in the program, to have an enrollment of students who are educationally disadvantaged that is greater than 50 percent of total district enrollment; apply to the commissioner in the manner and within the time prescribed by commissioner rule; and provide as part of

the application materials a plan that is designed to achieve the purposes described by Subsections (b)(1) through (5).

Requires the commissioner, in selecting from among eligible school districts to participate in the program, to select those districts that provide plans that are the most innovative and represent a variety of approaches so that the effectiveness of various plans can be compared and evaluated.

Authorizes a grant to be funded only with money appropriated for the program and any gifts, grants, or donations made to the Texas Education Agency (TEA) that are authorized to be used for, and that the commissioner applies to, funding the program. Requires the commissioner, in accordance with commissioner rule and based on the amount available for the program, to determine the amount of each grant awarded under this section. Authorizes a school district awarded a grant under this section to use the grant only for implementing and administering a plan as described by Subsection (c)(3), including providing compensation to teachers in accordance with Subsection (b)(5) and commissioner rule.

Requires each school district participating in the program to, in the manner and within the time prescribed by commissioner rule, provide to TEA an annual written report that includes: a detailed description of the district's plan, as implemented; the number and grade levels of participating students; demographic information for participating students, including the percentage of students of each applicable race and ethnicity, the percentage of educationally disadvantaged students, the percentage of students of limited English proficiency as defined by Section 29.052 (Definitions), the percentage of students enrolled in a school district special education program under Subchapter A (Special Education Program), and the percentage of students enrolled in a district bilingual education program under Subchapter B (Bilingual Education and Special Language Programs); school attendance rates for participating students, before, during, and after program participation, as applicable; specific information that demonstrates whether the purposes described by statute have been achieved, including the results of assessment instruments administered under Section 39.023 (Adoption and Administration of Assessment Instruments) for participating students, before, during, and after program participation, as applicable; aggregate results of assessment instruments administered under Section 39.023 for students of participating classroom teachers, new teachers, and student teachers, before, during, and after program participation by the students, as applicable; information regarding the manner in which teachers are selected for participation in the program and the manner in which teachers are compensated for their participation; statistical information for participating classroom teachers, new teachers, and student teachers, including the number of years employed in the teaching profession, the number of years teaching in the district in which the program is provided, the category and class of educator certification held, the highest level of academic degree earned, race, ethnicity, and gender; information regarding whether the program is provided on a full-day or half-day basis, the program is voluntary or mandatory for educationally disadvantaged students, the district has partnered with an outside provider to provide any supplemental service; the district provides transportation to participating students, and the district offers the program to students who are not educationally disadvantaged and, if so, under what circumstances; information on retention in the teaching profession of the participating teachers, including new teachers and student teachers; and any other information required by commissioner rule.

Requires TEA to contract with an experienced and recognized third-party program evaluator to determine and prepare a report regarding the effectiveness of the program. Requires that the evaluator's report include the evaluator's best effort to project the cost and academic effects of implementing the best practices of the program in school districts throughout this state and describe the effectiveness of the

program in improving academic performance among participating students; improving the professional development and performance of new teachers; and rewarding and retaining the highest performing teachers.

Requires TEA, not later than November 1 of each even-numbered year, to submit to each member of the legislature a report specifically describing the results of the program. Authorizes the report to be in the form of a summary of the required information.

Requires the commissioner to adopt rules as necessary to administer this bill.

Certain Information Provided to Parents Concerning Supplemental Educational Services—H.B. 753
by Representative Villarreal—Senate Sponsor: Senator Zaffirini

Supplemental educational services are additional academic instruction programs designed to increase academic achievement of students in campuses needing improvement. They are provided by a wide variety of organizations and include services such as tutoring remediation and other educational interventions. Current federal law requires public schools not making adequate yearly progress for three consecutive years to offer eligible students the opportunity for free extra academic assistance through supplemental educational services. These requirements, however, are not specifically outlined in current Texas statute. Adding information about which programs have successfully demonstrated characteristics that foster improvement would allow parents to make the most informed decision about which tutoring services are the best fit for their child. This bill:

Defines "rigorous research." Requires a school district, as part of the annual notice the district provides to parents under 20 U.S.C. Section 6316(e)(2)(A) concerning supplemental educational services, to include information provided to the district by the Texas Education Agency (TEA) that identifies characteristics of supplemental educational services that, based on rigorous research, have been demonstrated to be more likely to foster improvement in student academic performance, including information concerning the minimum number of hours of tutoring necessary for improved performance; and sorts, for each subject for which supplemental educational services are provided, supplemental educational services providers serving district students according to the provider's level of effectiveness in improving student performance in the applicable subject area.

Requires TEA to develop and the commissioner of education (commissioner) by rule to establish a process for approving and revoking approval for a supplemental educational services provider. Requires that the process allow TEA to use any publicly available information from any published source in determining whether to approve an entity as a provider, except that TEA is prohibited from using any information that is self-published or published by a provider for marketing purposes.

Requires TEA to maintain a publicly available list of approved providers. Requires TEA, in accordance with standards established by commissioner rule, to promptly investigate a complaint against an approved provider and promptly remove from the list of approved providers a provider for which TEA approval has been revoked.

Requires TEA, not later than the fifth business day after the date on which TEA removes a provider from the list of approved providers, to send notice of the removal to each appropriate school district. Requires the district to provide notice of the removal to parents of appropriate students.

Provides that a supplemental educational services provider for which TEA approval has been revoked because TEA determines that the provider has engaged in fraudulent activity is permanently prohibited from acting as a provider in this state.

Recitation of the Pledges of Allegiance to and Display of the U.S. and Texas Flags—H.B. 773

by Representative Farney et al.—Senate Sponsor: Senator Schwertner

Under current law, public school students recite the pledge of allegiance to the United States flag, the pledge to the Texas flag, and have a minute of silence where the student may, as the student chooses, reflect, pray, meditate, or engage in any other silent activity that will not interfere with or distract another student. However, open-enrollment charter schools are not included in this law. This bill:

Requires the board of trustees of each school district and the governing board of each open-enrollment charter school to require students, once during each school day at each campus, rather than at each school in the district, to recite the pledge of allegiance to the United States flag in accordance with 4 U.S.C. Section 4, rather than in accordance with 4 U.S.C. Section 4 and its subsequent amendments.

Requires the board of trustees of each school district and the governing board of each open-enrollment charter school to prominently display the United States and Texas flags in each campus classroom in accordance with 4 U.S.C. Sections 5-10 and Chapter 3100, Government Code. Provides that a district or school is not required to spend federal, state, or local district or school funds to acquire flags required under this bill. Authorizes a district or school to raise money or accept gifts, grants, and donations to purchase flags as required under this bill.

Requires a school district or open-enrollment charter school, on written request from a student's parent or guardian, to excuse the student from reciting a pledge of allegiance.

Requires the board of trustees of each school district and the governing board of each open-enrollment charter school to provide for the observance of one minute of silence at each campus, rather than at each school in the district, following the recitation of the pledges of allegiance to the United States and Texas flags.

Provision of Certain Opportunities to Career and Technical Students—H.B. 842

by Representative Bell et al.—Senate Sponsor: Senator Deuell

In Texas, public schools are the primary means by which adolescents and young adults gain access to the knowledge base and skills that will prepare them for future employment and for higher education. However, a growing number of business and industry representatives have expressed concern that students are not given enough opportunity to develop occupational knowledge and job skills. Interested parties contend that the lack of this opportunity may leave Texas students underserved and compound the projected shortages of qualified applicants in certain occupations. In addition, some school districts in

Texas have expressed concern regarding rigidity within Texas education laws that prohibits the districts from expanding opportunities for students to explore career and technical education programs that may lead to high-demand, high-skill, and high-wage occupations. This bill:

Authorizes a program implemented under this section (College Credit Program) to provide a student the opportunity to earn credit for a course or activity, including an apprenticeship or training hours that satisfies a requirement necessary to obtain an industry-recognized credential or certificate or an associate degree; is approved by the Texas Higher Education Coordinating Board; and for which a student is authorized to earn credit concurrently toward both the student's high school diploma and postsecondary academic requirements.

Administration of State-administered Assessment Instruments—H.B. 866
by Representative Huberty et al.—Senate Sponsor: Senator Seligers and Patrick

The new state standardized test, the State of Texas Assessments of Academic Readiness (STAAR), has been administered to students in grade three and will be phased in to students through grade eight. These tests were developed to be more rigorous and better indicators of college and career readiness, but once the testing is completely phased in, students will be taking more than 10 state standardized tests between the grades of three and eight, in addition to the tests developed and administered by their classroom teachers. Some parties assert that this amount of testing is excessive. This bill:

Requires all students, other than students assessed under this bill or exempted under Section 39.027 (Exemption), except as provided by this bill, to be assessed in mathematics, in grades three and five without the aid of technology and in grade eight with the aid of technology on any assessment instrument that includes algebra; reading, in grades three, five, and eight; social studies, in grade eight; and science, in grades five and eight.

Requires the Texas Education Agency (TEA) to develop assessment instruments required under this bill in a manner that allows, to the extent practicable, the score a student receives to provide reliable information relating to a student's satisfactory performance for each performance standard under Section 39.0241 (Performance Standards); and an appropriate range of performances to serve as a valid indication of growth in student achievement.

Provides that a student is not required to be assessed in a subject otherwise assessed at the student's grade level under this bill if the student is enrolled in a course in the subject intended for students above the student's grade level and will be administered an assessment instrument adopted or developed under this bill that aligns with the curriculum for the course in which the student is enrolled or is enrolled in a course in the subject for which the student will receive high school academic credit and will be administered an end-of-course assessment instrument adopted under this bill for the course.

Requires TEA, for each assessment instrument administered under this bill, to determine, based on available information for that assessment instrument, the minimum satisfactory adjusted scale score. Provides that the minimum satisfactory adjusted scale score is the sum of the scale score that indicates satisfactory performance on that assessment instrument, as determined by the commissioner of education (commissioner) under Section 39.0241(a) (relating to requiring the commissioner to develop levels of satisfactory performance for assessment instruments), plus the minimum number of points that when

added to the scale score produces a score that, within a three percent margin of error, is predictive that a student achieving that score would achieve satisfactory performance on an assessment instrument in the same subject administered to the student during the following school year.

Requires a student to be assessed in grade four in a subject for which an assessment instrument is administered under this bill in grade three if, on the final assessment instrument in that subject administered under this bill to the student in grade three during the preceding school year, the student did not achieve a score equal to or greater than the minimum satisfactory adjusted scale score for that assessment instrument, as determined under this bill.

Requires a student to be assessed in grade six in a subject for which an assessment instrument is administered under this bill in grade five if, on the final assessment instrument in that subject administered under this bill to the student in grade five during the preceding school year, the student did not achieve a score equal to or greater than the minimum satisfactory adjusted scale score for that assessment instrument, as determined under this bill.

Requires a student to be assessed in grade seven in a subject for which an assessment instrument was administered under this bill to the student in grade six if, on the final assessment instrument in that subject administered to the student in grade six during the preceding school year, the student did not achieve a score equal to or greater than the minimum satisfactory adjusted scale score for that assessment instrument, as determined under this bill.

Requires a student assessed in mathematics under this bill to be assessed without the aid of technology.

Authorizes a school district or open-enrollment charter school to, for its own use in determining whether students are performing at a satisfactory level, administer to a student at the appropriate grade level, other than a student required to be assessed, an assessment instrument developed for purposes of this bill. Requires TEA, at the request of a district or open-enrollment charter school, to provide, allow for the administration of, and score each assessment instrument administered under this subsection in the same manner and at the same cost as for assessment instruments required to be administered under the applicable subsection. Prohibits the results of an assessment instrument administered under this subsection from being included as an indicator of student achievement under Section 39.053 (Performance Indicators; Student Achievement) or any other provision.

Requires the commissioner, if there is a conflict between this section (Adoption and Administration of Instruments) and a federal law or regulation as a result of forgoing under this section certain administration of assessment instruments to students who have recently performed successfully on assessment instruments assessing the same subject, to seek a waiver from the application of the conflicting federal law or regulation. Requires the commissioner, in seeking a waiver, to submit all relevant data, including data relating to the likelihood that a student who achieves a score on an assessment instrument equal to or greater than the minimum satisfactory adjusted scale score for that assessment instrument, as determined under this bill, will, in subsequent years, perform satisfactorily on assessment instruments in the same subject; the costs associated with ongoing assessment of students who have proven likely to perform successfully on subsequent assessment instruments; and the benefit of redirecting resources from assessment of students who have proven likely to perform successfully on subsequent assessment instruments toward enabling lower performing students to perform successfully on assessment instruments after one school year.

Requires TEA to develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to a student in a special education program under Subchapter A (Special Education Program), Chapter 29 (Educational Programs), for whom an assessment instrument adopted under Subsection (a) or, to the extent applicable, Subsection (a-4), (a-5), or (a-6), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee.

Requires TEA, to the greatest extent practicable, to develop any assessment instrument required under this section in a manner that allows for the measurement of annual improvement in student achievement as required by Sections 39.034(c) (relating to requiring TEA to determine and report a student's expected annual improvement on an assessment instrument) and (d) (relating to requiring TEA to determine the necessary annual improvement required each year for a student to be considered to be prepared to perform satisfactorily on certain assessment instruments).

Requires the State Board of Education (SBOE), in adopting a schedule for the administration of assessment instruments under this bill, to require certain assessment instruments to be administered on a schedule so that the first assessment instrument is administered at least two weeks later than the date on which the first assessment instrument was administered under this bill during the 2006-2007 school year.

Requires TEA, under rules adopted by SBOE, every third year, to release the questions and answer keys to each of certain assessment instruments, excluding any assessment instrument administered to a student for the purpose of retaking the assessment instrument, after the last time the instrument is administered for that school year. Provides that TEA, to ensure a valid bank of questions for use each year, is not required to release a question that is being field-tested and was not used to compute the student's score on the instrument.

Requires SBOE to adopt rules for the administration of the assessment instruments adopted under this bill, to the extent applicable, the assessment instruments adopted under this bill in Spanish to students in grades three, four, and five who are of limited English proficiency, as defined by Section 29.052 (Definitions), whose primary language is Spanish, and who are not otherwise exempt from the administration of an assessment instrument under Section 39.027(a)(1) or (2) (relating to authorizing a student to be administered an accommodated or alternative assessment instrument or to be granted an exemption from or a postponement of the administration of an assessment instrument under certain circumstances). Authorizes each student of limited English proficiency whose primary language is Spanish, other than a student to whom this bill applies, to be assessed using assessment instruments in Spanish under this subsection for up to three years or assessment instruments in English under this bill.

Requires the commissioner by rule to develop procedures under which the language proficiency assessment committee established under Section 29.063 (Language Proficiency Assessment Committees) is required to determine which students are exempt from the administration of the assessment instruments. Requires that the rules adopted under this bill ensure that the language proficiency assessment committee provides that the exempted students are administered the assessment instruments under this bill.

Provides that this subsection applies only to a student who is determined to have dyslexia or a related disorder and who is an individual with a disability under 29 U.S.C. Section 705(20) and its subsequent amendments. Requires TEA to adopt or develop appropriate criterion-referenced assessment instruments

designed to assess the ability of and to be administered to each student to whom this subsection applies for whom the assessment instruments adopted under this bill and, to the extent applicable, the assessment instruments adopted under certain subsections, even with allowable modifications, would not provide an appropriate measure of student achievement, as determined by the committee established by the board of trustees of the district to determine the placement of students with dyslexia or related disorders. Requires the committee to determine whether any allowable modification is necessary in administering to a student an assessment instrument required under this bill. Requires that the assessment instruments required under this subsection be administered on the same schedule as the assessment instruments administered under certain subsections.

Requires the commissioner, on or before September 1 of each year, to make certain information available on TEA's Internet website for each assessment instrument administered under this bill.

Guarantee of Refinanced Open-Enrollment Charter School Bonds—H.B. 885

by Representative Murphy et al.—Senate Sponsor: Senator Patrick

Interested parties contend that recent legislation allowing open-enrollment charter schools to have bonds guaranteed by the Permanent School Fund has led to an improvement in their bond ratings through all major investment agencies and a decrease in the amount of interest due over the life of a charter school bond. The parties suggest that extending such Permanent School Fund guarantee to refunding and refinanced bonds issued by or for a charter school will result in lower interest rates for certain charter schools and allow returned funds to be used for instructional purposes in the classroom. This bill:

Authorizes a charter district to apply for bonds issued under Chapter 53 (Higher Education Facility Authorities for Public Schools) for the open-enrollment charter school, including refunding and refinanced bonds, to be guaranteed by the Permanent School Fund as provided by Chapter 45 (School District Funds).

Provides that on approval by the commissioner of education (commissioner), bonds issued under Subchapter A (Tax Bonds and Maintenance Taxes) by a school district or Chapter 53 for a charter district, including refunding and refinanced bonds, are guaranteed by the corpus and income of the Permanent School Fund.

Prohibits the commissioner from approving charter district refunding or refinanced bonds for guarantee under this subchapter in a total amount that exceeds one-half of the total amount available for the guarantee of charter district bonds under Subsection (a) (relating to placing a limitation on the guarantee of charter district bonds).

Instruction in Cardiopulmonary Resuscitation in Secondary Education Curriculum—H.B. 897

by Representative Zerwas et al.—Senate Sponsor: Senator Hinojosa

H.B. 897 seeks to ensure that students in grades 7 through 12 receive training in cardiopulmonary resuscitation (CPR) before graduation. This bill:

Requires the State Board of Education (SBOE) by rule to require instruction in cardiopulmonary resuscitation for students in grades 7 through 12. Requires a school district or open-enrollment charter school to provide instruction to students in grades 7 through 12 in cardiopulmonary resuscitation in a manner consistent with the requirements of this section (Cardiopulmonary Resuscitation and Automated External Defibrillator Instruction) and SBOE rules adopted under this section. Deletes existing text providing that this subsection applies only to a private school that receives an automated external defibrillator from the Texas Education Agency (TEA) or receives funding from TEA to purchase or lease an automated external defibrillator. Authorizes the instruction to be provided as a part of any course. Requires a student to receive the instruction at least once before graduation.

Authorizes a school administrator to waive the curriculum requirement under this bill for an eligible student who has a disability.

Requires that cardiopulmonary resuscitation instruction include training that has been developed by the American Heart Association or the American Red Cross; or using nationally recognized, evidence-based guidelines for emergency cardiovascular care and incorporating psychomotor skills to support the instruction.

Defines "psychomotor skills." Authorizes a school district or open-enrollment charter school to use emergency medical technicians, paramedics, police officers, firefighters, representatives of the American Heart Association or the American Red Cross, teachers, other school employees, or other similarly qualified individuals to provide instruction and training under this section. Provides that instruction provided under this section is not required to result in certification in cardiopulmonary resuscitation. Requires the course instructor to be authorized to provide the instruction by the American Heart Association, the American Red Cross, or a similar nationally recognized association if instruction is intended to result in certification in cardiopulmonary resuscitation.

Creation of New Category of Law Enforcement Officer to be a School Marshal—H.B. 1009
by Representative Villalba et al.—Senate Sponsor: Senators Hancock and Patrick

Interested parties note that there are limited school safety options for school districts in Texas. Some larger school districts employ a dedicated police force tasked with protecting all schools in the district, and others use school resource officers. It has been observed that a few schools have adopted policies that allow teachers who are concealed handgun license holders to carry a firearm in school buildings and on school grounds. In an effort to provide an additional option for protecting students, faculty, and other staff in Texas schools, H.B. 1009 seeks to authorize a school district or open-enrollment charter school to appoint school marshals to prevent or abate the commission of an offense in the event of a life-threatening situation that occurs on school premises. School marshals would be required to successfully complete a rigorous training course administered by the Commission on Law Enforcement Officer Standards and Education (TCLEOSE) and required to be certified by TCLEOSE to be eligible for appointment. This bill:

Provides that this Act be known as the Protection of Texas Children Act. Authorizes a school marshal to make arrests, exercise all authority given to peace officers subject to written regulations adopted by the board of trustees of a school district or the governing body of an open-enrollment charter school, and only act as necessary to prevent or abate the commission of an offense that threatens serious bodily injury or death of students, faculty, or visitors on school premises. Prohibits a school marshal from issuing a traffic

citation for a violation of certain Transportation Code provisions, specifies that a school marshal is not entitled to state benefits normally provided by the state to a peace officer, and prohibits a person from serving as a school marshal unless licensed by TCLEOSE as a school marshal and appointed by the board of trustees of a school district or the governing body of an open-enrollment charter school.

Authorizes the board of trustees of a school district or the governing body of an open-enrollment charter school to appoint a maximum of one school marshal per 400 students in average daily attendance per campus and to select for appointment as a school marshal an applicant who is an employee of the school district or charter school and certified by the Commission on Law Enforcement Officer Standards and Education (TCLEOSE) as eligible for appointment. Authorizes the board or governing body to reimburse the amount paid by the applicant to participate in the school marshal training program established by TCLEOSE under the bill's provisions. Authorizes an appointed school marshal to carry or possess a handgun on the physical premises of a school, but only in the manner provided by written regulations adopted by the applicable board of trustees or the governing body and only at a specific school as specified by the board or governing body. Requires any written regulations to authorize a school marshal to carry a concealed handgun, unless the marshal's primary duty involves regular, direct contact with students, in which case the marshal is authorized only to possess a handgun on the physical premises of a school in a locked and secured safe within the marshal's immediate reach when conducting the marshal's primary duty. Requires the written regulations to require that a handgun carried by or within access of a school marshal be loaded only with frangible ammunition designed to disintegrate on impact for maximum safety and minimal danger to others.

Authorizes a school marshal to access a handgun only under circumstances that would justify the use of deadly force as provided under certain Penal Code provisions. Provides that a school district or charter school employee's status as a school marshal becomes inactive on expiration of the employee's school marshal license, on suspension or revocation of the employee's license to carry a concealed handgun, on termination of the employee's employment with the district or charter school, or on notice from the board of trustees of the school district or the governing body of the charter school that the employee's services as school marshal are no longer required. Provides that the identity of an appointed school marshal is confidential, except to certain persons and entities, and is not subject to a request under public information law.

Requires the Department of Public Safety of the State of Texas (DPS) to notify TCLEOSE if DPS takes any action, including suspension or revocation, against the concealed handgun license of a person identified by TCLEOSE as a person certified as a school marshal.

Requires TCLEOSE to establish, not later than January 1, 2014, and maintain a training program open to any employee of a school district or open-enrollment charter school who holds a concealed handgun license. Authorizes the training to be conducted only by TCLEOSE staff or a provider approved by TCLEOSE and requires the training program to include 80 hours of specified instruction.

Requires TCLEOSE, in consultation with psychologists, to devise and administer to each trainee a psychological examination to determine whether the trainee is psychologically fit to carry out the duties of a school marshal in an emergency shooting or situation involving an active shooter. Authorizes TCLEOSE to license a person as a school marshal only if the results of the examination indicate that the trainee is psychologically fit to carry out those duties. Requires TCLEOSE to set out provisions relating to a fee to cover the cost of conducting the program, a school marshal license renewal fee, and issuance of a license

to an eligible person who completes the training program and is psychologically fit to carry out the duties of a school marshal.

Provides that a school marshal license expires on the first birthday of the license holder occurring after the second anniversary of the date TCLEOSE licenses the license holder and that a renewed school marshal license expires on the license holder's birth date, two years after the expiration of the previous license. Provides that the bill sets out minimum training and aptitude requirements for school marshal license renewal. Requires TCLEOSE to revoke a person's school marshal license if TCLEOSE is notified by DPS that the person's concealed handgun license has been suspended or revoked and sets out the manner in which a person whose school marshal license is revoked may obtain recertification.

Requires TCLEOSE to collect certain identifying information from each person who participates in the training program and to submit that information to the public safety director of DPS, the person's employer if the person is employed by a school district or open-enrollment charter school, the chief law enforcement officer of the local municipal law enforcement agency if the person is employed at a campus of a school district or open-enrollment charter school located within a municipality, the sheriff of the county if the person is employed at a campus of a school district or open-enrollment charter school that is not located within a municipality, and the chief administrator of any school district peace officer if the person is employed at a school district that has commissioned such a peace officer. Requires TCLEOSE to immediately report the expiration or revocation of a school marshal license to those persons and specifies that such identifying information is confidential, except to those persons, and not subject to disclosure under public information law.

Three-year High School Diploma Plan and Cost-neutral Expansion of Full-Day Pre-K—H.B. 1122

by Representative Johnson et al.—Senate Sponsor: Senator West

Interested parties have raised concerns that many Texas high school graduates enter college unprepared, while noting that participation in prekindergarten programs is linked to successful college preparedness. H.B. 1122 aims to advance participation in prekindergarten programs to address the problem of college preparedness by implementing a pilot program for a three-year high school diploma plan and cost-neutral expansion of full-day prekindergarten programs. This bill:

Defines "certificate program," "public junior college," "public state college," and "public technical institute." Provides that this section applies only to a school district with an enrollment of more than 150,000 students and located primarily in a county that has a population of 2.2 million or more and that is adjacent to a county with a population of more than 600,000.

Authorizes a school district to which this bill applies to develop and implement a pilot program for students who wish to obtain a high school diploma after completion of three years of secondary school attendance as an alternative to the traditional four-year period of attendance.

Requires that the program be designed to serve the educational needs of students who do not anticipate immediate enrollment in a four-year college or university after graduation from high school; and include partnerships between the school district and public junior colleges, public technical institutes, public state colleges, and any other public postsecondary institutions in this state offering academic or technical

education or vocational training under a certificate program or an associate degree program to facilitate the prompt enrollment of students in those institutions after high school graduation under the program.

Requires that participation by a student in the program be voluntary, with approval of the student's parent. Authorizes a student who agrees to participate in the program to, on request, discontinue participation and resume taking courses under a high school program based on a traditional four-year period of attendance.

Requires the school district, notwithstanding Section 28.025 (High School Diploma and Certificate; Academic Achievement Record), to specify the curriculum requirements for receiving a high school diploma under the program. Requires that the curriculum requirements ensure that a student who graduates under the program possesses sufficient knowledge and skills in English language arts and mathematics to be capable of performing successfully in public junior college-level courses.

Requires the school district to submit to the commissioner for education (commissioner) for approval the district's proposal regarding the scope of the program and the program curriculum requirements. Requires the school district to also submit the proposed curriculum requirements to the State Board of Education (SBOE) for comment. Prohibits the district from implementing the program before obtaining the commissioner's approval of the of the scope of the program and the program curriculum requirements.

Entitles a student to a high school diploma if the student successfully complies with the curriculum requirements specified under this bill; and performs satisfactorily, as determined by the commissioner under this bill, on end-of-course (EOC) assessment instruments listed under Section 39.023(c) (relating to the requirement that the Texas Education Agency adopting EOC assessment instruments for certain secondary-level courses) for courses in which the student was enrolled.

Requires the commissioner, for purposes of this bill, to determine the level of satisfactory performance on applicable EOC assessment instruments administered to a student.

Requires the school district to report the academic achievement record of students who have completed the program on a transcript that clearly identifies the program and distinguishes the program from the other high school programs based on a traditional four-year period of attendance.

Exempts a student who has received a diploma under the program from the compulsory school attendance requirements under Section 25.085 (Compulsory School Attendance).

Provides that to the extent this bill conflicts with any other provision of this code or rule adopted under this code, this section prevails. Provides that this bill section expires September 1, 2023.

Provides that this bill applies only to a school district operating a pilot program authorized by Section 28.0255. Requires the commissioner, beginning with the first school year that follows the first school year in which students receive high school diplomas under the pilot program authorized by Section 28.0255 and continuing for every subsequent school year that the district operates the pilot program, to provide funding for the district's prekindergarten program under Section 29.153 (Free Prekindergarten for Certain Children) on a full-day basis for a number of prekindergarten students equal to twice the number of students who received a high school diploma under the pilot program authorized by Section 28.0255 during the preceding school year. Provides that this legislation expires September 1, 2023.

Information Regarding the Number of Public School Students With Dyslexia—H.B. 1264
by Representative Huberty—Senate Sponsor: Senator Deuell

In 2010, an interim joint committee was charged to study early detection and treatment of dyslexia and related disorders in Texas. The committee's main recommendation was that Texas find a way to count the number of students in its schools who have been identified as having dyslexia. This bill:

Requires the commissioner of education by rule to require each school district and open-enrollment charter school to report through the Public Education Information Management System information regarding the number of students enrolled in the district or school who are identified as having dyslexia. Requires the Texas Education Agency to maintain the information provided in accordance with this subsection.

Establishing a Committee in Certain Counties to Recommend a Uniform Truancy Policy—H.B. 1479
by Representative Villarreal—Senate Sponsor: Senator Van de Putte

Interested parties assert that truancy in Texas limits students' educational opportunities, increases the likelihood of students engaging in harmful behavior, and reduces the amount of funding that local school districts receive through the state school finance system. According to interested parties, efforts to address truancy in places such as Bexar County are complicated by the large number of local jurisdictions, disparate filing methods, and a high level of student mobility between school districts. This bill:

Provides that this bill applies only to a county with a population greater than 1.5 million that includes at least 15 school districts with the majority of district territory in the county, and one school district with a student enrollment of 50,000 or more and an annual dropout rate spanning grades 9 through 12 of at least five percent, computed in accordance with standards and definitions adopted by the National Center for Education Statistics of the United States Department of Education.

Requires that a committee be established to recommend a uniform truancy policy for each school district located in the county.

Requires the county judge and the mayor of the municipality in the county with the greatest population, not later than September 1, 2013, to each appoint one member to serve on the committee as a representative of each of the following: a juvenile district court; a municipal court; the office of a justice of the peace; the superintendent or designee of an independent school district; an open-enrollment charter school; the office of the district attorney; and the general public.

Requires the county judge, not later than September 1, 2013, to appoint to serve on the committee one member from the house of representatives and one member from the senate who are members of the respective standing legislative committees with primary jurisdiction over public education.

Requires the county judge and mayor of the municipality in the county with the greatest population to both serve on the committee or appoint representatives to serve on their behalf, and jointly appoint a member of the committee to serve as the presiding officer.

Requires the committee, not later than September 1, 2014, to recommend a uniform process for filing truancy cases with the judicial system; uniform administrative procedures; uniform deadlines for processing truancy cases; effective prevention, intervention, and diversion methods to reduce truancy and referrals to a county, justice, or municipal court; a system for tracking truancy information and sharing truancy information among school districts and open-enrollment charter schools in the county; and any changes to statutes or state agency rules the committee determines are necessary to address truancy.

Provides that compliance with the committee's recommendations is voluntary.

Requires the committee's presiding officer to issue a report not later than December 1, 2015, on the implementation of the recommendations and compliance with state truancy laws by a school district located in the county. Provides that this bill expires January 1, 2016.

Commemoration of September 11, 2001, at Public Schools—H.B.1501
by Representative Raymond—Senate Sponsor: Senator Zaffirini

A moment of silence is observed at the beginning of every school day in Texas classrooms. Students and teachers may use this moment for prayer, meditation, or reflection, as their personal faiths or beliefs dictate. A moment of silence also is observed in memory of tragic events in the school community, state, or country, such as the death of a community member or a national disaster. This bill:

Requires each public elementary or secondary school, to commemorate the events of September 11, 2001, in each year that date falls on a regular school day, to provide for the observance of one minute of silence at the beginning of the first class period of that day. Requires the class instructor, immediately before the period of observance required by this section, to make a statement of reference to the memory of individuals who died on September 11, 2001. Authorizes the period of observance required by this section to be held in conjunction with the minute of silence required by Section 25.082 (School Day; Pledges of Allegiance; Minute of Silence).

Public School Educator Excellence Innovation Program—H.B. 1751
by Representative Diane Patrick et al.—Senate Sponsor: Senator Van de Putte

Established in 2006, the District Awards for Teaching Excellence program was enacted with the intent to encourage public school districts to adopt locally developed strategic compensation plans that would incentivize teachers to work in hard-to-staff schools and subject areas. H.B. 1751 recognizes this approach by broadening the goals and establishing the Educator Excellence Innovation Program which aims to systemically transform educator quality and effectiveness, and district administrative practices, to improve student learning and academic performance of a district's most educationally disadvantaged or underserved students. This bill:

Defines "program." Sets forth the provisions and purposes of the educator excellence innovation program (program). Requires the commissioner of education (commissioner) by rule to establish the program under which school districts, in accordance with local educator excellence innovation plans approved by the commissioner, receive competitive program grants from the Texas Education Agency (TEA) for carrying out the purposes of the program as described by Section 21.7011, rather than requiring the commissioner by

rule to establish an educator excellence awards program under which school districts, in accordance with local awards plans approved by the commissioner, receive program grants from TEA for the purpose of providing awards to district employees in the manner provided by Section 21.705 (Award Payments). Changes a reference to a local awards plan to a local educator excellence innovation plan.

Requires the commissioner, each state fiscal year, to deposit an amount determined by the General Appropriations Act to the credit of the educator excellence innovation fund in the general revenue fund. Requires TEA, each state fiscal year, to use money in the educator excellence innovation fund to provide each school district approved on a competitive basis under this subchapter with a grant in an amount determined by TEA in accordance with commissioner rule. Deletes existing text requiring TEA, each state fiscal year, to use funds in the educator excellence fund to provide a qualifying school district a grant in an amount determined by dividing the amount of money available for distribution in the educator excellence fund by the total number of students in average daily attendance in qualifying districts for that fiscal year, and multiplying that amount by the number of students in average daily attendance in the district.

Requires TEA, not later than April 1 of each state fiscal year, to provide to each school district that will be provided a grant under this section written notice that the district will be provided the grant and the amount of that grant.

Requires the district-level planning and decision-making committee established under Subchapter F (District-Level and Site-Based Decision-Making), Chapter 11 (School Districts), in a school district that intends to participate in the program, rather than requiring a district-level committee for a school district that intends to participate in the program, such as the district-level planning and decision-making committee established under Subchapter F, Chapter 11, to develop a local educator excellence innovation plan, rather than a local awards plan, for the district. Deletes existing text requiring that a majority of classroom teachers assigned to a campus that is selected by the district-level committee to participate in the program approve participation to be included in the local awards plan.

Requires a school district to submit a local educator innovation plan, rather than a local awards plan, to TEA for approval. Deletes existing text requiring that the plan be submitted together with evidence of significant teacher involvement in the development of the plan.

Requires that a local educator excellence innovation plan be designed to carry out each purpose of the program as described by Section 21.7011. Deletes existing text requiring that a local awards plan provide for teachers and principals eligible to receive awards under the plan to be notified of the specific criteria and any formulas on which the awards will be based before the beginning of the period on which the awards will be based.

Authorizes TEA to approve only a local educator excellence innovation plan, rather than a local awards plan, that meets program guidelines adopted by the commissioner under Section 21.702 and that satisfies this section and Section 21.706, rather than this section and Section 21.705. Requires TEA, from among the local educator excellence innovation plans submitted and depending on the amount of money available for distribution in the educator excellence innovation fund, to approve plans that most comprehensively and innovatively address the purposes of the program as described by Section 21.7011 so that the effectiveness of various plans in achieving those purposes can be compared and evaluated.

Sets forth the requirements and provisions for the innovation plan payments: authorized general and specific uses. Sets forth the provisions and requirements for implementation flexibility.

Repeals Section 21.705 (Award Payments), Education Code.

Provides that this Act applies beginning with the 2014-2015 school year.

Authority of UIL Regarding Activities Involving Sports Officials—H.B. 1775
by Representative Ed Thompson et al.—Senate Sponsor: Senator Hancock

For more than 50 years, sports officials have independently contracted with Texas school districts to provide officiating services for high school sporting events throughout the state. Sports officials have never been employed by, paid by, or under the authority of the University Interscholastic League (UIL). This bill:

Defines "league" and "sports official." Authorizes UIL to require a sports official, as a condition of eligibility to officiate a contest sponsored by UIL to be registered with UIL and comply with the registration requirements of Subsection (c); have completed initial and continuing education programs regarding UIL rules; be a member in good standing of a local chapter or association of sports officials recognized by UIL for that purpose; and agree to abide by UIL rules, including fee schedules and travel reimbursement guidelines for payment by school districts or open-enrollment charter schools to a sports official. Requires a sports official, in registering with UIL, to be required to provide directory information required by UIL and submit to a criminal background check. Prohibits UIL from charging a sports official who completes a program under Subsection (b)(2) a fee for more than one program described by Subsection (b)(2).

Authorizes UIL to charge and collect a registration fee only to defray the cost of registering sports officials and requires UIL to post the amount of the fee on UIL's Internet website and make the information available at other places UIL determines appropriate. Prohibits the amount of the fee from exceeding the amount reasonably determined by UIL to be necessary to cover the cost of administering registration.

Authorizes UIL to revoke or suspend the UIL registration of a sports official determined by UIL to have violated the provisions of the UIL constitution or contest rules governing sports officials or other league policy applicable to sports officials. Requires UIL, before UIL is authorized to take action to revoke or suspend a sports official's registration, to notify and consult with the local chapter or association of sports officials of which the sports official is a member. Authorizes the local chapter or association to, on or before the 15th day after the date notice is received from the league, take action to adjudicate the alleged violation. Authorizes UIL, if after the 15th day after the date notice is received from UIL the local chapter or association has failed to take action against the sports official or takes action that UIL finds to be insufficient, to take action against the sports official. Requires UIL to adopt rules to provide a sports official with the opportunity for an appeals process before the league revokes or suspends the sports official's registration. Requires UIL, in adopting those rules, to make a determination of the actions and subsequent sanctions that would be considered sufficient under this subsection.

Prohibits UIL from sponsoring or organizing or attempting to sponsor or organize any association of sports officials in which the majority of the membership is composed of sports officials who officiate team sports.

Authorizes UIL to set rates or fee schedules payable by a school district or open-enrollment charter school to a sports official. Requires UIL, before UIL is authorized to take any action that amends rules related to the activities of sports officials, other than an action against an individual sports official under Subsection (f), to submit the proposed action for public review and comment, including: notifying registered sports officials of the proposed action by email not later than the 30th day before the date set for action on the proposal; and posting the proposal on UIL's Internet website for at least 30 consecutive days before the date set for action on the proposal.

Limiting Sanctions on School Districts For Sale of Foods of Minimal Nutritional Value—H.B. 1781

by Representative Ken King et al.—Senate Sponsor: Senator Seliger

The Texas Department of Agriculture (TDA) administers the National School Lunch Program and the School Breakfast Program in Texas. TDA has adopted rules, known as the Texas Public School Nutrition Policy, which apply to all Texas public schools participating in these programs. Recently school districts have been fined for violating the policy in instances where a charity organization or booster club has sold foods that TDA finds to be of minimal nutritional value. This bill:

Defines "food of minimal nutritional value" to have the meaning assigned by 7 C.F.R. Section 210.11(a)(2).

Prohibits TDA from imposing a sanction on a school district for the sale of food of minimal nutritional value to a high school student if the sale is approved in advance by the school and is made outside of a school area designated for food service or food consumption or during a period other than a school meal service period; and the sale is for the purpose of raising money for a student organization or activity sponsored or sanctioned by the school or the school district in which the school is located.

Operation of State VSN and Courses Provided by Distance Learning Arrangements—H.B. 1926

by Representative Ken King et al.—Senate Sponsors: Senators Hegar and Patrick

Interested parties raise concerns that many four-year universities currently have admissions requirements that exceed requirements for high school graduation. H.B. 1926 seeks to address this issue and encourage expansion of the use of the state virtual school network so that students can obtain the education that best suits them, regardless of the district in which they attend school. This bill:

Prohibits a school district or open-enrollment charter school in which a student is enrolled as a full-time student, except as provided by this bill, from denying the request of a parent of a student to enroll the student in an electronic course offered through the state virtual school network under Chapter 30A (State Virtual School Network).

Authorizes a school district or open-enrollment charter school to deny a request to enroll a student in an electronic course if a student attempts to enroll in a course load that is inconsistent with the student's high school graduation plan or requirements for college admission or earning an industry certification or the district or school offers a substantially similar course.

Authorizes a school district or open-enrollment charter school to decline to pay the cost for a student of more than three year-long electronic courses, or the equivalent, during any school year. Provides that this

provision does not limit the ability of the student to enroll in additional electronic courses at the student's cost or apply to a student enrolled in a full-time online program that was operating on January 1, 2013.

Requires a school district or open-enrollment charter school that provides an electronic course through the state virtual school network under Chapter 30A to make all reasonable efforts to accommodate the enrollment of a student in the course under special circumstances.

Provides that a school district or open-enrollment charter school from which a parent of a student requests permission to enroll the student in an electronic course offered through the state virtual school network under Chapter 30A has discretion to select a course provider approved by the network's administering authority for the course in which the student will enroll based on factors including the informed choice report in Section 30A.108(b).

Sets forth provisions for distance learning courses.

Defines "course provider" and "public or private institution of higher education."

Provides that this chapter does not require a school district, an open-enrollment charter school, a course provider, or the state, rather than provides that this chapter does not require a school district, an open-enrollment charter school, a provider school district or school, or the state, to provide a student with home computer equipment or Internet access for a course provided through the state virtual school network, or prohibit a school district or open-enrollment charter school from providing a student with home computer equipment or Internet access for a course provided through the state virtual school network.

Requires a school district or open-enrollment charter school to adopt a written policy that provides district or school students with the opportunity to enroll part-time or full-time in electronic courses provided through the state virtual school network.

Requires a school district or open-enrollment charter school to, at least one time per school year, send to a parent of each district or school student enrolled in the middle or high school level a copy of the policy adopted under this bill. Authorizes a district or school to send the policy with any other information that the district or school sends to a parent.

Requires each contract between a course provider and the administering authority to provide that the administering authority is authorized to cancel the contract without penalty if legislative authorization for the course provider to offer an electronic course through the state virtual school network is revoked, and be submitted to the commissioner.

Provides that a school district or open-enrollment charter school is eligible to act as a course provider under this chapter only if the district or school is rated acceptable under Section 39.054 (Methods and Standards for Evaluating Performance). Authorizes an open-enrollment charter school to serve as a course provider only to a student within its service area; or to another student in the state through an agreement with the school district in which the student resides, or if the student receives educational services under the supervision of a juvenile probation department, the Texas Juvenile Justice Department, or TDCJ, through an agreement with the applicable agency.

Provides that a nonprofit entity, private entity, or corporation is eligible to act as a course provider under this chapter only if the nonprofit entity, private entity, or corporation complies with all applicable federal and state laws prohibiting discrimination; demonstrates financial solvency; and provides evidence of prior successful experience offering online courses to elementary, middle, or high school students as determined by the commissioner.

Provides that an entity other than a school district or open-enrollment charter school is not authorized to award course credit or a diploma for courses taken through the state virtual school network.

Sets forth the provisions for listing of electronic courses.

Requires the comments submitted by parents and students to be in a format that permits a person to sort the comments by teacher, electronic course, and course provider, rather than by teacher, electronic course, and provider school district or school.

Requires the State Board of Education (SBOE) by rule to establish an objective standard criteria for an electronic course to ensure alignment with the essential knowledge and skills requirements identified or content requirements established under Subchapter A (Essential Knowledge and Skills; Curriculum), Chapter 28 (Courses of Study; Advancement). Prohibits the criteria from permitting the administering authority to prohibit a course provider from applying for approval for an electronic course for a course for which essential knowledge and skills have been identified.

Requires the course provider, rather than requires the provider school district or school, if the essential knowledge and skills with which an approved course is aligned in accordance with Subsection (a)(2) (relating to requiring a course offered through the state virtual school network to be aligned with the essential knowledge and skills identified for a grade level at or above grade level three) are modified, to be provided the same time period to revise the course to achieve alignment with the modified essential knowledge and skills as is provided for the modification of a course provided in a traditional classroom setting.

Authorizes a school district, open-enrollment charter school, public or private institution of higher education, or other eligible entity to seek approval to offer through the state virtual school network the classroom portion of a driver education and traffic safety course that complies with the requirements for the program developed under Section 29.902 (Driver Education).

Prohibits a school district, open-enrollment charter school, public or private institution of higher education, or other eligible entity from offering through the state virtual school network the laboratory portion of a driver education and traffic safety course.

Sets forth the provisions and requirements for reciprocity agreements with other states.

Requires the administering authority to establish a submission and approval process for certain electronic courses.

Requires the administering authority to publish the submission and approval process for electronic courses established under Subsection (a)(1), including any deadlines and guidelines applicable to the process.

EDUCATION—PUBLIC

Authorizes the school district, open-enrollment charter school, public or private institution of higher education, or other eligible entity that submitted the course for evaluation and approval, if TEA determines that the costs of evaluating and approving a submitted electronic course will not be paid by TEA due to a shortage of funds available for that purpose, to pay a fee equal to the amount of the costs in order to ensure that evaluation of the course occurs.

Requires the administering authority to require a course provider to apply for renewed approval of a previously approved course in accordance with a schedule designed to coincide with revisions to the required curriculum under Section 28.002(a) (relating to requiring each school district that offers kindergarten through grade 12 to offer, certain required curriculum) but not later than the 10th anniversary of the previous approval.

Sets forth provisions for inducements for enrollment prohibitions.

Authorizes a course provider to appeal to the commissioner the administering authority's refusal to approve an electronic course under Section 30A.105 (Approval of Electronic Courses).

Authorizes a course provider to offer electronic courses to students and adults who reside in this state, and students who reside outside this state and who meet the eligibility requirements under Section 30A.002(c) (relating to providing that, notwithstanding certain subsections, certain students are eligible to enroll in one or more courses provided through the state virtual school network or enroll full-time in courses provided through the network).

Requires each report under this section to describe each electronic course offered through the state virtual school network and include the following information course requirements: the school year calendar for the course, including any options for continued participation outside of the standard school year calendar; the entity that developed the course; the entity that provided the course; the course completion rate; aggregate student performance on an assessment instrument administered under Section 39.023 to students enrolled in the course; aggregate student performance on all assessment instruments administered under Section 39.023 to students who completed the course provider's courses; and other information determined by the commissioner.

Sets forth the provisions and requirements for alternative educator professional development.

Requires the commissioner by rule to allow regional education service centers to participate in the state virtual school network in the same manner as course providers.

Provides that, subject to the limitation imposed under this bill, a school district or open-enrollment charter school in which a student is enrolled is entitled to funding under Chapter 42 (Foundation School Program) or in accordance with the terms of a charter granted under Section 12.101 (Authorization) for the student's enrollment in an electronic course offered through the state virtual school network in the same manner that the district or school is entitled to funding for the student's enrollment in courses provided in a traditional classroom setting, provided that the student successfully completes the electronic course.

Provides that, for purposes of this bill, a school district or open-enrollment charter school is limited to the funding described by that provision for a student's enrollment in not more than three electronic courses

during any school year, unless the student is enrolled in a full-time online program that was operating on January 1, 2013.

Requires the commissioner, after considering comments from school district and open-enrollment charter school representatives, to adopt a standard agreement that governs the costs, payment of funds, and other matters relating to a student's enrollment in an electronic course offered through the state virtual school network. Prohibits the agreement from requiring a school district or open-enrollment charter school to pay the provider the full amount until the student has successfully completed the electronic course, and prohibits the full amount from exceeding the limits specified by Section 30A.105(b) (relating to requiring the administering authority to establish the cost of providing an electronic course approved, which is prohibited from exceeding \$400 per student per course or \$4,800 per full-time student).

Authorizes a school district or open-enrollment charter school to charge a fee for enrollment in an electronic course provided through the state virtual school network to a student who resides in this state and is enrolled in a school district or open-enrollment charter school as a full-time student with a course load greater than that normally taken by students in the equivalent grade level in other school districts or open-enrollment charter schools, or elects to enroll in an electronic course provided through the network for which the school district or open-enrollment charter school in which the student is enrolled as a full-time student declines to pay the cost, as authorized by Section 26.0031(c-1).

Authorizes a school district or open-enrollment charter school that is not the course provider to charge a student enrolled in the district or school a nominal fee, not to exceed the amount specified by the commissioner, if the student enrolls in an electronic course provided through the state virtual school network that exceeds the course load normally taken by students in the equivalent grade level.

Provides that this chapter does not entitle a student who is not enrolled on a full-time basis in a school district or open-enrollment charter school to the benefits of the Foundation School Program.

Sets forth the provisions and requirements for a study on school district network capabilities.

Repeals Section 30A.101(b) (relating to providing that an open-enrollment charter school campus is eligible to act as a provider school under this chapter), Education Code, as amended by Chapters 895 (H.B. 3) and 1328 (H.B. 3646), Acts of the 81st Legislature, Regular Session, 2009.

Provides that this Act applies beginning with the 2013-2014 school year.

Professional Development For Personnel Regarding Student Disciplinary Procedures—H.B. 1952

by Representative Senfronia Thompson—Senate Sponsor: Senator Van de Putte

The Safe Schools Act made significant changes to state law governing student discipline. Some of the changes include specifying the type of misconduct for which placement in a disciplinary alternative education program or expulsion is required, while leaving the length of such placement or expulsion a matter of local discretion, and granting discretion to a teacher to remove a disruptive student from the classroom, with significant restrictions on the authority of an administrator to return such a student to the teacher's class without the teacher's consent. However, the effectiveness of such legislation has been undermined by the failure of some public school administrators to correctly apply these laws. This bill:

Requires each principal or other appropriate administrator who oversees student discipline, at least once every three school years, to attend professional development training regarding this subchapter, including training relating to the distinction between a discipline management technique used at the principal's discretion under Section 37.002(a) (relating to authorizing a teacher to send a student to the principal's office to maintain effective discipline in the classroom) and the discretionary authority of a teacher to remove a disruptive student under Section 37.002(b) (relating to authorizing a teacher to remove from class a student for certain reasons). Authorizes that professional development training under this section be provided in coordination with regional education service centers through the use of distance learning methods, such as telecommunications networks, and using available Texas Education Agency resources.

Public School Educators and Certain Other Professional Employees of School Districts—H.B. 2012
by Representative Villarreal—Senate Sponsor: Senator Patrick

Interested parties report that the public and the legislature are in need of quality information relating to the salaries and costs of living for teachers and other professional employees of public schools across the state. H.B. 2012 seeks to address this need. This bill:

Requires the Texas Education Agency (TEA) to collect information from school districts regarding salaries paid to employees entitled to the minimum monthly salary under Section 21.402 (Minimum Salary Schedule for Certain Professional Staff).

Requires TEA to provide for public use of the information collected under this bill in summary form on TEA's Internet website in a manner that indicates, by school district, the average salaries of employees to whom this bill applies by position and for classroom teachers, also by subject and grade level.

Requires TEA to use the data collected under this bill regarding salaries paid to classroom teachers to conduct a cost-of-living salary comparability analysis in each region of the state to determine how classroom teacher salaries compare to salaries in similar professions. Requires the commissioner of education (commissioner) to delineate the geographic boundaries of the regions of the state and designate the professions that constitute similar professions for purposes of conducting the salary comparability analysis under this bill. Requires TEA, not later than December 1, 2014, to prepare and deliver a report of the salary comparability analysis conducted under this bill to the governor, lieutenant governor, speaker of the house of representatives, and presiding officer of each standing legislative committee with primary jurisdiction over public education. Requires TEA to post a copy of the report on TEA's website.

Requires TEA to collect data and conduct the cost-of-living salary comparability analysis under this bill using only available funds and resources from public or private sources. Provides that this section expires September 1, 2015.

Requires the commissioner to develop an online survey to be administered statewide at least biennially to superintendents, principals, supervisors, classroom teachers, counselors, and other appropriate full-time professional employees who are required to hold a certificate issued under Subchapter B (Certification of Educators), Chapter 21 (Educators). Requires the commissioner, in developing the survey under this bill, to ensure that the survey is designed to elicit information relating to certain issues regarding teaching and learning conditions, resources, supports, and needs.

Requires the commissioner to contract with a third-party entity with appropriate research and evaluation expertise to administer the survey required by this section. Requires the third-party survey administrator to collect responses and protect the identity of the respondents. Requires the third-party survey administrator to provide the survey responses to the commissioner or a person designated by the commissioner not later than the 60th day after the date the survey is administered.

Requires the commissioner, after the administration of each survey, to make the survey results available to the public and provide the survey results to school districts and campuses.

Requires each school district and campus to use the survey results to review and revise, as appropriate, district-level or campus-level improvement plans in the manner provided under Subchapter F (District-level and Site-based Decision-making), Chapter 11 (School Districts), and for other purposes, as appropriate to enhance the district and campus learning environment.

Requires the commissioner to use the survey results to develop, review, and revise TEA professional development offerings, TEA initiatives aimed at teacher retention, and standards for principals and superintendents.

Requires the commissioner to carry out duties under this section, including contacting for the administration of the survey, using only available funds and resources from public and private sources.

Requires that each educator preparation program provide certain information.

Requires that rules of the board proposed under this subchapter provide that a person, other than a person seeking career and technology education certification, is not eligible for admission to an educator preparation program, including an alternative educator preparation program, unless the person meets certain criteria.

Requires that the board's rules permit an educator preparation program to admit in extraordinary circumstances a person who fails to satisfy a grade point average requirement prescribed by this bill provided that not more than 10 percent of the total number of persons admitted to the program in a year fail to satisfy the requirement under this bill and for each person admitted as described by this bill, the director of the program determines and certifies, based on documentation provided by the person, that the person's work, business, or career experience demonstrates achievement comparable to the academic achievement represented by the grade point average requirement.

Requires the board to determine the satisfactory level of performance required for each certification examination. Requires the board, for the issuance of a generalist certificate, to require a satisfactory level of examination performance in each core subject covered by the examination. Prohibits the board from requiring more than 45 days elapse before a person may retake an examination.

Requires a school district, in addition to conducting a complete appraisal as frequently as required by this bill, to ensure that appropriate components of the appraisal process, such as classroom observations and walk-throughs, occur more frequently as necessary to ensure that a teacher receives adequate evaluation and guidance. Requires a school district to give priority to conducting appropriate components more frequently for inexperienced teachers or experienced teachers with identified areas of deficiency.

EDUCATION—PUBLIC

Requires a district to use a teacher's consecutive appraisals from more than one year, if available, in making the district's employment decisions and developing career recommendations for the teacher.

Requires the district to notify a teacher of the results of any appraisal of the teacher in a timely manner so that the appraisal may be used as a developmental tool by the district and the teacher to improve the overall performance of the teacher.

Authorizes a school district to submit for posting on the Texas Education Agency (TEA) Internet website notices of openings for positions for classroom teachers and notices of teacher shortages.

Requires TEA, using only available funds and resources from public or private sources, to periodically conduct an audit of the professional development requirements applicable to educators in this state, including state and federal requirements and requirements imposed by school districts.

Requires TEA, based on audit results, to seek to eliminate conflicting requirements and consolidate duplicative requirements through the following methods, as appropriate: taking administrative action; encouraging school districts to make appropriate changes to district policies; or recommending statutory changes to the legislature.

Requires TEA to complete the initial audit required by this bill not later than August 1, 2014. Provides that this bill expires September 1, 2014.

Requires TEA to provide guidance to school districts regarding high-quality professional development and the outcomes expected to result from providing that caliber of professional development. Authorizes that funding provided to districts under this bill be used only for providing mentor teacher stipends and scheduled release time for mentor teachers and the classroom teachers to whom they are assigned for meeting and engaging in mentoring activities. Requires the commissioner, each year, to report to the legislature regarding the effectiveness of school district mentoring programs.

Requires the governor, lieutenant governor, and speaker of the house of representatives, not later than November 1, 2013, to form an advisory committee to evaluate the implementation of this bill and make recommendations for improvement. Requires the committee to develop recommended guidelines that align teacher induction and mentoring activities with expectations for new teachers based on teaching practice standards. Requires TEA to provide administrative support for the committee. Requires the committee to submit a report of its recommendations to the governor and legislature not later than January 1, 2015. Provides that this subsection expires January 31, 2015.

Petitions Requesting Detachment and Annexation by School District Board of Trustees—H.B. 2016 *by Representative Keffer—Senate Sponsor: Senator Duncan*

Currently, a school district may enter into a detachment and annexation process with another school district by which territory is detached from one district and annexed to another district that is contiguous to the detached territory. Because a school district also may consolidate its territory with another district, there is concern that too few protections exist to protect a vote or agreement to consolidate school districts under the current detachment and annexation process. H.B. 2016 seeks to establish a safeguard for school districts engaged in an active consolidation process. This bill:

Prohibits the board of trustees of each school district (board), if a resolution in favor of consolidation has been adopted by those boards of each school district proposed to be consolidated into a particular single district, from receiving or considering a petition requesting detachment and annexation under Subchapter B (Detachment; Annexation) without the consent of each of the other of those boards of trustees before consolidation, or before consolidation is disapproved at an election under Section 13.153 (Election Order; Notice).

Administration of a High School Equivalency Examination—H.B. 2058

by Representative Allen—Senate Sponsor: Senator Ellis

Under current law, high school equivalency testing allows an adult lacking a high school diploma to earn a certificate of high school equivalency. Recent legislation prohibits a person under 18 years of age from taking the high school equivalency examination online. Interested parties note that county juvenile probation departments administer high school equivalency examinations to students at risk of dropping out, many of whom are 16 or 17 years of age, but who are now prohibited from taking the examination in a manner in which it is commonly administered. H.B. 2058 seeks to address this and other related issues by clarifying the current exceptions for the high school equivalency examination and allowing certain individuals under 18 years of age in the custody of a state agency under court order to take the examination online. This bill:

Requires the State Board of Education (SBOE) to provide for the administration of high school equivalency examinations, including administration by the adjutant general's department for students described by Subdivision (2)(C) (relating to authorizing a person who does not have a high school diploma to take a high school equivalency examination if the person is 16 years of age or older and is enrolled in the adjutant general's department's Seaborne Challenge Corps). Authorizes a person who does not have a high school diploma to take the examination in accordance with rules adopted by SBOE under certain circumstances, including if the person is required to take the examination under a court order.

Requires SBOE by rule to develop and deliver high school equivalency examinations and provide for the administration of the examinations online. Deletes existing text requiring that the rules prohibit a person under 18 years of age from taking the examination online.

Eligibility of Certain Persons For Enrollment in School District Summer School Courses—H.B. 2137

by Representative Fletcher—Senate Sponsor: Senator Paxton

Under current law, school districts in Texas are not required to permit students who reside in the district but who are not enrolled in a school in the district during the regular school year to enroll in the district's summer school program. Many private schools are unable to offer summer school programs to their students, and some private school parents assert that, because they pay property taxes to the school districts in which they reside, their children should have the same opportunity to utilize summer school programs as students enrolled in district schools. This bill:

Requires a school district, except as provided below, to permit a person who is eligible under Section 25.001 (Admission) to attend school in the district but who is not enrolled in school in the district to enroll in

a district summer school course on the same basis as a district student, including satisfaction of any course eligibility requirement and payment of any fee authorized under Section 11.158 (Authority to Charge Fees) that is charged in connection with the course.

Provides that the preceding does not apply to enrollment in a program under Section 29.088 (After-School and Summer Intensive Mathematics Instruction Programs), 29.090 (After-School and Summer Intensive Science Instruction Programs), or 29.098 (Intensive Summer Programs) or in a similar intensive program.

Increasing the Courses Offered in the Career and Technology Education Curriculum—H.B. 2201
by Representative Farney et al.—Senate Sponsor: Senator Lucio

Under current law, a school district that has kindergarten through grade 12 is required to offer a foundation curriculum that includes English language arts, mathematics, science, and social studies. These school districts are also required to offer an enrichment curriculum that includes, among other subjects, languages other than English, health, physical education, fine arts, and career and technology education. Interested parties assert that more choice is needed in a student's high school graduation plan because current course offerings are particularly insufficient in the area of career and technology education (CTE). This bill:

Requires the State Board of Education, not later than September 1, 2014, to ensure that at least six advanced career and technology education or technology applications courses, including a course in personal financial literacy that is consistent with Section 28.0021 (Personal Financial Literacy) and satisfies statistics, are approved to satisfy a fourth credit in mathematics required for high school graduation.

Requires the commissioner of education (commissioner), not later than January 1, 2015, to review and report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each standing committee of the legislature with primary responsibility over public primary and secondary education regarding the progress of increasing the number of courses approved for the career and technology education or technology applications curriculum. Requires the commissioner to include in the report a detailed description of any new courses, including instructional materials and required equipment, if any. Provides that this section expires September 1, 2015.

Public School Educator Preparation and Alternative Certification Programs—H.B. 2318
by Representative Aycock—Senate Sponsor: Senator Seliger

Current law requires the State Board for Educator Certification (SBEC) to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators. The law requires SBEC to propose rules for approval by the State Board of Education establishing standards to govern the approval and continuing accountability of all educator preparation programs based on certain factors and to propose rules establishing performance standards for the accountability system for educator preparation for accrediting educator preparation programs, with certain minimum performance standards being based on those factors. The law also authorizes SBEC to propose rules establishing minimum standards for approval or renewal of approval of educator preparation programs or certification fields offered by such programs. Interested parties suggest there is a need for a review of such standards to ensure that teacher preparation programs remain accountable to those candidates for certification seeking to enter the teaching profession. This bill:

Requires SBEC to require an educator preparation program to provide candidates for teacher certification with information concerning the following: skills and responsibilities required of teachers; expectations for student performance based on state standards; the current supply of and demand for teachers in this state; the importance of developing classroom management skills; and the state's framework for appraisal of teachers and principals.

Authorizes SBEC to propose rules as necessary for administration of this section, including rules to ensure that accurate and consistent information is provided by all educator preparation programs.

Requires the commissioner of education (commissioner) to determine the satisfactory level of performance required for each certification examination. Requires the commissioner, for the issuance of a generalist certificate, to require a satisfactory level of examination performance in each core subject covered by the examination.

Requires SBEC, after consulting with appropriate higher education faculty and public school teachers and administrators and soliciting advice from other interested persons with relevant knowledge and experience, to develop and carry out a process for reviewing and, as necessary, updating standards and requirements for educator preparation programs.

Requires SBEC to complete an initial review of and implement any updated standards and requirements for educator preparation and alternative certification programs as required by Section 21.061, Education Code, as added by this Act, not later than September 1, 2014.

Requires the commissioner, not later than January 1, 2014, to determine performance levels for certification examinations as provided by Section 21.048(a), Education Code, as amended by this Act.

Oral Health Education as Part of the Coordinated Health Program—H.B. 2483
by Representatives Alvarado and Diane Patrick—Senate Sponsor: Senator Ellis

Interested parties identify oral health as a vital component of students' overall health and well-being, but contend that it is an often overlooked or undervalued component of health care. H.B. 2483 seeks to integrate oral health into coordinated school health program models for public elementary, middle, and junior high school students, with the intention of having beneficial, long-term effects on students' overall well-being. This bill:

Requires the Texas Education Agency to make available to each school district one or more coordinated health programs designed to prevent obesity, cardiovascular disease, oral diseases, and Type 2 diabetes in elementary school, middle school, and junior high school students. Requires that each program provide for coordinating health education, including oral health education, physical education and physical activity, nutrition services, and parental involvement.

Periodic Review and Revision of College and Career Readiness Standards—H.B. 2549

by Representative Diane Patrick—Senate Sponsor: Senator Paxton

The commissioner of education and the Texas Higher Education Coordinating Board are currently responsible for approving college readiness standards as recommended by vertical teams established by the commissioners of education and higher education, with the goal of ensuring that students attain the essential knowledge and skills to be prepared for college. This bill:

Requires the vertical teams required to be established by the commissioner of education (commissioner) and the commissioner of higher education composed of public school educators and institution of higher education faculty to periodically review and revise the college readiness standards and expectations developed under Subdivision (1) (relating to requiring the vertical teams to recommend for approval by the commissioner and the Texas Higher Education Coordinating Board (THECB) college readiness standards and expectations that address what students are required to know and be able to do to succeed in entry-level courses offered at institutions of higher education) and recommend revised standards for approval by the commissioner and THECB.

Requires the commissioner and THECB by rule to establish the composition and duties of the vertical teams established under this section; and establish a schedule for the periodic review required under Subsection (b)(6), giving consideration to the cycle of review and identification under Section 28.002 (Required Curriculum) of the essential knowledge and skills of subjects of the required curriculum.

Representation Through a Telephone Conference Call of a School District Employee—H.B. 2607

by Representative Huberty—Senate Sponsor: Senator Davis

School district grievance timelines tend to be very short, with filings and conferences needing to occur within 10 to 15 days. Currently an employee is entitled to representation throughout the grievance policy, but scheduling of grievance conferences can prove troublesome due to the short grievance timelines. It is in the best interest of both the school district and the employee for these grievance conferences to take place quickly and efficiently. Though many districts do allow the employee's counsel to attend by telephone conference call, not all districts do. This simple change in the law would require district policy to permit representation by phone, during meetings where the substance of a grievance is investigated or discussed, provided that the district already has the equipment to conduct such a telephonic conference. This bill:

Requires a school district grievance policy to permit an attorney or other person representing a district employee concerning a grievance reported under Subsection (a) (relating to requiring that a school district grievance policy permit a school district employee to report a certain grievance against a supervisor) to represent the employee through a telephone conference call, provided that the district has the equipment necessary for that type of call, at any formal grievance proceeding, hearing, or conference at which the district employee is entitled to representation according to the school district grievance policy.

Issuance of Interest-bearing Time Warrants and Certain Notes by School Districts—H.B. 2610

by Representative Pitts—Senate Sponsor: Senator Hegar

Interested parties note that time warrants are paid off in a much shorter life cycle than that of a typical bond and that the cap on the total value of time warrants a district is authorized to have outstanding has not been increased since the mid-1990s, despite increases in the costs of labor and materials. H.B. 2610 increases the time a school district has to pay off a time warrant, with the intention of allowing districts to take advantage of lower interest rates, and increases the cap on the value of such time warrants to reflect the cost increases that have occurred since the cap was last set. This bill:

Requires that interest-bearing time warrants, issued in amounts sufficient to construct, purchase, equip, or improve school buildings and facilities or to pay all or part of the compensation of the person to compile taxation data, mature in serial installments of not more than 15 years, rather than not more than five years, from their date of issue. Authorizes a school district to also issue interest-bearing time warrants to refund warrants previously issued under this section if the refunding warrants are coterminous with the refunded obligations. Prohibits a school district, under this subsection, from having more than \$1 million, rather than \$500,000, of time warrants outstanding at any one time. Authorizes independent or consolidated school districts to borrow money for the purpose of paying maintenance expenses and to evidence those loans with negotiable or nonnegotiable notes, except that the loans are prohibited from exceeding 75 percent of the previous year's income at any time. Redefines "maintenance expenses" and "maintenance expenditures." Exempts the following from the approval and registration requirements of Chapter 1202 (Examination and Registration of Public Securities): a nonnegotiable note issued under Section 45.108 (Borrowing Money for Current Maintenance Expenses), Education Code, in a principal amount that does not exceed \$1 million.

Personal Financial Literacy Credit for High School Programs—H.B. 2662

by Representative Farney et al.—Senate Sponsor: Senator Patrick

Under current law, the Texas essential knowledge and skills requires instruction in personal financial literacy, including instruction in methods of paying for college and other postsecondary education and training, with instruction required in mathematics in kindergarten through grade eight and in one or more courses required for high school graduation. H.B. 2662 seeks to further emphasize personal financial literacy training in the state's public education system by adding this component to the enrichment curriculum, requiring personal financial literacy credit for high school programs. This bill:

Requires each school district that offers kindergarten through grade 12 to offer a certain required curriculum, including an enrichment curriculum that includes certain courses, including personal financial literacy. Requires that the Texas essential knowledge and skills and, as applicable, Section 28.025 (High School Diploma and Certificate; Academic Achievement Record) include, rather than require, instruction in personal financial literacy, including instruction in methods of paying for college and other postsecondary education and training, in mathematics instruction in kindergarten through grade eight, and one or more courses offered, rather than required, for high school graduation.

Requires each school district and each open-enrollment charter school that offers a high school program to provide an elective course in personal financial literacy that meets the requirements for a one-half elective credit under Section 28.025, using materials approved by the State Board of Education (SBOE), rather than

requiring each school district and each open-enrollment charter school that offers a high school program to provide to a student instruction in personal financial literacy in any course meeting the requirements for an economics credit under Section 28.025, using materials approved by SBOE. Deletes existing text requiring each district and each open-enrollment charter school that offers a high school program to ensure that a district or charter school student enrolled at an institution of higher education in a dual credit course meeting the requirements for an economics credit under Section 28.025 receives the instruction described under this subsection.

Requires each school district and each open-enrollment charter school that offers a high school program, beginning with the 2013-2014 school year, to include, in the elective course, rather than in required instruction, in personal financial literacy, instruction in methods of paying for college and other postsecondary education and training and use materials approved for that purpose under Subsection (b). Deletes existing text requiring each school district and each open-enrollment charter school that offers a high school program, beginning with the 2013-2014 school year, to ensure that the instruction described under this subsection is provided to a district or charter school student enrolled at an institution of higher education in a dual credit course meeting the requirements for an economics credit.

Provision of Credit by Examination For Public School Students—H.B. 2694
by Representatives Villarreal and Ratliff—Senate Sponsor: Senator Duncan

H.B. 2694 seeks to provide an enhanced opportunity for Texas students to obtain credit by examination for courses or for grade levels. The purpose of these enhanced opportunities to advance is to allow students who have demonstrated knowledge of a subject matter, or demonstrated that they are achieving at a level that is above their existing grade level, to advance academically rather than having to remain in a course or grade level that is insufficiently challenging to the student. This bill:

Provides that Subsection (a) (relating to requiring that a student meet a minimum level of attendance to receive credit for a class) does not apply to a student who receives credit by examination for a class as provided by Section 28.023.

Requires a school district, using guidelines established by the State Board of Education (SBOE), to develop or select for review by the district board of trustees (board of trustees), rather than SBOE, examinations for acceleration for each primary school grade level and for credit for secondary school academic subjects. Requires the board of trustees to approve for each subject, to the extent available, at least four examinations that satisfy SBOE guidelines. Requires that the examinations approved by the board of trustees include advanced placement examinations developed by the College Board and Educational Testing Service (College Board) and examinations administered through the College-Level Examination Program.

Requires a school district to give a student in a primary grade level credit for a grade level and advance the student one grade level on the basis of an examination for acceleration approved by the board of trustees under this bill if certain criteria are met, including if the student scores in the 80th, rather than 90th, percentile or above on each section of the examination.

Requires a school district to give a student in grade level six or above credit for a subject on the basis of an examination for credit in the subject approved by the board of trustees under this bill if the student scores in

the 80th, rather than 90th, percentile or above on the examination or if the student achieves a score as provided by this bill. Requires the district, if a student is given credit in a subject on the basis of an examination, to enter the examination score on the student's transcript, and provides that the student is not required to take an end-of-course assessment instrument adopted under Section 39.023(c) (relating to requiring the Texas Education Agency to adopt end-of-course assessment instruments for certain secondary-level courses) for that subject.

Requires a school district to give a student in grade level six or above credit for a subject if the student scores a three or higher on an advanced placement examination approved by the board of trustees under this bill and developed by the College Board; or a scaled score of 60 or higher on an examination approved by the board of trustees under this bill administered through the College-Level Examination Program.

Requires each district to administer each examination approved by the board of trustees under this bill not fewer than four times each year, rather than once a year, at times to be determined by SBOE. Provides that this bill does not apply to an examination that has an administration date that is established by an entity other than the school district.

Prohibits a student from attempting more than two times to receive credit for a particular subject on the basis of an examination for credit in that subject.

Requires a student, if the student fails to achieve the designated score described by this bill on an applicable examination described by this bill for a subject before the beginning of the school year in which the student would ordinarily be required to enroll in a course in that subject in accordance with the school district's prescribed course sequence, to satisfactorily complete the course to receive credit for the course. Provides that this bill applies beginning with the 2013-2014 school year.

Texas High Performance Schools Consortium—H.B. 2824 [VETOED]
by Representative Ratliff et al.—Senate Sponsor: Senator Paxton et al.

Recent legislation created the Texas High Performance Schools Consortium for the purpose of informing the governor, legislature, and commissioner of education (commissioner) about methods for transforming public schools in the state by improving student learning through the development of innovative, next-generation learning standards and assessment and accountability systems. According to interested parties, the commissioner invited a number of applicant school districts to participate in the consortium, which then provided a report to policymakers containing recommendations that identified changes in law that would allow the consortium districts the ability to innovate and the flexibility to meet student needs. This bill:

Defines "consortium," "participant campus," "participant district," and "readiness standards." Establishes the Texas High Performance Schools Consortium (consortium) to inform the governor, legislature, State Board of Education (SBOE), and commissioner of education (commissioner) concerning methods for transforming public schools in this state by improving student learning through the development of innovative, next-generation learning standards and assessment and accountability systems.

Prohibits the number of students initially enrolled in participant campuses from being greater than a number equal to five percent of the total number of students enrolled in public schools in this state according to the

most recent Texas Education Agency (TEA) data. Authorizes a participant district, with approval of the commissioner, to add one or more district campuses to the consortium.

Authorizes the commissioner to also charge a fee to a participating school district or open-enrollment charter school for use of state-provided assessment items or other costs associated with this bill, and to collect and use that fee for purposes of administering the consortium.

Requires the school districts and open-enrollment charter schools participating in the consortium with the assistance of the school districts and open-enrollment charter schools participating in the consortium, to submit reports concerning the performance and progress of the consortium to the governor, the legislature, SBOE, and the commissioner not later than December 1, 2012; December 1, 2014; and December 1, 2016.

Requires that the report submitted under this bill not later than December 1, 2012, include any recommendation by the commissioner concerning legislative authorization for the commissioner to waive a prohibition, requirement, or restriction that applies to a participant campus or district. Requires that the report also include a plan for an effective and efficient accountability system for participant campuses and districts that balances academic excellence and local values to inspire learning and, at the state level, contingent on any necessary waiver of federal law, authorizes it to incorporate use of a stratified random sampling of students or other objective methodology to hold participant campuses and districts accountable while attempting to reduce the number of state assessment instruments that are required to be administered to students.

Requires that the report submitted under this bill not later than December 1, 2014, include an update on the effectiveness with which participant campuses are closing gaps in achievement on readiness standards, an evaluation of teaching fewer high-priority learning standards in depth, and any recommendations for legislation. Requires that the report address the effectiveness of the use of methods, including focus on high-priority standards; digital learning, such as blended learning, personalized learning, flipped classrooms, adaptive learning, and virtual learning; the use of multiple assessments that provide more precise, useful, and timely information; and reliance on local control that enables greater community and parental involvement.

Requires that the report submitted under this bill not later than December 1, 2016, include an update on the effectiveness with which participant campuses are addressing closing gaps in achievement on readiness standards, an evaluation of teaching fewer high-priority learning standards in depth, and any recommendations for legislation.

Provides that Subsections (j), (j-1), (j-2), and (j-3) (relating to the reports due in 2012, 2014, and 2016) and this subsection expire January 1, 2018.

Requires the school board or governing body of each participant district or open-enrollment charter school, at least annually, to hold a public hearing to discuss the district's or school's goals and work in the consortium and to provide for parental and community input.

Requires a participant campus, notwithstanding Chapter 39 (Public School System Accountability) or any other law, to be evaluated for accountability purposes and administer assessment instruments only as follows:

- beginning with the 2013-2014 school year for each assessment instrument administered under this subsection, a participant campus is required to be evaluated by the independent evaluation under this bill on disaggregated data by student group, with an emphasis on closing achievement gaps, and by TEA on a report-only basis, with the scores not otherwise used for accountability purposes, including interventions and sanctions under Subchapter E (Accreditation Interventions and Sanctions), Chapter 39; for each assessment instrument administered under Chapter 39, a participant campus is required to be evaluated under Subsection (m) on readiness standards to allow teaching with depth and the evaluation of the effects of teaching with depth; students in grades three through eight who are not taking secondary-level courses are required to be administered and students in grades three through eight who are taking secondary-level courses are authorized to, at the option of the district or charter school participating in the consortium, be administered assessment instruments prescribed by Sections 39.023(a)(1), (2), and (5) (relating to requiring students to be assessed in mathematics, reading, and science respectively, under certain circumstances) only, and authorizes the students to to be administered an assessment instrument described by Section 39.0261(a)(1) (relating to requiring a school district to administer to students a certain preliminary college preparation assessment instrument) in eighth grade instead of the assessment instruments or to be administered fewer assessment instruments if allowed by federal law or a waiver of federal law; and students taking secondary-level courses are required to be assessed on end-of-course assessment instruments administered under Section 39.023(c) (relating to requiring TEA to adopt end-of-course assessment instruments for certain secondary-level courses) only for the 10th grade level courses in English, mathematics, and science in which they are currently enrolled or are required to be administered an assessment instrument described by Section 39.0261(a)(2) (relating to requiring a school district to administer to students a certain college preparation assessment instrument) for 10th grade in the same subjects if allowed by federal law or a waiver of federal law, at the option of the district or open-enrollment charter school participating in the consortium;
- beginning with the 2014-2015 school year or as soon as possible following receipt of a waiver from federal law or a change in the federal law that requires annual testing of every student: students are required to be administered assessment instruments under Section 39.023(a) (relating to requiring TEA to adopt or develop appropriate criterion-referenced assessment instruments to assess essential knowledge and skills in certain courses) for reading in grade three, mathematics in grade four, science in grade five, reading in grade six, and mathematics in grade seven; in prekindergarten through 12th grade, locally approved or developed assessment instruments that are aligned to readiness standards or high-priority learning standards under Subsection (f) (relating to requiring the commissioner to adopt rules applicable to the consortium, according to certain principals for a next generation of higher performing public schools), that are authorized to include limited numbers of state-provided assessment items, and that are authorized to have results that can be accessed by TEA for monitoring and reporting purposes, or other satisfactory secondary-level performance demonstrated under Section 39.025(h); and assessment instruments described by Section 39.0261(a) (relating to requiring a school district to administer to students certain college preparation assessment instruments under certain circumstances); and a participant campus is required to be evaluated on community-established measures that include academic achievement and college and career readiness;
- beginning with the 2013-2014 school year, students in a special education program are required to be administered appropriate assessments, including assessments developed or adopted under Section 39.023(b) (relating to requiring TEA to develop or adopt certain assessment instruments to be administered to each student in certain special education programs) and, if authorized by an Act of the 83rd Legislature,

Regular Session, 2013, that becomes law, other assessments developed or adopted for significantly cognitively disabled students; and

- beginning with the 2013-2014 school year, students of limited English proficiency, as defined by Section 29.052 (Definitions): are required to be administered appropriate assessments including assessments approved by the commissioner that measure linguistic and academic growth as determined by the student's language proficiency assessment committee established by Section 29.063 (Language Proficiency Assessment Committees); and if a waiver from federal law is obtained, are required to participate in appropriate assessments the first five years the students are enrolled in schools in the United States as participation-only unless the student attains an English proficiency rating equivalent to advanced high performance during this period, in which case the student's data will be aggregated into campus and district performance reports.

Requires the consortium to receive independent evaluation from one or more external evaluation teams, including an institution of higher education in this state.

Requires that an evaluation conducted under this bill be included in the reports. Provides that this provision expires January 1, 2018.

Authorizes a school district, notwithstanding Section 25.081 (Operation of Schools) or 25.082 (School Day; Pledges of Allegiance; Minute of Silence), to apply to the commissioner to provide a flexible school day program for certain students, including students who attend a campus that is implementing an innovative redesign of the campus, including a campus in the high performance schools consortium under Section 7.0561 (Texas High Performance Schools Consortium), or an early college high school under a plan approved by the commissioner.

Requires the commissioner by rule, notwithstanding Subsection (a) (relating to requiring the commissioner to adopt rules requiring certain students to be administered certain assessment instruments and providing the minimum score a student is required to achieve on those assessment instruments), to adopt one or more alternative nationally recognized norm referenced assessment instruments under this bill to administer to a student to qualify for a high school diploma if the student enrolls after January 1 of the school year in which the student is otherwise eligible to graduate under certain circumstances, including in a public school in this state that does not participate in the high performance schools consortium under Section 7.0561 after the student has been enrolled in a public school participating in the consortium during high school.

Provides that this subsection applies only if legislation is not enacted by the 83rd Legislature, Regular Session, 2013, that allows substitute demonstrations of satisfactory secondary-level performance for students or if such legislation is enacted but does not become law. Authorizes a school district or open-enrollment charter school participating in the high performance schools consortium established under Section 7.0561 by policy to allow a student who is enrolled in a participant campus who demonstrates satisfactory secondary-level performance in a subject under this subsection to be exempt from the requirement that the student take an end-of-course assessment instrument in that subject and authorizes the district or open-enrollment charter school to allow a student who is enrolled in a participant campus to demonstrate satisfactory secondary-level performance in the manner described by this subsection in lieu of retaking an end-of-course assessment instrument. Authorizes the district to allow the demonstration to substitute for a score required by this section or by any other law. Requires the commissioner to allow the

demonstration to substitute as an indicator of student achievement under Section 39.053. Authorizes a student's satisfactory secondary-level performance and student achievement level to be demonstrated by satisfactory performance, at levels determined by the commissioner, on certain examinations or assessments; or successful completion of certain courses.

Essential Knowledge and Skills of the Required Public School Curriculum and Certain State-adopted or State-developed Assessment Instruments—H.B. 2836 [VETOED]
by Representative Ratliff et al.—Senate Sponsor: Senators Patrick and Nelson

The Texas Education Agency (TEA) is currently required to adopt and develop statewide standardized tests that assess a student's knowledge and skills in reading, writing, mathematics, social studies, and science. Interested parties contend that under federal regulations only reading, mathematics, and science tests are required to be administered in grades three through eight and that the state is taking away invaluable instruction time and putting unnecessary stress on teachers and students by requiring extra tests that are not federally mandated. There is additional concern that the use of both readiness standards and supporting standards in determining a school's accountability rating results in a teacher losing invaluable instruction time. This bill:

Requires that an assessment instrument adopted or developed under Subsection (a) (relating to requiring the Texas Education Agency (TEA) to adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science), before the assessment instrument is authorized to be administered under that subsection, on the basis of empirical evidence, be determined to be valid and reliable by an entity that is independent of TEA and of any other entity that developed the assessment instrument.

Requires that an assessment instrument adopted or developed under Subsection (a) be designed so that a majority of students will be able to complete the assessment instrument within 180 minutes.

Prohibits the amount of time allowed for administration of an assessment instrument adopted or developed under Subsection (a) from exceeding eight hours, and authorizes the administration to occur on only one day.

Requires an advisory committee to be established to conduct a study regarding the essential knowledge and skills of the required curriculum and assessment instruments administered under Section 39.023 (Adoption and Administration of Instruments) to students in grades three through eight. Requires that the committee be composed of four members of the senate education committee appointed by the lieutenant governor and four members of the house public education committee appointed by the speaker of the house of representatives; two members of the public appointed by the lieutenant governor; two members of the public appointed by the speaker of the house of representatives; and two members of the State Board of Education (SBOE) appointed by the chair of SBOE.

Requires that the study evaluate the number and scope of the essential knowledge and skills of each subject area of the required curriculum under Section 28.002 (Required Curriculum) and whether the number or scope should be limited; the number and subjects of assessment instruments under Section 39.023 that should be administered to students in grades three through eight; and whether assessment

instruments described by this bill should assess only essential knowledge and skills or should also assess supporting standards.

Requires the committee, not later than October 1, 2014, to prepare and submit to the governor, each member of the legislature, the commissioner of education (commissioner), and SBOE a report that includes the results of the study and recommendations regarding each issue evaluated under Subsection (b). Provides that this requirement expires June 1, 2015.

Defines "benchmark assessment instrument." Prohibits a school district, except as provided by Subsection (c), from administering to any student more than two benchmark assessment instruments to prepare the student for a corresponding state-administered assessment instrument.

Provides that the prohibition prescribed by this section does not apply to the administration of a college preparation assessment instrument, including the PSAT, the ACT-Plan, the SAT, or the ACT, an advanced placement test, an international baccalaureate examination, a formative assessment used by a teacher to adjust ongoing teaching and learning, or an independent classroom examination designed or adopted and administered by a classroom teacher.

Authorizes a parent of or person standing in parental relation to a student who has special needs, as determined in accordance with commissioner rule, to request administration to the student of additional benchmark assessment instruments.

Requires the commissioner, in establishing procedures for the administration of assessment instruments under Subsection (a)(1), to ensure that the procedures are designed to minimize disruptions to school operations and the classroom environment. Requires a school district, in implementing the procedures established for the administration of assessment instruments under Subsection (a)(1), to minimize disruptions to school operations and the classroom environment.

Provides that this Act applies beginning with the 2013-2014 school year.

Time Limit for Issuance of Decisions on School District Appeals—H.B. 2952
by Representatives Justin Rodriguez and Collier—Senate Sponsor: Senator Watson

Section 7.057 (Appeals), Education Code, provides that a school district employee who has a grievance against the action of a school district is to file an appeal under the commissioner of education (commissioner). H.B. 829, 81st Legislature, Regular Session, 2009, required appeals regarding school district detachment and annexation to be decided by the commissioner within 180 days from the time the appeal is filed. There is not a similar timeline for appeals under Section 7.057(c), Education Code, regarding most school district employee grievances. This bill:

Requires the commissioner, in an appeal against a school district, to, not later than the 240th day after the date the appeal is filed, issue a decision based on a review of the record developed at the district level under a substantial evidence standard of review.

Authorizes the parties to the appeal to agree in writing to extend the date by which the commissioner is required to issue a decision by not more than 60 days.

Social Security Numbers of School District Employees—H.B. 2961
by Representative Huberty—Senate Sponsor: Senator Deuell

Interested parties assert that identity theft is common and that Social Security numbers need to be protected. The parties contend that an employee of a school district must choose whether to allow public access to that employee's Social Security number but maintain that there is not an overriding argument favoring that public access. The parties also maintain that employees could unknowingly make their Social Security numbers public if they fail to choose to make that information private or if the district requires employees to allow public access to their Social Security numbers. In addition, the parties observe that, while a Social Security number of a living person is excepted from disclosure under public information law, it is not confidential. H.B. 2961 seeks to protect the Social Security number of a school district employee or former employee from public disclosure. This bill:

Requires each employee or official of a governmental body and each former employee or official of a governmental body to choose whether to allow public access to the information in the custody of the governmental body that relates to the person's home address, home telephone number, emergency contact information, or Social Security number, or that reveals whether the person has family members.

Prohibits a school district from requiring an employee or former employee of the district to choose whether to allow public access to the employee's or former employee's Social Security number.

Provides that the Social Security number of a living person is excepted from the requirements of Section 552.021 (Availability of Public Information), but is not confidential under this section (Social Security Numbers) and this section does not make the Social Security number of a living person confidential under another provision of this chapter (Public Information) or other law.

Provides that the Social Security number of an employee of a school district in the custody of the district is confidential.

Requires the board of trustees of an independent school district to adopt a policy prohibiting the use of the Social Security number of an employee of the district as an employee identifier other than for tax purposes.

Authorizes a district judge to remove from office a member of the board of trustees of an independent school district under statutory provisions governing the removal of county officers from office by petition and trial.

Requirements For Obtaining Health Science Technology Education Teaching Certificate—H.B. 3573
by Representative Aycock—Senate Sponsor: Senator Patrick

Interested parties report that recruiting high quality teachers in health and technology is challenging for a number of reasons, one of these being that candidates are required to have a bachelor's degree in order to receive the health science technology certification. H.B. 3573 will allow individuals with an associate's degree, a health profession license, and two years of wage earning experience in the area of the license to obtain health science technology certification; thus, creating more opportunity for many associate degree health professionals to become teachers in this area. This change will allow a registered nurse with an

associate's degree to become certified, while the nurse's license credential would allow the nurse to teach all courses to include practicums. This bill:

Requires the State Board for Educator Certification (SBEC), in proposing rules under this section for a person to obtain a certificate to teach a health science technology education course, to specify that a person is required to have an associate degree or more advanced degree from an accredited institution of higher education; current licensure, certification, or registration as a health professions practitioner issued by a nationally recognized accrediting agency for health professionals; and at least two years of wage earning experience utilizing the licensure requirement. Prohibits SBEC from proposing rules for a certificate to teach a health science technology education course that specify that a person is required to have a bachelor's degree or that establish any other credential or teaching experience requirements that exceed the requirements under Subsection (e). Authorizes a person who holds a technology applications certificate issued under this subchapter to, in addition to teaching technology applications courses as authorized under the certificate, teach courses in principles of arts, audio/video technology, and communications, and principles of information technology.

Texas Workforce Innovation Needs Program; Authorizing a Fee—H.B. 3662

by Representative Clardy et al.—Senate Sponsor: Senator Seliger

Interested parties assert that there is need for school districts and public institutions of higher education to establish innovative programs designed to prepare students for careers in demand in Texas. These parties contend that in establishing these programs, school districts and institutions should be granted flexibility to adopt new approaches to instruction and accountability requirements. The parties are interested in establishing programs that will emphasize competency-based learning, career and technical education collaborations, workforce-focused innovations, high school courses that will yield college credit, and career and technical education pathways. This bill:

Defines "private or independent institution of higher education" and "program." Establishes the Texas Workforce Innovation Needs Program (program) to provide selected school districts, public institutions of higher education, and private or independent institutions of higher education with the opportunity to establish innovative programs designed to prepare students for careers for which there is demand in this state; and use the results of those programs to inform the governor, legislature, and commissioner of education (commissioner) concerning methods for transforming public education and higher education in this state by improving student learning and career preparedness.

Requires a school district, public institution of higher education, or private or independent institution of higher education, to apply to participate in the program, to use the form and apply in the time and manner established by commissioner rule. Requires that the application process require each applicant district or institution of higher education to submit a detailed plan as required by Subsections (d) and (e) of the instruction and accountability the applicant would provide under the program.

Provides that the preceding plan is required to be designed to support improved instruction of and learning by students and provide evidence of the accurate assessment of the quality of learning on campus; describe any waiver of an applicable prohibition, requirement, or restriction for which the district or institution of higher education intends to apply; and include any other information required by

commissioner rule; and is authorized to, if submitted by a school district, designate one or more campuses rather than the entire district to participate in the program.

Requires that the preceding plan addition to satisfying the requirements under Subsection (d)(1), to the greatest extent appropriate for the grade or higher education levels served under the program, either to: focus on engagement of students in competency-based learning as necessary to earn postsecondary credentials, including career and technical certificates; associate's degrees; bachelor's degrees; and graduate degrees; or incorporate career and technical courses into dual enrollment courses or into the early college education program under Section 29.908 (Early College Education Program) to provide students the opportunity to earn a career or technical certificate or associate's degree.

Requires the commissioner to select, from among the school districts and institutions of higher education that apply as required under this section, those school districts and institutions of higher education that present the plans that are most likely to be effective in producing the next generation of higher performing public schools and institutions of higher education that provide education and training in an innovative form and manner to prepare students for careers for which there is demand in this state.

Requires the commissioner to convene program leaders periodically to discuss methods to transform learning opportunities for all students, build cross-institution support systems and training, and share best practices tools and processes.

Authorizes a school district or institution of higher education participating in the program or the commissioner, for purposes of this section, to accept gifts, grants, or donations from any source, including a private or governmental entity. Authorizes the commissioner, to cover the costs of administering the program, to charge a fee to a school district or institution of higher education participating in the program.

Requires that the commissioner, in consultation with interested school districts, institutions of higher education, and other appropriate interested persons, to adopt rules as necessary for purposes of this section. Requires that the commissioner, not later than December 1, 2014, and not later than December 1, 2016, with the assistance of school districts and institutions of higher education participating in the program, submit to the governor and the legislature reports concerning the performance and progress of the program participants. Requires that the report submitted not later than December 1, 2014, include any recommendation by the commissioner concerning legislative authorization necessary for the commissioner to waive a prohibition, requirement, or restriction that applies to a program participant and other school district or institution of higher education interested in beginning a similar program. Requires the commissioner, to prepare for implementation of a commissioner waiver, to seek any necessary federal waiver. Provides that this subsection expires January 1, 2020.

School District Policies to Promote Use of Technology—H.C.R. 104

by Representative Button—Senate Sponsor: Senator Seliger

Technology has revolutionized the way we think, work, interact, and play, and in the educational setting, it can engage learners, promote discovery, and enhance the acquisition of knowledge and skills. Today, many students are comfortable with and practical in the use of technology, with a 2012 study by the national nonprofit organization Project Tomorrow finding that a large percentage of Texas students access the Internet through their personal smart phones, laptops, and tablet computers at home but are rarely

allowed to employ them in the classroom. Seventy-two percent of Texas parents indicated that they would provide a mobile computing device for their child if the school would permit the use of such learning tools, for instance through "Bring Your Own Device" programs.

Outside the classroom, young people are able to use technology to create personalized learning environments that directly fuel their passion for knowledge, but schools frequently do not offer such a highly customized experience, causing a growing disconnect between how students acquire knowledge and collaborate with others in their daily lives and how they are expected to learn and participate in the classroom. The use of technology in the classroom can make education more student-centered and offer the ability to tailor instruction to serve youths who come from diverse backgrounds and have different interests and goals. Although children may be "digital natives" with high technical ability, they still need guidance in developing critical thinking skills that will allow them to maximize their potential to thrive amidst the rapid change of the information age, and teachers are likewise eager to take advantage of the vast digital resources available to broaden horizons and deepen the learning experience.

Technological proficiency is a requirement for success in an increasingly global economy, and the use of mobile computing devices in schools can better prepare young Texans to become productive members of society. This resolution:

Provides that the 83rd Legislature of the State of Texas encourages school districts to adopt policies that promote the use of technology and technological devices in classrooms.

Requires that the Texas secretary of state forward an official copy of this resolution to the commissioner of the Texas Education Agency.

Authorizing, Governing, and Establishing Open-Enrollment Charter Schools—S.B. 2 *by Senators Patrick and Campbell—House Sponsor: Representative Aycock*

In 1995, the 74th Legislature passed legislation to allow public charter schools to operate in Texas. Since then, public charter schools have served an increasing number of students across the state. Current law caps the number of open-enrollment charter schools at 215. The cap effectively deters many innovative educators and groups from developing or starting a charter school in Texas because the cap is perpetually close to being reached. Existing charter schools have struggled with a variety of outdated laws and policies that prevent the expansion of effective charters. Because charter schools do not have a local tax base, most charter schools struggle to find suitable facilities for a school. In addition, many poor performing existing charters have been able to remain open because of ineffective laws governing public charters. This bill:

Sets forth the requirements and provisions for open-enrollment charter school for district facility. Sets forth provisions and requirements for charter school payment for facilities use for services. Sets forth provisions and requirements for district charter authorization. Requires the board of trustees of the governing body of a home-rule school district to grant or deny a charter to parents and teachers for a campus or a program or campus if the board is presented with a petition signed by the majority of the students at that school campus and a majority of the classroom teachers at that school campus.

Requires the board of trustees of the school district that granted the charter to enter into a performance contract with the principal or equivalent chief operating officer of the campus or program if a charter is granted under Subchapter C (Campus or Campus Program Charter), Chapter 12 (Charter Schools), Education Code. Sets forth the requirements for the performance contract duration of charter. Establishes certain requirements and provisions relating to a neighborhood school.

Authorizes a school district to contract with another district or an open-enrollment charter school for services at a campus charter and makes an employee of the district or charter school providing contracted services to a campus charter eligible for membership in and benefits from the Teacher Retirement System of Texas (TRS) if the employee would be eligible for membership and benefits if holding the same position at the employing district or charter school. Provides that a campus or program for which a charter is granted under Subchapter C, Chapter 12, Education Code, is subject to certain conditions. Requires an employee of a charter holder who is employed on a campus or in a program granted a campus or campus program charter and who qualifies for TRS membership to be covered in the same manner and to the same extent as a qualified school district employee who is employed on a regularly operating campus or in a regularly operating program. Requires each charter granted to provide that the charter's continuation is contingent on satisfactory student and financial performance in accordance with applicable statutory provisions.

Authorizes the commissioner of education (commissioner) in accordance with Subchapter C, Chapter 12, Education Code, to grant a charter on the application of an eligible entity for an open-enrollment charter school to operate in a facility of a commercial or nonprofit entity, an eligible entity, or a school district, including a home-rule school district. Authorizes the commissioner, after thoroughly investigating and evaluating an applicant, in coordination with a member of the State Board of Education (SBOE) designated for the purpose by the chair of SBOE, to grant a charter for an open-enrollment charter school only to an applicant that meets any financial, governing, educational, and operational standards adopted by the commissioner under Subchapter C, Chapter 12, Education Code, that the commissioner determines is capable of carrying out the responsibilities provided by the charter and likely to operate a school of high quality, and that meets certain requirements. Requires the commissioner to notify SBOE of each charter the commissioner proposes to grant. Provides that unless a majority of the members of SBOE present and voting vote against the grant of that charter before the 90th day after the date on which SBOE receives the notice from the commissioner, the commissioner's proposal to grant the charter takes effect. Prohibits SBOE from deliberating or voting on any grant of a charter that is not proposed by the commissioner. Prohibits the commissioner in granting charters for open-enrollment charter schools, from granting more than a certain number of charters from 2014 to 2019.

Provides that, notwithstanding Section 12.114 (Revision), Education Code, approval of the commissioner is not required for establishment of a new open-enrollment charter school campus if the requirements, including the absence of commissioner disapproval, are satisfied. Authorizes a charter holder having an accreditation status of accredited and at least 50 percent of its student population in grades assessed under Subchapter B (Assessment of Academic Skills), Chapter 39 (Public School System Accountability), Education Code, or at least 50 percent of the students in the grades assessed having been enrolled in the school for at least three school years to establish one or more new campuses under an existing charter held by the charter holder if certain criteria is met. Provides that the initial term of a charter granted is five years. Requires the commissioner to adopt rules to modify criteria for granting a charter for an open-enrollment charter school to the extent necessary to address changes in performance rating categories or in the financial accountability system under Chapter 39, Education Code. Provides that a charter granted

for a dropout recovery school is not considered for purposes of the limit on the number of charters for open-enrollment charter schools.

Authorizes a charter for an open-enrollment charter school for certain high-performing entities. Requires the commissioner to adopt rules to modify criteria for granting a charter for an open-enrollment charter school to the extent necessary to address changes in performance rating categories under Subchapter C (Accreditation), Chapter 39, Education Code. Requires the commissioner to select a center for education research authorized by Section 1.005 (Education Research Centers; Sharing Student Information), Education Code, to prepare an annual report concerning the performance of open-enrollment charter schools by authorizer compared to campus charters and matched traditional campuses, which are required to be provided annually under Subchapters J (Parent and Educator Reports) and K (Reports by Texas Education Agency), Chapter 39, Education Code. Sets forth certain requirements with regard to the annual report.

Establishes certain requirements regarding the authorization for grant of charters for schools primarily serving students with disabilities. Requires the commissioner and the State Board for Educator Certification to adopt rules as necessary to administer the authorization of charters for schools primarily serving students with disabilities.

Requires the Texas Education Agency (TEA) to assist the school as necessary in complying with requirements under Section 12.104(b)(2)(A) (relating to providing that an open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, or a rule adopted, relating to PEIMS to the extent necessary to monitor compliance as determined by the commissioner), Education Code, during the first three years an open-enrollment charter school is in operation.

Provides that Section 11.1513(f) (relating to providing that the superintendent is a public official for purposes of Chapter 573 (Degrees of Relationship; Nepotism Prohibitions), Government Code, and each member of the board of trustees remains subject to that chapter with respect to all district employees, if, under the employment policy, the board of trustees delegates the to the superintendent the final authority to select district personnel), Education Code, applies to an open-enrollment charter school. Sets forth certain requirements regarding an employee of an open-enrollment charter school.

Requires the commissioner to adopt an application form and a procedure that must be used to apply for a charter for an open-enrollment charter school and criteria to use in selecting a program for which to grant a charter. Sets forth certain requirements of the application process and form. Requires the commissioner by rule to adopt a procedure for providing notice to certain persons on receipt by the commissioner of an application for a charter for an open-enrollment charter school. Sets forth certain requirements of each charter granted under Subchapter D (Open-Enrollment Charter School), Chapter 12, Education Code. Establishes certain requirements and procedures regarding the renewal, denial of renewal, and expiration of a charter for an open-enrollment charter school.

Requires the commissioner to adopt an informal procedure to be used for revoking the charter of an open-enrollment charter school or for reconstituting the governing body of the charter holder as authorized by Section 12.115 (Basis for Modification, Placement on Probation, Revocation, or Denial of Renewal), Education Code. Established the basis, requirements, and procedures for the modification of governance or revocation of a charter for an open-enrollment charter school. Requires the commissioner to notify TRS in writing of the revocation, denial of renewal, expiration, or surrender of a charter not later than the 10th

business day after the date of the event. Sets forth the procedures and requirements for performance frameworks and annual evaluations of a charter for an open-enrollment charter school. Requires a charter holder to file with the commissioner a copy of its articles of incorporation and bylaws, or comparable documents if the charter holder does not have articles of incorporation or bylaws, within the period and in the manner prescribed by the commissioner. Requires each open-enrollment charter school, each year within the period and in a form prescribed by the commissioner to file with the commissioner certain information.

Authorizes an open-enrollment charter school subject to Section 12.1059 (Agency Approval Required for Certain Employees), Education Code, to employ a person as a teacher or educational aide or in a position other than a teacher or educational aide under certain conditions. Requires that a majority of the members of the governing body of an open-enrollment charter school or the governing body of a charter holder be qualified voters. Establishes certain training requirements for each agency employee assigned responsibility related to granting charters for open-enrollment charter schools or providing oversight or monitoring of charter holders or open-enrollment charter schools. Requires a person employed as a principal or a teacher by an open-enrollment charter school to hold a baccalaureate degree. Requires an open-enrollment charter school to post on the school's Internet website the salary of the school's superintendent or, as applicable, of the administrator serving as educational leader and chief executive officer. Authorizes the commissioner in accordance with Subchapter E (College or University or Junior College Charter School) and Subchapter D (Open-Enrollment Charter School), Chapter 12, Education Code, to grant a charter on the application of certain colleges or universities for an open-enrollment charter school under certain circumstances. Requires the board of trustees of each school district and the governing board of each open-enrollment charter school to require students, once during each school day at each campus to recite the pledge of allegiance to the United States flag in accordance with 4 U.S.C. Section 4 and the pledge of allegiance to the state flag in accordance with Subchapter C (Pledge of Allegiance to State Flag), Chapter 3100 (State Flag), Government Code.

Requires a school district or open-enrollment charter school that intends to challenge a decision by the commissioner to close the district or a district campus or the charter school or to pursue alternative management of a district campus or the charter school to appeal the decision under Section 39.152 (Review by State Office of Administrative Hearings: Sanctions), Education Code.

Repeals Section 12.1055(b) (relating to providing that Chapter 573, Government Code, does not apply to an open-enrollment charter school if the school is rated acceptable or higher for at least two of the preceding three years, and requiring a member of the governing body of a charter holder or a member of the governing body or officer of an open-enrollment charter school to comply with certain requirements with respect to certain personal matters), 12.113(b) (relating to providing that the grant of a charter does not create an entitlement to a renewal of a charter on the same terms as it was originally issued), and Section 12.1161(b) (relating to providing that an open-enrollment charter school continues to operate and receive state funds for the remainder of the school year if the commissioner denies renewal of the charter before the completion of that school year), Education Code.

Governance of Public Institutions of Higher Education—S.B. 15 [VETOED]

by Senator Seliger et al.—House Sponsor: Representative Branch

Currently, governing board appointees for institutions of higher education who are appointed in the interim are allowed to serve with full voting authority, but members of governing boards are required to go through a training program that focuses on the official role and duties of the members of governing boards, including training in the areas of budgeting, policy development, and governance. This bill:

Requires each governing board of an institution of higher education (board) to preserve institutional independence and defend each institution's right to manage its own affairs through its chosen administrators and employees.

Requires each board to develop a balanced governing structure designed to promote institutional integrity, autonomy, and flexibility of operations while maintaining maximum operating efficiency and academic excellence and govern institutions with the spirit of integrity in all matters, including operating in a relationship with all parties in an open and honest manner.

Requires the board to ensure that the powers and duties of the board are not controlled by a minority of its members or by organizations or interests that are separate from the board in any manner, including through delegation, tradition, or inaction, and to protect each institution under its governance from undue external influence.

Requires the members of the board to remain free from any contractual, employment, personal financial, or familial financial interest in the institution or institutions under its governance.

Requires that each report, recommendation, or vote of the board or of a committee, subcommittee, task force, or similar entity reporting to the board be made available to the public on the board's Internet website not later than the end of the next business day after the date of the report, recommendation, or vote.

Prohibits a board member from voting on a budgetary or personnel matter related to system administration or institutions until the member attends a training program that provides instruction in ethics, conflict-of-interest law, and the role of a governing board and that is conducted by the Texas Higher Education Coordinating Board, by the system office of a university system, or by the office of a board that does not govern a university system.

Authorizes the board of a university system to terminate the employment of an institution's president only after receiving a recommendation to that effect from the university system's administration, but does not require the board to act on that recommendation.

Requires each board, after coordinating with the institution's president and, if applicable, the chancellor of the university system and after consulting with the institution's faculty, to establish and publish, for each institution under its governance, long-term goals consistent with the role and mission of the institution; review and revise those goals at least once during each six-year period; appoint the president or other chief executive officer of each institution under the board's governance; direct that communications between the board of a university system or members of the board and the employees of an institution under its governance be conducted through the system; after consulting with the institution's faculty and administration, set campus admission standards; develop and implement policies and procedures that

allow the faculty, staff, and students at any institution under the board's governance to be engaged in and informed of meetings of the board or of a committee, subcommittee, task force, or other similar reporting to the board.

Requires each system administration to, in consultation with the governing board of the system, evaluate the president or other chief executive officer of each component institution and assist the officer in the development and achievement of performance goals; and if necessary based on the president's performance, recommend to the governing board the termination of employment of an institution's president.

Provides that the governing board may not unreasonably or unduly interfere with the day-to-day operations of the institutions under its governance.

Requires each member of a governing board to attend a training program during the member's first year, rather than first two years, of service.

Requires that the training program focus on the official role and duties of the members and provide training in the areas of budgeting, policy developing, ethics, and governance.

Requires that the training program include the requirements of laws relating to the protection of student information under the Family Education Rights and the Privacy Act of 1974 or any other federal or state law relating to the privacy of student information.

Establishes that the term of office of each regent be six years, with the terms of three regents expiring on February 1 of each odd-numbered year.

Training of Educators to Carry a Concealed Handgun on School Premises—S.B. 17 [VETOED]
by Senator Patrick et al.—House Sponsor: Representative Fletcher

Interested parties note that current law does not provide for school safety training of certain employees of a school district or open-enrollment charter school who are properly licensed and authorized to carry a concealed handgun on certain school premises. S.B. 17 provides for the free participation in a school safety training program for certain employees of a school district or charter school that does not have a peace officer or security personnel assigned full-time to the campus. This bill:

Defines "department" and "training center." Requires the Department of Public Safety of the State of Texas (DPS), with technical assistance based on the best practices developed for law enforcement officers by the training center, to establish and maintain a training program in school safety and the protection of students for employees of a school district or an open-enrollment charter school who hold a license to carry a concealed handgun issued under Subchapter H (License to Carry a Concealed Handgun), Chapter 411, Government Code, are authorized by the school district or open-enrollment charter school to carry a concealed handgun under Section 46.03(a)(1) (relating to providing that a person commits an offense if the person brings certain weapons to a school without authorization), Penal Code, and are selected by the board of trustees of a school district or governing body of the open-enrollment charter school to attend the training program.

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Requires DPS, each school year, to provide the training program under this bill at no charge for two employees at a school campus that does not have security personnel or a commissioned peace officer assigned full-time to the school campus.

Authorizes DPS to provide the training program under this bill to school employees in addition to those attending the training under this bill on payment of a fee by the school district or open-enrollment charter school employing the person.

Prohibits a school district or open-enrollment charter school from requiring an employee to involuntarily participate in the training program under this bill. Prohibits an employee from being subject to any penalty or disciplinary action for refusing to participate in the training program.

Provides that nothing in this bill prohibits a school district or open-enrollment charter school from revoking authorization for an employee to carry a concealed handgun under Section 46.03(a)(1), Penal Code, if the employee refuses to participate in the training program under this bill.

Authorizes an employee who has met the requirements of Section 37.322(a) and who has successfully completed the training program under Section 37.322, notwithstanding Section 46.035(b)(2) (relating to providing that a person commits an offense if the person brings certain weapons to a school function without authorization), Penal Code, to, pursuant to written regulation or written authorization by the school district or open-enrollment charter school, carry a concealed handgun on premises owned or controlled by the employing school district or open-enrollment charter school during a high school event or interscholastic event in which students from the employing school district or open-enrollment charter school are participating.

Provides that this subchapter does not waive any rights, privileges, immunities, or defenses of a school district, an open-enrollment charter school, Texas State University—San Marcos, or the Texas State University System; the board of trustees of a school district, the governing body of an open-enrollment charter school, or the board of regents of the Texas State University System; or an officer or employee of a school district, an open-enrollment charter school, or the Texas State University System.

Provides that this subchapter does not create any liability for or a cause of action against a school district, an open-enrollment charter school, Texas State University—San Marcos, or the Texas State University System; the board of trustees of a school district, the governing body of an open-enrollment charter school, or the board of regents of the Texas State University System; or an officer or employee of a school district, open-enrollment charter school, or the Texas State University System.

Prohibits a court from holding DPS or the training center or an officer or employee of DPS or the training center liable for damages caused by an action authorized under this subchapter or a failure to perform a duty imposed by this subchapter or the actions of a district or charter school employee that occur after the employee has received training or has been denied training under this subchapter.

Prohibits a cause of action for damages from being brought against DPS or the training center or an officer or employee of DPS or the training center for any damage caused by the actions of a district or charter school employee under this subchapter.

Provides that DPS or the training center is not responsible for any injury or damage inflicted on any person by a district or charter school employee arising or alleged to have arisen from an action taken by DPS or the training center under this subchapter.

Provides that DPS or the training center or an officer or employee of DPS or the training center is immune from liability and from suit for any act or failure to act arising under this subchapter.

Requires DPS and the board of trustees of a school district or governing body of an open-enrollment charter school to disclose to a criminal justice agency information contained in its files and records regarding whether a named employee or any employee named in a specified list has attended training under this subchapter. Provides that information on an employee subject to disclosure under this bill includes the employee's name, date of birth, zip code, and telephone number. Provides that, except as otherwise provided by this bill, all other records maintained under this subchapter are confidential and are not subject to mandatory disclosure under the open records law, Chapter 552 (Public Information), Government Code.

Authorizes a school district or open-enrollment charter school employee who has attended training to be furnished a copy of disclosable records regarding the employee on request.

Requires DPS and the board of trustees of a school district or open-enrollment charter school to make available on request by an employee the name of the criminal justice agency requesting information relating to the employee under this bill.

Provides that the school safety training fund is created as a special fund in the state treasury and that the fund consists of gifts, grants, and donations.

Authorizes DPS to solicit and accept a gift, grant, or donation from any source, including a foundation or private entity, for the training program under Section 37.322(a) and requires DPS to deposit money accepted under this subsection to the credit of the school safety training fund.

Requires DPS to use funds collected under this bill before using any state funds to establish and maintain the training program under Section 37.322.

Prohibits the amount of state funds allocated in any state fiscal biennium for the training program under Section 37.322 from exceeding \$1 million.

Requires DPS to establish and maintain the training program under Section 37.322 only if sufficient funds under this bill and state funds allocated for the training program are available.

Provides that this Act applies beginning with the 2013-2014 school year.

Creation of a New University in South Texas—S.B. 24

by Senator Hinojosa et al.—House Sponsor: Representative Oliveira et al.

Creating a new University of Texas (UT) institution in South Texas would merge the existing UT-Brownsville and UT-Pan American and would include a new school of medicine that could create

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educational, health care, and economic benefits for the entire Rio Grande Valley and the State of Texas. This bill:

Provides that a new university is a general academic teaching institution under the governance, management, and control of the board of regents of The UT System.

Requires the UT board of regents (board) to provide for the organization, administration, location, and name of the university and of the colleges, schools, and other institutions and entities of the university, which must include an academic campus in Cameron County; an academic campus in Hidalgo County; the medical school and other programs authorized for The UT Health Science Center--South Texas; the facilities and operations of the Lower Rio Grande Valley Academic Health Center; and an academic center in Starr County.

Requires the board to equitably allocate the primary facilities and operations of the university among Cameron, Hidalgo, and Starr counties.

Requires the board to ensure that the medical and research programs of the medical school component of the university are conducted across the region and have a substantial presence in Hidalgo County and Cameron County.

Establishes the powers and duties of the board with regard to UT-Brownsville, UT-Pan American, and any other institution, college, school, or entity abolished under the Act authorizing creation of the new university and any facility, operation, or program that is transferred to the university under this Act.

Authorizes the board to impose and collect any fee authorized by prior law.

Authorizes the board to prescribe courses leading to customary degrees offered at leading American universities and medical schools as applicable and to award those degrees, including bachelor's, master's, and doctoral degrees and their equivalents and medical school degrees and other health science degrees.

Provides that a department, school, or degree program may not be instituted without the prior approval of the Texas Higher Education Coordinating Board.

Establishes that the new university, if this Act receives a certain amount of votes from the legislature, is entitled to participate in the funding from the Permanent University Fund to the same extent as similar component institutions of The UT System.

Requires the board to establish a center for border economic and enterprise development (center) at the university authorized to develop and manage an economic database concerning the Texas-Mexico border; perform economic development planning and research; provide technical assistance to industrial and governmental entities; and in cooperation with other state agencies, coordinate economic and enterprise development planning activities of state agencies to ensure that the economic needs of the Texas-Mexico border are integrated within a comprehensive state economic development plan.

Authorizes the center to offer seminars and conduct conferences and other educational programs concerning the Texas-Mexico border economy and economic and enterprise development within this state.

Authorizes the board to solicit and accept gifts, grants, and donations to aid in the establishment, maintenance, and operation of the center.

Requires the center to cooperate fully with similar programs operated by Texas A&M International University, UT-El Paso, and other institutions of higher education.

Requires the board to establish the Texas Academy of Mathematics and Science at the university to provide academically gifted and highly motivated junior and senior high school students with a challenging university-level curriculum; to provide students with an awareness of mathematics and science careers and professional development opportunities through any appropriate means; and to provide students with social development activities that enrich the academic curriculum and student life.

Establishes that the "academy" is a coeducational program for selected Texas high school students with an interest in and the potential to excel in mathematics and science studies.

Requires the academy to admit only high school juniors and seniors, except that the academy may admit a student with exceptional abilities who is not yet a high school junior.

Requires the board to set aside adequate space at the new university to operate the academy and implement the purposes of the academy.

Establishes that the university administration has the same powers and duties with respect to the academy that the administration has with respect to the university.

Requires the academy to provide the university-level curriculum in a manner that is appropriate for the social, psychological, emotional, and physical development of high school juniors and seniors and the administration and counseling personnel to provide continuous support and supervision of students.

Entitles the academy, for each student in the academy, to allotments from the foundation school fund as if the academy were a school district without a tier one local share.

Authorizes the board to use any available money, enter into contracts, and accept grants, including matching grants, federal grants, and grants from a corporation or other private contributor, in establishing and operating the academy.

Establishes that, except as otherwise provided, the academy is not subject to the liability provisions in the Civil Practice and Remedies Code or to the rules of the Texas Education Agency regulating public schools.

Evaluation and Instruction of Public School Students With Visual Impairments—S.B. 39

by Senator Zaffirini—House Sponsor: Representative Naishtat

Students with visual impairments are required to be provided with specialized instruction specific to blindness. Interested parties contend that the law does not recognize recent developments with regard to that instruction, including some that are critical to the education of a child who is blind, and that the law does not include the term "expanded core curriculum," which has contributed to a lack of uniformity in

teaching students with visual impairments. S.B. 39 seeks to address issues relating to the evaluation and instruction of public school students with visual impairments. This bill:

Requires the Texas Education Agency (TEA) to maintain an effective liaison between special education programs provided for children with visual impairments by school districts and related initiatives of the Department of Assistive and Rehabilitative Services Division for Blind Services, the Department of State Health Services Mental Health and Substance Abuse Division, and the Texas School for the Blind and Visually Impaired (TSBVI), rather than of the Texas Commission for the Blind, the Texas Department of Mental Health and Mental Retardation, and TSBVI, and other related programs, agencies, or facilities as appropriate.

Requires that the comprehensive statewide plan for the education of children with visual impairments: to include methods to ensure that children with visual impairments receiving special education services in school districts receive, before being placed in a classroom setting or within a reasonable time after placement, evaluation of the impairment and instruction in an expanded core curriculum, which is required for students with visual impairments to succeed in classroom settings and to derive lasting, practical benefits from the education provided by school districts, including instruction in and the development of skills in certain areas.

Entitles each eligible blind or visually impaired student to receive educational programs according to an individualized education program that provides a detailed description of the arrangements made to provide the student with the evaluation and instruction required under this bill, rather than with the orientation and mobility training, instruction in braille or use of large print, other training to compensate for serious visual loss, access to special media and special tools, appliances, aids, or devices commonly used by individuals with serious visual impairments; and sets forth the plans and arrangements made for contacts with and continuing services to the student beyond regular school hours to ensure the student learns the skills and receives the instruction required under this bill.

Provides that this bill applies beginning with the 2013-2014 school year.

Vaccination Against Bacterial Meningitis at Institutions of Higher Education—S.B. 62
by Senator Nelson—House Sponsor: Representative Laubenberg

Currently, all Texas college students age 29 and younger must show proof of vaccination against bacterial meningitis in the past five years. This bill:

Exempts from the requirement to have a bacterial meningitis vaccination students of institutions who are enrolled only in online or other distance education courses or who are 22 years of age or older.

Establishes that a student or a parent or guardian of the student is not required to comply with the vaccination requirement if the student or parent or guardian submits to the institution an affidavit signed by the student stating that the student declines the vaccination for bacterial meningitis for reasons of conscience, including religious belief, or confirmation that the student has completed the Internet-based process for declining the vaccination on that basis.

Requires that the affidavit be on a certain form and submitted to the appropriate admitting official not later than the 90th day after the date the affidavit is notarized.

Requires the Department of State Health Services (DSHS) to develop and implement a secure, Internet-based process to be used exclusively at those public junior colleges that elect to use the process to allow an entering student to apply online for an exemption from the vaccination requirement for reasons of conscience.

Authorizes a public junior college to require an entering student to use the Internet-based process as the exclusive method to apply for an exemption from the vaccination for reasons of conscience.

Requires DSHS to report to the legislature annually the number of exemptions applied for in the preceding academic year using the Internet-based process.

Operation of Special Student Recovery Programs by Certain School Districts—S.B. 119
by Senator Rodriguez—House Sponsor: Representatives Márquez and Moody

According to recent reports, certain school districts, such as El Paso Independent School District, have had problems with public corruption. One superintendent is reported to have intentionally placed students in the wrong grade level, pushed some students out of school, and prevented some students from enrolling as part of a district's effort to inflate standardized test scores so that low-performing schools appeared to meet federal and state accountability measures. Interested parties contend that these students need additional attention and help to ensure that they are getting the education that they need. S.B. 119 seeks to address this concern by creating a program that provides certain students with remedial classes and opportunities to complete the requirements for a high school diploma. This bill:

Provides that this bill applies only to a school district with a student enrollment of at least 60,000 that is located in a county on the international border with a population of 800,000 or more.

Authorizes the commissioner of education (commissioner) to require a school district to which this section applies to operate a special student recovery program if the commissioner has imposed a sanction under Section 39.102 (Interventions and Sanctions for Districts) based on a determination that the district has, for the purpose of affecting the performance rating under Section 39.054 (Methods and Standards for Evaluating Performance) or former Section 39.072 or a distinction designation under Section 39.202 (Academic Excellence Distinction Designation for Districts and Campuses) or 39.203 (Campus Distinction Designations) of the district or a campus in the district assigned a student to a grade level to which the student would not otherwise be assigned, in violation of local policy; retained a student at a grade level at which the student would not otherwise be retained, in violation of local policy; declined to admit to the schools of the district a student with limited English proficiency who was eligible for admission; or encouraged a student who was eligible for admission to the district to enroll in another district or drop out of school.

Requires the commissioner to require a school district to which this section applies to operate a special student recovery program if the superintendent or assistant superintendent of the district or a principal or assistant principal of a campus in the district is convicted of or receives a grant of deferred adjudication community supervision for an offense associated with conduct described by this bill.

Requires that a special student recovery program include identification of students affected by conduct described by this bill, with an emphasis on identifying and obtaining current addresses for students who dropped out of school after the conduct; notification of students identified under this bill of the availability of educational services provided through the program; provision of appropriate compensatory, intensive, and accelerated instructional services for students identified under this bill, including services designed to enable students to obtain high school equivalency certificates under Section 7.111 (High School Equivalency Examinations); and for students identified under this bill who are at least 21 years of age and under 26 years of age, the offer of admission to the schools of the district for the purpose of completing the requirements for a high school diploma, as authorized by Section 25.001 (Admission).

Provides that a student who is at least 21 years of age and is admitted to the schools of the district under this bill is subject to the placement restrictions described by Section 25.001(b-2) (relating to certain restrictions placed on students that are at least 21 years of age) if the student has not attended school in the three preceding school years.

Authorizes a school district, in addition to any other available funds, to use funds provided to the district under Section 42.152 (Creation of Authority) to pay the costs of the program. Authorizes instructional services to be provided to students identified under this bill who are under 26 years of age using funds provided under Section 42.152 or other Foundation School Program funds, notwithstanding Section 42.003 (Student Eligibility).

Provides that this section requires a school district to provide instructional services only to a student who is a resident of this state and eligible for admission to the schools of the district under Section 25.001, including eligibility described by that section for students who are under 26 years of age.

Requires the commissioner to determine the duration of a special student recovery program, provided that the program must have a duration of at least two years. Requires the district, before a program may be concluded, to conduct a public hearing in the community served by the school district to solicit comments from students, parents, and other members of the community regarding whether there is a continuing need for the program.

Requires the commissioner to adopt rules necessary to implement the bill.

Provides that this bill expires September 1, 2018.

Provides that Section 39.117, Education Code, as added by this bill, authorizes or requires, as applicable, the commissioner of education to require a school district to operate a special student recovery program regardless of whether the district's conduct giving rise to the commissioner's action occurred before or after the effective date of this bill. Authorizes the commissioner to waive operation of a program if the conduct occurred at least 10 years before the effective date of this bill.

Creation of the Texas Tech University Health Science Center at El Paso—S.B. 120
by Senator Rodríguez et al.—House Sponsor: Representative Naomi Gonzales et al.

On March 2, 2012, the Texas Tech University (TTU) System Board of Regents (board) voted to initiate the process of establishing a freestanding health sciences university with degree-granting authority in El Paso. The new university will join TTU, TTU Health Sciences Center (TTUHSC), and Angelo State University under the TTU System as a fourth, separate but equal, institution. This bill:

Establishes that TTUHSC-El Paso is a component institution of the TTU System under the direction, management, and control of the board.

Establishes that TTUHSC is not a department, school, or branch or any other institution in the system and is composed of a medical school and other components assigned by law or by the board.

Establishes that the board has the same powers of direction, management, and control over TTUHSC-El Paso as the board exercises over the other component institutions of the TTU System.

Authorizes the board to prescribe courses leading to customary degrees and to adopt rules for the operation, control, and management of TTUHSC-El Paso as necessary for conducting a health sciences center of the first class.

Authorizes the board to execute and carry out an affiliation or coordinating agreement with any other entity or institution.

Authorizes the board to make joint appointments in TTUHSC-El Paso and another component institution of the TTU System.

Requires the board to provide for physical facilities for TTUHSC-El Paso for use in its teaching and research program.

Establishes that a teaching hospital may be provided by a public or private entity and may not be constructed, maintained, or operated with state funds.

Allows the board to solicit, accept, and administer gifts and grants from any public or private person or entity for the use and benefit of TTUHSC-El Paso.

Establishes that TTUHSC-El Paso, if this Act receives a certain amount of votes from the legislature, is entitled to funding provided by the Texas Constitution and will be included in the allocation made for each 10-year allocation period, beginning with the allocation made in 2015.

Requires the board to approve the employment of personnel by and the operating budget of the Texas Tech Diabetes Research Center (TDRC) and establishes that an employee of TDRC is an employee of TTUHSC-El Paso.

Requires the board to select a site for TDRC at TTUHSC-El Paso.

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Authorizes TDRC to enter into an agreement or cooperate with a public or private entity to perform the research functions of TDRC and requires TDRC to consult The University of Texas--Pan American Border Health Office that administers the Type 2 Diabetes risk assessment program.

Adds TTUHSC-El Paso to the list of health-related institutions of higher education to which the amount available for distribution from the Permanent Health Fund for Higher Education may be appropriated only for programs that benefit medical research, health education, or treatment programs.

Removing a Member of the Board of Trustees of an ISD From Office—S.B. 122

by Senator Rodríguez—House Sponsor: Representative Márquez et al.

Interested parties note that, while a district judge currently has the ability to remove a member of the board of trustees of an independent school district from office, such authority is not explicitly provided in statute. S.B. 122 seeks to address this issue. This bill:

Authorizes a district judge to remove from office a member of the board of trustees of an independent school district under statutory provisions governing the removal of county officers from office by petition and trial.

Authority of Commissioner of Education Relating to Accountability—S.B. 123

by Senator Rodríguez—House Sponsor: Representative Márquez et al.

Interested parties contend that the commissioner of education lacks the authority to respond adequately to a complaint submitted to the Texas Education Agency alleging a manipulation of student data that is reported and used under the public school accountability system for purposes of performance ratings and accreditation. S.B. 123 seeks to provide the necessary authority for an appropriate response to such allegations. This bill:

Authorizes the commissioner of education (commissioner) to issue a subpoena to compel the attendance of a relevant witness or the production of relevant evidence located in Texas during such an investigation. Requires the commissioner to authorize special accreditation investigations to be conducted in response to a complaint submitted to the Texas Education Agency (TEA) with respect to alleged inaccurate data that is reported through the Public Education Information Management System (PEIMS) or through other reports required by state or federal law or rule or court order and that is used by TEA to make a determination relating to public school accountability, including accreditation.

Punishment For the Offense of Tampering With Certain Governmental Records—S.B. 124

by Senator Rodríguez—House Sponsor: Representative Márquez et al.

The Public Education Information Management System (PEIMS) is used by the Texas Education Agency to collect student and teacher data from school districts and open-enrollment charter schools. Collecting accurate and complete data through PEIMS is vital to ensure accountability in the Texas school system. Under current law, it is a felony of the third degree to falsify or otherwise impair the verity of a public school record, report, or assessment instrument. This bill:

Provides that an offense under this section is a felony of the third degree under certain circumstances, including if it is shown on the trial of the offense that the governmental record was data reported for a school district or open-enrollment charter school to the Texas Education Agency through the Public Education Information Management System described by Section 42.006 (Public Education Information Management System (PEIMS)), Education Code, under a law or rule requiring that reporting, unless the actor's intent is to defraud or harm another, in which event the offense is a felony of the second degree.

Access to Criminal History Record Information For Campus Housing—S.B. 146

by Senator Williams—House Sponsor: Representative Kolkhorst

Currently, institutions of higher education house a large number of students in on-campus housing. To ensure the safety of those in the dormitories and on campus, the schools would like the ability to perform criminal background checks on students applying to live in on-campus housing. This bill:

Entitles an institution of higher education to obtain from the Department of Public Safety of the State of Texas criminal history information that relates to a student, or to an applicant for admission as a student, who applies to reside in on-campus housing at the institution.

Provides that criminal history record information may be used by the chief of police of the institution or by the institution's housing office only for the purpose of evaluating current students or applicants for enrollment who apply to reside in on-campus housing at the institution.

Diagnosing the Reading Development and Comprehension of Kindergarten Students—S.B. 172

by Senator Carona—House Sponsor: Representative Ratliff

Current law requires school districts to assess the reading development and comprehension of students in kindergarten through second grade. Interested parties have expressed concern that the literacy tests used by many districts to measure kindergarten readiness do not adequately test other skills that research has shown to be significant indicators of readiness, such as numeracy, language and communication, and social and emotional development. The parties contend that a multidimensional assessment tool that evaluates literacy as well as other indicators could be an advantageous tool for educators to better identify strengths, weaknesses, and gaps in learning; strengthen educational programs; and focus curricula to better meet students' needs. This bill:

Requires the commissioner of education (commissioner), for use in diagnosing the reading development and comprehension of kindergarten students, to include at least two multidimensional assessment tools on the commissioner's list of reading instruments that a school may use to diagnose student reading development and comprehension. Requires a multidimensional assessment tool on the commissioner's list to either include a reading instrument and test at least three developmental skills, including literacy, or test at least two developmental skills, other than literacy, and be administered in conjunction with a separate reading instrument that is on the commissioner's list. Clarifies that a multidimensional assessment tool that is so administered is considered to be a reading instrument for purposes of diagnosing student reading development and comprehension.

Sunset Commission Review of the Texas Higher Education Coordinating Board—S.B. 215
by Senators Birdwell and Nichols—House Sponsor: Representative Anchia

The Texas Higher Education Coordinating Board (THECB) plans for statewide higher education needs, aggregates statewide data, coordinates distribution of higher education resources, and serves as a central administrator for certain grant and student financial aid programs.

THECB is subject to Sunset Act review and will be abolished on September 1, 2013, unless continued by the legislature. The Sunset review found that the agency continues to be needed, but THECB could improve its engagement with stakeholders and the statute could be streamlined and simplified to more clearly convey THECB's duties. This bill:

Requires THECB, at least every five years, to reevaluate its rules and policies to ensure the continuing need for the data requests THECB imposes on university systems, institutions of higher education, or private or independent institutions of higher education and to consult with those entities to identify unnecessary data requests and to eliminate data requests identified as unnecessary from its rules and policies.

Requires THECB, in consultation with representatives of THECB's financial aid advisory committee, representatives of financial aid offices of Western Governors University (WGU) Texas and any similar nonprofit, tax-exempt, regionally accredited college or university operating in accordance with a memorandum of understanding with this state, exclusively online or other distance education, and representatives of financial aid offices of institutions of higher education and private or independent institutions of higher education offering online or other distance education courses and programs similar to those offered by WGU Texas or any similar nonprofit colleges or universities, to conduct a study regarding, and prepare proposed draft legislation for, the creation of a state-funded student financial assistance program and not later than October 1, 2014, submit to each standing committee of the legislature with primary jurisdiction over higher education a report of the results of the study, together with the proposed draft legislation.

Establishes that "eligible institution" means a general academic teaching institution or a medical and dental unit that offers one or more undergraduate degree or certification programs and does not include a public state college.

Establishes that to be eligible initially for a Toward Excellence, Access and Success (TEXAS) grant, a person graduating from high school on or after May 1, 2013, and enrolling in an eligible institution must be an undergraduate student who has previously attended another institution of higher education; received an initial Texas Education Opportunity Grant for the 2014 fall semester or a subsequent academic term; completed at least 24 semester credit hours at any institution or institutions of higher education; and earned an overall grade point average of at least 2.5 on a four-point scale or the equivalent on all course work previously attempted; or if sufficient money is available, meet the eligibility criteria described by Section 56.304(a)(2)(A) (Initial Eligibility for Grant), Education Code.

Establishes that a person who receives an initial TEXAS grant but does not satisfy the applicable eligibility requirement that the person was considered to have satisfied and who is not required to forgo or repay the

amount of the grant may become eligible to receive a subsequent TEXAS grant only by satisfying the associate degree requirement.

Requires THECB, in collaboration with eligible institutions and other appropriate entities, to adopt and implement means to improve student participation in the Texas B-On-time loan program and improve the rate of student satisfaction of requirements for obtaining Texas B-On-time loan forgiveness.

Requires THECB, in collaboration with eligible institutions and appropriate nonprofit or college access organizations, to educate students regarding the eligibility requirements for forgiveness of Texas B-On-time loans; ensure that students applying for or receiving a Texas B-On-time loan understand their responsibility to repay any portion of the loan that is not forgiven; ensure that students who are required to repay Texas B-On-time loans receive and understand information regarding loan default prevention strategies; and through an in-person or online loan counseling module, provide loan repayment and default prevention counseling to students receiving Texas B-On-time loans.

Clarifies requirements for eligibility for a Texas B-On-time loan.

Requires THECB, in consultation with all eligible institutions, to prepare and distribute materials designed to inform prospective students, their parents, and high school counselors about the program and eligibility for a Texas B-On-time loan.

Converts the Texas Guaranteed Student Loan Corporation (TGSLC) from a public nonprofit corporation to a nonprofit corporation under Chapter 22 (Nonprofit Corporations), Business Organizations Code.

Requires TGSLC to file a certificate of formation with the secretary of state or, if the secretary of state determines it appropriate, TGSLC must file a certificate of conversion under Chapter 10 (Mergers, Interest Exchanges, Conversions, and Sales of Assets), Business Organizations Code.

Provides that TGSLC continues in existence and continues to serve as the designated guaranty agency for the State of Texas under the Higher Education Act of 1965.

Establishes that student loan borrower information collected, assembled, or maintained by the corporation is confidential and is not subject to public disclosure.

Authorizes THECB, in order to facilitate the removal of financial barriers to an individual's economic, social, and educational goals, in consultation with one or more nonprofit entities with experience providing the services on a statewide basis, provide necessary and desirable services related to financial aid services, including information regarding available grant and loan programs and the prevention of student loan default.

Defines "resident physician" as a person who is appointed as a resident physician by a school of medicine in The University of Texas System, the Texas Tech University System, The Texas A&M University System, or the University of North Texas System or by the Baylor College of Medicine.

Establishes that THECB has only the powers expressly provided by law or necessarily implied from an express grant or power.

EDUCATION—PUBLIC

Establishes that any power not expressly granted to THECB in regard to administration, organization, control, management, jurisdiction, or governance of an institution of higher education is reserved to and shall be performed by the governing board of the institution, the applicable system administration, or the institution of higher education.

Establishes that THECB is subject to Sunset review again September 1, 2025.

Requires THECB to develop and implement policies that provide the public with a reasonable opportunity to appear before THECB and to speak on any issue under the jurisdiction of THECB, including a policy to specifically provide, as an item on THECB's agenda at each meeting, an opportunity for public comment before THECB makes a decision on any agenda item.

Authorizes THECB to appoint advisory committees from outside its membership as THECB consider necessary.

Requires THECB to adopt rules regarding an advisory committee that primarily functions to advise THECB, including rules governing an advisory committee's purpose, tasks, reporting requirements, and abolishment date and prohibits a member from serving on an advisory committee.

Requires THECB to engage institutions of higher education in a negotiated rulemaking process when adopting a policy, procedure, or rule relating to an admission policy, the allocation or distribution of funds, the reevaluation of data requests, or compliance monitoring.

Requires THECB, in consultation with affected stakeholders, to adopt rules to establish an agency-wide, risk-based compliance monitoring function for funds allocated by THECB and data reported to THECB by institutions of higher education.

Requires THECB, after considering potential risks and THECB resources, to review a reasonable portion of the total funds allocated by THECB and of data reported to THECB and use various levels of monitoring, according to risk, ranging from checking reported data for errors and inconsistencies to conducting comprehensive audits, including site visits.

Requires THECB to consider certain factors relating to an institution of higher education or private or independent institution of higher education in developing THECB's risk-based approach to compliance monitoring.

Requires THECB to train compliance monitoring staff to ensure that the staff has the ability to monitor both funds compliance and data reporting accuracy.

Requires THECB, if THECB determines through its compliance monitoring function that funds have been misused or misallocated by an institution, to present its determination to the institution's governing board, or to the institution's chief executive officer (CEO) and provide an opportunity for a response.

Requires THECB, following the opportunity for response, to report its determination and the institution's response together with any recommendations to the institution's governing board or CEO, the governor, and the Legislative Budget Board (LBB).

Authorizes THECB, if THECB determines that a public junior college has included errors in the data reported for formula funding, to adjust the appropriations made to the college for a fiscal year as necessary.

Requires THECB, if THECB determines that a general academic teaching institution, a medical and dental unit, or a public technical institute included errors in the data reported for formula funding, to calculate a revised appropriation amount for the applicable fiscal year and report that revised amount to the governor and LBB for consideration as the basis for budget execution or other appropriate action, and to the comptroller.

Allows THECB, in conducting the compliance monitoring, to partner with internal audit offices at institutions to examine the institutions' use of funds allocated by THECB.

Requires THECB to require a private or independent institution of higher education to provide to THECB the institution's external audit involving funds administered by THECB.

Authorizes the board to seek technical assistance from the state auditor in establishing the compliance monitoring function.

Defines "desk review" and "site visit."

Establishes that THECB represents the highest authority in the state in matters of public higher education and is charged with the duty to take an active part in promoting quality education throughout the state by providing a statewide perspective to ensure the efficient and effective use of higher education resources and to eliminate unnecessary duplication; developing and evaluating progress toward a long-range master plan; collecting, aggregating, and analyzing data to support policy recommendations; making recommendations to improve the efficiency and effectiveness of transitions; and administering programs and trusteed funds for financial aid and other grants to achieve the state's long-range goals.

Requires THECB to develop a long-range master plan for higher education that establishes long-term, measurable goals and provides strategies for implementing those goals; assesses the higher education needs of each region of the state; provides for regular evaluation and revision of the plan to ensure the relevance of goals and strategies; and take into account the resources of private or independent institutions of higher education.

Requires THECB, not later than December 1 of each even-numbered year, to prepare and deliver a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing committee of legislature with primary jurisdiction over higher education.

Requires THECB to evaluate the role and mission of each general academic teaching institution, other than a public state college, to ensure that the roles and missions of the institutions collectively contribute to the state's goals identified in the master plan.

Provides that a new degree or certificate program may be added to an institution only with specific prior approval of THECB.

Establishes guidelines for THECB review of each degree or certification program offered by an institution at the time the institution requests to implement a new program.

EDUCATION—PUBLIC

Authorizes THECB to review the number of degrees or certificates awarded every four years or more frequently, at THECB's discretion.

Requires THECB to review each degree or certificate program offered by an institution at least every 10 years.

Prohibits THECB from ordering the consolidation or elimination of any degree or certification program but authorizes THECB to recommend such action to an institution's governing board.

Provides that an institution may offer off-campus courses for credit within the state or distance learning courses only with specific prior approval of THECB.

Establishes guidelines for THECB consideration in approving an off-campus or distance learning degree or certificate program.

Establishes that to earn an associate degree, a student may not be required to complete more than the minimum number of semester credit hours unless the institution determines that there is a compelling academic reason for requiring the completion of additional semester credit hours.

Authorizes THECB to review one or more of an institution's associate degree program to ensure compliance.

Requires each governing board to certify that the institution does not prohibit the acceptance of transfer credit based solely on the accreditation of the sending institution or include language in any materials published by the institution suggesting that such a prohibition exists.

Requires THECB to encourage cooperative programs and agreements among institutions, including programs and agreements relating to degree offerings, research activities, and library and computer sharing.

Authorizes THECB to review purchases of improved real property added to an institution's educational and general buildings and facilities inventory to determine whether the property meets the standards adopted by THECB for cost, efficiency, space need, and space use, but provides that the purchase of the improved real property is not contingent on board review.

Requires each institution of higher education, excluding each public junior college and excluding other agencies of higher education, to report to the governing board of the institution information regarding the condition of the buildings and facilities of the institution.

Requires THECB, not later than December 1 of each even-numbered year, to report the results of the assessment to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing committees of the legislature with primary jurisdiction over higher education.

Authorizes THECB to administer or oversee a program to identify best practices only in cases where funding or other restrictions prevent entities other than THECB from administering the program; to assist with matching nonprofit organizations or grant-funding entities with institutions to implement proven

programs and best practices; and to compile best practices and strategies for use in providing technical assistance for THECB's statewide policy recommendations.

Requires THECB, not later than January 1, 2014, to establish and administer a pilot program at selected postsecondary educational institutions to ensure that students are informed consumers with regard to all aspects of financial aid.

Requires THECB to select at least one general academic teaching institution, public junior college, private or independent institution, and career school or college to participate in the pilot program and to give priority to institutions that have a three-year cohort student loan default rate of more than 20 percent or that have above average growth.

Requires each participating institution, not later than January 1 of each year, beginning in 2016, to submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives regarding the outcome of the pilot program.

Requires THECB by rule to establish and publish the allocation methodologies and develop procedures to verify the accuracy of the application of those allocation methodologies by THECB staff.

Prohibits THECB from issuing a certificate of authority for a private postsecondary institution to grant a professional degree or to represent that credits earned are applicable toward a degree if the institution is chartered in a foreign county or has its principal office or primary education program in a foreign country.

Requires THECB to encourage the transferability of lower division course credit among institutions of higher education.

Provides that an institution eligible for funding from the Texas competitive knowledge fund is designated as a research university and that, for three consecutive state fiscal years, made total annual research expenditures in an average annual amount of not less than \$450 million or is designated as an emerging research university and, for any three consecutive state fiscal years, made total annual research expenditures in an average annual amount of not less than \$50 million.

Requires that for the first state fiscal biennium in which an eligible institution receives an appropriation from the Texas competitive knowledge fund, the institution's other general revenue appropriations be reduced by \$5 million.

Requires THECB to administer the Norman Hackerman Advanced Research Program (NHARP).

Requires that the guidelines and procedures developed for NHARP provide for determining whether an institution of higher education or private or independent institution of higher education qualifies for NHARP by demonstrating exceptional capability to attract federal, state, and private funding for scientific and technical research and having an exceptionally strong research staff and the necessary equipment and provide for awards on a competitive, peer review basis for specific projects.

Requires THECB to encourage projects that leverage funds from other sources and projects that propose innovative, collaborative efforts.

Requires THECB to appoint a committee consisting of representatives of higher education and private enterprise advanced technology research organizations to evaluate NHARP's effectiveness and report its findings to THECB not later than January 31 of each odd-numbered year.

Absence of Student to Visit With Parent or Guardian Who Will Be or Has Been Deployed—S.B. 260
by Senator Davis et al.—House Sponsor: Representative Stickland et al.

Current law requires a school district to excuse a student from school for events such as religious holy days, required court appearances, and naturalization oath ceremonies. Students are allowed a reasonable time to make up work they may have missed during such absences, and districts are not penalized financially for those types of absences. Interested parties indicate that there is broad support for the extension of the same treatment for the absence of a student from school to visit with a parent or guardian who will be or has been deployed on active military duty. The supporters maintain that this will provide valuable time together for military families as they deal with the emotions of a parent's or guardian's departure and return from deployment. S.B. 260 seeks to provide for this type of excused student absence while preserving the average daily attendance funding a school district receives for students who are granted an excused absence under the bill. This bill:

Requires a school district to excuse a student for not more than five days in a school year to visit with the student's parent or legal guardian if the parent or legal guardian is an active duty member of the United States military and has been called to duty for, is on leave from, or has immediately returned from continuous deployment of at least four months outside the locality where the parent or guardian regularly resides. Requires such an excused absence to be taken not earlier than the 60th day before the date of deployment nor later than the 30th day after the date of the return from deployment.

Students Receiving Treatment in a Residential Facility and Accountability—S.B. 306
by Senator Huffman—House Sponsor: Representative Ralph Sheffield

Current law exempts performance data for students who are in juvenile detention centers operated by the Texas Juvenile Justice Department and who are ordered into residential treatment centers by a juvenile court from school district and campus accountability. Interested parties note that the same is not true for students receiving treatment in residential facilities whose placements have not been ordered by a court. S.B. 306 seeks to address this issue as it relates to consideration of a student receiving treatment in a residential facility for public school accountability purposes. This bill:

Provides that a student ordered by a juvenile court into a residential program or facility operated by or under contract with the Texas Juvenile Justice Department, a juvenile board, or any other governmental entity or any student who is receiving treatment in a residential facility, notwithstanding any other provision of this code, except to the extent otherwise provided under Section 39.054(f) (relating to the exclusion of certain students released from certain correctional facilities or residential treatment centers who fail to enroll in school from the computation of dropout rates for purposes of determining the performance of a school district or campus), for purposes of determining the performance of a school district, campus, or open-enrollment charter school under this chapter, is not considered to be a student of the school district in which the program or facility is physically located or of an open-enrollment charter school, as applicable. Deletes a reference to the Texas Youth Commission and the Texas Juvenile Probation Commission.

Requires that the performance of such a student on an assessment instrument or other student achievement indicator adopted under Section 39.053 (Performance Indicators: Student Achievement) or reporting indicator adopted under Section 39.301 (Additional Performance Indicators: Reporting) be determined, reported, and considered separately from the performance of students attending a school of the district in which the program or facility is physically located or an open-enrollment charter school, as applicable.

Breakfast For Certain Public School Students—S.B. 376

by Senator Lucio et al.—House Sponsor: Representative Eddie Rodríguez et al.

Interested parties note that a relatively low percentage of students eligible for free or reduced school meals eat breakfast in Texas schools. The parties contend that increasing participation in school breakfast programs will have a positive financial impact on schools that are trying to meet the needs of low-income students by leveraging additional federal funds and will reduce hunger among low-income children, thus increasing academic achievement, improving health and nutrition, and building lifelong healthy eating habits. S.B. 376 seeks to encourage greater participation in the national school breakfast program and improve outcomes for students enrolled in high poverty schools by requiring schools with a high percentage of students who qualify under the program to offer a free breakfast to each student. This bill:

Requires the board of trustees of a school district or the governing body of an open-enrollment charter school, rather than requiring the governing body of the district or the open-enrollment charter school, if at least 10 percent of the students enrolled in one or more schools in the district or enrolled in the open-enrollment charter school are eligible for free or reduced-price breakfasts under the national school breakfast program provided for by the Child Nutrition Act of 1966 (42 U.S.C. Section 1773), to participate in the program and make the benefits of the program available to all eligible students in the schools or school. Requires a school district campus or an open-enrollment charter school participating in the national school breakfast program provided by the federal Child Nutrition Act of 1966 and in which 80 percent or more of the students qualify for a free or reduced-price breakfast to offer a free breakfast to each student. Requires the commissioner of education to grant a waiver of this requirement, not to exceed one year, to a school district campus or charter school if the district board of trustees or the governing body of the charter school votes to request the waiver at certain annual meetings. Requires the board or the governing body, before voting to request a waiver, to list the waiver as a separate item for consideration on the meeting's agenda and to provide an opportunity for public comment regarding the waiver at the meeting.

Provides that it is the intent of the legislature that the change in law made by Section 33.901, Education Code, as amended by this Act, does not change or expand the eligibility requirements under the Child Nutrition Act or 1966 (42 U.S.C. Section 1773). Provides that a student who qualifies for a free or reduced-price breakfast under federal law continues to qualify and a student who does not qualify for a free or reduced-price breakfast does not qualify as a result of this Act.

Provides that this Act does not make an appropriation or require a specific appropriation. Provides that any new duty imposed on a state agency as a result of this Act can be performed through the appropriations provided by the legislature and any federal funding.

Determination of Exemptions From Administration of State Assessment Instruments—S.B. 377
by Senator Lucio et al.—House Sponsor: Representative Mary González et al.

Current law allows a student to be exempted from the administration of a statewide standardized test for a period of up to one year after initial enrollment in a school in the United States if the student is of limited English proficiency and has not demonstrated proficiency in English as determined by the assessment system. The law does not, however, define how long a student is required to be enrolled in a U.S. school for that enrollment period to be considered a school year of enrollment. S.B. 377 seeks to address this issue as it relates to the determination of certain exemptions from the administration of statewide standardized tests to public school students and to the consideration of the performance of certain students on statewide standardized tests. This bill:

Prohibits a student from being considered as enrolled in a school in the United States for a year unless the student is enrolled in a school in the United States for a period of at least 60 consecutive days during that year. Provides that the bill's provisions apply to a student regardless of the date on which the student initially enrolled in a school in the United States.

Degree Programs to Address Regional Workforce Needs—S.B. 414
by Senator Ellis et al.—House Sponsors: Representatives Sarah Davis and Branch

Texas is facing a shortage of nurses. The Texas Center for Nursing Workforce Studies estimates that the state's nursing programs need to increase the number of graduates to 25,000 by 2020 to meet the expected demand for nurses. The need for additional nurses is especially important in the Houston region, home to the largest medical complex in the country. Other nursing school programs within the Texas Medical Center and the State of Texas are functioning at capacity.

Texas allows junior and community colleges to offer associate's degrees and a limited number of bachelor's degree in nursing. Junior and community colleges can offer bachelor's degrees if they previously participated in a pilot program to offer bachelor's degrees. This bill:

Requires the Texas Higher Education Coordinating Board (THECB) to, using existing funds, conduct a study of regional workforce needs in this state to determine the regions of the state that would benefit from the authorization of baccalaureate degree programs in the field of nursing and in the field of applied sciences at public junior colleges serving the region and appropriate metrics for determining whether a public junior college should offer those degree programs.

Requires THECB, in conducting its study, to consult with at least one representative from a four-year institution of higher education, a two-year institution, regional businesses, professional associations, and any other entity the commissioner of higher education considers appropriate.

Requires THECB, not later than August 1, 2014, to submit to each legislative standing committee with jurisdiction over higher education the results of its study and recommendations for legislative or other action.

Tuition Payment For High School Students Who Participate in College Credit Programs—S.B. 435
by Senator Duncan—House Sponsor: Representative Cortez et al.

Current law requires each school district to implement a program under which students may earn college credit in high school by completing certain advanced courses and allows the college credit to be earned through international baccalaureate, advanced placement, or dual credit courses; articulated postsecondary courses provided for local credit or articulated postsecondary advanced technical credit courses provided for state credit; or any combination of such courses. The law provides that a school district is not required to pay a student's tuition or other associated costs for taking such a course, but this statutory provision is set to expire September 1, 2013. By removing the scheduled expiration date, S.B. 435 seeks to make permanent a school district's exemption from the financial burden of assuming the cost of a student's college credit courses. This bill:

Removes the expiration date of September 1, 2013, for the statutory provision exempting a school district from being required to pay a student's tuition or other associated costs for taking a course in a college credit program.

Tuition to Attend Public Schools For Students Holding Certain Student Visas—S.B. 453
by Senator Deuell—House Sponsor: Representative Flynn

Interested parties note that currently, a student from another country who wishes to attend public high school in Texas can legally be present in the United States under a particular visa issued to students enrolled in a nationally recognized foreign exchange student program, but not under a visa under which the student reimburses the public school for the cost of providing the student's education, because the legislature has not given school districts statutory authority to charge tuition. S.B. 453 seeks to provide that authority as it relates to payment of tuition to attend a public school for students holding certain United States student visas. This bill:

Requires the district or charter school, notwithstanding any other provision of this code, if a student is required, as a condition of obtaining or holding the appropriate United States student visa, to pay tuition to the school district or open-enrollment charter school that the student attends to cover the cost of the student's education provided by the district or charter school, to accept tuition for the student in an amount equal to the full unsubsidized per capita cost of providing the student's education for the period of the student's attendance at school in the district or at the charter school.

Requires the commissioner of education (commissioner) to develop guidelines for determining the amount of the full unsubsidized per capita cost of providing a student's education.

Prohibits a school district or open-enrollment charter school from accepting tuition in an amount greater than the amount computer under the commissioner's guidelines unless the commissioner approves a greater amount as a more accurate reflection of the cost of education to be provided by the district or charter school. Provides that the attendance of a student for whom a school district or open-enrollment charter school accepts tuition under this bill, notwithstanding any other provision of this code, is not counted for purposes of allocating state funds to the district or charter school.

Teacher Training Regarding Mental and Emotional Disorders—S.B. 460
by Senators Deuell and Zaffirini—House Sponsor: Representative Coleman

National prevalence estimates indicate that one in five children have a mental illness or addictive disorder, meaning that approximately one million Texas public school students are dealing with these issues on a daily basis. These illnesses can cause mild to significant impairment in home and school activities and can lead to school failure, disciplinary placements and juvenile justice involvement, and, in extreme cases, suicide.

Without training in how to recognize and appropriately respond to students with mental or emotional issues, teachers may inadvertently reinforce or escalate the very behavior they are trying to reduce. On the other hand, such training can help teachers better manage their classrooms and help link students and their families to needed services, either on-campus or in the community. While some school districts across Texas already require some level of training in this area for teachers and/or administrators, specific mental health training in educator preparation programs is not required. This bill:

Exempts from the provisions of Section 74.151 (Liability for Emergency Care), Civil Practice and Remedies Code, a school district or district school officer or employee arising from an act or omission under a program or policy or procedure adopted under Chapter 161 (Public Health Provisions), Health and Safety Code, other than liability arising from wilful or intentional misconduct.

Provides that requirements requiring a bachelor's degree for certification must also include instruction in detection of students with mental or emotional disorders. Provides that the instruction must be developed by a panel of experts in the diagnosis and treatment of mental and emotional disorders and include information on characteristics of the most prevalent mental or emotional disorders among children; identification of mental or emotional disorders; effective strategies for teaching and intervening with students with mental or emotional disorders; and providing notice and referral to a parent or guardian with a mental or emotional disorder so that the parent or guardian may take appropriate action.

Includes in the local school health advisory council's duties recommending policies, procedures, strategies, and curriculum appropriate for specific grade levels designed to prevent mental health concerns through coordination of school health services; counseling and guidance services; a safe and healthy school environment; and school employee wellness.

Requires each school district to provide training for teachers, counselors, principals, and all other appropriate personnel.

Requires a school district to provide training at an elementary school campus only to the extent that sufficient funding and programs are available.

Tuition Equalization Grant Requirements—S.B. 490
by Senator Seliger—House Sponsor: Representatives Diane Patrick and Branch

In 2005, the 79th Legislature made changes to the eligibility requirements for the Tuition Equalization Grant (TEG) program and created two separate categories of eligible TEG recipients: students who received their

initial award before September 1, 2005 (the original program), and students who received their initial award on or after September 1, 2005 (the revised program). This bill:

Provides that Section 61.225 (Eligibility for Grant; Persons Awarded Grants Before 2005-2006 Academic Year), Education Code, does not apply to the eligibility requirements for grants awarded for an academic year after the 2014-2015 academic year.

Credit Hours Required For an Associate Degree—S.B. 497
by Senators Seliger and Zaffirini—House Sponsor: Representative Branch

In 2005, the 79th Legislature passed legislation that placed a cap on the minimum number of hours required for a baccalaureate degree. The legislation did not address placing a cap on the minimum number of semester credit hours required for an associate degree. This bill:

Provides that to earn an associate degree, a student may not be required by an institution of higher education to complete more than the minimum number of semester credit hours required for the degree by the Southern Association of Colleges and Schools or its successor unless the institution determines that there is a compelling academic reason for requiring completion of additional semester credit hours for the degree.

Authorizes the Texas Higher Education Coordinating Board to review one or more of an institution's associate degree programs to ensure compliance.

Provides that this legislation does not apply to an associate degree awarded to a student enrolled before the 2015 fall semester and does not prohibit the institution from reducing the number of required semester credit hours.

Credit Transfer For Associate Degree—S.B. 498
by Senators Seliger and Patrick—House Sponsor: Representative Guillen et al.

In 2011, the 82nd Legislature enacted legislation that requires four-year institutions of higher education to notify a public community college, public state college, or public technical institute when a transfer student has achieved more than 90 semester credit hours so that the community college, state college, or technical institute can award the student an associate's degree. This bill:

Requires four-year institutions of higher education to notify a public community college, public state college, or public technical institute when a transfer student has achieved more than 66, rather than 90, cumulative semester credit hours so that the community college, state college, or technical institute can award the student an associate's degree.

Establishment of the Expanded Learning Opportunities Council—S.B. 503
by Senator West—House Sponsor: Representative Strama et al.

S.B. 503 seeks to address concerns about students taking care of themselves after school by creating the Expanded Learning Opportunities Council (council) to study ways to offer quality out-of-school programs and extended school days to more students. This bill:

Defines "council." Authorizes expanded learning opportunities to be provided during an extended school day, an extended school year, or structured learning programs outside of the regular school day, including before-school and after-school programs and summer programs.

Authorizes expanded learning opportunities to be provided by offering rigorous coursework, mentoring, tutoring, physical activity, academic support, or educational enrichment in one or more certain subjects as set forth.

Provides that the council is established to study issues concerning expanded learning opportunities for this state's public school students, including issues related to creating safe places for children outside of the regular school day, improving the academic success of students who participate in expanded learning opportunities programs, and assisting working families; study other issues prescribed under Section 33.258; and make recommendations as provided by Section 33.259 to address issues studied under this subchapter.

Requires the council, in conducting studies under this subchapter, to focus on innovative, hands-on learning approaches that complement rather than replicate the regular school curriculum.

Provides that the council is subject to Chapter 325 (Sunset Law), Government Code (Texas Sunset Act). Provides that the council, unless continued in existence as provided by that chapter, is abolished and this subchapter expires September 1, 2017.

Provides that the council is composed of 13 members appointed by the commissioner of education (commissioner), as follows: two members of the public, including one representative of the business community and one parent of a public school student participating in an expanded learning opportunities program in this state; two members who are involved in research-based expanded learning opportunities efforts in this state so that at least one is involved in efforts to extend the school day or school year and at least one is involved in efforts to provide out of school time before or after the regular school day or during the period in which school is recessed for the summer; one representative of law enforcement; one member representing the Texas Education Agency (TEA); one member who is an educator, other than a superintendent, at the elementary school level; one member who is an educator, other than a superintendent, at the middle or junior high school level; one member who is an educator, other than a superintendent, at the high school level; one member who is a public school superintendent; one member representing a foundation that invests in expanded learning opportunities; one member representing a nonprofit organization that provides programs concerning good nutrition and prevention of or intervention to address childhood obesity; and one member who is a provider representing summer camps.

Requires the council to meet in person at least three times each year and authorizes the council to hold additional meetings by conference call if necessary.

Provides that Section 551.125 (Other Governmental Body), Government Code, applies to a meeting held by conference call under this section, except that Section 551.125(b) (relating to certain requirements for a meeting held by telephone conference call), Government Code, does not apply.

Prohibits a member of the council from receiving compensation for service on the council.

Requires the council to study issues related to expanded learning opportunities for public school students; study current research and best practices related to meaningful expanded learning opportunities; analyze the availability of and unmet needs for state and local programs for expanded learning opportunities for public school students; analyze opportunities to create incentives for businesses to support expanded learning opportunities programs for public school students; analyze opportunities to maximize charitable support for public and private partnerships for expanded learning opportunities programs for public school students; analyze opportunities to promote science, technology, engineering, and mathematics in expanded learning opportunities programs for public school students; study the future workforce needs of this state's businesses and other employers; and perform other duties consistent with this subchapter.

Authorizes the council, in carrying out its powers and duties under this section, to request reports and other information relating to expanded learning opportunities and students in expanded learning opportunities programs from TEA and any other state agency.

Requires the council to develop a comprehensive statewide action plan for the improvement of expanded learning opportunities for public school students in this state, including a timeline for implementation of the plan.

Requires the council to submit to both houses of the legislature, the governor, and TEA on or before November 1 of each even-numbered year a written report concerning certain information.

Authorizes TEA to accept on behalf of the council a gift, grant, or donation from any source to carry out the purposes of this subchapter.

Requires the council to submit the initial report required under Subchapter G, Chapter 33, Education Code, as added by this bill, not later than November 1, 2014.

Requires the commissioner, not later than December 31, 2013, to appoint the members of the council under Subchapter G, Chapter 33, Education Code, as added by this bill.

Alternative Dispute Resolution and Educational Services For Students With Disabilities—S.B. 542
by Senators Watson and Lucio—House Sponsor: Representative Allen

Interested parties note that there is currently no consistent statewide information provided to parents of students with disabilities about individualized education program facilitation, which is an alternative dispute resolution method regarding educational services for such students, despite the method being widely used and part of the array of methods recommended by certain national entities. The parties emphasize the importance of providing the information about the method and developing a statewide criteria for the method to ensure its availability and to allow the state to measure its effectiveness and quality. S.B. 542

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seeks to build on the work of the Texas Education Agency and disability advocates across the state by making individualized education program facilitation more available. This bill:

Requires the Texas Education Agency (TEA) to provide information to parents regarding individualized education program facilitation as an alternative dispute resolution method that may be used to avoid a potential dispute between a school district and a parent of a student with a disability. Requires a district that chooses to use individualized education program facilitation to provide information to parents regarding individualized education program facilitation. Provides that the information is required to be included with other information provided to the parent of a student with a disability, although it may be provided as a separate document; and is authorized to be provided in a written or electronic format.

Requires that information provided by TEA under this bill indicate that individualized education program facilitation is an alternative dispute resolution method that some districts are authorized to choose to provide.

Provides that if a school district chooses to offer individualized education program facilitation as an alternative dispute resolution method the district is authorized to determine whether to use independent contractors, district employees, or other qualified individuals as facilitators; the information provided by the district under this section is required to include a description of any applicable procedures for requesting the facilitation; and the facilitation is required to be provided at no cost to a parent.

Requires that the use of any alternative dispute resolution method, including individualized education program facilitation, be voluntary on the part of the participants, and prohibits the use or availability of any such method from in any manner being used to deny or delay the right to pursue a special education complaint, mediation, or due process hearing in accordance with federal law.

Provides that nothing in this bill prohibits a school district from using individualized education program facilitation as the district's preferred method of conducting initial and annual admission, review, and dismissal committee meetings.

Requires the commissioner of education (commissioner) to adopt rules necessary to implement this bill.

Requires TEA to develop rules in accordance with this bill applicable to the administration of a state individualized education program facilitation project. Requires that the program include the provision of an independent individualized education program facilitator to facilitate an admission, review, and dismissal committee meeting with parties who are in a dispute about decisions relating to the provision of a free appropriate public education to a student with a disability. Requires that facilitation implemented under the project comply with rules developed under this bill.

Requires that the rules include a definition of independent individualized education program facilitation; forms and procedures for requesting, conducting, and evaluating independent individualized education program facilitation; training, knowledge, experience, and performance requirements for independent facilitators; and conditions required to be met in order for the agency to provide individualized education program facilitation at no cost to the parties.

Authorizes the commissioner, if the commissioner determines that adequate funding is available, to authorize the use of federal funds to implement the individualized education program facilitation project in accordance with this section.

Requires the commissioner to adopt rules necessary to implement this section.

Provides that this bill applies beginning with the 2014-2015 school year.

Pharmacy School at The University of Texas at Tyler—S.B. 566
by Senators Eltife and Nichols—House Sponsor: Representative Clardy et al.

Currently, there are five established public pharmacy schools, one private institution, and one additional public pharmacy school expected to admit its first students in 2013. The number of seats available for students in Texas totals 802, while the total number of applicants may be as high as 3,390. This bill:

Authorizes the Texas Higher Education Coordinating Board (THECB) to establish and maintain a school of pharmacy as a professional school of The University of Texas at Tyler (UT-Tyler).

Requires THECB to provide for the operations and capital expenses of the school to be supported by tuition, gifts, grants, and other institutional or system funds available for that purpose.

Loan Repayment Assistance For Speech-Language Pathologists and Audiologists—S.B. 620
by Senator Van de Putte—House Sponsor: Representative Allen

Due to attrition and a recent decrease in speech-language pathologist (SLP) graduates, the number of licensed pathologists needed to work in public schools is expected to increase by 30 percent by 2016. National data show that appropriately trained and educated SLPs make a significant difference not only in a child's communication skills but also in his or her educational achievement. Fully licensed (master's degree) SLPs are best qualified to independently help students with complex disorders that are becoming more common in schools—including developmental disabilities, traumatic brain injuries, voice disorders, stuttering, autism, and various other social disorders. This bill:

Defines "audiologist," "communication disorders program," and "speech-language pathologist."

Requires the Texas Higher Education Coordinating Board (THECB) to provide assistance in the repayment of student loans for speech-language pathologists and audiologists who apply and qualify for assistance.

Provides that to be eligible to receive repayment assistance, an applicant must apply to the board and, at the time the SLP or audiologist applies for the assistance, have been employed as an SLP or audiologist for at least one year by, and be currently employed in that capacity by, a public school or have been employed as a faculty member of a communicative disorders program at an institution of higher education or private or independent institution for at least one year, and be currently employed in that capacity at such an institution.

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Authorizes THECB to provide for repayment assistance on a pro rata basis for SLPs and audiologists employed part-time by a public school or institution of higher education.

Allows an SLP or an audiologist to receive repayment assistance grants for each year of employment, not to exceed five years.

Establishes that for each applicable year of employment, the total amount of repayment assistance grants may not exceed \$6,000 for an eligible recipient who holds a master's degree but not a doctoral degree or \$9,000 for an eligible recipient who holds a doctoral degree.

Authorizes THECB to provide repayment assistance for repayment of any student loan for education at any institution of higher education in or outside of this state received by an eligible SLP or audiologist.

Requires THECB to deliver any repayment in a lump sum payable to the lender and the SLP or audiologist or the lender or other holder of the loan on behalf of the SLP or audiologist.

Requires THECB to adopt necessary rules for the administration of this program and distribute a copy of the rules and pertinent information to each appropriate institution of higher education, any appropriate state agency, and any professional association.

Student Loan Default Rates and Financial Aid Literacy—S.B. 680 *by Senators West and Hegar—House Sponsor: Representative Diane Patrick*

The cost of higher education continues to rise, and students are leaving school with alarming amounts of student debt. Often, these debts become so overwhelming that students default on their student loans, which ruins their credit and, too often, sends them into bankruptcy. This bill:

Requires the Texas Higher Education Coordinating Board (THECB) to establish and administer a pilot program at selected postsecondary education institutions to ensure that students are informed consumers with regard to all aspects of student financial aid.

Requires THECB to select at least one general academic teaching institution, public junior college, private or independent institution of higher education, and career school or college to participate in the program.

Requires THECB, in selecting postsecondary educational institutions to participate, to give priority to institutions that have a three-year cohort student loan default rate of more than 20 percent or that have above average growth.

Requires THECB, in consultation with postsecondary educational institutions, to adopt rules for the administration of the pilot program.

Requires THECB and each participating institution to submit a report, not later than January 1 of each year, beginning in 2016, to the governor, lieutenant governor, and the speaker of the house of representatives regarding the outcomes of the program.

Representation of a Person in a Special Education Impartial Due Process Hearing—S.B. 709
by Senator Lucio—House Sponsor: Representative Allen

The federal Individuals with Disabilities Education Act provides for a special education due process hearing to resolve disputes between the parents of a disabled child and that child's educators. According to disability rights advocates, parents often cannot afford to have an attorney represent them and therefore must represent themselves, placing them at a disadvantage relative to the school districts, which almost always have legal counsel to represent them at such hearings. The advocates assert that due process hearings would be improved and more balanced if parents were permitted representation by qualified non-attorney lay advocates who would bring additional knowledge and expertise to a hearing that a parent would not otherwise have.

Interested parties note, however, that there is some confusion regarding the extent to which lay advocates can assist parents during due process hearings. The parties note that federal rules state that parents may be accompanied and advised by individuals with special knowledge or training with respect to the problems of children with disabilities but leave the question of whether a parent can be represented by a non-attorney up to state law. The parties also note that a recent Texas attorney general opinion stated that because the legislature had not enacted a provision specifically authorizing a non-attorney to represent a person in a special education due process hearing, the state's general prohibition against the unauthorized practice of law prohibited lay representation. This opinion, however, provided that if the legislature expressly allowed a non-attorney to act on behalf of a person in a special education due process hearing, the Texas Education Agency (TEA) could adopt rules regarding the qualification of such lay advocates. This bill:

Authorizes a person in an impartial due process hearing brought under 20 U.S.C. Section 1415 to be represented by an attorney who is licensed in this state or an individual who is not an attorney licensed in this state but who has special knowledge or training with respect to problems of children with disabilities and who satisfies qualifications under this bill.

Requires the commissioner of education by rule to adopt additional qualifications required of a representative for purposes of this bill. Requires that the rules prohibit an individual from being a representative under this bill opposing a school district if the individual has prior employment experience with the district; and include requirements that the representative have knowledge of special education due process rules, hearings, and procedure, and federal and state special education laws.

Requires a special education due process hearing officer to determine whether an individual satisfies qualifications under this bill.

Provides that TEA is not required to license or in any way other than as provided by this bill regulate representatives described by this bill in a special education impartial due process hearing.

Use of Consistent Terminology in the Education Code to Refer to School Counselors—S.B. 715
by Senator Lucio et al.—House Sponsor: Representative Farney

S.B. 715 is a "clean up" bill intended to make uniform references to certified "school counselors" throughout the Education Code. Currently, the code uses inconsistent terms to denote certified school counselors.

S.B. 715 replaces inconsistent references to certified school counselors with the uniform "school counselors." This bill:

Requires the commissioner of education (commissioner) to adopt a recommended appraisal process and criteria on which to appraise the performance of teachers, a recommended appraisal process and criteria on which to appraise the performance of administrators, and a job description and evaluation form for use in evaluating school counselors, rather than counselors, as provided by Subchapter H (Appraisals and Incentives), Chapter 21 (Educators).

Requires a principal to designate a school counselor, rather than a guidance counselor, teacher, or other appropriate individual to develop and administer a personal graduation plan for each of certain students enrolled in a junior high, middle, or high school.

Changes a reference to counselor's office to school counselor's office. Requires the school district, in addition to certain requirements, to require that each school counselor and class advisor at a high school, rather than high school counselor and class advisor, be provided a certain detailed explanation. Requires the school district, in addition to certain requirements, to require that each school counselor and senior class advisor at a high school, rather than each high school counselor and senior class advisor, explain certain information to eligible students.

Requires the governing board of each general academic teaching institution to establish an office at the institution to assist applicants, potential applicants, school counselors at the high school level, rather than high school guidance counselors, and other interested persons requesting certain assistance.

Changes any reference to counselors to school counselors throughout the Education Code.

Report of an Initial Evaluation of a Student For Special Education Services—S.B. 816
by Senators Hegar and Deuell—House Sponsor: Representative Huberty

Current law requires the initial evaluation of a student to determine eligibility for special education services to be completed within 60 calendar days following the date a school district receives written consent. Interested parties contend that this results in numerous problems due to the complexity of the evaluations and because the actual number of days during which an evaluation can be conducted is far less than 60 calendar days. S.B. 816 seeks to improve the initial evaluation process and significantly reduce costs incurred by school districts that must perform initial eligibility evaluations by providing for certain alternatives to the date by which a school district must complete a report. This bill:

Requires that a written report of a full individual and initial evaluation of a student for purposes of special education services be completed as follows, except as otherwise provided by this bill, not later than the 45th school day following the date on which the school district, in accordance with 20 U.S.C. Section 1414(a), as amended, receives written consent for the evaluation, signed by the student's parent or legal guardian, except that if a student has been absent from school during that period on three or more days, that period is required to be extended by a number of school days equal to the number of school days during that period on which the student has been absent or the 45th school day following the date on which the school district receives written consent for the evaluation, signed by the student's parent or legal

guardian, for students under five years of age by September 1 of the school year and not enrolled in public school and for students enrolled in a private or home school setting.

Requires that the evaluation be completed and the written report of the evaluation be provided to the parent or legal guardian not later than June 30 of that year if a school district receives written consent signed by a student's parent or legal guardian for a full individual and initial evaluation of a student at least 35 but less than 45 school days before the last instructional day of the school year. Requires that the student's admission, review, and dismissal committee meet not later than the 15th school day of the following school year to consider the evaluation. Provides that this bill applies to the date the written report of the full individual and initial evaluation is required if a district receives written consent signed by a student's parent or legal guardian less than 35 school days before the last instructional day of the school year or if the district receives the written consent at least 35 but less than 45 school days before the last instructional day of the year but the student is absent from school during that period on three or more days.

Provides that "school day," does not include a day that falls after the last instructional day of the spring school term and before the first instructional day of the subsequent fall school term. Authorizes the commissioner of education by rule to determine days during which year-round schools are recessed that, consistent with this bill, are not considered to be school days for purposes of this bill.

Provides that this bill does not impair any rights of an infant or toddler with a disability who is receiving early intervention services in accordance with 20 U.S.C. Section 1431.

Requires the school district, if a parent or legal guardian makes a written request to a school district's director of special education services or to a school district administrative employee for a full individual and initial evaluation of a student, to, not later than the 15th school day after the district receives the request: provide an opportunity for the parent or legal guardian to give written consent for the evaluation or refuse to provide the evaluation and provide the parent or legal guardian with notice of procedural safeguards under 20 U.S.C. Section 1415(b).

List of Mental Health, Substance Abuse, and Suicide Prevention Programs—S.B. 831
by Senator Taylor—House Sponsor: Representative Coleman et al.

Interested parties contend that prevention and early intervention are key to addressing mental health and substance abuse issues and improving long-term outcomes for children. S.B. 831 seeks to expand the list of prevention and intervention programs available to school districts and make the list more easily accessible and to encourage school districts to address certain mental health problems as early as possible. This bill:

Requires the Department of State Health Services (DSHS), in coordination with the Texas Education Agency (TEA) and regional education service centers, to provide and annually update a list of recommended best practice-based programs in the areas specified under this bill for implementation in public elementary, junior high, middle, and high schools within the general education setting. Authorizes each school district to select from the list a program or programs appropriate for implementation in the district.

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Requires that the list include programs in certain areas, including early mental health intervention, culturally competent mental health promotion and positive youth development, substance abuse prevention, substance abuse intervention, and suicide prevention.

Requires DSHS, TEA, and each regional education service center to make the list easily accessible on their websites.

Requires that the programs on the list include components that provide for training counselors, teachers, nurses, administrators, and other staff, as well as law enforcement officers and social workers who regularly interact with students, to recognize students at risk of committing suicide, including students who are or may be the victims of or who engage in bullying; recognize students displaying early warning signs and a possible need for early mental health or substance abuse intervention, which warning signs may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others; and intervene effectively with students described by this bill by providing notice and referral to a parent or guardian so appropriate action, such as seeking mental health or substance abuse services, may be taken by a parent or guardian.

Authorizes the board of trustees of each school district to adopt a policy concerning mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention, rather than to adopt a policy concerning early mental health intervention and suicide prevention, that establishes a procedure for providing notice of a recommendation for early mental health or substance abuse intervention regarding a student to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs as described by this bill; establishes a procedure for providing notice of a student identified as at risk of committing suicide to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs as described by this bill; establishes that the district may develop a reporting mechanism and may designate at least one person to act as a liaison officer in the district for the purposes of identifying students in need of early mental health or substance abuse intervention or suicide prevention; and sets out available counseling alternatives for a parent or guardian to consider when their child is identified as possibly being in need of early mental health or substance abuse intervention or suicide prevention.

Requires that the policy prohibit the use without the prior consent of a student's parent or guardian of a medical screening of the student as part of the process of identifying whether the student is possibly in need of early mental health or substance abuse intervention or suicide prevention.

Provides that nothing in this bill is intended to interfere with the rights of parents or guardians and the decision-making regarding the best interest of the child.

Provides that policy and procedures adopted in accordance with this bill are intended to notify a parent or guardian of a need for mental health or substance abuse intervention so that a parent or guardian may take appropriate action.

Requires that nothing in this bill be construed as giving school districts the authority to prescribe medications. Provides that any and all medical decisions are to be made by a parent or guardian of a student.

Training For School District and Open-Enrollment Charter School Liaisons—S.B. 832
by Senator Davis—House Sponsor: Representative Dukes

Under current law, a school district must appoint at least one employee to act as a liaison officer to assist students in the conservatorship of the state with school enrollments and transfers. Interested parties note that the Texas Education Agency does not have enough information regarding employees appointed to the position of liaison in Texas school districts and that liaison officers do not receive training for this role. S.B. 832 seeks to provide school districts and open-enrollment charter schools in Texas with well-prepared liaisons so that the education of foster children is properly supported. This bill:

Requires each open-enrollment charter school to appoint at least one employee to act as a liaison officer to facilitate the enrollment in or transfer to an open-enrollment charter school of a child in the area served by the charter school who is in the conservatorship of the state. Requires each school district and open-enrollment charter school to submit the name and contact information of an applicable liaison to the Texas Education Agency (TEA) in a format under the schedule determined by the commissioner of education. Requires TEA to provide information to such liaisons on practices for facilitating the enrollment in or transfer to a public school or open-enrollment charter school of children who are in the conservatorship of the state.

Collection of Data Through PEIMS as to Foster Care Status of Public School Students—S.B. 833
by Senator Davis—House Sponsor: Representative Dukes

Current law requires each school district to participate in the Public Education Information Management System (PEIMS), which compiles aggregated information about all students in public education and tracks students based on certain distinguishing characteristics. Interested parties note that students in foster care are not being tracked, leading to a lack of helpful information about them. S.B. 833 seeks to address this issue by providing for the collection of data through PEIMS as to the foster care status of public school students. This bill:

Requires the Texas Education Agency (TEA), to facilitate implementation of Subsection (a)(2) (relating to the requirement that TEA provide the Department of Family Protective Services with aggregate information regarding education outcomes of certain students), in the manner established by commissioner of education rule, to collect data through PEIMS as to the foster care status of students.

Career and Technology Education Courses in Dropout Recovery Partnership Programs—S.B. 860
by Senator Lucio et al.—House Sponsor: Representative Farney et al.

Interested parties assert that career and technical education courses leading to industry certifications can be expensive to provide and that some public junior colleges may not have the needed equipment or expertise to provide the technical coursework. S.B. 860 seeks to provide participating public junior colleges with an additional cost-effective resource in meeting the requirements of the dropout recovery program. This bill:

Deletes a reference to a September 1, 2012, beginning date. Authorizes a public junior college under this section to partner with a public technical institute, as defined by Section 61.003 (Definitions), to provide, as

part of the dropout recovery program curriculum, career and technology education courses that lead to industry or career certification. Authorizes a public technical institute to receive from a partnering public junior college for each student enrolled in a career and technology education course as provided by Section 29.402(c-1) an amount negotiated between the public technical institute and the partnering public junior college.

Developmentally Appropriate Assessment of Special Education Students—S.B. 906
by Senators Deuell and Van de Putte—House Sponsor: Representative Huberty

S.B. 906 seeks to address concerns related to the developmentally appropriate assessment of students in a special education program. This bill:

Prohibits the Texas Education Agency from adopting a performance standard that indicates that a student's performance on the alternate assessment does not meet standards if the lowest level of the assessment accurately represents the student's developmental level as determined by the student's admission, review, and dismissal committee.

Behavior Improvement Plan or Behavioral Intervention Plan—S.B. 914
by Senator Lucio—House Sponsor: Representative Ratliff

Under current law, when a child is enrolled in a special education program of a school district, the district must establish an admission, review, and dismissal committee to develop the child's individualized education program. If a child enrolled in a special education program encounters behavioral problems, the district employs one or more behavioral specialists, whose responsibility it is to develop a behavioral improvement plan or behavioral intervention plan for the child. Interested parties assert that, because the admission, review, and dismissal committee does not oversee the development of such plans, the applicable plan is not included in a student's individualized education program. As a result, information on strategies to be used regarding behavioral improvement is not available to a special education teacher in a student's individualized education program, which can inhibit a child's progress and be challenging for the child's teacher.

S.B. 914 seeks to provide a more comprehensive approach to developing an individualized education program for a student enrolled in a special education program for whom a behavioral improvement plan or behavioral intervention plan has been developed. This bill:

Authorizes the committee required to develop a child's individualized education program before the child is enrolled in a special education program of a school district (committee) to determine that a behavior improvement plan or a behavioral intervention plan is appropriate for a student for whom the committee has developed an individualized education program.

Requires that the behavior improvement plan or a behavioral intervention plan, if the committee makes that determination, be included as part of the student's individualized education program and provided to each teacher with responsibility for educating the student.

School District Law Enforcement and Misdemeanor Offenses Committed by Children—S.B. 1114
by Senators Whitmire and West—House Sponsor: Representative Herrero

Currently, Texas students may be given a Class C misdemeanor ticket for misbehavior. These tickets may result in a fine of up to \$500, time in jail if the ticket goes unaddressed and progresses to the warrant stage, and a criminal record for the student. This bill:

Requires a law enforcement officer, when issuing a citation or filing a complaint for conduct by a child 12 years of age or older that is alleged to have occurred on school property or on a vehicle owned or operated by a county or independent school district, to submit an offense report, a statement by a witness to the alleged conduct, and a statement by a victim of the alleged conduct, if any.

Prohibits an attorney representing the state from proceeding in a trial of an offense unless the law enforcement officer complies with the requirements.

Prohibits a law enforcement officer from issuing a citation or filing a complaint for conduct by a child younger than 12 years of age that is alleged to have occurred on school property or on a vehicle owned or operated by a county or independent school district.

Requires a court to dismiss a complaint or referral made by a school district that is not made in compliance.

Provides that a warrant may not be issued for the arrest of a person for a Class C misdemeanor committed when the person was younger than 17 years of age.

Provides that a child accused of a Class C misdemeanor, other than a traffic offense, may be referred to a first offender program prior to the filing of a complaint with a criminal court.

Adult High School Diploma and Industry Certification Charter School Pilot Program—S.B. 1142
by Senator Duncan et al.—House Sponsor: Representative John Davis et al.

Currently, there are few options for high school dropouts to continue their education, and once they have passed their 26th birthday. The goal of S.B. 1142 is to significantly increase the high school enrollment and graduation rate of high school dropouts by educating one student at a time and linking them with the resources that will help them maximize their potential at the postsecondary level and beyond. S.B. 1142 creates an adult charter high school diploma and industry certification pilot program for approximately 150 adults between the age of 19 and 50 as a strategy for meeting industry needs for a sufficiently trained workforce and to enhance economic opportunities for eligible adults. The pilot will provide an adult high school program leading to a diploma and career and technology education courses that can lead to industry certification in a charter school. The charter school may partner with junior colleges to provide the career and technical courses leading to industry certification. This bill:

Defines "adult education." Requires the commissioner of education (commissioner) to establish an adult high school diploma and industry certification charter school pilot program as a strategy for meeting industry needs for a sufficiently trained workforce within Texas. Requires the Texas Education Agency (TEA) to adopt and administer a standardized secondary exit-level test appropriate for assessing adult education program participants who successfully complete high school curriculum requirements under the

pilot program. Requires the commissioner to determine the level of performance considered to be satisfactory on the test for receipt of a high school diploma by an adult education program participant.

Authorizes a charter under the pilot program, on the basis of an application submitted, to be granted to a single nonprofit entity that meets certain conditions to provide an adult education program for not more than 150 individuals to successfully complete a high school program that can lead to a diploma and career and technology education courses that can lead to industry certification.

Authorizes a nonprofit entity to be granted such a charter only if the entity has a successful history of providing education services to adults 18 years of age and older whose educational and training opportunities have been limited by educational disadvantages, disabilities, homelessness, criminal history, or similar circumstances and agrees to commit at least \$1 million to the adult education program offered. Authorizes a nonprofit entity granted such a charter to partner with a public junior college to provide career and technology courses that lead to industry certification. Requires that a person who is at least 19 years of age and not more than 50 years of age is eligible to enroll in the adult education program under the bill's provisions if the person has not earned a high school equivalency certificate and has failed to complete the curriculum requirements for high school graduation or has failed to perform satisfactorily on a test required for high school graduation. Requires a charter application and a charter to include a description of the adult education program to be offered and to establish specific, objective standards for receiving a high school diploma.

Requires that funding for the adult education program is provided based on the following: for participants who are 26 years of age and older, an amount per participant from available general revenue funds appropriated for the pilot program equal to the statewide average amount of state funding per student in weighted average daily attendance that would be allocated under the Foundation School Program to an open-enrollment charter school were the student under 26 years of age; and for participants who are at least 19 years of age and under 26 years of age, an amount per participant through the Foundation School Program equal to the amount of state funding per student in weighted average daily attendance that would be allocated under the Foundation School Program for the student's attendance at a charter school. Requires that statutory provisions relating to the status and use of state funds for charter schools and charter school property purchased or leased with state funds apply as though funds under the pilot program were funds under statutory provisions relating to charter schools.

Requires TEA, beginning December 1, 2016, to prepare and deliver to certain recipients a biennial report, not later than December 1 of each even-numbered year, that evaluates any adult education program operated under a charter granted under the pilot program and makes recommendations regarding the program's abolition, continuation, or expansion. Requires the commissioner to adopt rules necessary to administer the pilot program and authorizes the commissioner, in adopting rules, to modify charter school requirements only to the extent necessary for the administration of a charter school that provides for adult education.

Truancy Prevention—S.B. 1234 [VETOED]

by Senator Whitmire—House Sponsor: Representative Price

Current law states that every child from the ages of six to 17 is required by law to attend school. If the child has 10 or more unexcused absences within a six-month period, or three or more unexcused absences

within a four-week period, the child is considered truant. Truancy is currently a Class C misdemeanor and violators may be referred to county, municipal, justice, and juvenile courts. This bill:

Authorizes a school district to revoke for the remainder of the school year the enrollment of a person who has more than five unexcused absences in a semester, except that a school district may not revoke the enrollment of a person on a day on which the person is physically present at school.

Requires a school district, after the third unexcused absence, to issue a warning letter to the person that states that the person's enrollment may be revoked for the remainder of the school year if the person has more than five unexcused absences in a semester.

Authorizes a school district, as an alternative to revoking a person's enrollment, to impose a behavior improvement plan.

Authorizes a school district, as a truancy prevention measure, to impose a behavior improvement plan; school-based community service; and/or refer the student to counseling, community-based services, or other in-school or out-of-school services aimed at addressing the student's truancy.

Provides that a referral may include participation by the child's parent or guardian if necessary.

Requires a school district to employ a truancy prevention facilitator to implement the truancy prevention measures and any other effective truancy prevention measures as determined by the school district or campus.

Requires the truancy prevention facilitator to meet to discuss effective truancy prevention measures with a case manager or other individual designated by a juvenile or criminal court to provide services to students of the school district in truancy cases.

Authorizes a school district to designate an existing district employee to implement the truancy prevention measures as determined by the school district or campus.

Applies only to a county with a population greater than 1.5 million and that includes at least 15 school districts with the majority of district territory in the county and one school district with a student enrollment of 50,000 or more and an annual dropout rate spanning grades 9-12 of at least five percent.

Requires the establishment of a committee to recommend a uniform truancy policy for each school district located in the county.

Requires the county judge and the mayor of the municipality in the county with the greatest population to each appoint one member to serve on the committee as a representative of a juvenile district court; a municipal court; the office of a justice of the peace; the superintendent or designee of the school district; an open-enrollment charter school; the district attorney's office; and the general public.

Requires the county judge to appoint to serve on the committee one member from the house of representatives and one member from the senate who are members of the respective standing legislative committees with primary jurisdiction over public education.

EDUCATION—PUBLIC

Requires the county judge and mayor to serve on the committee or appoint representatives to serve on their behalf and to jointly appoint a member of the committee to serve as the presiding officer.

Requires the committee to recommend a uniform process for filing truancy cases with the judicial system; uniform administrative procedures; uniform deadlines for processing truancy cases effective prevention, intervention, and diversion methods to reduce truancy and referrals to a county, justice, or municipal court; a system for tracking and sharing truancy information among school districts and open-enrollment charter schools in the county; and any changes to statutes or state agency rules the committee determines are necessary to address truancy.

Provides that compliance with the committee recommendations is voluntary.

Requires the committee's presiding officer to issue a report not later than December 1, 2015, on the implementation of the recommendations and compliance with state truancy laws by a school district located in the county.

Establishes that an offense under Section 25.094 (Failure to Attend School), Education Code, is a misdemeanor punishable by a fine not to exceed \$100 for a first offense; \$200 for a second offense; \$300 for a third offense; \$400 for a fourth offense; or \$500 for a fifth or subsequent absences.

Requires a school district, if a student fails to attend school without an excuse on 10 or more days or parts of days within a six-month period, to file a complaint against the student or the student's parents or, if the district provides evidence that both the student and the student's parent contributed to the student's failure to attend school, both the student and the parent in a county, justice, or municipal court or refer the student to a juvenile court in a county with a population of less than 100,000.

Provision of Credit by Examination—S.B. 1365

by Senators Duncan and Patrick—House Sponsor: Representatives Villarreal and Ratliff

Interested parties assert that Texas students who have demonstrated knowledge of a subject matter or demonstrated that they are achieving at a level that is above their existing grade level need enhanced opportunities to advance academically, rather than remain in a course or grade level that is insufficiently challenging to the students. S.B. 1365 seeks to provide such an opportunity for Texas students by amending current law relating to credit by examination. This bill:

Provides that Subsection (a) (relating to prohibiting a student from being given credit for a class unless the student is in attendance for at least 90 percent of the days the class is offered) does not apply to a student who receives credit by examination for a class as provided by Section 28.023.

Requires the board of trustees (board) to select, if available, at least four State Board of Education (SBOE)-approved examinations for each subject. Requires that the examinations selected by a district, if approved by SBOE, include advanced placement (AP) examinations administered by the College Board and Educational Testing Service, and examinations administered through the College-Level Examination Program (CLEP).

Requires a school district to give a student in a primary grade level credit for a grade level and advance the student one grade level on the basis of a board-approved examination for acceleration if the student scores in the 80th percentile or above, rather than the 90th percentile or above, on each section of the examination; a district representative recommends that the student be advanced; and the student's parent or guardian gives written approval of the advancement.

Requires a school district to give a student in grade level six or above credit for a subject on the basis of a board-approved examination for credit in the subject if the student scores in the 80 percentile or above, rather than the 90th percentile or above, on the SBOE-approved examination or if the student achieves a score as provided by the bill. Requires the district, if a student is given credit in a subject on the basis of an examination, to enter the examination score on the student's transcript, and provides that the student is not required to take an end-of-course assessment instrument adopted under Section 39.023(c) (relating to requiring the Texas Education Agency to adopt end-of-course assessment instruments for certain secondary-level courses) for that subject.

Requires a school district to give a student in grade level six or above credit for a subject if the student scores: a three or higher on a board-approved AP examination administered by the College Board and Educational Testing Service; or a scaled score of 60 or higher on a SBOE-approved examination administered through CLEP.

Requires each district to administer each board-approved examination selected by the district: not fewer than four times each year, rather than not less than once a year, at times to be determined by SBOE.

Provides that an examination that has an administration date that is established by an entity other than the school district, does not apply.

Prohibits a student from attempting more than two times to receive credit for a particular subject on the basis of a SBOE-approved examination for credit in that subject.

Provides that if a student fails to achieve the designated score described by this bill on an applicable examination described this bill for a subject before the beginning of the school year in which the student would ordinarily be required to enroll in a course in that subject in accordance with the school district's prescribed course sequence, the student must satisfactorily complete the course to receive credit for the course.

Attendance at and Completion of High School by Students in DFPS Conservatorship—S.B. 1404
by Senators Patrick and Uresti—House Sponsor: Representative Parker

Interested parties note that public school students who are in foster care face a myriad of issues that can impede them from graduating on time. S.B. 1404 seeks to address certain of those issues as they relate to attendance at and completion of high school by students who are in the conservatorship of the Department of Family and Protective Services (DFPS). This bill:

Requires the Texas Education Agency, in recognition of the challenges faced by students in substitute care, to assist the transition of substitute care students from one school to another by, in addition to other methods, developing procedures for awarding credit, including partial credit if appropriate, for course work,

including electives, completed by a student in substitute care while enrolled at another school; developing procedures for allowing a student in substitute care who was previously enrolled in a course required for graduation the opportunity, to the extent practicable, to complete the course, at no cost to the student, before the beginning of the next school year; ensuring that a student in substitute care who is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade nine, as determined by the district, has the student's course credit accrual and personal graduation plan reviewed; and ensuring that a student in substitute care who is in grade 11 or 12 be provided information regarding tuition and fee exemptions under Section 54.366 (Exemptions for Students Under Conservatorship of Department of Family and Protective Services) for dual-credit or other courses provided by a public institution of higher education for which a high school student may earn joint high school and college credit.

Requires that a school district excuse a student from attending school for certain purposes, including travel for those purposes, if the student is in the conservatorship of DFPS and participating in an activity ordered by a court under Chapter 262 (Procedures in Suit by Governmental Entity to Protect Health and Safety of Child) or 263 (Review of Placement of Children Under Care of Department of Protective and Regulatory Services), Family Code, provided that it is not practicable to schedule the participation outside of school hours, or a temporary absence under certain circumstances.

Requires that a school district offer an intensive program of instruction to a student who does not perform satisfactorily on an assessment instrument administered under Subchapter B (Assessment of Academic Skills), Chapter 39 (Public School System Accountability), or is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade nine, as determined by the district.

Requires the district from which a student transferred, if the student meets the graduation requirements of that district, to award a diploma at the student's request if an 11th or 12th grade student in the conservatorship of DFPS transfers to a different school district and the student is ineligible to graduate from the district to which the student transfers.

SBOE Oversight of ESC Activities Concerning Certain Curriculum Management Systems—S.B. 1406 *by Senator Patrick et al.—House Sponsor: Representative Toth et al.*

Interested parties note that one of the core functions of regional education service centers is to assist school districts in teaching each subject area assessed under the public school accountability system. The centers also have the ability to create products and services at a district's request. To this end, regional service centers developed a curriculum management system known as CSCOPE, designed to assist school districts in teaching the essential knowledge and skills. The parties further note that the State Board of Education (SBOE) has oversight of instructional materials in Texas but that there has been no SBOE oversight over CSCOPE content since its inception because a curriculum management system is not considered to be an instructional material. S.B. 1406 seeks to provide for SBOE oversight of regional education service center activities concerning certain curriculum management systems. This bill:

Requires that instructional lessons developed as part of a curriculum management system by a regional education service center, acting alone or in collaboration with one or more other regional education service centers, notwithstanding any other provision of this subchapter (Powers and Duties) or Section 8.001(c) (relating to authorizing the commissioner of education to decide any matter concerning the operation or

administration of the regional education service centers), be subject to the same review and adoption process as outlined in Section 31.022 (Instructional Materials Review and Adoption).

Adoption of Major Curriculum Initiatives by a School District—S.B. 1474

by Senator Duncan—House Sponsor: Representative Allen

S.B. 1474 provides a process for school districts to follow before any major curriculum initiative is adopted. This bill provides school districts the opportunity to obtain feedback while deciding if any proposed curriculum meets the needs of their district. This bill:

Requires a school district, before the adoption of a major curriculum initiative, including the use of a curriculum management system, to use a process that includes teacher input; provides district employees with the opportunity to express opinions regarding the initiative; and includes a meeting of the district's board of trustees at which information regarding the initiative is presented, including the cost of the initiative and any alternatives that were considered, and at which members of the public and district employees are given the opportunity to comment regarding the initiative.

Evaluating the Performance of Dropout Recovery Schools—S.B. 1538

by Senator Van de Putte et al.—House Sponsor: Representative Farney et al.

Interested parties contend that schools serving large populations of students who have previously dropped out and are recovering credits needed to graduate are not accurately measured under the state's public school accountability system. S.B. 1538 seeks to address this problem by providing for the evaluation of the performance of public schools designated as dropout recovery schools. This bill:

Requires the commissioner of education (commissioner), for purposes of evaluating performance under Section 39.053(c) (relating to certain indicators of student achievement), to designate as a dropout recovery school a school district or an open-enrollment charter school or a campus of a district or of an open-enrollment charter school that serves students in grades nine through 12 and has an enrollment of which at least 50 percent of the students are 17 years of age or older as of September 1 of the school year as reported for the fall semester Public Education Information Management System (PEIMS) submission, and that meets the eligibility requirements for and is registered under alternative education accountability procedures adopted by the commissioner.

Requires the commissioner, notwithstanding Section 39.053(c)(2) (relating to certain indicators of student achievement including, certain dropout rates), to use the alternative computation completion rate under this bill to determine the student achievement indicator under Section 39.053(c)(2) for a dropout recovery school. Requires that the alternative completion rate be the ratio of the total number of students who graduate, continue attending school into the next academic year, or receive a high school equivalency certificate to the total number of students in the longitudinal cohort of students.

Requires the commissioner, notwithstanding Section 39.053(c)(2), in determining the performance rating under Section 39.054 (Methods and Standards for Evaluating Performance) of a dropout recovery school, to include any student described by Section 39.053(g-1) (relating to requiring the commissioner to exclude

certain information when calculating dropout and completion rates) who graduates or receives a high school equivalency certificate.

Authorizes only the best result from the primary administration and any retake of an assessment instrument administered to a student in the school year evaluated under the accountability procedures adopted by the commissioner for a dropout recovery school to be considered in determining the performance rating of the school under Section 39.054.

Disciplining of Public School Students by School Bus Drivers—S.B. 1541

by Senator Van de Putte—House Sponsor: Representative Allen

Current law specifies the circumstances under which a student can be removed from a classroom, campus, or disciplinary alternative education program and details the procedure for a teacher to remove a student from a classroom. These items must be included in each school district's code of conduct adopted by the district board of trustees. S.B. 1541 seeks to include school buses among the places from which a student can be removed and to allow a school bus driver to send a student to the principal in order to maintain discipline on a school bus that is transporting students to or from school or a school-related activity or event. This bill:

Requires the student code of conduct adopted by the board of trustees of an independent school district to specify the circumstances under which a student may be removed from a school bus.

Authorizes the driver of a school bus transporting students to or from school or a school-sponsored or school-related activity to send a student to the principal's office to maintain effective discipline on the school bus. Requires the principal to respond by employing appropriate discipline management techniques consistent with the student code of conduct described under Section 37.006 (Removal For Certain Conduct) or 37.007 (Expulsion For Serious Offenses). Provides that Section 37.004 (Placement of Students With Disabilities) applies to any placement under this section of a student with a disability who receives special education services. Provides that the bill applies beginning with the 2013-2014 school year.

Establishment of School Safety Certification Program and School Safety Task Force—S.B. 1556

by Senator Seliger—House Sponsor: Representative John Davis

Interested parties note that ensuring the safety of children in Texas schools is a primary concern of Texas citizens. The Texas School Safety Center currently provides information, training, research, and technical assistance to help implement safety and security programs for all independent school districts and junior colleges and aggregates data from those entities. In addition, the Department of Public Safety of the State of Texas, through the Texas Division of Emergency Management, provides information and training to local and regional emergency management planners and stakeholders regarding response, mitigation, and recovery in emergencies. The interested parties contend that the state should bring together these and other expert resources and stakeholders to evaluate current school safety practices and develop best practices for use in school multihazard emergency operations planning. S.B. 1556 seeks to address these issues. This bill:

Requires the School Safety Task Force to conduct a study, on an ongoing basis, to develop a best practices for school multihazard emergency operations planning and, based on those studies, to make recommendations to the legislature, the Texas School Safety Center, and the governor's office of homeland security. The bill establishes that the task force is composed of the chief of the Texas Division of Emergency Management, or the chief's designee, either of whom serves as the presiding officer of the task force; the training director of the Advanced Law Enforcement Rapid Response Training Center at Texas State University–San Marcos, or the training director's designee; the chairperson of the Texas School Safety Center, or the chairperson's designee; and the agency director of the Texas A&M Engineering Extension Service, or the agency director's designee. The bill does not entitle a member of the task force to compensation for service on the task force but does entitle a member to reimbursement for actual and necessary expenses incurred in performing task force duties.

Requires the task force, in performing its duties for schools, to consult with and consider recommendations from school district and school personnel, including school safety personnel and educators, and from first responders, emergency managers, local officials, representatives of appropriate nonprofit organizations, and other interested parties with knowledge and experience concerning school emergency operations planning. Requires the task force, not later than September 1 of each even-numbered year, to prepare and submit to the legislature a report concerning the results of the task force's most recent study, including any recommendations for statutory changes the task force considers necessary or appropriate to improve school multihazard emergency operations.

Requires the Texas School Safety Center, in consultation with the School Safety Task Force, to develop a school safety certification program. Requires the Texas School Safety Center to award a school safety certificate to a school district that has adopted and implemented a multihazard emergency operations plan that includes specified security and communication measures and an outline of safety training for school employees; that demonstrates to the center with current written self-audit processes that the district conducts at least one drill per year for each type of drill prescribed by the bill; that complies with statutory provisions for conducting and reporting the results of safety and security audits; and that meets any other eligibility criteria as recommended by the School Safety Task Force.

Establishes that the task force is composed of the chief of the Texas Division of Emergency Management (chief), or a designee of the chief, the training director of the Advanced Law Enforcement Rapid Response Training Center, or a designee of the training director, the chairperson of the Texas School Safety Center, or a designee of the chairperson, and the agency director of the Texas A&M Engineering Extension Service (agency director), or a designee of the agency director.

Requires the chief, or a designee of the chief, to serve as the presiding officer of the task force.

Prohibits a member of the task force from being entitled to compensation for service on the task force but entitles the member to reimbursement for actual and necessary expenses incurred in performing task force duties.

Requires the task force to consult with and consider recommendations from school district and school safety personnel, first responders, emergency managers, local officials, school districts, educators, nonprofit organizations, and other stakeholders concerning school emergency operations planning.

EDUCATION—PUBLIC

Requires the task force to report its findings, including recommendations for any necessary statutory changes, to the legislature before September 1, 2014, and every subsequent even-numbered year.

Provides that the task force is abolished and this bill expires September 1, 2017.

Requires school districts to develop security criteria to consider in the design of school safety plans.

Repeals Section 37.2051 (Security Criteria For Instructional Facilities), Education Code.

Business and Nonprofit Participation Supporting Early College High Schools—S.B. 1557

by Senator Lucio et al.—House Sponsor: Representative Villarreal

Early college high schools partner with colleges in order to allow students least likely to attend institutions of higher learning an opportunity to earn a high school diploma and 60 college credit hours. Under current law, the Texas Education Agency (TEA) is permitted to accept gifts, grants, and donations to pay for costs not covered by students' Foundation School Program benefits. To date, no such donations have been made. S.B. 1557 is intended to encourage private sector participation in early college high schools. This bill:

Authorizes the commissioner of education (commissioner) to accept gifts, grants, and donations from any source, including private and nonprofit organizations, rather than authorizing the commissioner to accept gifts, grants, and donations from any source to pay any costs of the early college education program (ECE program) not covered by the student's Foundation School Program's (FSP) benefits. Requires that private and nonprofit organizations that contribute to the foundation school fund receive an award under Section 7.113 (Employers for Education Excellence Award), Education Code.

Requires the commissioner to collaborate with the Texas Workforce Commission (TWC) and the Texas Higher Education Coordinating Board (THECB) to develop and implement a strategic plan to enhance private industry participation under this section. Requires that the plan include strategies to increase private industry participation and incentives for businesses and nonprofit organizations that choose to make donations and work with high schools that participate in a program under this section to maximize job placement opportunities for early college education program graduates.

Requires the commissioner, not later than December 1, 2014, to provide a report that summarizes the strategic plan developed under this bill to the lieutenant governor, the speaker of the house of representatives, the governor, TWC, and THECB. Requires TEA, TWC, and THECB to each make the report available on the respective agency's Internet website.

Effect of Certain State Aid on School Districts Required to Equalize Wealth—S.B. 1658

by Senator Paxton—House Sponsor: Representative Huberty

Current school finance law requires a school district that has a taxable value of property per pupil above a specified equalized wealth level to exercise one of five options to reduce its per-pupil property wealth to the equalized wealth level or face a state action such as detachment of territory or mandatory consolidation. District options, some of which require voter approval for the redistribution of local tax revenue, include

sending such revenue to the state to purchase attendance credits. Several years ago, when the legislature reduced local property taxes by compressing school district tax rates, it included a "hold harmless" provision providing additional state funds to districts to offset local revenue lost as a result of the reduction in tax rates. It also exempted a property wealthy district entitled to state revenue under that hold harmless provision from having to send recapture funds to the state if the funds sent to the state and the hold harmless funds received from the state would offset. Although a district newly identified as a property wealthy district was required to hold an election on the redistribution of revenue subject to recapture, even if the amount of recapture funds it sent to the state was less than or equal to the district's entitlement under the hold harmless provision, subsequent legislation allowed such districts to forgo the requirement for an election if the district received its first notification of recapture status during the 2006-2007 school year or later and the additional state aid for the school year exceeded the district's recapture costs for that same year.

Because the legislature recently expressed its intent to continue reducing the amount of additional state aid for tax reduction and to increase the Foundation School Program's (FSP) basic allotment, interested parties note that these districts, which have never held an election to allow the withholding of such state aid for wealth equalization funding purposes, will be required to hold an election at a substantial cost to continue their recapture payment agreements once their additional state aid drops below the amount needed to equalize wealth per student. S.B. 1658 seeks to allow school districts to continue existing recapture payments without the need for an election to obtain voter approval for the district's exercise of that option by offsetting their recapture payments against their state FSP funding rather than against the additional state aid for tax reduction. This bill:

Requires the commissioner of education, when the commissioner initially identifies a school district as having a wealth per student for a school year that exceeds the equalized wealth level, to estimate the amount of state revenue to which the district is entitled in general under the Foundation School Program (FSP) for that school year, rather than the additional state aid to which the district is entitled specifically to offset the loss of local property tax revenue resulting from a previously enacted reduction in school district tax rates, as well as the cost to the district to purchase attendance credits in an amount sufficient to reduce the district's wealth per student to the equalized wealth level for that school year. Authorizes such a district's board of trustees to authorize the commissioner to withhold an amount equal to the cost of purchasing those attendance credits from the state FSP funding to which it is entitled rather than from the additional state aid to which it is entitled for the tax rate reduction.

Requires the commissioner, if the cost of purchasing such attendance credits exceeds the amount of state FSP funding to which the district is entitled for that year and the district has authorized the withholding of such costs from the district's state FSP funding and, as a result, the commissioner has withheld the entire amount of state FSP funding for that year, either to withhold the additional amount from the state FSP funding to which the district is entitled for a subsequent school year, or, if the additional amount exceeds the amount of state revenue to which the district is entitled, to add the difference to the cost of the attendance credits that the district is required to purchase in the subsequent year.

Strikes the repeal of provisions relating to the effect of state aid with respect to the equalized wealth level.

Recommendations of Local School Health Advisory Councils—H.B. 1018

by Representative Diane Patrick et al.—Senate Sponsor: Senator Nelson

Interested parties express concern regarding childhood obesity rates and a lack of physical activity by adolescents and the effects on individuals and the state. Local school health advisory councils (LSHACs) are established by the board of trustees of each school district and are composed of a majority of parents. LSHACs advise school districts on issues related to student health and are required to make recommendations regarding health-related curriculum and instruction. This bill:

Adds an additional duty to recommend, if feasible, joint use agreements or strategies for collaboration between the school district and community organizations or agencies, to the duties of the LSHAC.

Requires the LSHAC to establish a physical activity and fitness planning subcommittee to consider issues relating to student physical activity and fitness and make policy recommendations to increase physical activity and improve fitness among students.

Adds additional content, specifically any recommendations made by the physical activity and fitness planning subcommittee, to be included in a currently required written report that, at least annually, the LSHAC submits to the board of trustees of the school district.

Requires that any joint use agreement that a school district and community organization or agency enters into based on a recommendation of the LSHAC to address liability for the school district and community organization or agency in the agreement.

Child Passenger Safety Seat Systems—H.B. 1294

by Representative Price—Senate Sponsor: Senators Seliger and Zaffirini

Current law makes it an offense to operate a passenger vehicle and transport a child younger than eight years of age and under a certain height while not keeping the child secured in a child passenger safety seat system during the operation of a vehicle. However, a person may assert a defense to prosecution for this offense if the person provides to the court satisfactory evidence that the person possesses a child passenger safety seat system. This bill:

Provides that an offense involving child passenger safety seat system is a misdemeanor punishable by a fine of not less than \$25 and not more than \$250.

Provides that it is a defense to prosecution of such an offense that the defendant provides to the court evidence that at the time of the offense the defendant was not arrested or issued a citation for violation of any other offense; the defendant did not possess a child passenger safety seat system in the vehicle; and the vehicle the defendant was operating was not involved in an accident; and that subsequently to the time of the offense, the defendant obtained an appropriate child passenger safety seat system for each child required to be secured in a child passenger safety seat system.

Child Safety Alarms in Certain Vehicles Used by Certain Child-Care Facilities—H.B. 1741
by Representative Naishtat—Senate Sponsor: Senators West and Zaffirini

Since 1998, at least 570 children have died in the United State from hyperthermia, or heat stroke, after being left unattended in a vehicle with many of those deaths occurring in Texas. There have been five abuse and neglect investigations involving licensed day-care centers that had a cause of death related to being left in a vehicle since January 2002. This bill:

Defines, in the related section, "electronic child safety alarm" as an alarm system that prompts the driver of a vehicle to inspect the vehicle to determine whether children are in the vehicle before the driver exits the vehicle.

Requires a licensed day-care center to equip each vehicle owned or leased by the facility with an electronic child safety alarm if the vehicle is designed to seat eight or more persons and used to transport children under the care of the facility.

Requires the licensed day-care center to ensure that the electronic child safety alarm is properly maintained and used when transporting children.

Requires the Department of Family and Protective Services to adopt rules to implement these provisions.

Provides that the section applies only to a vehicle purchased or leased on or after December 31, 2013.

Children's Policy Council—S.B. 50

by Senator Zaffirini—House Sponsor: Representative Guillen

Currently, the Children's Policy Council assists state agencies in developing, implementing, and administering family support policies and related long-term care and health programs for children. Interested parties recommend adding mental health services to the list of family support issues on which the council is to focused and recommend modifying the composition of the Children's Policy Council. This bill:

Updates and modifies language and references to previous state agencies to current state agencies throughout the bill.

Requires, through updated and modified language, a work group to be known as the Children's Policy Council to assist the Department of Aging and Disability Services, the Health and Human Services Commission (HHSC), the Department of State Health Services, the Department of Assistive and Rehabilitative Services, and the Department of Family and Protective Services in developing, implementing, and administering family support policies for children with disabilities relating to long-term services and supports, health services, and mental health services.

Modifies the composition of the work group to include an individual who is younger than 25 years of age and who receives or has received mental health services, include relatives of consumers of long-term care and health programs for children 26 years of age or younger, and remove the representative from a state agency that provides long-term care and health programs for children.

HEALTH AND HUMAN SERVICES—CHILDREN

Authorizes, rather than requires, the work group to study and make recommendations in certain areas, including the blending of funds, including case management funding, for children needing long-term care, health services, and mental health services; collaboration and coordination of services between certain state agencies and any other agency determined to be applicable by the work group; and budgeting and the use of funds appropriated for children's long-term care services, health services, and mental health services.

Requires the executive commissioner of HHSC (executive commissioner), after evaluating and considering the reported recommendations, to adopt rules to implement guidelines for providing long-term care, health services, and mental health services to children with disabilities.

Authorizes, rather than requires, HHSC, in developing the procedures by which to conduct certain required reviews of a child's placement on receipt of a recommendation for an extension of a child's placement at an institution and of data from health and human services agencies regarding all children who reside in institutions, to seek input from the work group on children's long-term services, health services, and mental health services.

Requires the executive commissioner, as soon as possible after the effective date of the Act, to appoint three additional members to the work group, and, in appointing those members, to consider appointing members with expertise in mental health services.

Vaccine-Preventable Diseases Policy For Licensed Child-Care Facilities—S.B. 64 *by Senators Nelson and Lucio—House Sponsor: Representative Zerwas*

Interested parties assert that increased protections from vaccine-preventable diseases are necessary for children enrolled at certain child-care facilities as well as for child-care facility employees. This bill:

Defines, in the added Section 42.04305 (Vaccine-Preventable Disease Policy Required), Human Resources Code, "facility employee."

Defines, in the added section, "vaccine-preventable diseases" to mean the diseases included in the most current recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention (CDC).

Requires each child-care facility, other than a facility that provides care in the home of the director, owner, operator, or caretaker of the facility, to develop and implement a policy to protect the children in its care from vaccine-preventable diseases.

Requires that the policy:

- require each facility employee to receive vaccines for the vaccine-preventable diseases specified by the child-care facility based on the level of risk the employee presents to children by the employee's routine and direct exposure to children;
- specify the vaccines a facility employee is required to receive based on the level of risk the employee presents to children by the employee's routine and direct exposure to children;
- include procedures for verifying whether a facility employee has complied with the policy;

- include procedures for a facility employee to be exempt from the required vaccines for the medical conditions identified as contraindications or precautions by CDC;
- include procedures for a facility employee who is exempt from the required vaccines that the employee is required to follow to protect children in the facility's care from exposure to disease based on the level of risk the employee presents to children by the employee's routine and direct exposure to children;
- prohibit discrimination or retaliatory action against a facility employee who is exempt from the required vaccines for the medical conditions identified as contraindications or precautions by the CDC, except that required use of protective medical equipment, including gloves and masks, is prohibited from being considered retaliatory action;
- require the child-care facility to maintain a written or electronic record of each facility employee's compliance with or exemption from the policy; and
- state the disciplinary actions the child-care facility is authorized to take against a facility employee who fails to comply with the policy.

Requires that the policy include procedures for a facility employee to be exempt from the required vaccines based on reasons of conscience, including a religious belief.

Requires the executive commissioner of the Health and Human Services Commission, not later than June 1, 2014, to adopt rules necessary to implement these provisions.

Provides that, notwithstanding the related section, a child-care facility subject to that section is not required to have a policy on vaccine-preventable diseases in effect until September 1, 2014.

Review of Child Fatalities—S.B. 66

by Senator Nelson—House Sponsor: Representative Laubenberg

According to the Department of Family and Protective Services (DFPS) 2012 Data Book, there were 212 child fatalities related to child abuse and neglect in fiscal year 2012. The State Child Fatality Review Team Committee (committee) is a multidisciplinary committee that develops an understanding of the causes and incidences of child deaths in Texas and identifies and promotes efforts to reduce the number of preventable child deaths through interaction with the public, agencies, and other governmental entities. This bill:

Adds an emergency medical services provider and a provider of services to, or an advocate for, victims of family violence to the additional committee members who specified committee members of the child fatality review team committee (committee) are required to select; and requires the members responsible for selecting these additional members to make those appointments not later than November 1, 2013.

Provides that the committee members selected by those specified members serve three-year terms with the terms of six or seven, rather than five or six, members, as appropriate, expiring February 1 each year.

Requires the committee, not later than April 1 of each even-numbered year, to publish a report that contains aggregate child fatality data collected by local child fatality review teams, recommendations to prevent child fatalities and injuries, and recommendations to DFPS on child protective services operations based on input from the child safety review subcommittee, and requires the committee to submit a copy of the report to specified entities and make the report available to the public.

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Requires DFPS, not later than October 1 of each even-numbered year, to submit a written response to the committee's recommendations to specified entities describing which of the committee's recommendations regarding the operation of the CPS system DFPS will implement and the methods of implementation.

Deletes an existing requirement that the committee issue a report for each preventable child death and text associated to the report's content, publication, and submission.

Creates the Protect Our Kids Commission (commission) and sets forth provisions regarding composition of the committee, criteria for members, and other aspects concerning the committee.

Requires the commission to study the relationship between child protective services and child welfare services and the rate of child abuse and neglect fatalities; to identify promising practices and evidence-based strategies to address and reduce fatalities from child abuse and neglect; develop recommendations and identify strategies to reduce such fatalities for implementation by specified entities, including recommendations to implement a comprehensive statewide strategy for reducing those fatalities; and develop guidelines for the types of information that should be tracked to improve interventions to prevent fatalities from child abuse and neglect; and to, not later than December 1, 2015, submit to the specified entities a report containing information related to the commission's findings and recommendations.

Provides that the commission is not subject to Chapter 2110 (State Agency Advisory Committees), Government Code.

Provides that the commission is abolished and the relevant section expires December 31, 2015.

Eligibility of Children's Advocacy Centers For Contracts—S.B. 245 *by Senator West et al.—House Sponsor: Representative Otto*

Children's Advocacy Centers of Texas (CACTX) is the state membership organization for the children's advocacy centers (centers) across the state. Interested parties note that CACTX has worked with stakeholders, including using guidance from the national level, to update and improve the statewide standard that govern the type of services provided by each local center in order to develop a best practices standard for all centers. Such parties state that many centers are implementing these practices, but the new standards are not currently codified. This bill:

Provides that a public entity that operated as a center before November 1, 1995, or a nonprofit entity is eligible for a contract under Section 264.410 (Contracts with Children's Advocacy Centers), Family Code, if the entity meets certain criteria, including that the entity implements at the center the following program components:

- a case tracking system that monitors statistical information on each child and nonoffending family member or other caregiver who receives services through the center and that includes progress and disposition information for each service the multidisciplinary team determines should be provided to the client;
- a child-focused setting that is comfortable, private, and physically and psychologically safe for diverse populations of children and nonoffending family members and other caregivers;

- family advocacy and victim support services that include comprehensive case management and victim support services available to each child and the child's nonoffending family members or other caregivers as part of the services the multidisciplinary team determines should be provided to a client;
- forensic interviews conducted in a neutral, fact-finding manner and coordinated to avoid duplicative interviewing;
- specialized medical evaluation and treatment services that are available to all children who receive services through the center and coordinated with the services the multidisciplinary team determines should be provided to a child;
- specialized trauma-focused mental health services that are designed to meet the unique needs of child abuse victims and the victims' nonoffending family members or other caregivers and that are available as part of the services the multidisciplinary team determines should be provided to a client; and
- a system to ensure that all services available to center clients are culturally competent and diverse and are coordinated with the services the multidisciplinary team determines should be provided to a client.

Removes the requirement that any waiver that is granted by the statewide organization of the requirements be identified in the written contract with the center.

Dismissal or Nonsuit of a Suit to Terminate the Parent-Child Relationship—S.B. 429 [VETOED]
by Senator Nelson—House Sponsor: Representative Raymond

In its September 2012 report, the Task Force to Address Relationship Between Domestic Violence and Child Abuse and Neglect (task force) expressed concern from victims of domestic violence who contended that in some Child Protective Services (CPS) cases in which one or more children are removed from the victim and later reunited, courts often dismiss the case without ensuring appropriate orders on issues such as custody, visitation, and child support. The task force recommended requiring judges, before approving the dismissal of a CPS suit, to consider whether any preexisting child support, visitation, or other orders affecting the children would continue in effect after dismissal, whether the dismissal would be in the children's best interests, and the inclusion of any appropriate orders in the final order. This bill:

Requires the court, before approving a dismissal or nonsuit of a suit to terminate the parent-child relationship filed by the Department of Family and Protective Services (DFPS), to consider whether the dismissal or nonsuit is in the best interest of each child affected by the suit and whether any orders for the conservatorship, possession of or access to, or support of each child affected by the suit continue in effect after the dismissal or nonsuit.

Authorizes the court, before approving a dismissal or nonsuit of a suit to terminate the parent-child relationship filed by DFPS, to render an order for the conservatorship, possession of or access to, or support of each child affected by the suit that will continue in effect after the dismissal or nonsuit of the suit to terminate the parent-child relationship.

Provides that these provisions apply only to a motion for the dismissal or nonsuit of a suit to terminate the parent-child relationship that is made on or after the effective date of the Act.

Placement of Children With Certain Relatives or Other Designated Caregivers—S.B. 502

by Senator West—House Sponsor: Representative Zerwas

Although pre-placement visits and the provision of a placement summary form are required when a child is placed in foster care to ensure that the parties involved are prepared for the placement, this practice is not mandated in the case of kinship placements. Interested parties observe that there is often an assumption of familiarity when a child is placed with a relative but note that, even though they are related, that may not be the case and such relatives may not have had regular contact with the child or be familiar with the child's history. Additionally, under current law monetary assistance provided under Section 264.755 (Caregiver Assistance Agreement), Family Code, is required to include a one-time cash payment of not more than \$1,000 to the caregiver on the initial placement of a child or a sibling group, but interested parties have recommended that provisions relating to the monetary assistance provided be revised. This bill:

Requires the Department of Family and Protective Services (DFPS), except as provided otherwise, before placing a child with a proposed relative or other designated caregiver, to arrange a visit between the child and the proposed caregiver, and provide the proposed caregiver with a form, which may be the same form DFPS provides to nonrelative caregivers, containing information, to the extent it is available, about the child that would enhance continuity of care for the child, including certain information.

Authorizes DFPS to waive these requirements if the proposed relative or other designated caregiver has a long-standing or significant relationship with the child and has provided care for the child at any time during the 12 months preceding the date of the proposed placement.

Requires that monetary assistance provided under Section 264.755 (Caregiver Assistance Agreement), Family Code, include a one-time cash payment to the caregiver on the initial placement of a child or a sibling group. Prohibits the amount of the cash payment, as determined by DFPS, from exceeding \$1,000 for each child and requires that the payment for placement of a sibling group be at least \$1,000 for the group, but may not exceed \$1,000 for each child in the group. Deletes the provision requiring a one-time cash payment of not more than \$1,000 for a child or a sibling group. Provides that this change in law does not make an appropriation or require a specific appropriation and that the new duty imposed on DFPS as a result of the changes are required to be performed through the appropriations provided by the legislature as part of DFPS's existing responsibilities.

Provides that the changes in law made by these provisions apply only to the placement of a child for whom DFPS is named managing conservator on or after the effective date of this Act.

Newborn Hearing Screening—S.B. 793

by Senator Deuell—House Sponsor: Representative Laubenberg

A provision in H.B. 411, 82nd Legislature, Regular Session, 2011, required more facilities to perform newborn hearing screenings, which could be done directly or through a transfer agreement. Interested parties note that birthing centers operated by midwives have had difficulty meeting compliance, which resulted in the Department of State Health Centers encountering issues developing rules or guidelines for such facilities that comply with the law and that coincide with how these birthing centers operate. This bill:

Requires a birthing facility, through a program certified by the Department of State Health Services under Section 47.004 (Certification of Screening Programs), to perform, either directly or through a referral to another such certified program, rather than either directly or through a transfer agreement, a hearing screening for the identification of hearing loss on each newborn or infant born at the facility before the newborn or infant is discharged from the facility unless a certain circumstance occurs, including the newborn was discharged from the birthing facility not more than 10 hours after birth and a referral for the newborn was made to a certified program at another birthing facility or operated by a physician or other health care provider.

Family Cost Share Provisions in the Early Childhood Intervention Program—S.B. 1060

by Senator Nelson—House Sponsor: Representative Zerwas

The Department of Assistive and Rehabilitative Services (DARS) implemented family cost share provisions for the Early Childhood Intervention (ECI) program in 2004. In the January 2013 "Texas State Government Effectiveness and Efficiency Report: Selected Issues and Recommendations," the Legislative Budget Board (LBB) made a recommendation to improve the cost-effectiveness of family cost share provisions in the ECI program, and provided recommendations to assist in doing so, such as directing DARS to collect data to determine cost-effectiveness of such provisions, evaluate such provisions and implementing changes if it cost-effective, and submit a report on implemented changes to the provisions. This bill:

Defines, in the added Section 117.077 (Data Analysis in Family Cost Share Provisions in Early Childhood), Human Resources Code, "cost-effective" to mean that the family cost share revenue generated is greater than total administrative costs.

Requires DARS to collect data, including data on administrative costs and adjusted family income, sufficient to evaluate the cost-effectiveness of the family cost share provisions of the ECI program, and changes necessary to improve the cost-effectiveness of the program.

Requires DARS, to, as necessary, modify the Texas Kids Intervention Data System to accept adjusted family income data submitted by early childhood intervention program providers and to require all providers to enter adjusted family income data into the system.

Requires DARS to use the data collected to evaluate the cost-effectiveness of existing family cost share provisions in the ECI program and consider changes that may improve the cost-effectiveness of the program, including the adoption of a family cost share provision as described below.

Requires DARS to implement any considered changes that DARS determines will make the family cost share provisions of the ECI program more cost-effective, if the changes will not make access to early childhood intervention services cost-prohibitive for families; and authorizes DARS, if none of the considered changes is determined to make the program more cost-effective, or if the department determines that the changes will make access to early childhood intervention services cost-prohibitive for families, to decline to implement the changes.

Requires DARS to evaluate existing family cost share provisions and consider and implement changes, if appropriate, to the ECI program as required on a periodic basis established by DARS, and at other times at the request of LBB.

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Requires DARS, not later than December 1, 2014, to conduct the initial required evaluation and implement any required changes resulting from that evaluation, and submit a report to the governor and LBB summarizing the results of the initial evaluation and explaining any changes that were implemented.

Provides that Section 117.007(h) (regarding the expiration dates of subsections) and Section 117.007(g) (regarding the initial evaluation and report) expire September 1, 2015.

Requires DARS to consider implementing a family cost share provision under which the amount a family pays to participate in the ECI program is based on the amount of service the family receives under the program, and requires such a family cost share provision implemented by DARS to establish a maximum amount to be paid by a family participating in the ECI program that is based on the family's size and adjusted gross income, with families in higher income brackets required to pay more under the provision than those families paid before the provision's implementation.

Authority of Certain Community Centers to Sell Certain Real Property—H.B. 243
by Representative Menéndez—Senate Sponsor: Senator Uresti

Current statute authorizes certain local entities to establish and operate a community center that may be a community mental health center, community mental retardation center, or a community mental health and mental retardation center that provides mental health and/or mental retardation services accordingly. Such community centers are authorized to accept gifts and grants of money, personal property, and real property to use in providing programs and services. The community centers also have the authority to purchase real property. The law, however, is unclear as to whether these community centers are authorized to dispose of or sell real property. This bill:

Authorizes a community center, except as otherwise provided, to sell center real property without the approval of the Department of State Health Services (DSHS) or any local agency that appoints members to the board of trustees, only if the real property was acquired solely through a gift or grant of money or real property from a private entity, including an individual.

Requires a community center that acquires real property by gift or grant, on the date acquired, to notify the private entity that the center may subsequently sell the real property and that the sale is subject to the relevant provisions.

Requires that, except as otherwise provided, such real property sold be sold for the property's fair market value.

Authorizes such real property sold to be sold for less than fair market value only if the board of trustees adopts a resolution stating the public purpose that will be achieved by the sale and the conditions and circumstances for the sale, including conditions to accomplish and maintain the public purpose.

Requires a community center to notify DSHS and each local agency that appoints members to the board of trustees not later than the 31st day before the date the center enters into a binding obligation to sell such real property, and authorizes the commissioner of DSHS, on request, to waive the 30-day notice requirement on a case-by-case basis.

Requires the executive commissioner of the Health and Human Services Commission to adopt rules relating to the notification process.

Authorizes a community center to use proceeds received from such a sale of real property only for an authorized purpose or for a public purpose authorized for a community center by state or federal law.

Certain Health Programs and Councils—H.B. 595
by Representative Kolkhorst—Senate Sponsor: Senator Nelson

Current law provides that the requirement that a contract between a managed care organization (MCO) and the Health and Human Services Commission (HHSC) for the organization to provide health care services to recipients contain the requirements that the MCO develop, implement, and maintain an outpatient pharmacy benefit plan for its enrolled recipients that exclusively employs the vendor drug program formulary and preserves the state's ability to reduce waste, fraud, and abuse under the Medicaid program,

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that adheres to the applicable preferred drug list adopted by HHSC, and that includes the prior authorization procedures and requirements by or implemented under certain law for the vendor drug program do not apply, and may not be enforced, on and after August 31, 2013. Additionally, several health and human services programs have been identified for repeal. This bill:

Provides that the requirements imposed by Sections 533.005(a)(23)(A), 533.005(a)(23)(B), and 533.005(a)(23)(C) (relating to requiring a contract between an MCO and HHSC for the organization to provide health care services to recipients require the MCO to develop, implement, and maintain an outpatient pharmacy benefit plan for its enrolled recipients that meets certain criteria) do not apply, and are prohibited from being enforced, on and after August 31, 2018, rather than on and after August 31, 2013.

Repeals Chapters 38 (Pediculosis of Minors), 46 (Tertiary Medical Care), 83 (Exposure to Agent Orange), 90 (Osteoporosis), and 91 (Prostate Cancer Education Program), Health and Safety Code.

Repeals Subchapters A (Information on Alternative Treatments for Breast Cancer) and C (Information on Alternative Treatments for Lung Cancer) of Chapter 86 (Breast Cancer and Lung Cancer), Health and Safety Code.

Repeals Sections 86.011 (Breast Cancer Screening) and 86.012 (Advisory Committee), Health and Safety Code.

Abolishes the programs and system established under Chapters 38, 46, 83, 86, 90, and 91, Health and Safety Code, as the laws existed immediately before the effective date of the Act, on September 1, 2013.

Provides that any money remaining in the tertiary care account, on September 1, 2013, is transferred to the general revenue fund and abolishes the account.

Provides that the repeal of Chapter 83, Health and Safety Code, does not affect a cause of action that accrued before the effective date of the Act, and provides that a cause of action that accrued before the effective date of the Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

Provides that, on September 1, 2013, the advisory council established under Section 86.003 (Advisory Council), Health and Safety Code, the advisory committee established under Section 86.012, Health and Safety Code, and the advisory council established under Section 86.103 (Advisory Council), Health and Safety Code, as the laws existed immediately before the effective date of the Act, are abolished; all property in the custody of the advisory councils and advisory committee is transferred to the Department of State Health Services (DSHS), and all contracts, leases, rights, and obligations of the advisory councils and advisory committee are transferred to DSHS.

Federal Waiver to Test Innovations to Child Welfare Programs—H.B. 748 *by Representative Raymond— Senate Sponsor: Senator Nelson*

Currently, Texas receives Title IV-E federal funding for foster care and adoption services, but the funding cannot be used for prevention or reunification services without the proper waivers. This bill:

Requires the Department of Family and Protective Services (DFPS) to apply for and actively pursue a waiver, as authorized by the federal Child and Family Services Improvement and Innovation Act, to allow DFPS to use federal funds available under Title IV-E, Social Security Act, to conduct demonstration projects to accomplish one or more of the following goals:

- providing more permanency for children by reducing time in foster care and promoting successful transition to adulthood for former foster youth;
- increasing positive outcomes for infants, children, and families in their homes and communities and increasing the safety and well-being of infants, children, and youth; and
- preventing child abuse and neglect and the reentry of children into foster care.

Provides that the section expires December 31, 2015.

Gifts and Grants to DADS—H.B. 1760

by Representative Darby—Senate Sponsor: Senator Nelson

The Department of Aging and Disability Services (DADS) is the result of the consolidation of several legacy agencies. Interested parties contend that there is no single statute that gives DADS, in its current form, the authority to accept donations and therefore, there is ambiguity concerning this topic. This bill:

Authorizes a person that provides services to individuals with developmental disabilities to contract with a state supported living center (SSLC) for the center to provide services and resources to support those individuals, rather than authorizes a person that provides disability services to contract with a state school or state center for the school or center to provide services and resources to support individuals with developmental disabilities, including individuals with dual diagnosis disorders.

Authorizes an SSLC, notwithstanding any other law, to provide nonresidential services to support an individual if the individual is receiving services in a program funded by DADS, meets the eligibility criteria for the intermediate care facility for persons with intellectual disabilities program, and resides in the area in which the SSLC is located; and the provision of services to the individual does not interfere with the provision of services to a resident of the SSLC, rather than authorizes a state school or state center, notwithstanding any other law, to provide nonresidential services to support an individual if the individual is receiving services in a program funded by DADS, meets the eligibility criteria for the intermediate care facility for persons with mental retardation program, and resides in the area in which the state school or state center is located; and the provision of services to the individual does not interfere with the provision of services to a resident of the state school or state center.

Authorizes DADS to accept gifts and grants of money, personal property, and real property from public or private sources to expand and improve the human services programs for the aging and disabled available in this state.

Requires DADS to use a gift or grant of money, personal property, or real property made for a specific purpose in accordance with the purpose expressly prescribed by the donor; and authorizes DADS to decline the gift or grant if DADS determines that it cannot be economically used for that purpose.

Requires DADS to keep a record of each gift or grant in DADS's central office in the city of Austin.

Repeals Section 22.001(f) (relating to authorizing the Texas Department of Human Services (TDHS) to solicit and accept gifts, grants, and donations of money or property from public or private sources for use in assisting needy persons or otherwise carrying out any of TDHS's functions), Human Resources Code, and Section 101.026 (Donations), Human Resources Code.

Notice of Services and Programs Available for Persons With Intellectual Disabilities—H.B. 2276
by Representative Crownover et al.—Senate Sponsor: Senator Taylor

When an individual with an intellectual disability or the individual's legally authorized representative inquires about the residential services available for the individual, current statute requires that the person be provided with information on all available options. Interested parties express concern that such individuals are not being provided information on state supported living centers (SSLCs) or that the information they are receiving portrays SSLCs in a negative light, discouraging individuals from using SSLCs. This bill:

Requires the Department of Aging and Disability Services, in addition to the required explanation of the services and programs for which a person with mental retardation who is seeking residential services is determined to be eligible, to ensure that each person inquiring about residential services receives:

- a pamphlet or similar informational material explaining any programs and services for which the person is determined to be eligible, including SSLCs, community ICF-MR programs, waiver services under Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n(c)), or other services; and
- information relating to whether appropriate residential services are available in each program and service for which the person is determined to be eligible, including SSLCs, community ICF-MR programs, waiver services under Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n(c)), or other services located nearest to the residence of the proposed resident.

Task Force on Domestic Violence—H.B. 2620
by Representatives Collier and Cortez—Senate Sponsor: Senator Deuell

Domestic violence during pregnancy can lead to health complications and other serious consequences for both the child and the mother, such as miscarriage, low birth weight, pre-term birth, and even maternal mortality. Interested parties note that visits to health care professionals during this time period by pregnant women could present an opportunity for prevention, education, and intervention regarding such violence. This bill:

Creates the task force on domestic violence (task force) and sets forth provisions regarding its composition and presiding officer.

Requires the task force to examine the impact of domestic violence on maternal and infant mortality, the health of mothers, and the health and development of fetuses, infants, and children; identify the health care services available to children age two and younger and to mothers and explore opportunities for improving the ability of those services to address domestic violence; identify methods to effectively include domestic violence information and support in educational standards for educators and protocols for health care providers; and investigate and make recommendations relating to the coordination of health care services

for children age two and younger and pregnant and postpartum women who are victims of domestic violence, including recommendations for improving early screening and detection and public awareness efforts.

Requires that, not later than September 1, 2015, the task force submit a report regarding the findings, recommendations, and activities of the task force to the appropriate entities.

Provides that the task force is abolished and the relevant subchapter expires January 1, 2016.

Protection and Care of Individuals With Intellectual and Developmental Disabilities—H.B. 2673

by Representative Price—Senate Sponsor: Senators Nelson and West

Currently, certain health and human services agencies are able to obtain criminal history record information for employees, volunteers, and applicants for employment or volunteer opportunities in state supported living centers (SSLCs), but that does not include requiring criminal history information for contracted employees and applicants for contracted positions. Interested parties note that current law requires the state to contract with a patient safety organization (PSO) to conduct independent mortality reviews of deaths of certain persons with disabilities and have noted issues that need to be addressed. This bill:

Entitles the Health and Human Services Commission (HHSC), in addition to the Department of State Health Services (DSHS) and the Department of Aging and Disabilities Services (DADS), to obtain from the Department of Public Safety of the State of Texas (DPS) criminal history record information maintained by DPS that relates to a person who is an applicant for a contract with the agency or a contractor of the agency, in addition to a person who is an applicant for employment with the agency, an employee of the agency, a volunteer with the agency, or an applicant for a volunteer position with the agency; and who would be placed in direct contact with a resident or client as defined by Section 555.001 (Definitions), Chapter 555 (State Supported Living Centers), Health and Safety Code, rather than who would be placed in direct contact with a resident or client of an SSLC or the ICF-MR component of the Rio Grande State Center.

Entitles certain entities, including HHSC, subject to Section 411.087 (Access to Criminal History Record Information Maintained by Federal Bureau of Investigation or Local Criminal Justice Agency), to obtain certain criminal history record information from certain entities.

Defines "contracted organization" in Subchapter U (Mortality Review for Certain Individuals With Intellectual or Developmental Disabilities), Chapter 531 (Health and Human Services Commission), Government Code.

Requires the executive commissioner of HHSC (executive commissioner) to establish an independent mortality review system to review the death of a person with an intellectual or developmental disability who, at the time of the person's death or at any time during the 24-hour period before the person's death, resided in or received services from, or received services through a Section 1915(c) waiver program for individuals who are eligible for ICF-IID services, rather than received residential assistance through a Section 1915(c) waiver program serving individuals who are eligible for ICF-MR services, in a residence in which residential assistance is provided to three or more persons and in which the waiver program provider has a property interest.

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Requires the executive commissioner to contract with an institution of higher education or a health care organization or association with experience in conducting research-based mortality studies to conduct independent mortality reviews of persons with an intellectual or developmental disability, rather than requires the executive commissioner to contract with a PSO certified in accordance with 42 C.F.R. Part 3, as effective on January 19, 2009, to conduct independent mortality reviews required by Subchapter U, Chapter 531, Government Code.

Requires that the contract require the contracted organization to form a review team, rather than requires that a contract require the PSO to conduct an independent mortality review using a team, consisting of certain persons, and updates terminology in this provision.

Requires the executive commissioner to adopt rules regarding the manner in which the death of the described persons is required to be reported to the contracted organization, rather than PSO, by a facility or waiver program described by that subsection.

Authorizes a contracted organization, rather than a PSO, to request information and records regarding a deceased person as necessary to carry out the organization's duties.

Requires a contracted organization, subject to Section 531.854 (Use and Publication Restrictions; Confidentiality), rather than requires the PSO, to the extent allowed by federal law, to submit certain information to certain entities, including to submit semiannually to certain entities, including the Department of Family and Protective Services, the office of independent ombudsman for SSLCs, and HHSC's office of inspector general a report that contains certain information regarding mortality reviews.

Sets forth provisions regarding use, publication, release, confidentiality, privilege, and disclosure in relation to data, records, information, reports, materials, finding and/or conclusions used to carry out and resulting from the duties of the contracted organization.

Provides that a contracted organization's report of the findings of the independent mortality review conducted and any records developed by the contracted organization relating to the review are confidential and privileged, are not subject to discovery or subpoena, and are prohibited from being introduced into evidence in any civil, criminal, or administrative proceeding, and prohibits a member of the contracted organization's review team from testifying or being required to testify in a civil, criminal, or administrative proceeding as to observations, factual findings, or conclusions that were made in conducting a review.

Requires HHSC, in addition to DSHS and DADS, to perform a state and federal criminal history background check on certain persons, including a person who is an applicant for a contract with the agency or contractor of the agency and who would be placed in direct contact with a resident or client, and requires HHSC, in addition to DADS and DSHS, to require all of those certain persons to submit fingerprints in a form and of a quality acceptable to DPS and the Federal Bureau of Investigation for use in conducting a criminal history background check.

Requires each agency to obtain electronic updates from DPS of arrests and convictions of a person for whom the agency performs a background check and who remains an employee, contractor, or volunteer of the agency and continues to have direct contact with a resident or client.

Repeals Section 252.134 (Reports Relating to Resident Deaths; Statistical Information), Health and Safety Code.

Provides that Section 531.851 (Mortality Review), Government Code, as amended by the Act, does not apply to a contract entered into by the executive commissioner before June 1, 2013; and provides that a contract entered into before June 1, 2013, is governed by the law in effect on the date the contract was entered into, and that law is continued in effect for that purpose.

Nutrition and Wellness Education For Certain Recipients of Certain State Benefits—H.B. 3401
by Representative Raymond et al.—Senate Sponsor: Senator Nelson

According to data collected through the Behavioral Risk Factor Surveillance System in 2011, the United States Centers for Disease Control and Prevention estimates that Texas's adult obesity prevalence is over 30 percent. The obesity epidemic has led to increases in the incidence of chronic diseases and other medical conditions, which have placed a significant strain on the health care system and the state budget.

Many recipients of the Temporary Assistance for Needy Families (TANF) program, Medicaid, and the supplemental nutrition assistance program (SNAP) use the Health and Human Services (HHSC) online portal to view their benefits. Interested parties contend that the online portal provides an avenue through which the state can encourage these recipients to make healthier decisions regarding diet and exercise. This bill:

Provides that the relevant section applies to individuals receiving benefits under the financial assistance program under Chapter 31 (Financial Assistance and Service Programs), Human Resources Code; the medical assistance program under Chapter 32 (Medical Assistance Program), Human Resources Code; and SNAP under Chapter 33 (Nutritional Assistance Program), Human Resources Code.

Requires HHSC to work with community-based organizations to encourage individuals receiving benefits to access readily available and existing online information and programs, including information provided on HHSC's website, that provide nutrition and wellness education for the purpose of promoting healthy eating habits and a physically active lifestyle.

Requires HHSC, not later than January 1, 2015, to report to the legislature on the use of nutrition and wellness education information provided on HHSC's website and provides content required to be included in the report.

Authorizes the executive commissioner of HHSC to adopt rules to implement the provisions.

Provides that the relevant section expires September 1, 2015.

Disclosure of Social Security Number For Eligibility Determination for Certain Programs—H.B. 3787
by Representative Perry—Sponsor: Senator Nelson

The Health and Human Services Commission (HHSC) currently uses publicly available information on a driver's license to corroborate and verify information submitted by applicants for certain health and human

services programs. HHSC currently receives certain information from driver's licenses from the Department of Public Safety of the State of Texas (DPS) for this purpose and in an effort to prevent ineligible applicants from receiving benefits under these programs. This bill:

Adds HHSC to the list of the only entities to which information provided on a driver's license application that relates to the applicant's Social Security number may be disclosed.

Requires DPS, on the request of HHSC and for the purpose of assisting HHSC in determining an applicant's eligibility for any program administered by HHSC, to disclose information regarding an applicant's Social Security number.

Improving the Delivery and Quality of Certain Health and Human Services—S.B. 7
by Senators Nelson and Patrick—House Sponsor: Representative Raymond

Interested parties recommend improving the coordination of Medicaid long-term care services and supports with acute care services, redesigning the long-term care services and supports system serving individuals with intellectual and developmental disabilities, and expanding on quality-based payment initiatives throughout Medicaid in order to address cost concerns and improve the quality and efficiency of care provided to the affected populations. This bill:

Defines, in added Chapter 534 (System Redesign for Delivery of Medicaid Acute Care Services and Long-Term Services and Supports to Persons with Intellectual and Developmental Disabilities), Government Code, "advisory committee," "basic attendant services," "department," "functional need," "habilitation services," "ICF-IID," "ICF-IID program," "local intellectual and developmental disability authority," "managed care organization," "managed care plan," "potentially preventable event," "Medicaid program," "Medicaid waiver program," and "state supported living center."

Provides that, to the extent of a conflict between a provision of Chapter 534, Government Code, and another state law, the provision of Chapter 534 controls.

Requires the Health and Human Services Commission (HHSC) and the Department of Aging and Disability Services (DADS), in accordance with Chapter 534, to jointly design and implement an acute care services and long-term services and supports (LTSS) system for individuals with intellectual and developmental disabilities (IDDs) that supports the following goals:

- provide Medicaid services to more individuals in a cost-efficient manner by providing the type and amount of services most appropriate to the individuals' needs;
- improve individuals' access to services and supports by ensuring that the individuals receive information about all available programs and services and how to apply for them;
- improve the assessment of individuals' needs and available supports, including the assessment of individuals' functional needs;
- promote person-centered planning, self-direction, self-determination, community inclusion, and customized, integrated, competitive employment;
- promote individualized budgeting based on an assessment of an individual's needs and person-centered planning;

- promote integrated service coordination of acute care services and LTSS;
- improve acute care and LTSS outcomes, including reducing unnecessary institutionalization and potentially preventable events (PPEs);
- promote high-quality care;
- provide fair hearing and appeals processes in accordance with applicable federal law;
- ensure the availability of a local safety net provider and local safety net services;
- promote independent service coordination and independent ombudsmen services; and
- ensure that individuals with the most significant needs are appropriately served in the community and that processes are in place to prevent inappropriate institutionalization of individuals.

Establishes the Intellectual and Developmental Disability System Redesign Advisory Committee (IDDSR advisory committee) to advise HHSC and DADS on the implementation of the acute care services and LTSS system redesign; sets forth provisions regarding the appointment of members, the composition of the advisory committee, meetings, and per diem allowance and reimbursement for certain members; and provides that the advisory committee is abolished and the related section expires on January 1, 2024.

Requires HHSC, not later than September 30 of each year, to submit a report to the legislature regarding the implementation of the system required by Chapter 534 and recommendations, and provides that the related section expires January 1, 2024.

Requires HHSC and DADS to submit a report to the legislature not later than December 1, 2014, regarding the role of local intellectual and developmental disability authorities as service providers for certain populations, services, and programs, particularly in comparison to private providers and in regard to provider capacity, that includes certain specified information, and provides that the related section expires September 1, 2015.

Defines "capitation" and "provider" in Subchapter C (Stage One: Programs to Improve Service Delivery Models), Chapter 534, Government Code.

Authorizes HHSC and DADS to develop and implement pilot programs to test one or more service delivery models involving a managed care strategy based on capitation to deliver LTSS under the Medicaid program to individuals with IDD.

Sets forth provisions related to the pilot program provision regarding stakeholder input, candidates, and procedures for managed care proposals, design requirements of the managed care strategy developed for implementation through a pilot program, and the evaluation of submitted proposals.

Authorizes DADS, based on the required evaluation, to select as pilot program service providers one or more private services providers; requires DADS, for each pilot program service provider, to develop and implement a pilot program; and requires the pilot program service provider to provide LTSS under the Medicaid program to persons with IDDs to test its managed care strategy based on capitation.

Requires DADS to analyze information provided by the pilot program service providers and any information collected by DADS during the operation of the pilot programs for purposes of making a recommendation about a system of programs and services for implementation through future state legislation or rules.

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Requires DADS, in consultation with the IDDSR advisory committee, to identify measurable goals, which are required to meet certain requirements, to be achieved by each implemented pilot program and to propose specific strategies for achieving the identified goals.

Requires HHSC and DADS, not later than September 1, 2016, to implement any of the pilot programs, and sets forth provisions regarding location and duration of a pilot program, voluntary recipient participation, the collection of certain pilot program information and data, access to person-centered planning, and transitioning between programs and protection of continuity of care.

Requires a pilot program service provider, in providing LTSS under the Medicaid program to individuals with IDD, to coordinate through the pilot program institutional and community-based services available to the individuals, including services provided through certain entities; collaborate with managed care organizations (MCOs) to provide integrated coordination of acute care services and LTSS, including discharge planning from acute care services to community-based long-term services and supports; have a process for preventing inappropriate institutionalizations of individuals; and accept the risk of inappropriate institutionalizations of individuals previously residing in community settings.

Requires HHSC and DADS, in consultation with the IDDSR advisory committee, on or before December 1, 2016, and December 1, 2017, to review and evaluate the progress and outcomes of each pilot program implemented and submit a report to the legislature during the operation of the pilot programs, and requires that each pilot program established that is still in operation to conclude, and provides that the related subchapter expires on September 1, 2018.

Requires HHSC, subject to Section 533.0025 (Delivery of Services), Government Code, to provide acute care Medicaid program benefits to individuals with IDD through the STAR+PLUS Medicaid managed care program (STAR+PLUS) or the most appropriate integrated capitated managed care program delivery model and monitor the provision of those benefits.

Requires HHSC to implement the most cost-effective option for the delivery of basic attendant and habilitation services for individuals with IDD under STAR+PLUS that maximizes federal funding for the delivery of services for that program and other similar programs, and provide voluntary training to individuals receiving services under STAR+PLUS or their legally authorized representatives regarding how to select, manage, and dismiss personal attendants providing such services under the program.

Requires HHSC to require that each MCO that contracts with HHSC for the provision of basic attendant and habilitation services under STAR+PLUS to include certain agencies and persons in the organization's provider network; review and consider any assessment conducted by a local IDD authority providing IDD service coordination; and enter into a written agreement with each local IDD authority in the service area regarding the processes the organization and the authority will use to coordinate the services of individuals with IDD.

Requires DADS to contract with and make contract payments to local IDD authorities to provide service coordination to individuals with IDD under STAR+PLUS by assisting those individuals who are eligible to receive services in a community-based setting; provide an assessment to the appropriate MCO regarding whether an individual with an IDD needs attendant or habilitation services; assist individuals with IDD with developing the individuals' plans of care under STAR+PLUS; provide to the appropriate MCO and DADS

information regarding the recommended plans of care; and, on an annual basis, provide to the appropriate MCO and DADS a description of outcomes based on an individual's plan of care.

Prohibits local IDD authorities providing service coordination from also providing attendant and habilitation services.

Authorizes a local IDD authority with which DADS contracts to subcontract with an eligible person or entity to coordinate these services of individuals with IDD, and requires the executive commissioner of HHSC (executive commissioner) by rule to establish minimum qualifications to be considered an "eligible person."

Provides that Section 534.201 (Transition of Recipients Under Texas Home Living (TxHmL) Waiver Program to Managed Care Program), Government Code, applies to individuals with IDD who are receiving LTSS under TxHmL on the date HHSC implements the following described transition.

Requires HHSC, not later than September 1, 2017, to transition the provision of Medicaid program benefits to individuals to whom the section applies to the STAR+PLUS delivery model or the most appropriate integrated capitated managed care program delivery model, as determined by HHSC based on cost-effectiveness and the experience of STAR+PLUS in providing basic attendant and habilitation services and of the pilot programs established under Subchapter C, Chapter 534, Government Code, subject to certain other law, and sets forth a provision regarding stakeholder input, the protection of continuity of care, and certain requirements in the contract between an MCO and HHSC related to the organization implementing a process for individuals with IDD that meets certain conditions.

Requires HHSC, at the time of the transition, to determine whether to continue operation of TxHmL for purposes of providing supplemental LTSS not available under the managed care program delivery model selected by HHSC or provide all or a portion of LTSS previously available under TxHmL through the managed care program delivery model selected by HHSC.

Provides that Section 534.202 (Transition of ICF-IID Program Recipients and Certain Other Medicaid Waiver Program Recipients to Managed Care Program), Government Code, applies to individuals with IDD who, on the date HHSC implements the transition described below, are receiving LTSS under a Medicaid waiver program other than TxHmL or an ICF-IID program.

Requires HHSC, after implementing the transition required by Section 534.201, Government Code, but not later than September 1, 2020, to transition the provision of Medicaid program benefits to individuals to whom the relevant section applies to the STAR+PLUS delivery model or the most appropriate integrated capitated managed care program delivery model, as determined by HHSC based on cost-effectiveness and the experience of the transition of TxHmL recipients to a managed care program delivery model, subject to certain other law, and sets forth provisions regarding stakeholder input, the protection of continuity of care, and certain requirements in the contract between an MCO and HHSC related to the organization implementing a process for individuals with IDD that meets certain conditions.

Requires HHSC, at the time of the transition, to determine whether to continue operation of the Medicaid waiver programs or ICF-IID program only for purposes of providing, if applicable, supplemental LTSS available under the managed care program delivery model selected by HHSC or LTSS to Medicaid waiver program recipients who choose to continue receiving benefits under the waiver program, or subject to

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certain other law, provide all or a portion of LTSS previously available under the Medicaid waiver programs or ICF-IID program through the managed care program delivery model selected by HHSC.

Requires HHSC, if HHSC determines that all or a portion of LTSS previously available under the Medicaid waiver programs should be provided through a managed care program delivery model, to, at the time of the transition, allow each recipient receiving LTSS supports under a Medicaid waiver program the option of continuing to receive the services and supports under the Medicaid waiver program or receiving the services and supports through the managed care program delivery model selected by HHSC, and prohibits a recipient who chooses to receive LTSS through a managed care program delivery model from, at a later time, choosing to receive the services and supports under a Medicaid waiver program.

Requires HHSC, in administering Subchapter C, Chapter 534, Government Code, to ensure that HHSC is responsible for setting the minimum reimbursement rate paid to a provider of ICF-IID services or a group home provider under the integrated managed care system; that such providers are paid not later than the 10th day after the date the provider submits a clean claim in accordance with certain DADS criteria for such reimbursement; and the establishment of an electronic portal through which such providers participating in the STAR + PLUS delivery model or the most appropriate integrated capitated managed care program delivery model, as appropriate, may submit LTSS claims to any participating MCO.

Provides that certain persons need not be licensed under Chapter 142 (Home and Community Support Services), Health and Safety Code, including a person that provides home health, hospice, or personal assistance services only to persons receiving benefits under the home and community-based services (HCS) waiver program; TxHmL; or Section 534.152 (Delivery of Certain Other Services Under STAR+PLUS Medicaid Managed Care Program), Government Code; and removing reference in this provision to a person that provides home health, hospice, or personal assistance to persons enrolled in a program funded by the Texas Department of Mental Health and Mental Retardation (TXMHMR) or monitored by TXMHMR or its designated local authority in accordance with TXMHMR standards.

Requires HHSC and any other health and human services agency implementing a provision of the Act that affects individuals with IDD to consult with the IDDSR advisory committee regarding that implementation.

Requires HHSC, not later than June 1, 2016, to submit a report to the legislature regarding HHSC's experience in delivering basic attendant and habilitation services for individuals with IDD under STAR+PLUS under Section 534.152, Government Code.

Requires HHSC and DADS to implement any pilot program to be established under Subchapter C, Chapter 534, Government Code, as soon as practicable after the effective date of the Act.

Requires HHSC and DADS to, in consultation with the IDDSR advisory committee, review and evaluate the outcomes of the transition of the provisions of benefits to individuals under TxHmL and the transition of the provision of benefits to individuals under the Medicaid waiver programs, other than TxHmL, and the ICF-IID program to a managed care program delivery model and submit as part of the required annual report due on or before September 30 of 2018, 2019, and 2020, a report on that review and evaluation that includes certain recommendations, and provides that the related section expires September 1, 2024.

Defines "medical assistance" in Sections 533.0025, 533.00251 (Delivery of Certain Benefits, Including Nursing Facility Benefits, Through STAR+PLUS Medicaid Managed Care Program), 533.002515 (Planned

Preparation for Delivery of Nursing Facility Benefits Through STAR + PLUS Medicaid Managed Care Program), 533.00252 (STAR+PLUS Nursing Facility Advisory Committee), 533.00253 (STAR KIDS Medicaid Managed Care Program), and 533.00254 (STAR Kids Managed Care Advisory Committee), Government Code.

Requires HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, except as otherwise provided and notwithstanding any other law, to provide medical assistance for acute care services through the most cost-effective model of Medicaid capitated managed care as determined by HHSC or an agency operating part of the state Medicaid managed care program, as appropriate. Requires HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, to require mandatory participation in a Medicaid capitated managed care program for all persons eligible for acute care medical assistance benefits, but authorizes HHSC or an agency operating part of the state Medicaid managed care program to implement alternative models or arrangements, if HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, determines the alternative would be more cost-effective or efficient. Deletes existing text authorizing HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, if determined that it is more cost-effective, to provide medical assistance for acute care in a certain part of the state or to a certain population of recipients using certain models.

Requires HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, to conduct a study to evaluate the feasibility of automatically enrolling applicants determined eligible for benefits under the medical assistance program in a Medicaid managed care plan chosen by the applicant and report the results of the study to the legislature not later than December 1, 2014, and provides that the related subsection expires September 1, 2015.

Authorizes HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, if determined feasible, to, notwithstanding any other law, implement an automatic enrollment process under which applicants determined eligible for medical assistance benefits are automatically enrolled in a Medicaid managed care plan chosen by the applicant.

Requires HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, subject to Section 534.152, Government Code, to implement the most cost-effective option for the delivery of basic attendant and habilitation services for individuals with disabilities under STAR+PLUS that maximizes federal funding for the delivery of services for that program and other similar programs and provide voluntary training to individuals receiving services under STAR+PLUS or their legally authorized representatives regarding how to select, manage, and dismiss personal attendants providing basic attendant and habilitation services.

Defines "advisory committee," "clean claim," "nursing facility," and "potentially preventable event" in Sections 533.00251, 533.002515, and 533.00252, Government Code.

Requires HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, subject to Section 533.0025, Government Code, to expand STAR+PLUS to all areas of the state to serve individuals eligible for acute care services and LTSS under the medical assistance program.

Requires HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, subject to Section 533.0025, Government Code, and notwithstanding any other law, in consultation with the

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STAR+PLUS Nursing Facility Advisory Committee (SPNF advisory committee), to provide benefits under the medical assistance program to recipients who reside in nursing facilities through STAR+PLUS. Requires HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, in implementing the provision to ensure certain duties and conditions.

Requires HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, to establish credentialing and minimum performance standards for nursing facility providers seeking to participate in STAR+PLUS that are consistent with adopted federal and state standards. Authorizes an MCO to refuse to contract with a nursing facility provider if the nursing facility does not meet the minimum performance standards.

Prohibits an MCO from requiring prior authorization (PA) for a nursing facility resident in need of emergency hospital services.

Provides that the subsections related to providing benefits under the medical assistance program to recipients who reside in nursing facilities through STAR+PLUS, certain participants, the credentialing and minimum performance standards for related nursing facility providers, and the prohibition from requiring PA for a nursing facility resident in need of emergency hospital services expire September 1, 2019.

Requires HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, to develop a plan in preparation for implementing the requirement that HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, provide benefits under the medical assistance program to recipients who reside in nursing facilities through STAR+PLUS. Requires that the plan be completed in two phases—phase one: contract planning phase; and phase two: initial testing phase. Requires HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, in phase one, to develop a contract template to be used when HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, contracts with an MCO to provide nursing facility services under STAR+PLUS and sets forth certain requirements for the template. Requires HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, in phase two, to design and test the portal required for submitting claims, establish and inform MCOs of the minimum technological or system requirements needed to use the portal, establish operating policies that require that MCOs maintain a portal through which providers may confirm recipient eligibility on a monthly basis, and establish the manner in which MCOs are to assist in collecting from recipients applied income or cost-sharing payments. Provides that the related section expires September 1, 2015. Sets forth requirements regarding completion of the phases and reports regarding the implementation of the phases.

Establishes the SPNF advisory committee to advise on the implementation of and other activities related to the provision of medical assistance benefits to recipients who reside in nursing facilities through STAR+PLUS, including advising HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, regarding its duties with respect to certain topics. Sets forth the composition of and other provisions related to the SPNF advisory committee. Provides that, on September 1, 2016, the SPNF advisory committee is abolished and the related section expires.

Defines "advisory committee," "health home," and "potentially preventable event" (PPE) in Section 533.00253, Government Code.

Requires HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, subject to Section 533.0025, Government Code, in consultation with the STAR Kids Managed Care Advisory Committee (STAR Kids advisory committee) and the Children's Policy Council, to establish a mandatory STAR Kids capitated managed care program (STAR Kids) tailored to provide medical assistance benefits to children with disabilities and sets forth certain requirements for STAR Kids.

Authorizes HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, to require that care management services made available as provided by Section 533.00253(b)(7) (relating to requiring the managed care program developed to reduce the incidence of unnecessary institutionalizations and PPEs by ensuring the availability of appropriate services and care management) meet certain specified requirements.

Requires HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, to provide medical assistance benefits through STAR Kids to children who are receiving benefits under the medically dependent children waiver program (MDCP) and to ensure that STAR Kids provides all of the benefits provided under MDCP to the extent necessary to implement the subsection.

Requires HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, to ensure there is a plan for transitioning the provision of Medicaid program benefits to recipients 21 years of age or older from under STAR Kids to under STAR+PLUS that protects continuity of care, and requires that the plan ensure that coordination between the programs begins when a recipient reaches 18 years of age.

Establishes the STAR Kids advisory committee to advise on the establishment and implementation of STAR Kids. Sets forth provisions regarding the appointment of members and composition of the committee. Provides that on September 1, 2016, the STAR Kids advisory committee is abolished and the related section expires.

Establishes the STAR+PLUS Quality Council (STAR+PLUS council) to advise on the development of policy recommendations that will ensure eligible recipients receive quality, person-centered, consumer-directed acute care services and LTSS in an integrated setting under STAR+PLUS. Sets forth the composition of the STAR+PLUS council. Sets forth requirements regarding reports from the STAR+PLUS council to the executive commissioner of HHSC (executive commissioner) and from HHSC or an agency operating part of the state Medicaid managed care program to the legislature. Provides that on January 1, 2017, the STAR+PLUS council is abolished and the related section expires.

Requires that a contract between an MCO and HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, for the organization to provide health care services to recipients contain certain provisions, including a requirement that the MCO make payment to a physician or provider for health care services rendered to a recipient under a managed care plan on any claim for payment that is received with documentation reasonably necessary for the MCO to process the claim, rather than under a managed care plan not later than the 45th day after the date a claim for payment is received with documentation reasonably necessary for the MCO to process the claim, not later than certain provided dates in regard to specific situations; a requirement that the MCO demonstrate that the organization pays certain described claims described on average not later than the 21st day after the date the claim is received; a requirement that the MCO develop, implement, and maintain a system for tracking and resolving all provider appeals related to claims payment, including a process that will require certain

requirements, including that the MCO allow a provider with a certain claim that has not been paid before the certain time prescribed to initiate an appeal of that claim; a requirement that the MCO develop and submit before the organization begins to provide health care services to recipients, a comprehensive plan that describes how the organization's provider network will provide recipients sufficient access to certain services and care and regularly, as determined, submit to HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, and make available to the public a report containing data on the sufficiency of the organization's provider network with regard to providing the described care and services and specific data with respect to certain services and care on the average length of time between the date a provider makes a referral for the care or service and approval or denial of the referral and the date the organization approves a referral for the care or service and the date the care or service is initiated; a requirement that the MCO demonstrate before the organization begins to provide health care services to recipients, certain requirements, including that the organization's provider network includes a certain number and variety of providers, including a sufficient number of providers of LTSS and specialty pediatric care providers of home and community-based services; and a requirement that the MCO not implement significant, nonnegotiated, across-the-board provider reimbursement rate reductions unless certain conditions are met.

Provides that the requirements imposed by Sections 533.005(a)(23)(A), 533.005(a)(23)(B), and 533.005(a)(23)(C) (relating to requiring a contract between an MCO and HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, for the organization to provide health care services to recipients require the MCO to develop, implement, and maintain an outpatient pharmacy benefit plan for its enrolled recipients that meets certain criteria) do not apply, and are prohibited from being enforced, on and after August 31, 2018, rather than on and after August 31, 2013.

Requires the executive commissioner, rather than HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, to appoint a state Medicaid managed care advisory committee (Medicaid advisory committee). Modifies and adds to the composition of the Medicaid advisory committee and modifies meeting requirements. Modifies certain current powers and duties of the Medicaid advisory committee to specify certain topics to be included, and the requirement that the Medicaid advisory committee provide recommendations and ongoing advisory input on the statewide implementation and operation of Medicaid managed care. Modifies and sets forth additional provisions related to the Medicaid advisory committee.

Requires HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, and DADS to ensure coordination and communication between the Medicaid advisory committee, regional Medicaid managed care advisory committees, and other advisory committees or groups that perform functions related to Medicaid managed care in a manner that enables the Medicaid advisory committee to act as a central source of agency information and stakeholder input relevant to the implementation and operation of Medicaid managed care.

Require HHSC or an agency operating part of the medical assistance program, as appropriate, notwithstanding any other law and subject to Section 533.0025, Government Code, to provide medical assistance for acute care services through the Medicaid managed care system implemented under Chapter 533 (Implementation of Medicaid Managed Care Program), Government Code, or another Medicaid capitated managed care program.

Requires the Senate Health and Human Services Committee and the House Human Services Committee to study and review the requirement that medical assistance program recipients who reside in nursing facilities receive nursing facility benefits through STAR + PLUS and its implementation and to, not later than January 15, 2015, report the findings and recommendations, and certain specified content, to the lieutenant governor, the speaker of the house of representatives, and the governor. Provides that the related section expires September 1, 2015.

Requires HHSC and DADS to review and evaluate the outcomes of the transition of the provision of benefits to recipients under MDCP to the STAR Kids delivery model and sets forth requirements regarding related reports to the legislature. Provides that the related section expires September 1, 2021.

Requires HHSC, not later than June 1, 2016, to submit a report to the legislature regarding HHSC's experience in delivering basic attendant and habilitation services for individuals with disabilities under STAR + PLUS and authorizes HHSC to combine the required report with that required under Section 1.06 of the Act.

Requires HHSC, in a contract between HHSC and an MCO under Chapter 533, Government Code, that is entered into or renewed on or after the effective date of the Act, to require that the MCO comply with applicable provisions regarding the contract as amended by Article 2 (Medicaid Managed Care Expansion) of the Act. Requires HHSC to seek to amend contracts entered into with MCOs under Chapter 533, Government Code, before the effective date of the Act to require those MCOs to comply with applicable provisions regarding the contract as amended by the Article. Provides that to the extent of a conflict between the applicable provisions of the related subsection and a provision of a contract with an MCO entered into before the effective date of the Act, the contract provision prevails.

Prohibits HHSC from implementing Section 533.00251(c)(6)(B) (relating to implementing the requirement to provide benefits under the medical assistance program to recipients who reside in nursing facilities through STAR+PLUS ensuring that an MCO providing services under the managed care program provides payment incentives to nursing facility providers that reward reductions in preventable acute care costs and encourage transformative efforts in the delivery of nursing facility services), Government Code, unless HHSC seeks and obtains a waiver or other authorization from the federal Centers for Medicare and Medicaid Services or other appropriate entity that ensures a significant portion, but not more than 80 percent, of accrued savings to the Medicare program as a result of reduced hospitalizations and institutionalizations and other care and efficiency improvements to nursing facilities participating in the medical assistance program in this state will be returned to this state and distributed to those facilities and from providing medical assistance benefits to recipients under Section 533.00251, Government Code, before September 1, 2014.

Requires the executive commissioner, as soon as practicable after the effective date of the Act, but not later than January 1, 2014, to adopt rules and managed care contracting guidelines governing the transition of appropriate duties and functions from HHSC and other health and human services agencies to MCOs that are required as a result of the changes in law made by Article 2 of the Act. Provides that the changes in law made by the Article are not intended to negatively affect Medicaid recipients' access to quality health care. Requires HHSC, as the state agency designated to supervise the administration and operation of the Medicaid program and to plan and direct the Medicaid program in each state agency that operates a portion of the Medicaid program, including directing the Medicaid managed care system to continue to timely enforce all laws applicable to the Medicaid program and the Medicaid managed care system.

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Defines "advisory committee," "department," "functional need," "ICF-IID program," and "Medicaid waiver program" in Section 533.0335 (Comprehensive Assessment and Resource Allocation Process), Health and Safety Code.

Requires DADS, subject to the availability of federal funding, to develop and implement a comprehensive assessment instrument and a resource allocation process for individuals with IDD as needed to ensure that each individual with an IDD receives the type, intensity, and range of services that are both appropriate and available, based on the functional needs of that individual, if the individual receives services through a Medicaid waiver program, the ICF-IID program, or an intermediate care facility operated by the state and providing services for individuals with IDDs.

Requires DADS, in developing a comprehensive assessment instrument, to evaluate any assessment instrument in use by DADS. Authorizes DADS, in addition, to implement an evidence-based, nationally recognized, comprehensive assessment instrument that assesses the functional needs of an individual with IDDs as the comprehensive assessment instrument required. Provides that the related subsection expires September 1, 2015.

Requires DADS, in consultation with the IDDSR advisory committee, to establish a PA process for requests for supervised living or residential support services available in the home and community-based services Medicaid waiver program (HCS) and requires that the process ensure that supervised living or residential support services available in HCS are available only to individuals for whom a more independent setting is not appropriate or available.

Requires the executive commissioner, to the extent permitted under federal law and regulations, to adopt or amend rules as necessary to allow for the development of additional housing supports for individuals with disabilities in urban and rural areas, including certain options. Requires DADS, in cooperation with the Texas Department of Housing and Community Affairs, the Department of Agriculture, the Texas State Affordable Housing Corporation, and the IDDSR advisory committee to coordinate with housing entities as necessary to expand opportunities for accessible, affordable, and integrated housing to meet the complex needs of individuals with disabilities.

Requires DADS, subject to the availability of federal funding, to develop and implement specialized training for providers, family members, caregivers, and first responders providing direct services and supports to individuals with IDDs and behavioral health needs who are at risk of institutionalization.

Requires DADS, subject to the availability of federal funding, to establish one or more behavioral health intervention teams to provide services and supports to individuals with IDDs and behavioral health needs who are at risk of institutionalization and sets forth who may be included in an intervention team. Sets forth certain requirements for the behavioral health intervention team in providing service and supports. Requires DADS to ensure that members of a behavioral health intervention team established under this section receive training on trauma-informed care.

Requires HHSC and DADS to conduct a study to identify crisis intervention programs currently available to, evaluate the need for appropriate housing for, and develop strategies for serving the needs of persons with Prader-Willi Syndrome and requires HHSC, not later than December 1, 2014, to submit a report to certain entities regarding the study. Provides that the related section expires September 1, 2015.

Requires HHSC to conduct a study to evaluate the need for applying income disregards to persons with IDD receiving benefits under the medical assistance program, including through a Section 1915(c) waiver program, and to, not later than January 15, 2015, submit a report to certain entities regarding the study. Provides that the related section expires September 1, 2015.

Requires HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, in consultation with the Medicaid and CHIP Quality-Based Payment Advisory Committee (QBP advisory committee) and other appropriate stakeholders, to establish a clinical improvement program to identify goals designed to improve quality of care and care management and to reduce PPEs and require MCOs to develop and implement collaborative program improvement strategies to address the goals.

Requires HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, to establish outcome-based performance measures and incentives to include in each contract between a health maintenance organization and HHSC for the provision of health care services to recipients that is procured and managed under a value-based purchasing model and requires that the performance measures and incentives be designed to facilitate and increase recipients' access to appropriate health care services, and to the extent possible, align with other state and regional quality care improvement initiatives.

Defines "potentially preventable event" in Section 533.00511 (Quality-Based Enrollment Incentive Program for Managed Care Organizations), Government Code.

Requires HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, to create an incentive program that automatically enrolls a greater percentage of recipients who did not actively choose their managed care plan in a managed care plan, based on the quality of care provided through the MCO offering that managed care plan; the organization's ability to efficiently and effectively provide services; and the organization's performance with respect to exceeding, or failing to achieve, appropriate outcome and process measures developed by HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, including measures based on PPEs.

Authorizes HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, if cost-effective, to use amounts received by the state under Section 533.014 (Profit Sharing), Government Code, to provide incentives to specific MCOs to promote quality of care, encourage payment reform, reward local service delivery reform, increase efficiency, and reduce inappropriate or preventable service utilization.

Modifies the composition of the QBP advisory committee.

Requires HHSC in developing outcome and process measures under Section 536.003 (Development of Quality-Based Outcome and Process Measures), Government Code, to include measures that are based on PPEs and that advance quality improvement and innovation, rather than to consider measures addressing PPEs. Authorizes HHSC to change measures developed to promote continuous system reform, improved quality, and reduced costs, and to account for MCOs added to a service area. Sets forth certain requirements regarding the outcome measures based on PPEs. Requires HHSC, to the extent feasible, to develop outcome and process measures that meet certain criteria, including outcome and process measures that will have the greatest effect on improving quality of care and the efficient use of services,

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including acute care services and LTSS, that reflect effective coordination of acute care services and LTSS, that can be tied to expenditures, and that reduce preventable health care utilization and costs.

Requires HHSC, after consulting with the QBP advisory committee and other appropriate stakeholders, to, using certain quality-based outcome and process measures, develop quality-based payment systems and require managed care organizations to develop quality-based payment systems for compensating a physician or other health care provider participating in the child health plan or Medicaid program that meet certain criteria.

Requires HHSC, notwithstanding Section 536.005(a) (relating to requiring HHSC to convert hospital reimbursement systems under the child health plan and Medicaid programs to a diagnosis-related groups methodology), Government Code, and to the extent possible, to, not later than September 1, 2013, convert outpatient hospital reimbursement systems under the child health plan and Medicaid programs to an appropriate prospective payment system that will allow HHSC to more accurately classify the full range of outpatient service episodes, more accurately account for the intensity of services provided, and motivate outpatient service providers to increase efficiency and effectiveness.

Requires HHSC and the QBP advisory committee to, among other activities, develop web-based capability to provide MCOs and health care providers with data on their clinical and utilization performance, including comparisons to peer organizations and providers in this state and in the provider's respective region.

Modifies the requirements of the annual report regarding quality-based outcome and process measures developed and the progress and the implementation of the quality-based payment systems and other payment initiatives HHSC is required to submit to the legislature and make available to the public.

Authorizes the percentage of the premiums paid, under the requirement that HHSC, subject to federal law, base a percentage of the premiums paid to an MCO participating in the child health plan or Medicaid program on the organization's performance with respect to outcome and process measures developed that address PPEs, to increase each year.

Authorizes HHSC to allow an MCO participating in the child health plan or Medicaid program increased flexibility to implement quality initiatives in a managed care plan offered by the organization in order to achieve certain goals, including to reduce the incidence of unnecessary institutionalization and PPEs, and to increase the use of alternative payment systems, including shared savings models, in collaboration with physicians and other health care providers.

Requires the executive commissioner to adopt rules for identifying certain issues, including potentially preventable admissions and readmissions of child health plan program enrollees and Medicaid recipients, including preventable admissions to long-term care facilities; potentially preventable ancillary services provided to or ordered for child health plan program enrollees and Medicaid recipients; and potentially preventable emergency room visits by child health plan program enrollees and Medicaid recipients. Sets forth certain provisions regarding release of information from reports related to that information.

Requires HHSC, after consulting with the QBP advisory committee, to establish payment initiatives to test the effectiveness of quality-based payment systems, alternative payment methodologies, and high-quality, cost-effective health care delivery models that provide incentives to physicians and other health care providers to develop health care interventions for child health plan program enrollees or Medicaid

recipients, or both, that will meet certain goals, including improve integration of acute care services and LTSS, including discharge planning from acute care services to community-based LTSS.

Authorizes HHSC, subject to added Subchapter F (Quality-Based Long-Term Services and Supports Payment Systems), Chapter 536, Government Code, after consulting with the QBP advisory committee and other appropriate stakeholders, to develop and implement quality-based payment systems for Medicaid LTSS providers designed to improve quality of care and reduce the provision of unnecessary services. Requires that such a quality-based payment system developed base payments to providers on quality and efficiency measures that may include measurable wellness and prevention criteria and use of evidence-based best practices, sharing a portion of any realized cost savings achieved by the provider, and ensuring quality of care outcomes, including a reduction in PPEs. Authorizes HHSC to develop a quality-based payment system for Medicaid LTSS providers under the subchapter only if implementing the system would be feasible and cost-effective.

Requires HHSC, to ensure that HHSC is using the best data to inform the development and implementation of quality-based payment systems, to evaluate the reliability, validity, and functionality of post-acute and LTSS data sets and sets forth requirements for the evaluation.

Requires the executive commissioner to adopt rules for identifying the incidence of potentially preventable admissions, potentially preventable readmissions, and potentially preventable emergency room visits by Medicaid LTSS recipients and requires HHSC to establish a program to provide a report to each Medicaid LTSS provider regarding the provider's performance with respect to these incidences. Sets forth provisions regarding confidentiality of the reports and release of the information from the reports.

Requires HHSC, as soon as practicable after the effective date of the Act, to provide a portal through which providers in any MCO's provider network may submit acute care services and long-term services and supports claims as required.

Requires HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, to pursue and, if appropriate, implement premium rate-setting strategies that encourage provider payment reform and more efficient service delivery and provider practices, and, in pursuing premium rate-setting strategies, to review and consider strategies employed or under consideration by other states. Authorizes HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, if necessary, to request a waiver or other authorization from a federal agency to implement identified strategies.

Requires HHSC and other health and human services agencies, to the extent permitted under applicable federal law and notwithstanding any provision of Chapter 191 (Administration of Vital Statistics Records) or 192 (Birth Records), Health and Safety Code, to share data to facilitate patient care coordination, quality improvement, and cost savings in the Medicaid program, child health plan program, and other health and human services programs funded using money appropriated from the general revenue fund.

Requires HHSC, notwithstanding other law, to the extent possible, to align service delivery areas under the Medicaid and child health plan programs.

Authorizes HHSC, if cost-effective, to implement a wellness screening program for Medicaid recipients designed to evaluate a recipient's risk for certain diseases and medical conditions for purposes of

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establishing a health baseline for each recipient that may be used to tailor the recipient's treatment plan or for establishing the recipient's health goals.

Provides that Section 531.024115 (Service Delivery Area Alignment), Government Code, as added by Article 6 (Additional Provisions Relating to Quality and Delivery of Health and Human Services) of the Act, applies only with respect to a contract between HHSC and an MCO, service provider, or other person or entity under the medical assistance program, or the child health plan program that is entered into or renewed on or after the effective date of the Act and does not authorize HHSC to alter the terms of a contract that was entered into or renewed before the effective date of the Act.

Authorizes a local mental health authority, in addition to certain required services required under Section 533.0354(a) (relating to requiring a local mental health authority to ensure the provision of assessment services, crisis services, and intensive and comprehensive services using disease management practices for adults with bipolar disorder, schizophrenia, or clinically severe depression and for children with serious emotional illnesses, and requiring the local mental health authority to ensure that individuals are engaged with certain treatment services) and using money appropriated for that purpose or money received under the Texas Health Care Transformation and Quality Improvement Program waiver, to ensure, to the extent feasible, the provision of assessment services, crisis services, and intensive and comprehensive services using disease management practices for children with serious emotional, behavioral, or mental disturbance not described by the subsection and adults with severe mental illness who are experiencing significant functional impairment due to a mental health disorder not described by the subsection that is defined by the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition (DSM-5), including certain disorders.

Requires each local mental health authority to be required to incorporate jail diversion strategies into the authority's disease management practices to reduce the involvement of the criminal justice system in managing adults with certain specified disorders as defined by the DSM-5, who are not described by Section 533.0354(b) (relating to requiring each local mental health authority to incorporate jail diversion strategies into the authority's disease management practices for managing adults with schizophrenia and bipolar disorder to reduce their involvement with the criminal justice system), Health and Safety Code.

Defines "commission" and "supplemental hospital payment program" in Section 32.0284 (Calculation of Payments Under Certain Supplemental Hospital Payment Programs), Human Resources Code.

Requires HHSC, for purposes of calculating the hospital-specific limit used to determine a hospital's uncompensated care payment under a supplemental hospital payment program, to ensure that to the extent a third-party commercial payment exceeds the Medicaid allowable cost for a service provided to a recipient and for which reimbursement was not paid under the medical assistance program, the payment is not considered a medical assistance payment.

Authorizes HHSC, to the extent allowed by the General Appropriations Act, to transfer general revenue funds appropriated to HHSC for the medical assistance program to DADS to provide Program of All-Inclusive Care for the Elderly (PACE) services in PACE program service areas to eligible recipients whose medical assistance benefits would otherwise be delivered as home and community-based services through STAR + PLUS and whose personal incomes are at or below the level of income required to receive Supplemental Security Income (SSI) benefits.

Authorizes HHSC, under the Act, to only provide medical assistance to a person who would have been otherwise eligible for medical assistance or for whom federal matching funds were available under the eligibility criteria for medical assistance in effect on December 31, 2013.

Requires HHSC, as soon as practicable after the effective date of the Act, to apply for and actively seek a waiver or authorization from the appropriate federal agency to waive, with respect to a person who is dually eligible for Medicare and Medicaid, the requirement under 42 C.F.R. Section 409.30 that the person be hospitalized for at least three consecutive calendar days before Medicare covers posthospital skilled nursing facility care for the person.

Requires HHSC, if determined that it is cost-effective, to apply for and actively seek a waiver or authorization from the appropriate federal agency to allow the state to provide medical assistance under the waiver or authorization to medically fragile individuals who are at least 21 years of age and whose costs to receive care exceed cost limits under existing Medicaid waiver programs.

Authorizes HHSC to use any available revenue, including legislative appropriations and available federal funds, for purposes of implementing any provision of the Act.

Provides that the Act is effective on September 1, 2013, except that Section 533.0354 (Disease Management Practices and Jail Diversion measures of Local Mental Health Authorities), Health and Safety Code, is effective on January 1, 2014.

Provision and Delivery of Certain Health and Human Services—S.B. 8
by Senator Nelson et al.—House Sponsor: Representative Kolkhorst et al.

During the interim of the 82nd Legislature, the legislature noted many issues of fraud, waste, abuse, and overutilization in programs such as prior authorization and utilization review processes in Medicaid programs, the medical transportation program (MTP), non-emergent services provided by ambulance providers, and other programs and services, and expressed concern with the proliferation and costs related to those actions and the need to address these issues. This bill:

Requires the executive commissioner of the Health and Human Services Commission (executive commissioner; HHSC), as soon as possible after the effective date of the Act, to establish a data analysis unit within HHSC to establish, employ, and oversee data analysis processes designed to improve contract management, detect data trends, and identify anomalies relating to service utilization, providers, payment methodologies, and compliance with requirements in Medicaid and child health plan program managed care and fee-for-service (FFS) contracts. Requires HHSC to assign staff to the data analysis unit who perform duties only in relation to the unit. Sets forth the requirement that the data analysis unit provide updates on the unit's activities and findings to certain persons and legislative entities.

Prohibits a provider participating in the Medicaid or child health plan program, including a provider participating in the network of a managed care organization (MCO) that contracts with HHSC to provide those services, from engaging in any marketing activity that involves unsolicited personal contact with a Medicaid client or a parent whose child is enrolled in the Medicaid or child health plan program; is directed at the client or parent solely because the client or the parent's child is receiving benefits under those programs; and is intended to influence the client's or parent's choice of provider. Requires a provider

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participating in the network of an MCO described, in addition to the requirements of that subsection, to comply with the marketing guidelines established by HHSC.

Provides that nothing in Section 531.02115 (Marketing Activities by Providers Participating in Medicaid or Child Health Plan Program), Government Code, prohibits a provider participating in the Medicaid or child health plan program from certain marketing activity and dissemination of material or attempt to communicate with a Medicaid client or a parent whose child is enrolled in the Medicaid or child health program for certain purposes and a provider participating the Medicaid STAR + PLUS program from, as permitted in the contract, certain marketing activity.

Requires HHSC to establish a process by which providers are authorized to submit proposed marketing activities for review and peer analysis to ensure that providers are in compliance with certain requirements or to determine whether the providers are exempt from a requirement. Authorizes HHSC to grant or deny a provider's request for authorization to engage in a proposed marketing activity.

Requires the executive commissioner to adopt rules as necessary to implement Section 531.02115, Government Code.

Requires HHSC to enter into a memorandum of understanding with the Texas Department of Motor Vehicles and the Department of Public Safety of the State of Texas (DPS) for purposes of obtaining the motor vehicle registration and driver's license information of a provider of medical transportation services to confirm that the provider complies with applicable requirements and to establish a process by which providers of medical transportation services that contract with HHSC are authorized to request and obtain that information to ensure that subcontractors providing such services meet applicable requirements.

Requires HHSC to periodically review in accordance with an established schedule the PA and utilization review processes within the Medicaid FFS delivery model to determine whether those processes need modification to reduce authorizations of unnecessary services and inappropriate use of services, and to also monitor the processes for anomalies and to review the process for modification earlier than scheduled on identification of an anomaly.

Requires HHSC to monitor Medicaid MCOs to ensure that the organizations are using PA and utilization review processes to reduce authorizations of unnecessary services and inappropriate use of services.

Provides that HHSC's office of inspector general (OIG) is responsible for the prevention, detection, audit, inspection, review, and investigation of fraud, waste, and abuse in the provision and delivery of all health and human services in the state, including services through any state-administered health or human services program that is wholly or partly federally funded, and the enforcement of state law relating to the provision of those services, rather than providing that HHSC, through OIG, is responsible for the investigation of fraud and abuse in the provision of health and human services and the enforcement of state law relating to the provision of those services.

Requires OIG to employ and commission not more than five peace officers at any given time for the purpose of assisting OIG in carrying out the duties of OIG relating to the investigation of fraud, waste, and abuse in the Medicaid program, and sets forth additional provisions related to those peace officers.

Defines "managed transportation organization," "medical transportation program," and "transportation service area provider" in added Section 533.02257 (Delivery of Medical Transportation Program Services), Government Code.

Requires HHSC, subject to a certain provision, to provide MTP services on a regional basis through a managed transportation delivery model using managed transportation organizations (MTOs) and providers, as appropriate, that operate under a capitated rate system, assume financial responsibility under a full-risk model, operate a call center, use fixed routes when available and appropriate, and agree to provide data to HHSC if HHSC determines that the data is required to receive federal matching funds.

Requires HHSC to procure MTOs under MTP through a competitive bidding process for each managed transportation region as determined by HHSC. Requires an MTO that participates in MTP to attempt to contract with medical transportation providers that meet certain criteria.

Requires HHSC to require that MTOs and providers participating in MTP meet minimum quality and efficiency measures as determined by HHSC.

Authorizes HHSC to contract with transportation service area providers providing services under MTP on September 1, 2013, in not more than three contiguous rural or small urban transit districts located within a managed transportation region to execute appropriate interlocal agreements to consolidate and coordinate MTP service delivery activities within the area served by the providers for the evaluation of cost-savings measures, efficiencies, best practices, and available matching funds. Provides that the related subsection expires August 31, 2015.

Authorizes HHSC to delay providing MTP services through a managed transportation delivery model in areas of this state in which HHSC on September 1, 2013, is operating a full-risk transportation broker model, and prohibits HHSC, notwithstanding that provision, from delaying providing MTP services through a managed transportation delivery model in certain counties.

Requires HHSC, not later than September 1, 2014, to begin providing MTP services through the required delivery model, subject to a certain other provision.

Provides that the requirements imposed by Sections 533.005(a)(23)(A), 533.005(a)(23)(B), and 533.005(a)(23)(C) (relating to requiring a contract between an MCO and HHSC for the organization to provide health care services to recipients require the MCO to develop, implement, and maintain an outpatient pharmacy benefit plan for its enrolled recipients that meets certain criteria) do not apply, and are prohibited from being enforced, on and after August 31, 2018, rather than on and after August 31, 2013.

Requires the Department of State Health Services (DSHS) to issue to an emergency medical services (EMS) provider applicant a license that is valid for two years if DSHS is satisfied that certain conditions are met, including the applicant, rather than the EMS provider, has adequate staff to meet the related prescribed staffing standards and adopted rules; the applicant, rather than the EMS provider, offers safe and efficient services for emergency prehospital care and transportation of patients; the applicant possesses sufficient professional experience and qualifications to provide EMS and has not been excluded from participation in the state Medicaid program; the applicant holds a letter of approval issued by the governing body of the municipality or the commissioners court of the county in which the applicant is

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located and is applying to provide EMS, as applicable; the applicant employs a medical director; and the applicant, rather than the EMS provider, complies with the adopted rules.

Requires a person who applies for a license or for a renewal of a license, in addition to the other requirements for obtaining or renewing an EMS provider license, to provide DSHS with a letter of credit issued by a federally insured bank or savings institution in the amount of \$100,000 for the initial license and for renewal of the license on the second anniversary of the date the initial license is issued and set amounts for the renewal of the license on certain anniversaries of the date the initial license is issued; provide HHSC with a surety bond in the amount of \$50,000, if the applicant participates in the medical assistance program, the Medicaid managed care program, or the child health plan program; and submit for DSHS approval certain information regarding the provider's administrator of record who satisfies the position's requirements; and exempts an EMS provider that is directly operated by a governmental entity from the provision.

Sets forth certain requirements, prohibitions, and exceptions regarding the administrator of record for an EMS provider licensed under Subchapter C (Licenses, Certification, and Qualifications), Chapter 773 (Emergency Medical Services), Health and Safety Code.

Requires DSHS, not later than December 1 of each even-numbered year, to electronically submit a report to certain entities on the effect of Sections 773.05711 (Additional Emergency Medical Services Provider License Requirements) and 773.05712 (Administrator of Record), Health and Safety Code, that includes certain data relating to licenses issued or denied, licenses suspended or revoked for violations, fraud, complaints, and coordination efforts of DSHS and the Texas medical board related to those sections.

Requires an EMS provider applicant to obtain a letter of approval from the governing body of the municipality in which the applicant is located and is applying to provide EMS, or if the applicant is not located in a municipality, the commissioners court of the county in which the applicant is located and is applying to provide EMS. Authorizes such governmental entities to issue such a letter of approval only if the governing body or commissioners court determines that the addition of another licensed EMS provider will not interfere with or adversely affect the provision of such services by operating providers, remedy an existing provider shortage, and not cause an oversupply of such providers.

Prohibits an EMS provider from expanding operations to or stationing any EMS vehicles in a municipality or county other than the municipality or county from which the provider obtained the letter of approval until after the second anniversary of the date the provider's initial license was issued, unless the expansion or stationing occurs in connection with certain events.

Provides that Section 773.0573 (Letter of Approval from Local Governmental Entity), Health and Safety Code, does not apply to renewal of an EMS provider license, or a municipality, county, emergency services district, hospital, or EMS volunteer provider organization in this state that applies for an EMS provider license.

Sets forth provisions regarding the authorization to suspend, revoke, or deny an EMS provider license on certain grounds regarding the provider's administrator of record, employee, or other representative, and exempts an EMS provider that is directly operated by a governmental entity from the section.

Prohibits DSHS, notwithstanding Chapter 773, Health and Safety Code, from issuing any new emergency EMS licenses for the period beginning on September 1, 2013, and ending on August 31, 2014. Provides that the moratorium does not apply to the issuance of an EMS provider license to a municipality, county, emergency services district, hospital, or EMS volunteer provider organization in this state, or to an EMS provider applicant who is applying to provide services in response to 9-1-1 calls and is located in a rural area.

Sets forth dates for which certain changes in law apply to an application for approval or renewal of an EMS provider license submitted to DSHS.

Requires the executive commissioner, in adopting rules under Section 32.0322 (Criminal History Record Information; Enrollment of Providers), Human Resources Code, to require revocation of a provider's enrollment or denial of a person's application for enrollment as a provider under the medical assistance program if the person has been excluded or debarred from participation in a state or federally funded health care program as a result of certain criminal convictions or findings of civil or administrative liability. Authorizes HHSC or an agency operating part of the medical assistance program, as appropriate, to reinstate a provider's enrollment under the medical assistance program or grant a person's previously denied application to enroll as a provider under certain circumstances.

Requires HHSC, not later than the second anniversary of the date national standards for electronic prior authorization (PA) of benefits are adopted, to require a health benefit plan issuer participating in the medical assistance program or the agent of the health benefit plan issuer that manages or administers prescription drug benefits to exchange PA requests electronically with a prescribing provider participating in the medical assistance program who has such a capability and who initiates a request electronically.

Provides that the period of ineligibility begins on the date on which the judgment finding the provider liable under Section 36.052 (Civil Remedies), Human Resources Code, is entered by the trial court, rather than the date on which the determination that the provider is liable becomes final, and provides that, notwithstanding that provision, the period of ineligibility for an individual licensed by a health care regulatory agency or a physician begins on the date on which the determination that the individual or physician is liable becomes final.

Requires HHSC, in cooperation with DSHS and TMB, to, as soon as practicable after the effective date of the Act, conduct a thorough review of and solicit stakeholder input regarding the laws and policies related to the use of non-emergent services provided by ambulance providers under the medical assistance program; make recommendations, not later than January 1, 2014, to the legislature regarding suggested changes to the law that would reduce the incidence of and opportunities for fraud, waste, and abuse in that area; and amend policies as necessary to assist in accomplishing those goals. Provides that the section expires September 1, 2015.

Requires DSHS, in cooperation with HHSC and TMB, to, as soon as practicable after the effective date of the Act, conduct a thorough review of and solicit stakeholder input regarding the laws and policies related to the licensure of non-emergency transportation providers; make recommendations, not later than January 1, 2014, to the legislature regarding suggested changes to the law that would reduce the incidence of and opportunities for fraud, waste, and abuse in that area; and amend policies as necessary to assist in accomplishing those goals. Provides that the section expires September 1, 2015.

Requires TMB, in cooperation with DSHS and HHSC, to, as soon as practicable after the effective date of the Act, conduct a thorough review of and solicit stakeholder input regarding the laws and policies related to the delegation of health care services by physicians or medical directors to qualified EMS personnel and physicians' assessment of patients' needs for purposes of ambulatory transfer or transport or other purposes; make recommendations, not later than January 1, 2014, to the legislature regarding suggested changes to the law that would reduce the incidence of and opportunities for fraud, waste, and abuse in those areas; and amend policies as necessary to assist in accomplishing those goals. Provides that the section expires September 1, 2015.

Requires HHSC to study the feasibility of developing and implementing a single standard PA form to be used for requesting PA for prescription drugs in the medical assistance program by participating prescribers who do not have electronic prescribing capability and are not able to initiate electronic PA requests and to complete the study not later than December 31, 2014. Requires HHSC, if HHSC determines that developing and implementing such a form is feasible, will reduce administrative burdens, and is cost-effective, to adjust contracts with participating health benefit plan issuers and participating health benefit plan administrators to require acceptance of the form.

Requires OIG to review the manner in which OIG investigates fraud, waste, and abuse in the supplemental nutrition assistance program and OIG coordinates with other state and federal agencies in conducting those investigations, and requires OIG, not later than September 1, 2014, to submit to the legislature a written report containing strategies for addressing fraud, waste, and abuse in the supplemental nutrition assistance program. Provides that the section expires January 1, 2015.

Clarifies legislative intent regarding Section 32.024(s) (relating to requiring the rules governing the early and periodic screening, diagnosis, and treatment program revise the periodicity schedule to make certain allowances, and require as certain accompaniment of a child younger than 15 years or age as a condition for eligibility for reimbursement for certain cost of services), Human Resources Code, and a validation of certain HHSC acts and decisions. Discusses the issues that Chapter 766 (H.B. 1285), Acts of the 76th Legislature, Regular Session, 1999, sought to address by requiring that a child's parent or guardian or another adult authorized by the child's parent or guardian accompany the child at a visit or screening under the early and periodic screening, diagnosis, and treatment program in order for a Medicaid provider to be reimbursed for services provided at the visit or screening.

Provides that the legislature finds that, in amending that section, the legislature did not intend to create a hardship for families whose circumstances prevent a parent or guardian from accompanying the parent's or guardian's child to such visits or screenings and compromise a child's access to medically necessary services or to require a parent or guardian to jeopardize his or her employment or the health and safety of other children in the household; in enacting and enforcing administrative rules and policies to implement the parental accompaniment requirement, HHSC should give special consideration and should reasonably accommodate the circumstances of a child who lives in a single parent or guardian family and whose parent or guardian meet certain considerations; and in developing reasonable accommodations, HHSC should not allow the provider of a service or an affiliate of the provider to accompany the child as an authorized adult for purposes of Section 32.024(s)(2)(B) (relating to the requirement that a child younger than 15 years of age be accompanied at the visit by another adult, including an adult related to the child, authorized by the child's parent or guardian to accompany the child), Human Resources Code.

Provides that the principal purposes of Chapter 766 (H.B. 1285), Acts of the 76th Legislature, Regular Session, 1999, were to prevent Medicaid providers from committing fraud, encourage parental involvement in and management of health care of children enrolled in the early and periodic screening, diagnosis, and treatment program, and ensure the safety of children receiving services under the Medicaid program. Provides that the addition of the language allowing an adult authorized by a child's parent or guardian to accompany the child furthered each of those purposes. Discusses certain understandings of the legislature regarding the child's parent or guardian and Medicaid providers and their employees and associates.

Provides that HHSC, on March 15, 2012, notified certain Medicaid providers that state law and HHSC policy require a child's parent or guardian or another properly authorized adult to accompany a child receiving services under the Medicaid program, which followed the discovery that some providers were transporting children from schools to therapy clinics and other locations to receive therapy services and that, although the children were unaccompanied by a parent or guardian, the providers were obtaining reimbursement for the trips under the Medicaid MTP. Provides that HHSC clarified in the notice that, in order for a provider to be reimbursed for such transportation services, the child must be accompanied by the child's parent or guardian or another adult who is not the provider and whom the child's parent or guardian has authorized to accompany the child by submitting signed, written consent to the provider.

Provides that a lawsuit was filed, in May 2012, to enjoin HHSC from enforcing that section and associated rule as interpreted in certain notices issued by HHSC. Provides that a state district court enjoined HHSC from denying eligibility to a child for transportation services under the Medicaid MTP if the child's parent or guardian does not accompany the child, provided that the child's parent or guardian authorizes any other adult to accompany the child. Provides that the court also enjoined HHSC from requiring as a condition for a provider to be reimbursed for services provided to a child during such a visit or screening that the child be accompanied by the child's parent or guardian, provided that the child's parent or guardian authorizes another adult to accompany the child. Provides that the state has filed a notice of appeal of the court's order.

Provides that the legislature declares that a rule or policy adopted by HHSC before the effective date of this Act to require that, in order for a Medicaid provider to be reimbursed for services provided to a child under the early and periodic screening, diagnosis, and treatment program or MTP, the child is required to be accompanied by the child's parent or guardian or another adult whom the child's parent or guardian has authorized to accompany the child is conclusively presumed, as of the date the rule or policy was adopted, to be a valid exercise of HHSC's authority and consistent with the intent of the legislature, provided that the rule or policy was adopted pursuant to Section 32.024(s), Human Resources Code, and prohibits the child's parent or guardian from authorizing the provider or the provider's employee or associate as an adult who may accompany the child. Provides that this provision does not apply to certain actions or decisions.

Assistance and Supported Employment For Medicaid Waiver Program Participants—S.B. 45
by Senator Zaffirini—House Sponsor: Representative Naishtat

Interested parties contend that persons with disabilities face many barriers, including in the area of integrated employment. These persons note that certain Medicaid waiver programs for certain persons with disabilities provide varying supported employment and/or employment assistance services, if any at all. This bill:

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Defines "employment assistance" in the added Section 32.075 (Employment Assistance and Supported Employment), Human Resources Code.

Defines, in Section 32.075, Human Resources Code, "supported employment" as assistance provided, in order to sustain paid employment, to an individual who, because of a disability, requires intensive, ongoing support to be self-employed, work from home, or perform in a work setting at which individuals without disabilities are employed and provides that supported employment includes adaptations, supervision, and training related to an individual's diagnosis.

Provides that Section 32.075, Human Resources Code, applies only to the following medical assistance waiver programs: the community-based alternatives program, the community living assistance and support services program, the deaf-blind with multiple disabilities program, the home and community-based services program, the medically dependent children program, the STAR+PLUS Medicaid managed care program, the Texas home living program, and the youth empowered services program.

Requires the Health and Human Services Commission or an agency operating part of the medical assistance program, as appropriate, to provide employment assistance and supported employment to participants in the identified waiver programs.

Mental Health, Behavioral Health, Substance Abuse, and Certain Other Services—S.B. 58 *by Senator Nelson—House Sponsor: Representatives Zerwas and Rose*

Interested parties note that several mental health services are already provided through managed care for Medicaid-eligible individuals, but targeted case management and rehabilitative services are provided on a fee-for-service basis and are delivered almost exclusively by local mental health authorities for the Medicaid population. These parties contend that the current system makes it difficult to coordinate physical and behavioral health, an issue that was also noted in the Senate Committee on Health and Human Services interim report to the 83rd Legislature. Interested parties also express concern for persons experiencing homelessness and mental illness and the need for a support network for these individuals and to bring the public and private sectors together to address these issues at the community level. Interested parties also express concern that although certain contracted providers of community mental health and substance abuse services currently report performance and outcome measures to the Department of State Health Services (DSHS), the data is not made available to the public, making it difficult to compare performance across providers. This bill:

Defines, in added Section 533.00255 (Behavioral Health and Physical Health Services Network), Government Code, "behavioral health services" to mean mental health and substance abuse disorder services, other than those provided through the NorthSTAR demonstration Project.

Requires the Health and Human Services Commission (HHSC) or an agency operating part of the state Medicaid managed care program, as appropriate, to the greatest extent possible, to integrate into the Medicaid managed care program implemented under Chapter 533 (Implementation of Medicaid Managed Care Program), Government Code, behavioral health services, including targeted case management and psychiatric rehabilitation services, and physical health services for Medicaid-eligible persons.

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Requires a managed care organization (MCO) that contracts with HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, to develop a network of public and private providers of behavioral health services and ensure adults with serious mental illness and children with serious emotional disturbance have access to a comprehensive array of services.

Requires HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, in implementing Section 533.00255, Government Code, to ensure that an appropriate assessment tool is used to authorize services; providers are well-qualified and able to provide an appropriate array of services; appropriate performance and quality outcomes are measured; two health home pilot programs are established in two health service areas, representing two distinct regions of the state, for persons who are diagnosed with a serious mental illness and at least one other chronic health condition; a health home established under a pilot program complies with certain principles for patient-centered medical homes; and all behavioral health services provided are based on an approach to treatment where the expected outcome of treatment is recovery.

Requires HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, and the Department of State Health Services (DSHS) to establish a Behavioral Health Integration Advisory Committee (committee) that is required to address the planning and development needs of the behavioral health services network established, seek input from the behavioral health community on the implementation, and issue formal recommendations to HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, regarding the implementation. Requires HHSC, not later than December 1, 2013, to establish the committee and provides that the subsection related to the committee expires September 1, 2017.

Requires HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, to include a peer specialist as a benefit to recipients or as a provider type if it is determined to be cost-effective and beneficial to recipients.

Provides that, to the extent of any conflict between Section 533.00255, Government Code, and any other law relating to behavioral health services, Section 533.00255, Government Code, prevails.

Requires the executive commissioner of HHSC (executive commissioner) to adopt rules necessary to implement Section 533.00255, Government Code.

Adds Chapter 539 (Community Collaboratives), Subtitle I (Health and Human Services), Title 4 (Executive Branch), Government Code.

Requires DSHS to make grants to entities to establish or expand community collaboratives that bring the public and private sectors together to provide services to persons experiencing homelessness and mental illness to the extent funds are appropriated to DSHS for that purpose; authorizes DSHS to make a maximum of five grants, which are required to be made in the most populous municipalities in this state that are located in counties with a population of more than one million; and requires DSHS to give special consideration to entities establishing a new collaborative.

Sets forth certain requirements DSHS is required to require of each entity awarded a grant.

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Requires an entity to use money received from a grant made by DSHS and private funding sources for the establishment or expansion of a community collaborative, provided that the collaborative must be self-sustaining within seven years, and sets forth acceptable uses for the money.

Authorizes an entity to incorporate into the community collaborative operated by the entity the use of the Homeless Management Information System, transportation plans, and case managers if appropriate, and to consider incorporating into a collaborative certain opportunities, strategies, and services.

Requires that the focus of a community collaborative be the eventual successful transition of persons from receiving services from the collaborative to becoming integrated into the community served by the collaborative through community relationships and family supports.

Requires each entity that receives a grant from DSHS to establish or expand a community collaborative to select at least four of certain outcome measures that the entity will focus on meeting through the implementation and operation of the collaborative and requires DSHS to contract with an independent third party to verify annually whether a community collaborative is meeting the outcome measures selected by the entity that operates the collaborative.

Requires DSHS to establish processes by which DSHS may reduce or cease providing funding to an entity if the community collaborative operated by the entity does not meet the selected outcome measures or is not self-sustaining after seven years and requires DSHS to redistribute any funds withheld from an entity to other entities operating high-performing collaboratives on a competitive basis.

Requires the executive commissioner to adopt any rules necessary to implement the community collaborative grant program.

Requires DSHS, in collaboration with HHSC, to establish and maintain a public reporting system of performance and outcome measures relating to mental health and substance abuse services established by the Legislative Budget Board (LBB), DSHS, and HHSC, and requires DSHS, not later than December 1, 2013, to establish the public reporting system.

Requires that the system allow external users to view and compare the performance, outputs, and outcomes of certain entities.

Requires that the system allow external users to view and compare the performance, outputs, and outcomes of the Medicaid managed care programs that provide mental health services.

Requires DSHS to post the performance, output, and outcome measures quarterly or semiannually in accordance with when the measures are reported to DSHS on the DSHS website so that the information is accessible to the public.

Requires DSHS to consider public input in determining the appropriate outcome measures to collect in the public reporting system, and requires DSHS, to the extent possible, to include outcome measures that capture inpatient psychiatric care diversion, avoidance of emergency room use, criminal justice diversion, and the numbers of people who are homeless served.

Requires HHSC to conduct a study to determine the feasibility of establishing and maintaining the public reporting system, including, to the extent possible, the cost to the state and the impact on MCOs and providers of collecting the required outcome measures, and, not later than December 1, 2014, to report the results of the study to the legislature and appropriate legislative committees.

Requires DSHS, not later than December 1, 2014, to submit a report to the legislature and LBB on the development of the public reporting system and the outcome measures collected.

Requires HHSC, not later than September 1, 2014, to complete the integration of behavioral health and physical health services required by Section 533.00255, Government Code.

Public Health Funding Formulas and Certain Public Health Evaluations—S.B. 127
by Senator Nelson—House Sponsor: Representative Susan King

Interested parties assert that the majority of public health funding for local and regional health departments is distributed based on historical funding levels, rather than factors that reflect local needs, such as population density or disease rates. Interested parties also observe that there are instances in which staff at local health departments cannot effectively be used to respond to disasters or public health emergencies because of grant contract restrictions. This bill:

Defines "health service region," "local health department," "local health unit," and "public health district" for the added Section 1001.078 (Funding Formula; Public Health Evaluation), Health and Safety Code.

Requires the Department of State Health Services (DSHS), in collaboration with the Public Health Funding and Policy Committee (committee), to develop funding formulas for federal and state funds appropriated to DSHS to be allocated to local health departments, local health units, public health districts, and health service region's regional headquarters, based on population, population density, disease burden, social determinants of health, local efforts to prevent disease, and other relevant factors as determined by DSHS and the committee; evaluate the feasibility and benefits of placing a cap on the percentage of public health funds that can be used on administrative costs at these health entities; and evaluate public health functions by DSHS and these health entities and determine if another entity, including a private entity, can provide those functions more effectively.

Defines "local health department" for the added Section 1001.079 (Public Health Threat Policy), Health and Safety Code.

Requires DSHS to create a policy to allow a local health department flexibility, to the extent allowed under federal law, in the use of personnel and other resources during disaster response activities, outbreaks, and other appropriate public health threats.

Requires DSHS, not later than October 1, 2014, to develop the required funding formulas; submit to specified entities a report on the required findings related to placing a cap on the percentage of public health funds that can be used as administrative costs and evaluating public health functions of the specified health entities; and create the required public health threat policy.

Cancer Prevention and Research Institute of Texas Reform—S.B. 149
by Senator Nelson et al.—House Sponsor: Representative Keffer et al.

In 2007, Texas voters approved a constitutional amendment establishing the Cancer Prevention and Research Institute of Texas (CPRIT) and authorizing the state to issue bonds to fund cancer research and prevention programs and services. Interested parties contend, as a result of issues relating to conflict of interest, leadership and structure, grant processes, and other concerns that have been brought forth during the interim, that reform of CPRIT is necessary. This bill:

Defines "program integration committee" and redefines "research and prevention programs committee."

Provides that nothing in Chapter 102 (Cancer Prevention and Research Institute of Texas), Health and Safety Code, limits the authority of the state auditor under Chapter 321 (State Auditor), Government Code, or other law.

Provides that CPRIT, among other authorized activities, is required to continuously monitor authorized contracts and agreements and ensure that each grant recipient complies with the terms and conditions of the grant contract, rather than is authorized to monitor authorized contracts and agreements; is required to ensure that all grant proposals comply with statute and rules before the proposals are submitted to the oversight committee for approval; and is required to establish procedures to document that CPRIT, its employees, and its appointed committee members comply with all laws and rules governing the peer review process and conflicts of interest.

Removes the authorization for CPRIT to employ an executive director as determined by the oversight committee.

Requires CPRIT to employ a chief compliance officer (CCO) to monitor and report to the oversight committee regarding compliance with statute and rules. Requires the CCO to ensure that all grant proposals are in compliance before the proposals are submitted to the oversight committee for approval, and attend and observe the meetings of the program integration committee to ensure compliance.

Requires the oversight committee to hire a chief executive officer (CEO), who will perform the duties required by statute or designated by the oversight committee and meet other criteria.

Requires the CEO to hire one chief scientific officer, one chief operating officer, one chief product development officer, and one chief prevention officer, all of whom will report directly to the CEO and assist the CEO in collaborative outreach to further cancer research and prevention.

Requires CPRIT, not later than January 31 of each year, to submit to the governor and certain legislative entities and post on CPRIT's Internet website a report, rather than requires CPRIT to issue an annual public report, outlining CPRIT's activities, grants awarded, grants in progress, research accomplishments, and future program directions. Requires the report to include, in addition to current requirements, information related to compliance program activities and conflicts of interests.

Requires CPRIT to maintain complete records of certain information and documents regarding grant applications and grant recipients, including information related to their financial reports and progress reports. Requires CPRIT to have periodic audits made of any electronic grant management system used to

maintain records of grant applications and grant awards and to address in a timely manner each weakness identified in an audit of the system.

Prohibits CPRIT from supplementing the salary of any CPRIT employee with a gift or grant received by CPRIT. Authorizes CPRIT to supplement the salary of a chief scientific officer and provides that funding for such a salary supplement may only come from legislative appropriations or bond proceeds, rather than authorizes CPRIT to supplement the salary of the executive director and other senior staff members and rather than provides that such a supplement may come from gifts, grants, donations, or appropriations. Prohibits CPRIT from supplementing the CEO's salary and provides that the CEO's salary may only be paid from legislative appropriations.

Prohibits a CPRIT employee from having an office in a facility owned by an entity receiving or applying to receive money from CPRIT.

Reduces the composition of the oversight committee from 11 members to nine members by removing the comptroller or the comptroller's designee and the attorney general or the attorney general's designee.

Requires the governor, lieutenant governor, and the speaker of the house of representatives, in making appointments to the oversight committee, to each appoint at least one person who is a physician or a scientist with extensive experience in the field of oncology or public health.

Prohibits a person from being a member of the oversight committee if the person or the person's spouse, among other conditions, owns or controls, directly or indirectly, an interest, rather than more than a five percent interest, in a business entity or other organization receiving money from CPRIT.

Requires a person appointed to the oversight committee to disclose to CPRIT each political contribution to a candidate for a state or federal office over \$1,000 made by the person in the five years preceding the person's appointment and each year after the person's appointment until the person's term expires and requires CPRIT to annually post a report of that information on CPRIT's website.

Clarifies that oversight committee members appointed by the governor, lieutenant governor, and speaker of the house serve at the pleasure of the appointing office for specified terms.

Requires the oversight committee to elect a presiding officer and assistant presiding officer from among its members every two years, rather than to select a presiding officer; authorizes the oversight committee to elect additional officers from among its members; and prohibits the presiding officer and assistant presiding officer from serving in the position to which the officer was elected for two consecutive terms.

Requires the oversight committee to establish and approve duties and responsibilities for officers of the committee, and to develop and implement policies that distinguish the responsibilities of the oversight committee and the committee's officers from the responsibilities of the CEO and CPRIT employees.

Requires the oversight committee to adopt conflict of interest (COI) rules, based on standards applicable to members of scientific review committees of the National Institutes of Health, to govern the program integration committee, the research and prevention programs committees, and CPRIT employees, in addition to the current persons for whom it does so.

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Requires a CPRIT employee, oversight committee member, program integration committee member, or research and prevention programs committee member to recuse himself or herself as provided and as applicable, if the employee or member, or a person who is related to the employee or member within the second degree of affinity or consanguinity, has a professional or financial interest in an entity receiving or applying to receive money from CPRIT, and specifies what constitutes such a professional interest or a financial interest.

Sets forth provisions regarding disclosure of COI and relating to recusal. Authorizes an oversight committee member, program integration committee member, research and prevention programs committee member, or CPRIT employee with a COI to seek a waiver as provided.

Provides that a member or employee as specified who reports a potential COI or another impropriety or self-dealing of the member or employee and who fully complies with the recommendations of the general counsel and recusal requirements is considered in compliance with the COI provisions and provides that the member or employee is subject to other applicable laws, rules, requirements, and prohibitions.

Provides that an oversight committee member, program integration committee member, research and prevention programs committee member, or CPRIT employee who intentionally violates Section 102.1061 (Disclosure of Conflict of Interest; Recusal), Health and Safety Code, is subject to removal from further participation in CPRIT's grant review process.

Requires the oversight committee to adopt rules governing the waiver of the COI requirements under exceptional circumstances for an oversight committee member, program integration committee member, research and prevention programs committee member, or CPRIT employee. Sets forth requirements regarding those rules.

Sets forth provisions regarding requests for investigation of a potential unreported COIs, notification of such COIs, investigation of such COIs, actions taken after receiving CPRIT's general counsel's opinion regarding the unreported COI and consulting with the presiding officer of the oversight committee, and final determination of the unreported COI.

Requires the oversight committee to hire a chief executive officer (CEO), rather than an executive director; annually set priorities as prescribed by the legislature for each grant program that receives money; and consider the priorities set under in awarding grants.

Requires the oversight committee to adopt a code of conduct applicable to each oversight committee member, program integration committee member, and CPRIT employee. Requires the code of conduct at a minimum to include provisions prohibiting the member, the employee, or the member's or employee's spouse from certain actions.

Requires each member of the oversight committee to file with the chief compliance officer a verified financial statement complying with certain sections of law.

Requires the oversight committee to establish research and prevention programs committees and sets forth provisions regarding the appointment of members and honorarium paid to a member. Requires CPRIT to adopt a written policy on in-state or out-of-state residency requirements for members of the research and prevention programs committees. Requires the oversight committee to adopt rules regarding the

qualifications required for an individual who will serve as a trained cancer patient advocate committee member for a research and prevention programs committee, which must require a trained cancer patient advocate to receive science-based training.

Requires a member of a research and prevention programs committee to disclose in writing to the CEO if the member has a professional or financial interest in an entity that has a direct interest in a matter that comes before the member's committee, rather than requires a member of a research and prevention programs committee, the university advisory committee, or any ad hoc committee to disclose in writing to the executive director if the member has an interest in a matter that comes before the member's committee or has a substantial financial interest in an entity that has a direct interest in the matter. Prohibits a member of a research and prevention programs committee from serving on the board of directors or other governing board of an entity receiving a grant from CPRIT or of a foundation or similar organization affiliated with the entity.

Provides that the cancer prevention and research fund consists of certain monies, including appropriations of money to the fund by the legislature, except that the appropriated money is prohibited from including the proceeds from the issuance of bonds authorized by Section 67 (Cancer Prevention and Research Institute of Texas), Article III, Texas Constitution, and removing patent, royalty, and license fees and other income received under a contract entered into as provided by Section 102.255 (Contract Terms), Health and Safety Code. Authorizes the fund to be used only to pay for certain expenses, including debt service on bonds issued as authorized by Section 67, Article III, Texas Constitution.

Requires that the rules the oversight committee is required to issue regarding the procedure for awarding grants to an applicant include certain procedures, including requiring a research and prevention programs committee to score, rather than review, grant applications and make recommendations to the program integration committee and the oversight committee regarding the award of cancer research and prevention grants, including a prioritized list that includes certain information; require the program integration committee to submit to the oversight committee a list of grant applications the program integration committee by majority vote approved for recommendation that includes certain documentation, is substantially based on the list submitted by the research and prevention programs committee, and to the extent possible, gives priority to proposals that meet certain criteria, including expedite innovation and product development, rather than expedite innovation and commercialization, and address the goals of the Texas Cancer Plan; and require CPRIT's CCO to compare each grant application submitted to CPRIT to a list of donors from any nonprofit organization established to provide support to CPRIT compiled from certain information made available before the application is submitted to a research and prevention programs committee for review and again before any grant is awarded to the applicant.

Requires the CEO to submit a written affidavit for each grant application recommendation included on the list submitted to the oversight committee, which must contain certain information.

Prohibits CPRIT from awarding a grant to an applicant who has made a gift or grant to CPRIT or to a nonprofit organization established to provide support to CPRIT.

Requires two-thirds of the members of the oversight committee present and voting to vote to approve each funding recommendation of the program integration committee and requires that a statement explaining the reasons a funding recommendation was not followed be included in the minutes of the meeting, rather than requiring the oversight committee to follow the funding recommendations of the executive director in the

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order the executive director submits the applications to the oversight committee unless two-thirds of the members of the oversight committee vote to disregard a recommendation.

Requires the oversight committee, before awarding a grant under Subchapter E (Cancer Prevention and Research Fund), Chapter 102, Health and Safety Code, to enter into a written contract with the grant recipient. Authorizes the contract to specify certain conditions, including authorizing CPRIT to terminate the contract using the written process prescribed in the contract and require the recipient to repay the awarded grant money and any related interest applicable under the contract to this state at the agreed rate and on the agreed terms if the grant recipient fails to meet the terms and conditions of the contract. Requires that the contract include certain provisions, including require, in accordance with certain law, the grant recipient to dedicate an amount of matching funds equal to one-half of the amount of the research grant awarded and specify certain information.

Requires the recipient of the grant, before the oversight committee is authorized to make for cancer research any grant of any proceeds of the bonds issued under Subchapter E, Chapter 102, Health and Safety Code, to certify that the recipient has an amount of funds equal to one-half of the grant and dedicate those funds to the research that is the subject of the grant request. Requires CPRIT to adopt rules specifying how a grant recipient fulfills obligations under Subchapter F (Procedure for Making Awards), Chapter 102, Health and Safety Code. Sets forth minimum requirements for rules relating to matching funds and other topics.

Sets forth provisions regarding reporting requirements, the monitoring of those reports, and notification by the CCO to the general counsel and oversight committee of a grant recipient that has not maintained compliance with the reporting requirements or matching funds provisions to allow CPRIT to begin suspension or termination of the grant contract.

Provides that the records of a nonprofit organization established to provide support to CPRIT are public information and requires CPRIT to post on its website records that pertain specifically to any gift, grant, or other consideration provided to CPRIT, a CPRIT employee, or a member of a CPRIT committee.

Defines "compliance program" in Section 102.263 (Compliance Program), Health and Safety Code.

Requires CPRIT to establish a compliance program that operates under the direction of CPRIT's CCO. Authorizes CPRIT to establish procedures to allow private access to the compliance program office and to preserve the confidentiality of communications and the anonymity of a person making a compliance report or participating in a compliance investigation. Sets forth certain information that is confidential and is not subject to disclosure under Chapter 552 (Public Information), Government Code. Authorizes information made confidential or excepted from public disclosure to be made available to certain entities on request and in compliance with applicable laws and procedures. Requires the oversight committee to establish a compliance program as soon as practicable after the effective date of the Act.

Authorizes the oversight committee to conduct a closed meeting to discuss an ongoing compliance investigation into issues related to fraud, waste, or abuse of state resources.

Requires CPRIT to establish a program integration committee and provides that the committee is composed of five certain members and has the duties assigned under Chapter 102, Health and Safety Code.

Provides that the cancer prevention and research interest and sinking fund is a dedicated account in the general revenue fund, which consists of certain monies, and is authorized to be used only to pay for debt service on bonds issued as authorized by Section 67, Article III, Texas Constitution, at a time and in a manner to be determined by the legislature in the General Appropriations Act.

Provides that the terms of the members of the oversight committee serving immediately before the effective date of the Act expire on that date.

Requires the governor, lieutenant governor, and speaker of the house of representatives, as soon as practicable after the effective date of the Act, to each appoint members to the oversight committee as required.

Requires the oversight committee, as soon as practicable after the effective date of the Act, to adopt the rules necessary to implement the bill's provisions. Requires the oversight committee, not later than December 1, 2013, to employ a CCO and a CEO as required.

Provides that the changes in law made by the Act apply only to a grant application submitted to CPRIT on or after the effective date of the Act and that a grant application submitted before the effective date of the Act is governed by the law in effect on the date the application was submitted, and that the law is continued in effect for that purpose.

Requires employees, oversight committee members, and members of other committees of CPRIT, not later than January 1, 2014, to comply with the changes in law made by this Act regarding the qualifications of the employees and members.

Extension of Local Behavioral Health Intervention Project in Bexar County—S.B. 294
by Senator Van de Putte—House Sponsor: Representative Menéndez

The Bexar County local behavioral health intervention pilot project, commonly known as Bexar Cares, provides for the diversion of children at risk of being placed in an alternative setting for behavior management to a system of care that includes behavioral health treatment placement for children and youth. Bexar Cares was implemented to eliminate barriers to sharing information and resources in order to provide coordinated and collaborative health care for those children. Supporters of the project note that there has been a positive impact on the children in the community as a result of Bexar Cares. The project is currently set to expire September 1, 2013. This bill:

Requires the local mental health authority involved in the behavioral health intervention pilot project, not later than December 1 of each even-numbered year, rather than not later than December 1, 2012, to submit a report to the Department of State Health Services regarding the local behavioral health intervention pilot project, including certain content.

Provides that the Act expires September 1, 2023, rather than September 1, 2013.

Provides that it is the intent of the legislature that amendments to Chapter 356 (H.B. 1232), Acts of the 81st Legislature, Regular Session, 2009, made by this Act and any other amendments to that chapter made by

another Act of the 83rd Legislature, Regular Session, 2013, be harmonized, if possible, so that effect may be given to each amendment. Provides that, if an amendment to Chapter 356 (H.B. 1232), Acts of the 81st Legislature, Regular Session, 2009, made by this Act and an amendment to that chapter made by another Act of the 83rd Legislature, Regular Session, 2013, are irreconcilable, it is the intent of the legislature that the amendment to Chapter 356 (H.B. 1232), Acts of the 81st Legislature, Regular Session, 2009, made by this Act prevail, regardless of the relative effective dates or dates of enactment of the irreconcilable amendments.

Methods Used by Animal Shelter to Euthanize a Dog or Cat—S.B. 360
by Senators Watson and Paxton—House Sponsor: Representative Lucio III et al.

Interested parties express concern with the use of carbon monoxide gas chambers to euthanize animals in shelters, stating that it is an inhumane, expensive, unsafe, and outdated method of euthanasia. It has been noted that several cities in recent years have ended the use of carbon monoxide gassing, but that certain shelters continue to euthanize animals by carbon monoxide. Several national, state, and local stakeholder associations accept euthanasia by injection as the most humane and the preferred method to euthanize shelter animals. This bill:

Updates and redefines the terms "board" and "department" and defines "executive commissioner."

Authorizes a person to euthanize a dog or cat in the custody of an animal shelter only by administering sodium pentobarbital, rather than by administering sodium pentobarbital or commercially compressed carbon monoxide; provides that a person subject to the corresponding subsection of this provision, as amended by the bill, is not required to comply with that subsection or any rules adopted under that subsection until January 1, 2014.

Requires the executive commissioner of the Health and Human Services Commission (executive commissioner), rather than the Texas Board of Health (board), by rule to establish standards for a carbon monoxide chamber used to euthanize an animal to which Section 821.052(b) (relating to authorizing a person to euthanize all other animals in the custody of an animal shelter, other than a dog or cat), Health and Safety Code, applies, rather than an animal in the custody of the animal shelter; and requirements and procedures for administering commercially compressed carbon monoxide to euthanize an animal to which Section 821.052(b) applies, rather than an animal in the custody of an animal shelter.

Authorizes a person administering commercially compressed carbon monoxide to euthanize an animal to which Section 821.052(b), Health and Safety Code, applies, rather than an animal in the custody of an animal shelter, to use only a carbon monoxide chamber that meets the standards established by the Department of State Health Services (DSHS) rule, rather than board rule; and to administer the commercially compressed carbon monoxide only in accordance with the requirements and procedures established by DSHS rule, rather than board rule.

Requires the executive commissioner, not later than December 1, 2013, to adopt rules necessary to conform to these provisions.

Texas System of Care Consortium—S.B. 421

by Senators Zaffirini and Rodríguez—House Sponsor: Representative Naishtat

Interested parties recommend, specifically in the "Texas System of Care Strategic Plan 2013-2017," supporting the Texas Integrated Funding Initiative Consortium in evolving into the Texas System of Care Consortium, which will retain the locus of authority, responsibility, and oversight for system of care in Texas. This bill:

Requires the Health and Human Services Commission (HHSC) to form a consortium to have responsibility for and oversight over a state system of care to develop local mental health systems of care in communities for minors who are receiving residential mental health services or inpatient mental health hospitalization or who are at risk of being removed from the minor's home and placed in a more restrictive environment to receive mental health services, including an inpatient mental health hospital, a residential treatment facility, or a facility or program operated by the Department of Family and Protective Services (DFPS) or an agency that is part of the juvenile justice system. Deletes existing text requiring HHSC to form a consortium to develop criteria for and implement the expansion of the Texas Integrated Funding Initiative (TIFI) pilot project and to develop local mental health care systems in communities for minors who are receiving residential mental health services or who are at risk of placement to receive mental health services.

Requires that the consortium include certain state entities, which have been added to and updated from the previous requirements, adding one youth or young adult who has a serious emotional disturbance and has received mental health services and supports or a family member of such a youth or young adult, and removing an equal number of family advocates.

Authorizes the consortium to coordinate with the Children's Policy Council for the purposes of including the representation of the described youth or young adult or the described family member.

Requires HHSC and the consortium to maintain a comprehensive plan for the delivery of mental health services and supports to a minor and a minor's family using a system of care framework, including best practices in the financing, administration, governance, and delivery of those services; implement strategies to expand the use of system of care practices in the planning and delivery of services throughout the state; identify appropriate local, state, and federal funding sources to finance infrastructure and mental health services needed to support state and local system of care efforts; and develop an evaluation system to measure outcomes of state and local system of care efforts.

Deletes existing text requiring HHSC and the consortium to develop a model and guidelines for the delivery of mental health services and support to a minor, initiated before the person's 18th birthday, including best practices in the financing, administration, governance, and delivery of those services; establish a plan to expand TIFI so that TIFI may operate in up to six communities; and to identify appropriate sources of state and federal funding to finance mental health services under TIFI from a central fund for expansion communities.

Requires the consortium, not later than November 1 of each even-numbered year, to submit a report to the legislature and the Council on Children and Families that contains an evaluation of the outcomes of the Texas System of Care and recommendations on strengthening state policies and practices that support local systems of care, including recommendations relating to methods to increase access to effective and coordinated services and supports; methods to increase community capacity to implement local systems of

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care through training and technical assistance; use of cross-system performance and outcome data to make informed decisions at individual and system levels; and strategies to maximize public and private funding at the local, state, and federal levels.

Requires HHSC and the Department of State Health Services to jointly monitor the progress of the communities that implement a local system of care, including monitoring cost avoidance and the net savings that result from implementing a local system of care.

Authorizes HHSC to provide technical assistance to a community that implements a local system of care, rather than authorizes HHSC to provide technical assistance to a community that receives a grant under Section 531.256 (Mental Health Services for Youth Grants), Government Code.

Repeals Sections 531.252 (Proposals for Expansion Communities), 531.253 (Selection of Expansion Communities), 531.254 (System Develop Collaboration), 531.255(b) (relating to requiring HHSC, the consortium, and the expansion communities to collaborate to develop a system to evaluate the success of the expansion communities in achieving certain outcome goals), 531.255(c) (relating to requiring each expansion community to identify the baseline information to compare with the information on outcomes in evaluating the achievements of the community), and 531.255(d) (relating to requiring an expansion community to use instruments to measure outcomes that have known reliability and validity and that allow comparisons with similar projects in other states and with national evaluation efforts), 531.256, and 531.258 (Statewide Evaluation System), Government Code.

Definition of Autism and Other Pervasive Developmental Disorders—S.B. 519

by Senator Deuell—House Sponsor: Representative Susan King

The latest version of the Diagnostic and Statistical Manual, 5th Edition (DSM-5) was released by the American Psychiatric Association in May 2013. Current statute defines "autism and other pervasive developmental disorders," but the definition references the fourth edition of the manual. This bill:

Redefines, in the Texas Council on Autism and Pervasive Developmental Disorders Act of 1987, "autism and other pervasive developmental disorders" to mean a subclass of mental disorders characterized by distortions in the development of multiple basic psychological functions that are involved in the development of social skills and language as defined by DSM-5, rather than by the Diagnostic and Statistical Manual, 4th Edition.

Eligibility of Certain Providers of Laboratory Services to Participate in Certain Programs—S.B. 1401

by Senator Carona—House Sponsor: Representative Eddie Rodriguez

Interested parties note that while most laboratory tests provided for Texas Medicaid patients are performed at in-state facilities, a limited number of specialized tests are performed at out-of-state laboratories, and that due to the limited number of such tests and the investment required to sustain these laboratories, placing a laboratory in every state is cost-prohibitive and inefficient. These parties also note that the Health and Human Services Commission (HHSC) published rules related to the eligibility of out-of-state laboratories providing diagnostic services that were intended to encourage the use of in-state laboratories whenever possible for reasons of convenience and economic development. Interested parties state that

although use of out-of-state providers was not prohibited, the rules provided guidelines for when out-of-state providers would be eligible for enrollment in HHSC programs. The parties contend that clarification is needed in regard to the rules for these out-of-state providers. This bill:

Authorizes a diagnostic laboratory, notwithstanding any other law, to participate as an in-state provider under any program administered by a health and human services agency or HHSC that involves diagnostic laboratory services, regardless of the location where any specific service is performed or where the laboratory's facilities are located if:

- the laboratory or an entity that is a parent, subsidiary, or other affiliate of the laboratory maintains diagnostic laboratory operations in this state;
- the laboratory and each entity that is a parent, subsidiary, or other affiliate of the laboratory, individually or collectively, employ at least 1,000 persons at places of employment located in this state; and
- the laboratory is otherwise qualified to provide the services under the program and is not prohibited from participating as a provider under any benefits programs administered by a health and human services agency or HHSC based on conduct that constitutes fraud, waste, or abuse.

Medicaid Quality Improvement Process For Clinical Initiatives—S.B. 1542

by Senator Van de Putte—House Sponsor: Representative Zerwas

Interested parties note that rapid medical advances are being made in health care and assert that advances in the treatments of preventable and chronic conditions are developing at such a rapid pace that it is becoming increasingly difficult for the state to track, monitor, and incorporate those new treatments into the Medicaid program. As a result, the parties contend, it can become more difficult to control the growing costs of health care services and to ensure that the highest-quality level of care is promoted, practiced, and monitored within the program. This bill:

Adds Chapter 538 (Medicaid Quality Improvement Process for Clinical Initiatives), Government Code, and requires the executive commissioner of the Health and Human Services Commission (executive commissioner; HHSC) to adopt rules necessary to implement the chapter.

Requires HHSC, according to the provisions of the chapter, to develop and implement a quality improvement process by which HHSC receives suggestions for clinical initiatives designed to improve the quality of care provided under the Medicaid program and the cost-effectiveness of the Medicaid program; conducts a preliminary review of each suggestion received to determine whether the suggestion warrants further consideration and analysis; and conducts an analysis of clinical initiative suggestions that are selected for analysis and of required clinical initiatives.

Requires HHSC to solicit and accept suggestions for clinical initiatives, in written or electronic form, from certain entities. Prohibits HHSC from accepting suggestions for an initiative that is undergoing clinical trials or expands a health care provider's scope of practice beyond the law governing the provider's practice.

Requires HHSC, in addition to the clinical initiatives selected for analysis, to conduct an analysis and issue a final report in accordance with the requirements of the chapter for an initiative that would require hospitals to implement evidence-based protocols, including early goal-directed therapy, in the treatment of severe

sepsis and septicemia, and an initiative that would authorize the Medicaid program to provide blood-based allergy testing for patients with persistent asthma to develop an appropriate treatment strategy that would minimize exposure to allergy-induced asthma attacks.

Requires HHSC, not later than January 1, 2014, to conduct the analysis and submit a final report on the required clinical initiatives.

Requires HHSC to establish and implement an evaluation process for the submission, preliminary review, analysis, and approval of a clinical initiative and sets forth requirements for that process.

Requires HHSC to conduct an analysis of each clinical initiative selected by HHSC after having conducted HHSC's preliminary review and requires that the analysis include a review of certain topics and information regarding each initiative.

Requires HHSC to prepare a final report based on HHSC's analysis of a clinical initiative and sets forth provisions regarding content required in the report.

Requires HHSC to maintain an Internet website related to the quality improvement process and sets forth content required for the website.

Authorizes HHSC, if HHSC has determined that the initiative is cost-effective and will improve the quality of care under the Medicaid program, to implement the initiative if such implementation is not otherwise prohibited by law, or, if implementation requires a change in law, to submit a copy of the final report together with recommendations relating to the initiative's implementation to the standing committees of the senate and house of representatives having jurisdiction over the Medicaid program. Prohibits HHSC, if HHSC has determined that the initiative is not cost-effective or will not improve quality of care under the Medicaid program, from implementing the initiative.

Provides that Chapter 538, Government Code, does not affect or give HHSC additional authority to affect any individual health care treatment decision for a Medicaid recipient; replace or affect the process of determining Medicaid benefits, including the approval process for receiving benefits for durable medical equipment, or any applicable approval process required for reimbursement for services or other equipment under the Medicaid program; implement a clinical initiative or associated rule or program policy that is otherwise prohibited under state or federal law; or implement any initiative that would expand eligibility for benefits under the Medicaid program.

Restraint and Seclusion Procedures and Reporting at Certain Facilities—S.B. 1842

by Senator Deuell—House Sponsor: Representative Naishtat

Staff at certain mental health facilities and hospitals must sometimes use restraint or seclusion to manage violent or self-destructive behavior that jeopardizes the immediate physical safety of a patient or others. Such measures are to only be used as an emergency intervention, and only when restrictive, non-physical interventions have been unsuccessful. Interested parties note that Texas allows only a physician or a physician's specified designee to conduct a face-to-face evaluation of the patient to assess the patient's medical and psychiatric stability within one hour of the restraint or seclusion, which is more restrictive than the Centers for Medicare and Medicaid Services (CMS) rules. These parties contend that the national CMS

standard is to have that evaluation performed within an hour but allows for an appropriately trained and licensed registered nurse (RN) to perform the evaluation as also occurs in other states. This bill:

Requires that the rules required to be adopted by the executive commissioner of the Health and Human Services Commission (executive commissioner) for each health and human services agency that regulates the care or treatment of a resident of a facility:

- authorize a registered nurse, other than the nurse who initiated the use of restraint or seclusion, who is trained to assess medical and psychiatric stability with demonstrated competence as required by rule to conduct a face-to-face evaluation of a patient in a hospital or facility licensed under Chapter 241 (Hospitals) or 577 (Private Mental Hospitals and Other Mental Health Facilities), Health and Safety Code, or in a state mental hospital not later than one hour after the time the use of restraint and seclusion is initiated; and
- require a physician to conduct a face-to-face evaluation of a patient in a hospital or facility licensed under Chapter 241 or 577 or in a state mental hospital and document a clinical justification for continuing the restraint or seclusion before issuing or renewing an order that continues the use of the restraint or seclusion.

Requires the executive commissioner, not later than January 1, 2014, to adopt rules as required by these provisions.

Requires a facility to file with the Department of State Health Services a quarterly report regarding hospital-based inpatient psychiatric services measures related to the use of restraint and seclusion that is required by the federal Centers for Medicare and Medicaid Services, and provides that a facility is not required to comply with the reporting requirements before January 1, 2014.

Hospital Level of Care Designations For Neonatal and Maternal Services—H.B. 15
by Representative Kolkhorst et al.—Senate Sponsor: Senators Nelson and West

H.B. 2636, 82nd Legislature, Regular Session, 2011, created a Neonatal Intensive Care Unit Council (NICU; council) to study NICUs, which have had significant increases in utilization and a corresponding increase in related Medicaid costs. The council provided recommendations related to designation of maternal and neonatal levels of care for hospitals, and H.B. 15, 83rd Legislature, Regular Session, 2013, implements some of the council's recommendations. This bill:

Adds Subchapter H (Hospital Level of Care Designations for Neonatal and Maternal Care), Chapter 241 (Hospitals), Health and Safety Code.

Requires the executive commissioner of the Health and Human Services Commission (executive commissioner; HHSC) to assign level of care (LOC) designations to each hospital based on the neonatal and maternal services provides at the hospital, and provides that a hospital may receive different level designations for neonatal and maternal care, respectively.

Requires the executive commissioner, in consultation with the Department of State Health Services (DSHS), to adopt rules:

- establishing the LOC for neonatal and maternal care to be assigned to hospitals;
- prescribing criteria for designating levels of neonatal and maternal care, respectively, including specifying minimum requirements to qualify for each level designation;
- establishing a process for the assignment of LOC to a hospital for neonatal and maternal care, respectively;
- establishing a process for amending the LOC designation requirements;
- dividing the state into neonatal and maternal care regions;
- facilitating transfer agreements through regional coordination;
- requiring payment, other than quality or outcome-based funding, to be based on services provided by the facility; and
- prohibiting the denial of a neonatal or maternal LOC designation to a hospital that meets the minimum requirements for the LOC designation.

Prohibits the criteria for levels one through three of neonatal and maternal care from including requirements related to the number of patients treated at a hospital.

Requires HHSC to study patient transfers that are not medically necessary but would be cost-effective, and, if the executive commissioner determines that the transfers are feasible and desirable, authorizes the executive commissioner to adopt rules addressing those transfers.

Requires each LOC designation to require a hospital to regularly submit outcome and other data to DSHS as required or requested.

Sets forth provisions regarding the posting of LOC designation criteria on the DSHS website and regarding confidentiality, disclosure, and privilege.

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Requires the executive commissioner, in consultation with DSHS, to assign the appropriate LOC designation to each hospital that meets the minimum standards for that LOC, and requires the executive commissioner to evaluate separately the neonatal and maternal services provided at the hospital and assign the respective LOC designations accordingly.

Requires the executive commissioner and DSHS, every three years, to review the LOC designations assigned to each hospital and, as necessary, assign a hospital a different LOC designation or remove the hospital's LOC designation, and sets forth provisions regarding a request to change a designation.

Prohibits a hospital that does not meet the minimum requirements for any LOC designation for neonatal or maternal services from receiving an LOC designation for those services, and provides that such a hospital is not eligible to receive a reimbursement through the Medicaid program for neonatal or maternal services, as applicable, except emergency services required to be provided or reimbursed under state or federal law.

Establishes the Perinatal Advisory Council (advisory council), and sets forth provisions regarding the advisory council's duties related to recommendations regarding LOC designation and neonatal and maternal care, the composition of the advisory council, term duration, and reimbursement.

Requires DSHS, with recommendations from the advisory council, to develop a process for the designation and updates of levels of neonatal and maternal care at hospitals.

Requires the advisory council, in developing the criteria for the levels of neonatal and maternal care, to consider any recommendations, publications, and guidelines of certain entities and consider the geographic and varied needs of citizens.

Requires the advisory council to submit a report detailing the advisory council's determinations and recommendations to DSHS and the executive commissioner not later than September 1, 2015, and requires the advisory council to continue to update its recommendations based on any relevant scientific or medical developments.

Provides that the advisory council is subject to the Texas Sunset Act, and unless continued in existence, the advisory council is abolished and the relevant section expires September 1, 2025.

Requires the executive commissioner, not later than December 1, 2013, to appoint the members of the advisory council and provides term expiration dates.

Requires the executive commissioner, not later than March 1, 2017, after consideration of the report of the advisory council, to adopt initial required rules.

Requires the executive commissioner to complete for each hospital the neonatal LOC designation not later than August 31, 2017, and the maternal LOC designation not later than August 31, 2018.

Provides that a hospital is not required to have a neonatal LOC designation as a condition of reimbursement for neonatal services through the Medicaid program before September 1, 2017, and a hospital is not required to have a maternal LOC designation as a condition of reimbursement for maternal services through the Medicaid program before September 1, 2019.

Newborn Screening For Critical Congenital Heart Disease and Other Disorders—H.B. 740
by Representative Crownover et al.—Senate Sponsor: Senator Deuell et al.

In 2005, the legislature expanded the scope of newborn screening in Texas to protect the health and welfare of newborns. According to interested parties, the legislation was designed to give the Department of State Health Services (DSHS) the flexibility to update the list of disorders for which Texas provides newborn screening. Interested parties note that medical experts have stated a need for an additional newborn screening test for Critical Congenital Heart Disease (CCHD), but the interested parties also contend that current law does not give DSHS adequate authority to mandate testing for disorders if that testing occurs outside a DSHS-established or approved laboratory, as is appropriate for CCHD. It has been estimated that 300 babies per year are discharged from newborn nurseries in the United States with an unrecognized congenital heart defect. This bill:

Provides that this Act be known as the Taryn Kennedy, Nash Sievers, and Rex Van de Putte Act.

Defines "birthing facility" and "critical congenital heart disease."

Requires the physician attending a newborn child or the person attending the delivery of a newborn child that is not attended by a physician to cause the child to be subjected, rather than subject the child, to screening tests approved by DSHS for certain disorders and diseases.

Requires DSHS, except as otherwise provided and to the extent funding is available for screening, to require newborn screening tests to screen for disorders listed as core and secondary conditions in the December 2011 Recommended Uniform Screening Panel of the Secretary's Advisory Committee on Heritable Disorders in Newborns and Children, rather than listed in the core panel and in the secondary targets of the uniform newborn screening panel recommended in the 2005 report by the American College of Medical Genetics entitled "Newborn Screening: Toward a Uniform Screening Panel and System," or another report determined by DSHS to provide more stringent newborn screening guidelines to protect the health and welfare of newborns.

Requires DSHS, with the advice of the Newborn Screening Advisory Committee (advisory committee), to authorize a screening test for CCHD to be performed at a birthing facility that provides care to newborn patients and that complies with the test procedures and the standards required by DSHS for each test.

Requires a birthing facility, if DSHS authorizes the performance at a birthing facility of a screening test for CCHD, to perform the screening test on each newborn who is a patient of the facility before the newborn is discharged from the facility unless certain circumstances occur.

Requires DSHS, before requiring any additional screening test for CCHD, to review the necessity of the test, including an assessment of the test implementation costs to certain entities.

Provides that nothing in Section 33.0111 (Disclosure Statement and Consent), Health and Safety Code, prohibits a physician attending a newborn child from delegating the physician's responsibilities under this section to any qualified and properly trained person acting under the physician's supervision.

Adds a birthing facility that has the information of a confirmed case of a disorder for which a screening test is required that has been detected by a mechanism other than identification through a screening of a

specimen by DSHS's diagnostic laboratory to the list of entities that are required to report such a case to DSHS.

Modifies the composition of the advisory committee, and requires the commissioner of DSHS, as soon as practicable after the effective date of this Act, to appoint the additional required committee members.

Specifies that the advisory committee is required to advise DSHS regarding strategic planning, policy, rules, and services related to newborn screening and additional newborn screening tests for each disorder included in the list noted above, and requires the advisory committee to review the necessity of requiring additional screening tests.

Repeals Section 33.0111(g) (relating to providing that a reference in this section to Section 33.017 means Section 33.017 as added by Chapter 179 (H.B. 1672), Acts of the 81st Legislature, Regular Session, 2009), Health and Safety Code.

Requires DSHS, as soon as practicable after the effective date of this Act, to implement the changes in law made to the newborn screening program.

Provides that a change in law made by this Act regarding the qualifications of members of the advisory committee does not affect the entitlement of a member serving on the committee immediately before the effective date of this Act to continue to serve as a member of the committee for the remainder of the member's term and provides that the change in law applies only to a member appointed on or after the effective date of this Act.

Influenza Awareness Day—H.B. 1204

by Representative Parker—Senate Sponsor: Senator Nelson

Interested parties contend that increased awareness regarding influenza is needed, particularly given influenza's potential to result in hospitalization or death in certain circumstances. This bill:

Provides that October 1 is Influenza Awareness Day to raise awareness of the health risks associated with influenza and to encourage Texans to take proactive measures to reduce exposure to those risks.

Requires Influenza Awareness Day to be regularly observed by appropriate programs and activities.

Study on Alcohol and Controlled Substance Statistics—H.B. 1396

by Representatives Susan King and Doug Miller—Senate Sponsor: Senator Nelson

Interested parties note that prenatal alcohol or drug abuse causes long-term consequences for a child. This bill:

Requires the Department of Family and Protective Services (DFPS) and the Department of State Health Services (DSHS), using existing resources, to conduct a study on alcohol and controlled substance statistics.

Requires the study to:

- determine whether either state agency currently compiles information on the number of children reported to the department who at birth tested positive for the presence of alcohol or a controlled substance; the controlled substances for which the children tested positive; the number of such children who were removed from their homes and have been diagnosed as having a disability or chronic medical condition resulting from the presence of alcohol or controlled substances; and the number of parents who test positive for the presence of a controlled substance during a department investigation of a report of abuse or neglect of the parent's child;
- determine which agency, if neither agency compiles the information described, can compile the information described most effectively and at the lowest cost; and
- estimate the cost to that agency of compiling the information, preparing a report on the information, posting a copy of the report on the agency's Internet website, and electronically submitting to the legislature a copy of the report.

Requires DFPS and DSHS, not later than November 1, 2014, to electronically submit a copy of the prepared study to certain entities.

Provides that the relevant section expires September 1, 2015.

Pregnancy Medical Home Pilot Program in Harris County—H.B. 1605
by Representatives Sarah Davis and Collier—Senate Sponsor: Senator Huffman

Interested parties suggest that creation of pregnancy medical homes, in which a patient has access to a variety of medical specialists needed to provide comprehensive prenatal and postpartum care, would help improve health care and services provided to pregnant women and the outcomes of the woman and child, particularly those women in the Medicaid program. This bill:

Requires the Health and Human Services Commission (HHSC) to develop and implement a pilot program in Harris County to create pregnancy medical homes that provide coordinated evidence-based maternity care management to women who reside in the pilot program area and are recipients of medical assistance through a Medicaid managed care model or arrangement under Chapter 533 (Implementation of Medicaid Managed Care Program), Government Code.

Requires HHSC, in developing the pilot program, to ensure that each pregnancy medical home created for the program provides a maternity management team that consists of health care providers, including obstetricians, gynecologists, family physicians or primary care providers, physician assistants, certified nurse midwives, advanced practice registered nurses, and social workers, in a single location; conducts a risk-classification assessment for each pilot program participant on entry into the program to determine whether her pregnancy is considered high-risk or low-risk; based on the assessment, establishes an individual pregnancy care plan for each participant; and follows the participant throughout her pregnancy.

Authorizes HHSC to incorporate financial incentives to health care providers who participate in a maternity management team as a component of the pilot program.

Requires HHSC, not later than January 1, 2015, to report to the legislature on the progress of the pilot program and requires that the report include an evaluation of the pilot program's success in reducing poor birth outcomes and a recommendation as to whether the pilot program should be continued, expanded, or terminated.

Authorizes the executive commissioner of HHSC to adopt rules to implement these provisions.

Provides that the relevant section expires September 1, 2017.

Measures to Prevent or Control Certain Communicable Diseases—H.B. 1690

by Representative Fletcher—Senate Sponsor: Senators Nelson and West

Interested parties contend that although current law authorizes public health officials to prevent, control, and treat communicable diseases, recent cases in certain areas of the state have highlighted gaps in the communicable disease control laws that impede the efforts of officials to protect the public from disease. Gaps these parties have identified include limited authority of law enforcement to apprehend a person who is under a protective custody order, lack of authority to deploy emergency medical services personnel when medically indicated, limitations on a health authority to prevent exposure to tuberculosis when such a case requires isolation or quarantine measures, and insufficient penalties for noncompliance with protective custody orders by an individual. This bill:

Defines, in Chapter 81 (Communicable Diseases), Health and Safety Code, "peace officer" to include a sheriff or constable.

Authorizes a peace officer to use reasonable force to secure the members of a group subject to an order issued under Section 81.083(k) (relating to authorizing the Department of State Health Services (DSHS) or a health authority to order the members of a group of five or more individuals to implement control measures that are reasonable and necessary to prevent the introduction, transmission, and spread of a communicable disease in this state if certain conditions are met), Health and Safety Code, and except as directed by DSHS or the health authority, prevent the members from leaving the group or other individuals from joining the group.

Authorizes a peace officer to use reasonable force to secure a property subject to a court order issued under Section 81.084 (Application of Control Measures to Property), Health and Safety Code, and except as directed by DSHS or the health authority, prevent an individual from entering or leaving the property subject to the order.

Authorizes a peace officer to use reasonable force to secure a quarantine area and, except as directed by DSHS or the health authority, prevent an individual from entering or leaving the quarantine area.

Authorizes a judge or magistrate to direct a peace officer to prevent a person who is the subject of a protective custody order from leaving the facility designated to detain the person if the court finds that a threat to the public health exists because the person may attempt to leave the facility.

Authorizes both a protective custody order issued under Section 81.162 (Issuance of Order), Health and Safety Code, and an order for temporary detention to direct an emergency medical services provider to

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provide an ambulance and staff to immediately transport the person who is the subject of an order to an appropriate inpatient health facility designated by the order or other suitable facility, and authorizes the provider to seek reimbursement for the costs of the transport from any appropriate source.

Authorizes a judge to order that a person entitled to a hearing is prohibited from appearing in person and is authorized to appear only by teleconference or another means that the judge finds appropriate to allow the person to speak, to interact with witnesses, and to confer with the person's attorney if DSHS or the health authority advises the court that the person is required to remain in isolation or quarantine and that exposure to the judge or the public would jeopardize the health and safety of those persons and the public health.

Provides that a person who is subject to a protective custody order or temporary detention order issued by a court under Subchapter G (Court Orders for Management of Persons with Communicable Diseases), Chapter 81, Health and Safety Code, commits a Class A misdemeanor offense if the person resists or evades apprehension by a sheriff, constable, or other peace officer enforcing the order or resists or evades transport to an appropriate inpatient health care facility or other suitable facility under the order.

Provides that a person commits a Class A misdemeanor offense if the person assists a person who is subject to either such orders issued by a court under the subchapter in resisting or evading apprehension by a sheriff, constable, or other peace officer enforcing the order or in resisting or evading transport to an appropriate inpatient health care facility or other suitable facility under the order.

Reporting of Health Care-Associated Infections Resulting in Death—H.B. 3285

by Representative Yvonne Davis—Senate Sponsor: Senator Nelson

Health care facilities must currently report the incidence of certain health care-associated infections (HAIs) to the Department of State Health Services (DSHS), which reports this information to the public. Such reports do not indicate whether an HAI resulted in a death while hospitalized. This bill:

Requires that a report made under Section 98.103 (Reportable Infections), Health and Safety Code, which requires certain health care facilities to report certain HAIs, specify whether the infection resulted in the death of the patient while hospitalized.

Requires DSHS to compile and make available to the public a summary, by health care facility, of certain information, including whether the infections reported under Section 98.103 resulted in the death of the patient while hospitalized.

Requires the executive commissioner of the Health and Human Services Commission, as soon as practicable after the effective date of the relevant Act, to adopt the rules and procedures necessary to implement the provisions.

Provides that the change in law applies to a report required under Section 98.103 that is made in a reporting period beginning on or after March 1, 2014, and that a report made during a reporting period that begins before March 1, 2014, is covered by the law in existence on the date the reporting period began, and the former law is continued in effect for that purpose.

Provides that the change in law applies to a departmental summary published under Section 98.106 (Departmental Summary), Health and Safety Code, that covers a reporting period beginning on or after March 1, 2014, and that a departmental summary that covers a reporting period that begins before March 1, 2014, is covered by the law in existence on the date the reporting period began, and the former law is continued in effect for that purpose.

Consent to Immunization by Child Who is Pregnant or is a Parent—S.B. 63

by Senator Nelson—House Sponsor: Representative J.D. Sheffield

Interested parties assert that the Centers for Disease Control and Prevention (CDC) recommend certain strategies to protect infants from vaccine-preventable diseases, including vaccinating those in close contact with the infant, and assert that unborn children receive additional protection from vaccines obtained by their mothers during pregnancy. These parties contend that, currently, a child who is a parent and meets certain other conditions may consent to medical treatment for his or her children, but may not consent to his or her own immunizations. This bill:

Authorizes a child to consent to the child's own immunization for a disease if the child is pregnant or is the parent of a child and has actual custody of that child, and the CDC recommends or authorizes the initial dose of an immunization for that disease to be administered before seven years of age.

Requires such consent to immunization meet the requirements that the consent to medical treatment be in writing, signed by the person giving consent, and given to the certain medical entity that administers the treatment.

Provides that such consent to immunization by a child is not subject to disaffirmance because of minority.

Authorizes a health care provider or facility to rely on the written statement of the child containing the grounds on which the child has capacity to consent to the child's immunization.

Provides that, to the extent of any conflict between the relevant section, which is Section 32.1011 (Consent to Immunization by Child), Family Code, and Section 32.003 (Consent to Treatment by Child), Family Code, Section 32.1011 controls.

Mosquito Control on Uninhabited Residential Property—S.B. 186

by Senator Carona et al.—House Sponsor: Representative Giddings et al.

During the summer of 2012, Texas experienced a high number of cases of the West Nile virus, a disease spread to humans by infected mosquitoes. Interested parties note abandoned or foreclosed homes that contained water features or pools were potential breeding grounds for mosquitoes carrying the disease. Treating stagnant water with larvicide is a treatment used to eradicate mosquitoes carrying the disease. This bill:

Authorizes a municipality, county, or other local health authority, notwithstanding any other law, to abate, without notice, a public health nuisance under Section 341.011(7) (relating to defining as a nuisance a collection of water where mosquitoes are breeding), Health and Safety Code, that is located on residential

property that is reasonably presumed to be abandoned or that is uninhabited due to foreclosure, and is an immediate danger to the health, life, or safety of any person.

Authorizes a public official, agent, or employee charged with the enforcement of health, environmental, or safety laws to enter such premises at a reasonable time to inspect, investigate, or abate the nuisance.

Provides that in added Section 341.019 (Mosquito Control on Uninhabited Residential Property), Health and Safety Code, abatement is limited to the treatment with a mosquito larvicide of stagnant water in which mosquitoes are breeding.

Requires the public official, agent, or employee to post on the front door of the residence a notice stating certain information regarding the treatment.

Prohibition on the Use of a Tanning Facility by a Minor—S.B. 329 *by Senators Huffman and Garcia—House Sponsor: Representative Zerwas*

According to the American Cancer Society, there are an estimated 76,690 new cases of melanoma in the United States each year. Interested parties contend that studies have indicated an association between indoor tanning and increased risk of melanoma and other types of skin cancer. Currently, the minimum age of a person allowed to use a tanning device is 16 and one-half years of age and children younger than 18 years of age are prohibited from using a tanning device unless certain requirements regarding parental or guardian consent are met. This bill:

Requires a person, before a customer, rather than before a customer who is 18 years of age or older, uses a tanning facility's tanning device for the first time and each time a person executes or renews a contract to use a tanning facility, to provide photo identification and sign a written statement acknowledging that the person has read and understood the required warnings before using the device and agrees to use protective eyewear.

Prohibits a tanning facility from allowing a person younger than 18, rather than 16 and one-half, years of age to use a tanning device. Deletes text prohibiting a tanning facility from allowing a person younger than 18 years of age to use a tanning device unless the person's parent or legal guardian, in person at the facility, consent in writing for the person to use the device, which may be revoked at any time.

Removes the requirement that the record of each customer using a tanning device that is required to be maintained at the tanning facility for a certain period of time include certain consent documents required for persons younger than 18 years of age using a tanning facility device.

Repeals Section 145.008(g) (relating to requiring a person under 18 years of age to give the tanning facility operator a certain consent statement before the person uses the tanning facility device for the first time), Health and Safety Code.

Requires a tanning facility, notwithstanding certain other law, to maintain a record of the information regarding certain required consent for persons younger than 18 years of age using a tanning facility device as required as the law existed before the effective date of this Act, for a customer younger than 18 years old until the third anniversary of the date of the customer's last use of a tanning device.

Makes application of this Act in regard to an offense prospective.

Spinal Curvature Screening For Certain School Children—S.B. 504 [VETOED]

by Senator Deuell—House Sponsor: Representative Susan King

Currently, certain school children are required to undergo mandatory screening for abnormal spinal curvature. Interested parties note that the U.S. Preventative Services Task Force has recommended against the routine screening of asymptomatic adolescents for idiopathic scoliosis and that certain school nurses have also expressed concern with the mandatory screening requirements. This bill:

Requires the executive commissioner of the Health and Human Services Commission (executive commissioner; HHSC), in cooperation with the Texas Education Agency (TEA), to adopt rules requiring each public school to choose either to participate in the spinal screening program for children in grades 6 and 9 attending the public school or to provide information developed by the Department of State Health Services (DSHS) on abnormal spinal curvature to the parents, managing conservators, or guardians of children in grades 6 through 9 attending the public school. Requires DSHS, not later than March 1, 2014, to develop the required information.

Deletes the requirement that the executive commissioner, in cooperation with TEA, adopt rules for the mandatory spinal screening program for children in grades 6 and 9 attending public or private schools and modifies provisions relating to the mandatory screening to reflect that change.

Requires the executive commissioner to adopt substantive and procedural rules necessary for the development and provision of information on abnormal spinal curvature, in addition to rules necessary to administer screening activities.

Specifies that, if a public school requires an individual to be screened, the individual is required to undergo approved screening for abnormal spinal curvature.

Requires the chief administrator to make the developed information on abnormal spinal curvature available to the parent, managing conservator, or guardian of an individual exempt from screening.

Specifies that, if the screening is required, the chief administrator of each school is required to ensure that each individual admitted to the school complies with the screening requirements or submits an affidavit of exemption.

Provides that this Act applies beginning with the 2014-2015 school year.

County Expenditures For Certain Health Care Services—S.B. 872

by Senator Deuell—House Sponsor: Representative Coleman

Health care for indigent Texas residents is provided and paid for under the Indigent Health Care and Treatment Act (IHCTA). Counties are responsible for the payment of certain health care for certain eligible indigent county residents. The county may be eligible for state assistance if such expenditures exceed a certain percentage of the county's general revenue levy in a state fiscal year. Through a federal waiver to

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expand Medicaid services, counties are authorized to make intergovernmental transfers (IGTs) for purposes of receiving federal matching funds for those expanded services. This bill:

Authorizes a county to credit an IGT to the state toward eligibility for state assistance if the transfer was made to provide health care services as part of the Texas Healthcare Transformation and Quality Improvement Program waiver issued under 42 U.S.C. Section 1315, regardless of the application, documentation, and verification procedures or eligibility standards established by the Department of State Health Services (DSHS) under Subchapter A (General Provisions), IHCTA.

Authorizes a county to credit toward eligibility for state assistance such IGTs made that in the aggregate do not exceed four percent of the county's general revenue levy in any state fiscal year, provided the commissioners court determines that the expenditure fulfills the county's obligations to provide indigent health care under IHCTA; the commissioners court determines that the amount of care available through participation in the waiver is sufficient in type and amount to meet the requirements of IHCTA; and the county receives periodic reports from health care providers that receive supplemental or incentive payments under the Texas Healthcare Transformation and Quality Improvement Program waiver that document the number and types of services provided to persons who are eligible to receive services under IHCTA.

Requires DSHS, not later than December 1, 2014, to submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives on the effects of these provisions on services rendered to eligible residents under IHCTA.

Provides that changes in law made by this Act applies only to state assistance for health care services that are delivered on or after the effective date of this Act and provides that state assistance for health care services under IHCTA that are delivered before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Durable Medical Equipment Reuse Program—S.B. 1175 *by Senator Deuell—House Sponsor: Representative Guillen*

Durable medical equipment (DME) is medical equipment that is expected to be used for a prolonged period of time. Interested parties note that several states now have, or are considering implementing, often in some part with the state Medicaid program, programs allowing for the reuse of such equipment that is no longer meeting the needs of a patient or that has been given to a patient who passes away shortly after receiving it. This bill:

Defines in Section 531.0843 (Durable Medical Equipment Reuse Program), Government Code, "complex rehabilitation technology equipment" as equipment that is classified as DME under the Medicare program on January 1, 2013, configured specifically for an individual to meet the individual's unique medical, physical, and functional needs and capabilities for basic and instrumental daily living activities, and medically necessary to prevent the individual's hospitalization or institutionalization and provides that the term includes a complex rehabilitation power wheelchair, highly configurable manual wheelchair, adaptive seating and positioning system, standing frame, and gait trainer.

Defines in Section 531.0843, Government Code, "durable medical equipment."

Requires the executive commissioner of the Health and Human Services Commission (executive commissioner; HHSC) by rule, if HHSC determines that it is cost-effective, to establish a program to facilitate the reuse of DME provided to recipients under the Medicaid program.

Requires the program to include provisions for ensuring that reused equipment meets applicable standards of functionality and sanitation and that a Medicaid recipient's participation in the reuse program is voluntary.

Provides that the program does not waive any immunity from liability of HHSC or an HHSC employee or create a cause of action against HHSC or an HHSC employee arising from the provision of reused DME under the program.

Requires the executive commissioner, in accordance with Chapter 551 (Open Meetings), Government Code, or the Administrative Procedure Act, as applicable, to provide notice of each proposed rule, adopted rule, and hearing that relates to establishing the program.

Requires the executive commissioner, not later than September 1, 2014, to establish the program and adopt necessary rules to implement the program, if HHSC determines that establishing the program is cost-effective.

Chronic Obstructive Pulmonary Disease—S.C.R. 26

by Senator Hinojosa—House Sponsor: Representative John Davis

Chronic obstructive pulmonary disease (COPD) is an umbrella term used to describe progressive lung diseases including emphysema, chronic bronchitis, refractory nonreversible asthma, and some forms of bronchiectasis. Smoking is the main risk factor for developing COPD, and secondhand smoke exposure, occupational dust, chemical exposure, air pollution, and genetics are also causes of COPD. COPD is costly in both direct and indirect health care-related costs. This resolution:

Recognizes COPD as a chronic health condition in Texas which contributes to increasing health care costs and decreasing productivity of its citizens.

Directs the Texas Department of State Health Services (DSHS) to include COPD as a chronic health condition in its efforts to address serious and chronic health conditions in Texas by seeking out and applying for funding and grants available to provide public awareness or treatment for COPD in Texas.

Directs DSHS to include COPD as a chronic health condition in its current efforts to educate the public about the effects of smoking or other preventable and treatable chronic health conditions.

Designates November as COPD Awareness Month and resolves that, in accordance with the provisions of Section 391.004(d) (relating to recognizing the expiration of a designation of a day, week, or month), Government Code, the designation expires on the 10th anniversary of the date this resolution is passed by the legislature.

Methods of Dispute Resolution In Disputes Regarding Assisted Living Facilities—H.B. 33
by Representative Menéndez—Senate Sponsor: Senator Uresti

Interested parties note that an assisted living facility (ALF) currently has few options to remedy a finding resulting from a review of the ALF by the Department of Aging and Disability Services (DADS). Interested parties also express concern with the current informal dispute resolution (IDR) process. This bill:

Requires the Health and Human Services Commission (HHSC) by rule to establish an IDR process to address disputes between an ALF and DADS concerning a statement of violations prepared by DADS in accordance with Section 247.051 (Informal Dispute Resolution), Health and Safety Code, rather than establish an IDR process in accordance with the section.

Requires that the process provide for adjudication by an appropriate disinterested person of dispute relating to a statement of violations, rather than relating to a proposed enforcement action or related proceeding under Chapter 247 (Assisted Living Facilities), Health and Safety Code.

Requires the IDR process to require, among other provisions, HHSC to complete the process not later than the 90th day, rather than the 30th day, after the date of receipt of a request from the ALF for IDR; that, not later than the date an ALF requests an IDR, DADS forward to the ALF a copy of certain information, with certain information excluded, referred to in the disputed statement of violations or a citation; HHSC to give full consideration to all factual arguments raised during the IDR process that meet certain conditions; that IDR staff give full consideration to the information provided by the ALF and DADS; that *ex parte* communications concerning the substance of any argument relating to a survey, inspection, investigation, visit, or statement of violation under consideration not occur between the IDR staff and the ALF or DADS; and that the ALF and DADS be given a reasonable opportunity to submit arguments and information supporting the position of the ALF or DADS and to respond to arguments and information presented against them. Removes the requirement that the IDR process require any individual representing an ALF in an IDR process to register with HHSC and disclose certain information.

Removes the requirement that HHSC adopt rules to adjudicate claims in contested cases.

Sets forth provisions regarding reimbursement of costs in regard to an IDR request, confidentiality of a statement of violations, and stipulations regarding the posting on a website maintained by DADS information concerning the outcome of a survey, inspection, investigation, or visit.

Adds Subchapter E (Arbitration), Chapter 247, Health and Safety Code, and provides that the subchapter applies to any dispute between a facility licensed under Chapter 247, Health and Safety Code, and DADS relating to renewal of a license; suspension, revocation, or denial of a license; assessment of a civil penalty; or assessment of an administrative penalty.

Authorizes an affected facility, except as provided otherwise, to elect binding arbitration of any dispute to which the relevant subchapter applies, and provides that arbitration is an alternative to a contested case hearing or to a judicial proceeding relating to the assessment of a civil penalty.

Prohibits arbitration from being used to resolve a dispute related to an affected facility that has had an arbitration award levied against it in the previous five years.

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Provides that, if arbitration is not permitted or the election of arbitration is not timely filed, the court is required to dismiss the arbitration election and retain jurisdiction of the lawsuit and the State Office of Administrative Hearings (SOAH) is required to dismiss the arbitration and does not have jurisdiction over the lawsuit.

Provides that an election to engage in arbitration is irrevocable and binding on the facility and DADS.

Sets forth provisions regarding the procedure and time periods for electing arbitration. Sets forth provisions regarding arbitration procedures, adoption of arbitration rules, payment of costs of arbitration, the authorization to contract with a nationally recognized association that performs arbitrations, DADS' representation in the arbitration, arbitrator qualifications and selection, scheduling of arbitration, exchange and filing of information, attendance, testimony, recording of arbitration, evidence, closing statements, briefs, and prohibition of ex parte contacts.

Requires the arbitrator to protect the interests of DADS and the facility; ensure that all relevant evidence has been disclosed to the arbitrator, DADS, and facility; and render an order consistent with Chapter 247, Health and Safety Code, and the rules adopted under that chapter.

Authorizes the arbitrator to enter any order that may be entered by DADS, the executive commissioner of HHSC, the commissioner of DADS, or court under Chapter 247, Health and Safety Code, in relation to a dispute described by Section 247.081 (Scope of Subchapter), Health and Safety Code. Requires the arbitrator to enter the order not later than the 60th day after the last day of the arbitration.

Requires the arbitrator to base the order on the facts established at arbitration, including stipulations of the parties, and on the law as properly applied to those facts; requires that the order meet certain requirements; and requires the arbitrator to file a copy of the order with DADS and to notify DADS and the facility in writing of the decision.

Provides that an order of an arbitrator is final and binding on all parties, and provides that except as provided by Section 247.097 (Court Vacating Order), Health and Safety Code, there is no right to appeal.

Provides that, for the purpose of correcting a clerical error, an arbitrator retains jurisdiction of the award until the 20th day after the date of the award.

Sets forth provisions regarding a court vacating an arbitrator's order, findings requiring a vacating of an order, the filing of a suit to vacate an order, and the venue to vacate an arbitrator's order.

Requires that the dispute, if the order is vacated, be remanded to DADS for another arbitration proceeding.

Provides that Section 247.098 (Enforcement of Certain Arbitration Orders for Civil Penalties), Health and Safety Code, applies only to a suit for the assessment of a civil penalty in which binding arbitration has been elected as an alternative to the judicial proceeding; requires the district court in which the underlying suit has been filed, on application of a party to the suit, to enter a judgment in accordance with the arbitrator's order unless, within the time limit prescribed, a motion is made to the court to vacate the arbitrator's order; provides that such a judgment filed is enforceable in the same manner as any other judgment of the court; authorizes the court to award costs for such an application made and for any proceedings held after the application is made; and provides that the provision related to the district court

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entering a judgment in accordance with the arbitrator's order unless a certain circumstance occurs does not affect the right of a party, in accordance with certain law, to make a motion to the court or initiate a proceeding in court as provided by law to vacate the arbitrator's order or to vacate a judgment of the court entered in accordance with the arbitrator's order.

Requires that the IDR process required to be established by HHSC by rule in accordance with Section 531.058 (Informal Dispute Resolution for Certain Long-Term Care Facilities), Government Code, require certain conditions, including that HHSC complete the process not later than the 30th calendar day after receipt of a request from an institution or facility, other than an ALF, for IDR, or the 90th calendar day after receipt of a request from an ALF for IDR. Removes the requirement that the IDR process require any individual representing an institution or facility in an IDR process to register with HHSC and disclose certain information.

Requires HHSC to use a negotiated rulemaking process and engage a qualified impartial third party, with the goal of adopting rules that are fair and impartial to all parties not later than January 1, 2015. Provides that the related subsection expires September 1, 2015.

Provides that Section 247.051, Health and Safety Code, as amended by this Act, and Section 247.081, Health and Safety Code, as added by the Act, apply only to disputes described by those sections, as amended or added, that occur on or after the effective date of the Act; and provides that a dispute that occurs before the effective date of the Act is governed by the law applicable to the dispute immediately before the effective date of the Act, and that law is continued in effect for that purpose.

Licensing and Certification Requirements and the Allocation of Medicaid Beds—H.B. 3196 *by Representative Price—Senate Sponsor: Senator Nelson*

Although the licensure period for nursing facilities has been extended from two years to three years, the required license fees have not been revised to account for the extended licensure period. Nursing facilities can also obtain certification from the Department of Aging and Disability Services (DADS) indicating that the facility is certified to provide specialized care to individuals with Alzheimer's disease, but the certification must be renewed annually, which interested parties contend is inconsistent with the licensure period for nursing facilities. Additionally, interested parties have expressed concern with certain applicants for a Medicaid bed waiver related to nursing facilities. This bill:

Prohibits the license fee for institutions licensed by DADS under Chapter 242 (Convalescent and Nursing Homes and Related Institutions), Health and Safety Code, from exceeding \$375, rather than \$250, plus certain fees, which include \$15, rather than \$10, for each unit of capacity or bed space for which a license is sought.

Provides that this Act applies only to a license application, including a renewal application, filed on or after the effective date of this Act, and provides that a license application, including a renewal application, filed before that date is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

Extends the annual certification periods for an institution that cares for persons with Alzheimer's disease and related disorders to a three-year certification period, which is required to be provided in the associated rules.

Requires the executive commissioner of the Health and Human Services Commission (executive commissioner; HHSC) by rule to adopt a system under which an appropriate number of certifications issued by DADS expire on staggered dates occurring in each three-year period. Requires DADS, if the expiration date of a certification changes as a result of this provision, to prorate the certification fee as appropriate.

Authorizes the executive commissioner by rule to require an applicant for Medicaid beds in a nursing facility under a Medicaid bed waiver application to provide a performance bond in the amount of \$500,000 or other financial security as determined by HHSC or an agency operating part of the medical assistance program, as appropriate, to ensure that the applicant provides the Medicaid beds granted to the applicant under the waiver within the time frame required by HHSC or an agency operating part of the medical assistance program, as appropriate. Sets forth certain requirements for the performance bond.

Prohibits HHSC or an agency operating part of the medical assistance program, as appropriate, from requiring an applicant for Medicaid beds in a nursing facility to obtain a performance bond from a specific insurance or surety agency, agent, or broker.

Requires the executive commissioner by rule to adopt criteria to exempt certain applicants for Medicaid beds from the noted requirements, including applicants that are licensed facilities with existing Medicaid bed allocations, criminal justice facilities, teaching facilities, and state veterans homes, and any other applicants that the executive commissioner finds good cause to exempt. Authorizes the executive commissioner to modify the criteria for granting exemptions as necessary to meet the objectives of the provision related to Medicaid beds.

Provides that this Act applies only to an application filed on or after the effective date of this Act for Medicaid beds in a nursing facility, and provides that an application filed before that date is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

Electronic Monitoring of Residents at State Supported Living Centers—S.B. 33
by Senator Zaffirini—House Sponsor: Representative Naishtat

Legislation enacted by the 81st Legislature required the Department of Aging and Disability Services (DADS) to install and operate video surveillance equipment in a state supported living center and the ICF-MR component of the Rio Grande State Center to detect and prevent exploitation or abuse, but prohibited such video surveillance in a private space or in a location in which video surveillance equipment can capture images within a private space. Legislation in 2001 allowed electronic monitoring devices in the rooms of residents of nursing homes or related institutions. Interested parties contend that parents and guardians of residents want the ability to install monitoring equipment in a resident's room to ensure that the resident is not being abused or neglected. This bill:

Provides an exception to the prohibition against DADS installing or operating video surveillance equipment in a private space or in a location in which video surveillance equipment can capture images within a private space.

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Defines, in Subchapter E (Electronic Monitoring of Resident's Room), Chapter 555 (State Supported Living Centers), Health and Safety Code, "authorized electronic monitoring" to mean the placement of an electronic monitoring device in a resident's room and making tapes or recordings with the device after making a request to the center to allow electronic monitoring.

Defines, in that same subchapter, "electronic monitoring device" to include video surveillance cameras installed in a resident's room and audio devices installed in a resident's room designed to acquire communications or other sounds occurring in the room, and to not include an electronic, mechanical, or other device that is specifically used for the nonconsensual interception of wire or electronic communications.

Sets forth provisions regarding defense to prosecution for certain offenses and exceptions to civil and criminal liability regarding certain law.

Provides that, for purposes of the subchapter, the placement and use of an electronic monitoring device in a resident's room are considered to be covert if the placement and use of the device are not open and obvious and the state supported living centers and the ICF-MR component of the Rio Grande State Center (center) are not informed about the device by the resident, by a person who placed the device in the room, or by a person who is using the device.

Prohibits DADS and the center from being held civilly liable in connection with the covert placement or use of an electronic monitoring device in a resident's room.

Requires the executive commissioner of the Health and Human Services Commission (executive commissioner; HHSC) by rule to prescribe a form that is required to be completed and signed on a resident's admission to a center by or on behalf of the resident and sets forth the content of the form regarding electronic monitoring.

Sets forth provisions regarding who may request such authorized electronic monitoring.

Requires the executive commissioner by rule to prescribe guidelines that will assist centers, family members of residents, advocates for residents, and other interested persons to determine when a resident lacks the required capacity for taking an action such as requesting electronic monitoring; who may be considered to be a resident's legal representative for purposes of the subchapter, including persons who may be considered the legal representative under the terms of an instrument executed by the resident when the resident had capacity; and persons who may become the legal representative for the limited purpose of the subchapter under a procedure prescribed by the executive commissioner.

Requires a resident or the guardian or legal representative of a resident who wishes to conduct authorized electronic monitoring to make the request to the center on a form prescribed by the executive commissioner.

Requires the form prescribed by the executive commissioner to require the resident or the resident's guardian or legal representative to release the center from any civil liability for a violation of the resident's privacy rights in connection with the use of the electronic monitoring device; choose, when the electronic monitoring device is a video surveillance camera, whether the camera will always be unobstructed or whether the camera should be obstructed in specified circumstances to protect the dignity of the resident;

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and obtain the consent of other residents in the room, using a form prescribed for this purpose by the executive commissioner, if the resident resides in a multiperson room. Sets forth additional provisions regarding the consent form.

Sets forth provisions regarding the consent of the other residents in the room, the consent form prescribed by the executive commissioner, certain conditions another resident is authorized to place on his/her consent to the use of electronic monitoring, and the cessation of authorized electronic monitoring in a room until another resident moved into the room also consents.

Prohibits authorized electronic monitoring from commencing until all request and consent forms required have been completed and returned to the center, and requires authorized electronic monitoring to be conducted in accordance with any limitation placed on the monitoring as a condition of the consent given by or on behalf of another resident in the room.

Requires a center to permit a resident or the resident's guardian or legal representative to monitor the resident's room through the use of electronic monitoring devices.

Requires the center to require a resident who conducts authorized electronic monitoring or the resident's guardian or legal representative to post and maintain a conspicuous notice at the entrance to the resident's room.

Provides that authorized electronic monitoring is not compulsory and is authorized to be conducted only at the request of the resident or the resident's guardian or legal representative.

Prohibits a center from refusing to admit an individual to residency in the center and from removing a resident from the center because of a request to conduct authorized electronic monitoring. Prohibits a center from removing a resident from the center because covert electronic monitoring is being conducted by or on behalf of a resident.

Requires a center to make reasonable physical accommodation for authorized electronic monitoring.

Requires the resident or the resident's guardian or legal representative to pay for all costs associated with conducting electronic monitoring, other than the costs of electricity, and provides that such a person is responsible for all costs associated with installation of equipment and maintaining the equipment.

Authorizes a center to require an electronic monitoring device to be installed in a manner that is safe for residents, employees, or visitors who may be moving about the room, and authorizes the executive commissioner by rule to adopt guidelines regarding the safe placement of such a device.

Authorizes the center, if authorized electronic monitoring is conducted, to require the resident or the resident's guardian or legal representative to conduct the electronic monitoring in plain view.

Authorizes a center but does not require the center to place a resident in a different room to accommodate a request to conduct authorized electronic monitoring.

Requires a person who is conducting authorized electronic monitoring and who has cause to believe, based on the viewing of or listening to a tape or recording, that a resident is in a state of abuse, neglect, or

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exploitation or has been abused, neglected, or exploited to report that information to the Department of Family and Protective Services (DFPS) as required by law and provide the original tape or recording to DFPS.

Requires, if DFPS has cause to believe that a resident has been abused, neglected, or exploited by another person in a manner that constitutes a criminal offense, the immediate notification to law enforcement and the inspector general as provided by law, and that a copy of the tape or recording be provided to law enforcement or HHSC's office of inspector general on request.

Authorizes, subject to applicable rules of evidence and procedure and the requirements of added Section 555.159 (Use of Tape or Recording By Agency or Court), Health and Safety Code, a tape or recording created through the use of covert or authorized electronic monitoring described by the subchapter to be admitted into evidence in a civil or criminal court action or administrative proceeding.

Prohibits a court or administrative agency from admitting into evidence a tape or recording created through the use of covert or authorized electronic monitoring or taking or authorizing action based on the tape or recording unless certain conditions are met.

Requires a person who sends more than one tape or recording to DADS to identify for DADS each tape or recording on which the person believes that an incident of abuse or exploitation or evidence of neglect may be found; and authorizes the executive commissioner by rule to encourage persons who send a tape or recording to DADS to identify the place on the tape or recording where an incident of abuse or evidence of neglect may be found.

Requires each center to post a notice at the entrance to the center stating that the rooms of some residents may be being monitored electronically by or on behalf of the residents and that the monitoring is not necessarily open and obvious. Requires the executive commissioner by rule to prescribe the format and content of the notice.

Authorizes DADS to impose appropriate sanctions under Chapter 555, Health and Safety Code, on a director of a center who knowingly refuses to permit a resident or the resident's guardian or legal representative to conduct authorized electronic monitoring; refuses to admit an individual to residency or allows the removal of a resident from the center because of a request to conduct authorized electronic monitoring; allows the removal of a resident from the center because covert electronic monitoring is being conducted by or on behalf of the resident; or violates another provision of the subchapter.

Provides that a person who intentionally hampers, obstructs, tampers with, or destroys an electronic monitoring device installed in a resident's room in accordance with this subchapter or a tape or recording made by the device commits a Class B misdemeanor offense.

Provides that the change in law made by the Act applies only to an offense committed on or after the effective date of the Act. Provides that an offense committed before the effective date of the Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. Provides that, for purposes of the section, an offense was committed before the effective date of the Act if any element of the offense occurred before that date.

Requires the executive commissioner, not later than September 1, 2013, to develop certain required forms and guidelines.

Administration of Psychoactive Medications to Persons in Certain Facilities—S.B. 34

by Senator Zaffirini—House Sponsor: Representative Naishtat

Interested parties express concern with the current provision of psychoactive medication to persons in certain residential care facilities, particularly in regard to state supported living centers, and recommend certain consent requirements for the administration of psychoactive medications and certain procedures and due process provisions related to such administration. This bill:

Provides that each client has the right to refuse psychoactive medication, as provided by the added Subchapter F (Administration of Psychoactive Medications), Chapter 592 (Rights of Persons with Mental Retardation), Health and Safety Code.

Provides that, notwithstanding certain other law, consent is required for, as provided, the administration of psychoactive medications, in addition to for all surgical procedures.

Defines in Subchapter F, Chapter 592, Health and Safety Code, "capacity," "medication-related emergency," and "psychoactive medication."

Prohibits a person from administering a psychoactive medication to a client receiving voluntary or involuntary residential care services who refuses the administration unless the client is having a medication-related emergency; the refusing client's representative authorized by law to consent on behalf of the client has consented to the administration; the administration of the medication regardless of the client's refusal is authorized by an order issued under Section 592.156 (Hearing and Order Authorizing Psychoactive Medication), Health and Safety Code; or the administration of the medication regardless of the client's refusal is authorized by an order issued under Article 46B.086 (Court-Ordered Medications), Code of Criminal Procedure.

Provides that consent to the administration of psychoactive medication given by a client or by a person authorized by law to consent on behalf of the client is valid only if certain conditions are met.

Requires that a client's refusal or attempt to refuse to receive psychoactive medication, whether given verbally or by other indications or means, be documented in the client's clinical record.

Requires a treating physician, in prescribing psychoactive medication, to prescribe, consistent with clinically appropriate medical care, the medication that has the fewest side effects or the least potential for adverse side effects, unless the class of medication has been demonstrated or justified not to be effective clinically, and administer the smallest therapeutically acceptable dosages of medication for the client's condition.

Sets forth provisions regarding documentation, evaluation of other treatments, and treatment if a physician issues an order to administer psychoactive medication to a client without the client's consent because the client is having a medication-related emergency.

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Defines "ward" in Section 592.153 (Administration of Medication to Client Committed to Residential Care Facility), Health and Safety Code.

Prohibits a person from administering a psychoactive medication to a client who refuses to take the medication voluntarily unless the client is having a medication-related emergency; the client is under an order issued under Section 592.156, Health and Safety Code, authorizing the administration of the medication regardless of the client's refusal; or the client is a ward who is 18 years of age or older and the guardian of the person of the ward consents to the administration of psychoactive medication regardless of the ward's expressed preferences regarding such treatment.

Authorizes a physician who is treating a client to file an application in a probate court or a court with probate jurisdiction on behalf of the state for an order to authorize the administration of a psychoactive medication regardless of the client's refusal if the physician believes that the client lacks the capacity to make a decision regarding the administration of the psychoactive medication; the physician determines that the medication is the proper course of treatment for the client; and the client has been committed to a residential care facility under Subchapter C (Commitment to Residential Care Facility), Chapter 593 (Admission and Commitment to Mental Retardation Services), Health and Safety Code, or other law or an application for commitment to a residential care facility under that subchapter has been filed for the client; and sets forth content to be included in a physician's application for an order to authorize psychoactive medication.

Requires that such an application be filed separately from an application for commitment to a residential care facility.

Sets forth provisions regarding the time period and date for a hearing on the application, the transfer of the application for an order to authorize psychoactive medication to another county under certain circumstances, and a continuance.

Entitles a client for whom an application for an order to authorize the administration of a psychoactive medication is filed to certain rights in relation to the hearing.

Authorizes the court to issue an order authorizing the administration of one or more classes of psychoactive medication to a client who has been committed to a residential care facility; or is in custody awaiting trial in a criminal proceeding and was committed to a residential care facility in the six months preceding a hearing under Section 592.156, Health and Safety Code.

Authorizes the court to issue an order under the section only if the court finds by clear and convincing evidence after the hearing that the client lacks the capacity to make a decision regarding the administration of the proposed medication and that treatment with the proposed medication is in the best interest of the client; or if the client was committed to a residential care facility by a criminal court with jurisdiction over the client, that treatment with the proposed medication is in the best interest of the client, and either the client presents a danger to the client or others in the residential care facility in which the client is being treated as a result of a mental disorder or mental defect as determined under Section 592.157 (relating to requiring the court, in making a finding that, as a result of a mental disorder or mental defect, the client presents a danger to the client or others in the residential care facility in which the client is being treated or in the correctional facility, as applicable, to consider certain factors), Health and Safety Code, or the client has remained confined in a correctional facility for a period exceeding 72 hours while awaiting transfer for

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competency restoration treatment and presents a danger to the client or others in the correctional facility as a result of a mental disorder or mental defect as determined under Section 592.157, Health and Safety Code.

Requires the court, in making the finding that treatment with the proposed medication is in the best interest of the client, to consider certain factors.

Sets forth provisions regarding who is required to conduct the hearing, the referral of the hearing to certain other judicial persons, the authorization of certain actions for those persons, whether a record is required, a hearing de novo by the judge if an appeal of the magistrate's or associate judge's report is filed with the court, the transfer of a proceeding to another court under certain circumstances, and the written notification of the court's determination.

Requires that an order entered under Section 592.156, Health and Safety Code, authorize the administration to a client, regardless of the client's refusal, of one or more classes of psychoactive medications specified in the application and consistent with the client's diagnosis and permit an increase or decrease in a medication's dosage, restitution of medication authorized but discontinued during the period the order is valid, or the substitution of a medication within the same class.

Authorizes an order issued to be reauthorized or modified on the petition of a party, provides that the order remains in effect pending action on a petition for reauthorization or modification, and defines "modification" for the related subsection.

Provides that an order issued for a client described by Section 592.156(b)(2)(B) (relating to authorizing the court to issue an order if the court finds after the hearing, if the client was committed to a residential care facility by a criminal court with jurisdiction over the client, that treatment with the proposed medication is in the best interest of the client and the client has remained confined in a correctional facility for a period exceeding 72 hours while awaiting transfer for competency restoration treatment and presents a danger to the client or others in the correctional facility as a result of a mental disorder or mental defect), Health and Safety Code, authorizes the initiation of any appropriate mental health treatment for the patient awaiting transfer and does not constitute authorization to retain the client in a correctional facility for competency restoration treatment.

Authorizes a client to appeal an order under the subchapter in the manner provided by Section 593.056 (Appeal), Health and Safety Code, for an appeal of an order committing the client to a residential care facility, and provides that an order authorizing the administration of medication regardless of the refusal of the client is effective pending an appeal of the order.

Provides that a person's consent to take a psychoactive medication is not valid and is prohibited from being relied on if the person is subject to an order issued under Section 592.156, Health and Safety Code.

Provides that the issuance of such an order is not a determination or adjudication of mental incompetency and does not limit in any other respect that person's rights as a citizen or the person's property rights or legal capacity.

Provides that an order issued expires on the anniversary of the date the order was issued, except that such an order issued for a client awaiting trial in a criminal proceeding expires on the date the defendant is

acquitted, is convicted, or enters a plea of guilty or the date on which charges in the case are dismissed and an order continued in that situation is required to be reviewed by the issuing court every six months.

Provides that Article 46B.086, Code of Criminal Procedure, applies only to certain defendants, including those who, after certain hearings, including a hearing held under 592.156, Health and Safety Code, if applicable, has been found to not meet certain prescribed criteria for court-ordered administration of psychoactive medications.

Transitional Living Assistance and Care Settings For Children With Disabilities—S.B. 49
by Senators Zaffirini and West—House Sponsor: Representative Burkett

Interested parties contend that children with intellectual and developmental disabilities who are residing in general residential operations (GROs) licensed by the Department of Family and Protective Services (DFPS) are not statutorily included in the Texas Promoting Independence Plan, resulting in these children not having timely access to Medicaid waiver services that will assist with appropriate long-term support in the community. This bill:

Requires a health and human services agency, for purposes of determining the appropriateness of transfers under Section 531.0244(b)(3) (relating to requiring that the comprehensive, effectively working plan that provides a system of services and support that fosters independence and productivity and provides meaningful opportunities for a person with a disability to live in the most appropriate care setting require appropriate health and human services agencies to facilitate a timely and appropriate transfer of a person with a disability from an institution to an appropriate setting if certain conditions are met) and developing the strategies required by Section 531.0244(b)(4) (relating to requiring that the comprehensive, effectively working plan require appropriate health and human services agencies to develop strategies to prevent the unnecessary placement in an institution of a person with a disability who is living in the community but is in imminent risk of such placement because of a lack of community services), Government Code, to presume the eligibility of a child residing in a GRO for transfer to an appropriate community-based setting.

Redefines, in Section 531.059 (Voucher Program for Transitional Living Assistance for Persons with Disabilities), Government Code, "institutional housing" to include, among other institutions, a GRO.

Prescribed Pediatric Extended Care Centers—S.B. 492
by Senator Lucio—House Sponsor: Representative J.D. Sheffield

Prescribed pediatric extended care centers (centers) are non-residential medical day health facilities where children with medically complex needs receive physician-prescribed services up to a certain amount of time per day, a model which a number of states have adopted in some manner. This bill:

Defines "basic services," "center," "commission," commissioner," "controlling person," "department," "executive commissioner," "medically dependent or technologically dependent minor," and "minor" in the added Chapter 248A (Prescribed Pediatric Extended Care Centers), Subtitle B (Licensing of Health Facilities), Title 4 (Health Facilities), Health and Safety Code.

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Defines, in that chapter, "prescribed pediatric extended care center" as a facility operated for profit or on a nonprofit basis that provides nonresidential basic services to four or more medically dependent or technologically dependent minors who require the services of the facility and who are not related by blood, marriage, or adoption to the owner or operator of the facility.

Provides that a person is a controlling person if the person has the ability, acting alone or in concert with others, to directly or indirectly influence, direct, or cause the direction of the management of, expenditure of money for, or policies of a prescribed pediatric extended care center (center) or other person; sets forth persons who are included in the term "controlling person," and related provisions; and authorizes the executive commissioner of the Health and Human Services Commission (executive commissioner) to adopt rules that define the ownership interests and other relationships that qualify a person as a controlling person.

Provides that Chapter 248A, Health and Safety Code, does not apply to a facility operated by the United States government or a federal agency or a health facility otherwise licensed under the subtitle.

Provides that, to the extent of any conflict between the standards adopted under the chapter and a standard required in a local, county, or municipal ordinance, Chapter 248A, Health and Safety Code, controls.

Prohibits a person from owning or operating a center in this state unless the person holds a license issued under Chapter 248A, Health and Safety Code; provides that a separate license is required for each center located on separate premises, regardless of whether the centers are under the ownership or operation of the same person; and prohibits a person from operating a center on the same premises as certain facilities.

Requires an applicant for a center license to submit to DADS in accordance with executive commissioner rules a sworn application on the form prescribed by DADS, a letter of credit as prescribed by DADS to demonstrate the applicant's financial viability, and the required fees. Sets forth required content for the application.

Requires DADS to issue a license to a center if DADS determines that the applicant and the center meet the requirements and the rules and standards adopted under Chapter 248A, Health and Safety Code, and sets forth required content for the license.

Provides that such a license expires on the second anniversary of the date of issuance and sets forth requirements for a person applying to renew a center license and notification by DADS to the owner or operator of the center regarding license expiration.

Provides that such a license issued to the license holder named on the license at the location of the premises listed on the license is not transferable or assignable.

Requires the executive commissioner to adopt rules necessary to implement Chapter 248A, Health and Safety Code, and requires that the rules, to protect the health and safety of the public and ensure the health, safety, and comfort of the minors served by a center, establish certain minimum center standards relating to the license, provision of services and programs, the physical facility, personnel, sanitary conditions, and maintenance of records.

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Requires the executive commissioner by rule to authorize the commissioner of aging and disability services (commissioner) to grant a waiver from compliance with certain standards adopted relating to building construction and renovation standards, building maintenance conditions, and sanitary conditions to a center located in a municipality that adopts a code to regulate any of those standards if the commissioner determines the applicable municipal code standards exceed the corresponding standards adopted.

Authorizes DADS to inspect a center, including its records, at reasonable times as necessary to ensure compliance with the law and adopted rules, and requires DADS to inspect a center before issuing or renewing a license.

Authorizes DADS to require a center that undergoes an inspection to take appropriate corrective action necessary to comply with the required law and rules adopted and to submit a corrective action plan to DADS for approval.

Sets forth provisions regarding fees imposed by Chapter 248A, Health and Safety Code.

Requires HHSC to designate a licensed center as a health care services provider under the medical assistance program established under Chapter 32 (Medical Assistance Program), Human Resources Code.

Prohibits a center from admitting a minor client unless the client is a medically dependent or technologically dependent minor, the minor's prescribing physician issues a prescription ordering care at a center, the minor's parent or legal guardian consents to the minor's admission to the center, and the admission is voluntary based on the parent's or legal guardian's preference in both managed care and non-managed care service delivery systems. Provides that an authorized admission is not intended to supplant the right to a Medicaid private duty nursing benefit, when medically necessary.

Prohibits a center from providing services to a minor for more than 12 hours in any 24-hour period; prohibits a center from providing services other than services regulated under Chapter 248A, Health and Safety Code, and executive commissioner rule; and prohibits the maximum patient capacity at a center from exceeding 60.

Sets forth provisions regarding license display, maintenance of records, complaints, compliance with other law, and the closing of a center.

Authorizes DADS to deny, suspend, or revoke a license issued under this chapter for certain acts, and provides that the procedures by which DADS denies, suspends, or revokes a license and by which those actions are appealed are governed by the procedures for a contested case hearing, except as provided otherwise.

Authorizes DADS, if DADS finds that a center is in repeated noncompliance with the chapter, rules adopted, or a corrective action plan, but that the noncompliance does not endanger a minor served by the center or the public health and safety, to schedule the center for probation rather than suspending or revoking the center's license, and sets forth additional provisions regarding probation.

Authorizes DADS to issue an emergency order to suspend a license issued under this chapter if DADS has reasonable cause to believe that the conduct of a license holder creates an immediate danger to a minor served by the center or the public health and safety. Provides that an emergency suspension is effective

immediately without a hearing on notice to the license holder, and sets forth additional provisions regarding an emergency suspension.

Authorizes DADS to petition a district court for a temporary restraining order to restrain a continuing violation of the chapter or a related rule or standard adopted if DADS finds that the violation creates an immediate threat to the health and safety of the minors served by a center; authorizes a district court, on petition of DADS and on a finding by the court that a person is violating the chapter or adopted rules, to, by injunction, prohibit the person from continuing the violation, restrain or prevent the establishment or operation of a center without a license, or grant any other injunctive relief warranted by the facts; and authorizes the attorney general to institute and conduct a suit authorized by the section at the request of DADS.

Provides that a person who violates the chapter or a related rule or standard or who fails to comply with a corrective action plan is liable for a civil penalty of not more than \$500 for each violation if DADS determines the violation threatens the health and safety of a minor served by the center, and sets forth additional provisions regarding the civil penalty.

Provides that a person commits a Class B misdemeanor offense if the person knowingly establishes or operates a center without the appropriate license and provides that each day a violation continues constitutes a separate offense.

Authorizes the commissioner to impose an administrative penalty on a licensed person who violates the chapter or a related rule, adopted standard, or issued order; prohibits the amount of the penalty from exceeding \$500 for each violation and provides that each day a violation continues or occurs is a separate violation for purposes of imposing a penalty; and sets forth provisions related to the amount of penalty, report and notice of violation and penalty, the penalty to be paid or hearing requested, decision by commissioner, options following the decision of either paying or appealing, stay of enforcement of penalty, collection of penalty, decision by the court, remittance of penalty and interest, release of bond, and administrative procedure.

Entitles DADS to obtain from the Department of Public Safety of the State of Texas (DPS) criminal history record information maintained by DPS that relates to a person required to undergo a background and criminal history check under Chapter 248A, Health and Safety Code, and sets forth provisions regarding the confidentiality and disclosure of such information.

Redefines "facility" to include a center in Chapter 250 (Nurse Aide Registry and Criminal History Checks of Employees and Applicants for Employment in Certain Facilities Serving the Elderly, Persons with Disabilities, or Persons with Terminal Illnesses), Health and Safety Code; Chapter 253 (Employee Misconduct Registry), Health and Safety Code, and Chapter 260A (Reports of Abuse, Neglect, and Exploitation of Residents of Certain Facilities), Health and Safety Code, and redefines "resident" in Chapter 260A, Health and Safety Code.

Requires HHSC or an agency operating part of the medical assistance program, as appropriate, to establish a separate provider type for licensed centers for purposes of enrollment as a provider for and reimbursement under the medical assistance program.

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Requires the executive commissioner, not later than July 1, 2014, to adopt the rules required by Subchapter C (Powers and Duties of Executive Commissioner, Commission, and Department), Chapter 248A, Health and Safety Code, as added by this Act.

Provides that a person is not required to hold a center license until January 1, 2015.

Requires the executive commissioner, when determining an initial reimbursement rate for licensed centers that are enrolled in the medical assistance program, to establish a reimbursement rate that, when converted to an hourly rate, is not more than 70 percent of the average hourly unit rate for private duty nursing services provided under Texas Health Steps Comprehensive Care Program.

Provides that Subchapters E (General Enforcement) and F (Administrative Penalty), Chapter 248A, Health and Safety Code, as added by this Act, take effect January 1, 2015.

Term for the Independent Ombudsman For State Supported Living Centers—S.B. 747 *by Senator Nelson—House Sponsor: Representative Fallon*

Under current state law, the governor is required to appoint an independent ombudsman for state supported living centers. However, current law does not specify the duration of the term. This bill:

Clarifies that the independent ombudsman for state supported living centers that the governor is required to appoint is appointed for a term of two years expiring February 1 of odd-numbered years.

Allows a person appointed as independent ombudsman to be reappointed.

Requires a person serving as the independent ombudsman on the effective date of the Act to serve as the independent ombudsman until February 1, 2015, unless otherwise removed by the governor.

Transportation of Certain Patients to a Mental Health Facility—H.B. 978
by Representative Raymond—Senate Sponsor: Senator Zaffirini

Current law allows a court to authorize the transportation of a committed patient or a patient detained under Section 573.022 (Emergency Admission and Detention), Health and Safety Code, or Section 574.023 (Apprehension Under Order), Health and Safety Code, to a designated mental health facility by certain persons, in a certain order of priority. A relative or other properly interested person is listed third in that priority list, but interested parties have expressed concern that such persons lack the professional training, experience, and knowledge needed to safely transport a mental health patient. Interested parties have also expressed concern regarding certain mental health patients who are being transported out of state for treatment. This bill:

Reorders the placement of a relative or other responsible person who has a proper interest in the patient's welfare and who receives no remuneration, except for actual and necessary expenses, from third to sixth in the priority order list of entities who a court is allowed to authorize to provide such transportation.

Prohibits a person from transporting a patient to a mental health facility in another state for court-ordered inpatient mental health services unless transportation to that facility is authorized by a court order.

Recommendations on Mental Health Workforce Shortage—H.B. 1023
by Representative Burkett et al.—Senate Sponsor: Senator Nelson

Interested parties note that Texas is experiencing a critical mental health workforce shortage crisis. A majority of Texas counties have been designated by the federal government as health professional shortage areas for mental health. This bill:

Requires the Health and Human Services Commission (HHSC), or a health and human services agency designated by HHSC, to use existing information and data available through HHSC, the Department of State Health Services, the statewide health coordinating council, and nongovernmental entities with expertise in mental health workforce issues to make recommendations regarding mental health workforce shortages.

Requires HHSC or the health and human services agency designated by HHSC, not later than September 1, 2014, to submit a report to the appropriate entities that includes specific recommendations to alleviate mental health workforce shortages in this state and certain associated information.

Information About Housing For Persons With Mental Illness—H.B. 1191
by Representatives Burkett and Zedler—Senate Sponsor: Senator Zaffirini

In 2010, the estimated number of adults with serious and persistent mental illness and children with severe emotional disturbance in Texas were approximately 488,000 and 154,000, respectively, according to the Department of State Health Services. Persons experiencing mental illness need information and resources regarding many services, including housing for persons with mental illness. The Texas Information and Referral Network (TIRN) Internet site (site), 2-1-1 Texas, assists Texans in connecting with health and human services and information. This bill:

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Requires HHSC to make available through the site information regarding housing options for persons with mental illness provided by public or private entities through Texas and provides that the site will serve as a single point of access through which a person may be directed on how or where to apply for such housing in the person's community.

Provides that, in the relevant subsection, "private entity" includes any provider of housing specifically for persons with mental illness other than a state agency, municipality, county, or other political subdivision of this state, regardless of whether the provider access payment for providing housing for persons with mental illness.

Requires that, to the extent resources are available, the site be geographically indexed and designed to inform a person about the housing options for persons with mental illness provided in the area where the person lives.

Sets forth provisions regarding the required searchable listing of available housing options for persons with mental illness and related content.

Requires that the site display a disclaimer that the information provided is for informational purposes only and is not an endorsement or recommendation of any type of housing or any housing facility.

Requires each entity providing such housing to cooperate with TIRN as necessary in the administration of the provisions.

Emergency Detention by a Peace Officer of a Person Who May Have Mental Illness—H.B. 1738 *by Representatives Naishtat and Burkett—Senate Sponsor: Senators Zaffirini and West*

Under current law, a peace officer, without a warrant, is authorized to take a person, under certain circumstances, into custody if the officer has reason to believe and does believe that the person is mentally ill and meets other conditions, and the police officer is required to immediately transport that person to certain facilities. Interested persons express concern that police departments and mental health facilities across the state do not all use the same detention forms, which contain information on the detained person's condition, circumstances of apprehension, and potential risks, and assist in guiding decision-making concerning that person. Additionally, persons who are apprehended, detained, or transported for emergency detention under Chapter 573 (Emergency Detention), Health and Safety Code, have certain rights. This bill:

Requires a peace officer who takes a person into custody under Section 573.001(a) (relating to authorizing a peace officer, without a warrant, to take a person into custody under certain circumstances), Health and Safety Code, to immediately inform the person orally in simple, nontechnical terms of the reason for the detention and that a staff member of the facility will inform the person of the person's rights within 24 hours after the time the person is admitted to a facility.

Requires a peace officer to immediately file with a facility a notification of detention after transporting a person to that facility in accordance with Section 573.001 (Apprehension by Peace Officer or Transportation for Emergency Detention by Guardian), Health and Safety Code, rather than requiring a

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peace officer to immediately file an application for detention after transporting a person to a facility under that section.

Requires that the notification of, rather than the application for, detention contain certain information.

Requires the facility where the person is detained to include in the detained person's clinical file the notification of detention.

Sets forth the required form on which the peace officer is required to give notification of detention; and prohibits a mental health facility or hospital emergency department from requiring a peace officer to execute any form other than that form as a predicate to accepting for temporary admission a person detained under Section 573.001.

Requires a facility to temporarily accept a person for whom a peace officer files a notification of detention, in addition to a person for whom an application for detention is filed.

Provides that a person apprehended, detained, or transported for emergency detention under Chapter 573 (Emergency Detention), Health and Safety Code, has certain rights, including the right to a reasonable opportunity to communicate with a relative or other responsible person who has a proper interest in the person's welfare.

Requires a person apprehended, detained, or transported for emergency detention under Subtitle C (Texas Mental Health code) to be informed in a certain manner of the rights provided by the relevant section and that subtitle.

Requires the executive commissioner of the Health and Human Services Commission by rule to prescribe the manner in which the person is informed of the person's rights under the relevant statute.

Powers, Duties, and Services of Entities Serving Counties and County Residents—H.B. 3793

by Representative Coleman—Senate Sponsor: Senator Hinojosa

There is a need to train mental health professionals, educators, school administrators, and school faculty and staff to administer mental health first aid training. There is a need for more outpatient mental health services and beds in certain mental health facilities as well as an increased commitment of certain persons to receive mental health services. There is a need for the creation of the Hidalgo County Hospital District. This bill:

Requires the State Board for Educator Certification to adopt rules that allow an educator to fulfill up to 12 hours of continuing education by participating in a mental health first aid training program offered by a local mental health authority. Prohibits the number of hours of continuing education an educator may fulfill under this subsection from exceeding the number of hours the educator actually spends participating in a mental health first aid training program.

Authorizes a local mental health authority to ensure, to the extent feasible, the provision of assessment services, crisis services, and intensive and comprehensive services using disease management practices for children with serious emotional, behavioral, or mental disturbance not previously described and adults

with severe mental illness who are experiencing significant functional impairment due to a mental health disorder not previously described that is defined by the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition (DSM-5). Requires the local mental health authority to ensure that these individuals are engaged with treatment services in a clinically appropriate manner. Requires the Texas Department of Mental Health and Mental Retardation (TXMHMR) to require each local mental health authority to incorporate jail diversion strategies into the authority's disease management practices to reduce the involvement of the criminal justice system in managing adults with specific disorders as defined by DSM-5.

Requires TXMHMR, in conjunction with the Health and Human Services Commission (HHSC), to ensure the appropriate and timely provision of mental health services to patients who voluntarily receive those services or who are ordered by a court to receive those services in civil or criminal proceedings, to plan for the proper and separate allocation of outpatient or community-based mental health services provided by secure and nonsecure outpatient facilities that provide residential care alternatives and mental health services and for the proper and separate allocation of beds in the state hospitals for two groups of patients. Defines the two groups of patients. Requires that the plan developed by TXMHMR include certain information. Requires TXMHMR to assist in the development of the plan, to establish and meet at least monthly with an advisory panel composed of certain persons. Describes the individuals to make up the advisory panel. Requires TXMHMR and the advisory panel, in developing the plan to consider certain information and describes the information. Requires TXMHMR to update the plan biennially. Requires TXMHMR, not later than December 31, 2013, in conjunction with the advisory panel, to develop the initial version of the plan. Requires TXMHMR, not later than August 31, 2014, to identify standards and methodologies for the implementation of the plan and begin implementing the plan. Requires TXMHMR, not later than December 1, 2014, to submit a report to the legislature and governor that includes the initial version of the plan, the status of the plan's implementation, and the impact of the plan on the delivery of services. Prohibits TXMHMR, while the plan is being developed and implemented, pursuant to any rule, contract, or directive, from imposing a sanction, penalty, or fine on a local mental health authority for the authority's noncompliance with any methodology or standard adopted or applied by TXMHMR relating to the allocation of beds by authorities for the two groups of patients.

Requires TXMHMR to make every effort, through collaboration and contractual arrangements with local mental health authorities, to contract with and use a broad base of local community outpatient mental health service providers and inpatient mental health facilities, as appropriate, to make available a sufficient and appropriately located amount of outpatient mental health services and a sufficient and appropriately located number of beds in inpatient mental health facilities, as specified in the developed plan, to ensure the appropriate and timely provision of mental health services to the two groups of patients.

Requires TXMHMR to develop and implement a procedure through which a court that has the authority to commit a person who is incompetent to stand trial or who has been acquitted by reason of insanity is aware of all of the commitment options for the person including jail diversion and community-based programs.

Defines "educator," "local mental health authority," and "regional education service center." Requires the Texas Department of State Health Services (DSHS), to the extent funds are appropriated to DSHS for that purpose, to make grants to local mental health authorities to contract with persons approved by DSHS to train employees or contractors of the authorities as mental health first aid trainers. Requires DSHS, except as provided, to make each grant to a local mental health authority under this section in an amount equal to \$1,000 times the number of employees or contractors of the authority whose training as mental health first aid trainers will be paid by the grant. Prohibits the total amount DSHS is authorized to grant to a local

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mental health authority for each state fiscal year from exceeding the lesser of \$30,000 or three percent of the funds appropriated to DSHS for making grants. Requires the executive commissioner of HHSC to adopt rules to establish the requirements for a person to be approved by DSHS to train employees or contractors of a local mental health authority as mental health first aid trainers. Requires that the rules ensure that a person who is approved by DSHS is qualified to provide training in specific areas. Authorizes two or more local mental health authorities to collaborate and share resources to provide training for employees or contractors of the authorities under this section.

Requires DSHS, to the extent funds are appropriated to DSHS for that purpose, to make grants to local mental health authorities to provide an approved mental health first aid training program, administered by mental health first aid trainers, at no cost to educators. Prohibits the total amount DSHS is authorized to grant to a local mental health authority under this section for each state fiscal year from exceeding the lesser of \$40,000 or three percent of the funds appropriated to DSHS for making grants under this section. Requires DSHS, out of the funds appropriated to DSHS for making grants under this section, to grant \$100 to a local mental health authority for each educator who successfully completes a mental health first aid training program provided by the authority. Requires that a mental health first aid training program provided by a local mental health authority meet certain requirements and sets forth the requirements. Authorizes a local mental health authority to contract with a regional education service center to provide a mental health first aid training program to educators. Authorizes two or more local mental health authorities to collaborate and share resources to develop and operate a mental health first aid training program.

Requires the authority, not later than October 1 of each state fiscal year for which a local mental health authority will seek a grant from DSHS, to submit to DSHS a plan demonstrating the manner in which grants made to the authority under that section will be used for various services. Prohibits DSHS from making a grant to a local mental health authority unless DSHS has evaluated a plan submitted by the authority.

Requires a local mental health authority, not later than July 1 of each year, to provide to DSHS the number of employees and contractors of the authority who were trained as mental health first aid trainers; educators who completed a mental health first aid training program offered by the authority during the preceding calendar year; and individuals who are not educators who completed a mental health first aid training program offered by the authority during the preceding calendar year. Requires DSHS, not later than August 1 of each year, to compile the information submitted by local mental health authorities and submit a report to the legislature containing that information.

Provides that a person who has completed a mental health first aid training program offered by a local mental health authority and who in good faith attempts to assist an individual experiencing a mental health crisis is not liable in civil damages for an act performed in attempting to assist the individual unless the act is wilfully or wantonly negligent.

Sets forth standard language for the creation of the Hidalgo County Hospital District (district) in Hidalgo County. Sets forth standards, procedures, requirements, and criteria for the general provisions, district administration, powers and duties, general financial provisions, and dissolution of the district.

Authorizes the district to exercise the power of eminent domain to acquire a fee simple or other interest in property located in district territory if the interest is necessary for the district to exercise the district's rights or authority.

Requires the executive commissioner of the Health and Human Services Commission, not later than May 1, 2014, to adopt any rules necessary to implement these provisions.

Provides that proof of publication of the notice required to enact Chapter 1122 (Hidalgo County Hospital District), Special District Local Laws Code, under the provisions of Section 9, Article IX, Texas Constitution, has been made in the manner and form provided by law pertaining to the enactment of local and special laws, and the notice is found and declared proper and sufficient to satisfy the requirement.

Voluntary Relinquishment of Custody of a Child to Obtain Mental Health Services—S.B. 44 *by Senator Zaffirini et al.—House Sponsor: Representative Burkett*

Parents of children with severe behavioral or mental disorders face a large financial burden in securing the necessary medical care for their child. Interested parties contend that some parents who do not have adequate health insurance or the financial means to obtain treatment for their child may have to make the decision to place their child in the custody of child protective services in order to obtain the mental health services needed. In such situations, the state deems the parents as having refused to accept parental responsibility and those parents are placed on the state's abuse and neglect registry. The relinquishment of a child by a parent for the sole purpose of accessing services for a child and the entry of the parent into the registry may have negative consequences on the child, the parent, and the state. This bill:

Defines "severe emotional disturbance" (SED).

Requires the Department of Family and Protective Services (DFPS) to report, among other information, the number of children who suffer from SED and for whom DFPS is appointed managing conservator because a person voluntarily relinquished custody of the child solely to obtain mental health services for the child.

Provides that, before a person relinquishes custody of a child who suffers from SED in order to obtain mental health services for the child, DFPS is required, if it is in the best interest of the child, to discuss with the person the option of seeking a court order for joint managing conservatorship of the child with DFPS.

Requires DFPS and the Department of State Health Services (DSHS) to jointly study and develop recommendations to prevent the practice of parents relinquishing custody of children with SED and placement of children in the conservatorship of DFPS solely to obtain mental health services for the child, and, as part of the study, to consider the advantages of providing mental health services using temporary residential treatment and intensive community-based services options, including certain listed options.

Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) to review the recommendations developed and authorizes the executive commissioner to direct the implementation of any recommendation that can be implemented with DFPS's current resources.

Requires DFPS and DSHS, not later than September 30, 2014, to file a report with the legislature and the Council on Children and Families (council) on the study's results and provides provisions regarding the report's required content and the updating of the report.

Requires the council, among other duties, to identify and develop methods and strategies to coordinate and enhance prevention services and make recommendations to the executive commissioner regarding options

for improving the system for serving families who relinquish, or are at risk of relinquishing, custody of a child solely to obtain mental health services for the child, after considering whether it would be appropriate to serve those families without a finding of abuse or neglect or without including the finding of abuse or neglect in the central registry of reported cases of child abuse or neglect.

Requires the executive commissioner to review the council's recommendations regarding the relinquishment provision and direct the implementation of any policy changes the executive commissioner determines necessary that can be implemented using existing resources.

Mental Health and Substance Abuse Public Reporting System—S.B. 176

by Senators Nelson and Schwertner—House Sponsor: Representative John Davis

Certain contracted providers of community mental health and substance abuse services currently report performance and outcome measures to the Department of State Health Services (DSHS), but interested parties note that this data is not made available to the public, which makes it difficult for consumers and other stakeholders to compare performance across providers. This bill:

Requires DSHS, in collaboration with the Health and Human Services Commission (HHSC), to establish and maintain a public reporting system of performance and outcome measures relating to mental health and substance abuse services established by the Legislative Budget Board (LBB), DSHS, and HHSC.

Requires that the system allow external users to view and compare the performance, outputs, and outcomes of community centers established under Subchapter A (Community Centers), Chapter 534 (Community Services), Health and Safety Code, that provide mental health services; Medicaid managed care pilot programs that provide mental health services; and agencies, organizations, and persons that contract with the state to provide substance abuse services.

Requires that the system allow external users to view and compare the performance, outputs, and outcomes of the Medicaid managed care programs that provide mental health services.

Requires DSHS to post the performance, output, and outcome measures quarterly or semiannually in accordance with when the measures are reported to DSHS on the DSHS website so that the information is accessible to the public.

Requires DSHS to consider public input in determining the appropriate outcome measures to collect in the system, and requires DSHS, to the extent possible, to include outcome measures that capture inpatient psychiatric care diversion, avoidance of emergency room use, criminal justice diversion, and the numbers of people who are homeless who are served.

Requires HHSC to conduct a study to determine the feasibility of establishing and maintain the public reporting system, including, to the extent possible, the cost to the state and impact on managed care organizations and providers of collecting the required outcome measures, and, not later than December 1, 2014, to report the results of the study to the legislature and appropriate legislative committees.

Requires DSHS to ensure that information reported through the system does not permit the identification of an individual.

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Requires DSHS, not later than December 1, 2013, to establish the required public reporting system.

Requires DSHS, not later than December 1, 2014, to submit a report to the legislature and LBB on the development of the required public reporting system and the outcome measures collected.

Court-Ordered Outpatient Mental Health Services—S.B. 646 *by Senator Deuell—House Sponsor: Representatives Naishtat and Burkett*

Interested parties note that Texas is one of many states that permit assisted outpatient treatment (AOT), which is court-ordered outpatient treatment. Those parties recommend clarifying laws relating to court-ordered mental health services in order to increase use of such treatment. This bill:

Requires the judge, not later than the third day before the date of a hearing that may result in the judge ordering the patient to receive court-ordered outpatient mental health services, to identify the person the judge intends to designate to be responsible for those services.

Requires the court, in an order that directs a patient to participate in outpatient mental health services, to designate the identified person as responsible for those services or authorizes the court to designate a different person if necessary. Requires the person designated, rather than the person identified, to be the facility administrator or an individual involved in providing court-ordered outpatient services.

Requires the person responsible for the services to submit to the court a general program of the treatment to be provided as required by certain law, rather than requiring the person responsible for the services to submit to the court within two weeks after the court enters the order a general program of the treatment to be provided. Requires that the program be incorporated into the court order and include services to provide care coordination and any other treatment or services, including medication and supported housing, that are available and considered clinically necessary by a treating physician or the person responsible for the services to assist the patient in functioning safely in the community.

Requires the person responsible for the services, if the patient is receiving inpatient mental health services at the time the program is being prepared, to seek input from the patient's inpatient treatment providers in preparing the program.

Requires the person responsible for the services to submit the program to the court before the hearing under Section 574.034 (Order for Temporary Mental Health Services) or 574.035 (Order for Extended Mental Health Services), Health and Safety Code, or before the court modifies an order under Section 574.061 (Modification of Order for Inpatient Treatment), Health and Safety Code, as appropriate.

Authorizes a patient subject to court-ordered outpatient services to petition the court for specific enforcement of the court order.

Authorizes a court, on its own motion, to set a status conference with the person responsible for the services, the patient, and the patient's attorney.

Requires the court to order the patient to participate in the program but prohibits the court from compelling performance. Authorizes the court, if a court receives information under Section 574.037(c)(1) (relating to

requiring the person responsible for the services to inform the court of the patient's failure to comply with the court order), Health and Safety Code, that a patient is not complying with the court's order, to set a modification hearing under Section 574.062 (Motion for Modification of Order for Outpatient Treatment), Health and Safety Code, and issue an order for temporary detention if an application is filed under Section 574.063 (Order for Temporary Detention), Health and Safety Code.

Provides that the failure of a patient to comply with the program incorporated into a court order is not grounds for punishment for contempt of court.

Requires the court, if the court modifies the order, to designate, rather than to identify, a person to be responsible for the outpatient services as prescribed by Section 574.037 (Court-Ordered Outpatient Services).

Requires that a sworn application for a patient's temporary detention pending the modification hearing under Section 574.026 (Order for Continued Detention) filed by a person responsible for a patient's court-ordered outpatient treatment or the facility administrator of the outpatient facility in which the patient receives treatment state the applicant's opinion and detail the reasons for the applicant's opinion that the patient meets the criteria described by added Section 574.064(a-1) (relating to requiring a physician to evaluate the patient as soon as possible within 24 hours after the time detention begins to determine whether the patient, due to mental illness, presents a substantial risk of serious harm to the patient or others so that the patient cannot be at liberty pending the probable cause hearing), Health and Safety Code, rather than by Section 574.065(a) (relating to authorizing the court to modify an order for outpatient services at the modification hearing if the court determines that the patient meets certain criteria), Health and Safety Code, and detention in an inpatient mental health facility is necessary to evaluate the appropriate setting for continued court-ordered services.

Requires a physician to evaluate the patient as soon as possible within 24 hours after the time detention begins to determine whether the patient, due to mental illness, presents a substantial risk of serious harm to the patient or others so that the patient cannot be at liberty pending the probable cause hearing. Authorizes the determination that the patient presents a substantial risk of serious harm to the patient or others to be demonstrated by certain evidence.

Requires the facility, if the physician who conducted the evaluation determines that the patient does not present a substantial risk of serious harm, to notify certain entities and release the patient.

Authorizes a patient who is not released to be detained under a temporary detention order for more than 72 hours, excluding Saturdays, Sundays, legal holidays, and the period prescribed by Section 574.025(b) (relating to requiring the hearing to be held within a certain time period after the time that the proposed patient was detained under a protective custody order), Health and Safety Code, for an extreme emergency only if, after a hearing held before the expiration of that period, the court, a magistrate, or a designated associate judge finds that there is probable cause to believe that the patient, due to mental illness, presents a substantial risk of serious harm to the patient or others, using the criteria prescribed, to the extent that the patient cannot be at liberty pending the final hearing under Section 574.062, Health and Safety Code, rather than the patient meets the criteria described by Section 574.065(a), Health and Safety Code, and detention in an inpatient mental health facility is necessary to evaluate the appropriate setting for continued court-ordered services.

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Provides that a patient released from an inpatient mental health facility under added Section 574.064(a-2) (relating to requiring the facility to perform certain actions if the physician determines that the patient does not present a substantial risk of serious harm) or Section 574.064(d) (relating to requiring a facility administrator to immediately release a patient held under a temporary detention order if the facility administrator does not receive a certain notice), Health and Safety Code, continues to be subject to the order for court-ordered outpatient services, if the order has not expired.

Authorizes the court to modify an order for outpatient services at the modification hearing if the court determines that the patient meets the applicable criteria for court-ordered inpatient mental health services prescribed by Section 574.034(a) (relating to authorizing a judge to order a proposed patient to receive court-ordered temporary inpatient mental health services only if the judge or jury finds, from clear and convincing evidence, certain information) or 574.035(a) (relating to authorizing a judge to order a proposed patient to receive court-ordered extended inpatient mental health services only if the jury, or the judge if the right to a jury is waived, finds, from clear and convincing evidence, certain information), Health and Safety Code.

Provides that Subchapter G (Administration of Medication to Patient Under Court Order for Mental Health Services), Chapter 574 (Court-Ordered Mental Health Services), Health and Safety Code, applies to the application of medication to a patient subject to a court order for mental health services, rather than to a patient subject to an order for inpatient mental health services, under the chapter or other law.

Prohibits a person from administering a psychoactive medication to a patient under court-ordered inpatient mental health services who refuses to take the medication voluntarily unless the patient meets certain criteria.

Requires the Department of State Health Services, not later than December 1, 2016, to prepare and submit to the legislature a report containing information about persons receiving court-ordered outpatient mental health services and the effectiveness of those services, and provides that the section expires September 1, 2017.

Repeals Sections 574.034(i) (relating to authorizing a judge to advise, but prohibiting a judge from compelling, the proposed patient to receive treatment with psychoactive medication as specified by the outpatient mental health services treatment plan, participate in counseling, and refrain from the use of alcohol or illicit drugs) and 574.035(j) (relating to authorizing a judge to advise, but prohibiting the judge from compelling, the proposed patient to receive treatment with psychoactive medication as specified by the outpatient mental health services treatment plan, participate in counseling, and refrain from the use of alcohol or illicit drugs), Health and Safety Code.

Provides that the change in law made by the Act applies only to an application for court-ordered mental health services or temporary detention filed on or after the effective date of the Act, and provides that an application filed before the effective date of the Act is governed by the law in effect when the application was filed, and the former law is continued in effect for that purpose.

Voluntary and Involuntary Mental Health Services—S.B. 718
by Senator West—House Sponsor: Representative Burkett

Interested parties note that Texas law provides the age of consent for inpatient mental health services, but does not do so for outpatient mental health services, which can be used earlier in a mental health crisis, often avoiding more costly and involved inpatient services. Interested parties note that current statute states that foster parents and Child Protective Services staff cannot enroll a minor in inpatient mental health services without the minor's consent, but does not explicitly state what should be done when the minor refuses. This bill:

Authorizes a person 16 years of age or older to request admission to an inpatient mental health facility or for outpatient mental health services by filing a request with the administrator of the facility where admission or outpatient treatment is requested, rather than authorizing a person 16 years of age or older or a person younger than 16 years of age who is or has been married to request admission to an inpatient mental health facility by filing a request with the administrator of the facility to which admission is requested.

Authorizes the parent, managing conservator, or guardian of a person younger than 18 years of age to request the admission of the person to an inpatient mental health facility or for outpatient mental health services by filing a request with the administrator of the facility where admission or outpatient treatment is requested, rather than authorizing the parent, managing conservator, or guardian of a person younger than 18 years of age who is not and has not been married to request the admission of the person to an inpatient mental health facility by filing a request with the administrator of the facility to which admission is requested.

Authorizes an inpatient mental health facility, except as provided otherwise, to admit or provide services to a person 16 years of age or older and younger than 18 years of age if the person's parent, managing conservator, or guardian consents to the admission or services, even if the person does not consent to the admission or services.

Authorizes a person younger than 18 years of age, if the person does not consent to a person or agency appointed as the guardian or a managing conservator of that person and acting as an employee or agent of the state or a political subdivision of the state request for the person's admission, to be admitted for inpatient services only pursuant to an application for court-ordered mental health services or emergency detention or an order for protective custody.

Prohibits a person younger than 18 years of age from being involuntarily committed unless provided by law or rule.

Authorizes the administrator of an inpatient or outpatient mental health facility to admit a minor who is 16 years of age or older, rather than authorizing the administrator of an inpatient mental health facility to admit a minor who is 16 years of age or older or a person younger than 16 years of age who is or has been married, to an inpatient or outpatient mental health facility as a voluntary patient without the consent of the parent, managing conservator, or guardian.

Authorizes the facility administrator or the administrator's authorized, qualified designee to admit a person for whom a proper request for voluntary inpatient or outpatient services is filed if the administrator or the designee determines certain factors, including from a preliminary examination that the person has symptoms of mental illness and will benefit from the inpatient or outpatient services, and that the admission

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was voluntarily agreed to by the person if the person is 16 years of age or older, rather than if the person is 16 years of age or older, or younger than 16 years of age and is or has been married; or by the person's parent, managing conservator, or guardian, if the person is younger than 18 years of age, rather than if the person is younger than 18 years of age and is not and has not been married.

Prohibits a person from transporting a patient to a mental health facility in another state for inpatient mental health services under Chapter 572 (Voluntary Mental Health Services) unless transportation to that facility is authorized by a court order.

Transportation of a Mental Health Patient Who is Not a Texas Resident—S.B. 1889

by Senator Elife—House Sponsor: Representative Lavender

Interested parties note that in certain parts of Texas, particularly those counties that share borders with other states, coordinating care for mental health patients can be difficult. They note that when a person, regardless of state of residence, presents at a Texas emergency department, federal law requires the hospital to stabilize the patient. These parties contend that, if an out-of-state patient requires an involuntary commitment, it can be difficult to return that person to his or her home state to receive appropriate treatment and note the difficulties placed on the hospitals, the patients, and other agencies in these situations, particularly in regard to treatment and transportation of the patient. This bill:

Redefines "mental health facility" to include, with respect to a reciprocal agreement entered into under added Section 571.0081 (Return of Committed Patient to State of Residence; Reciprocal Agreements), Health and Safety Code, any hospital or facility designated as a place of commitment by the Department of State Health Services (DSHS), a local mental health authority, and the contracting state or local authority.

Authorizes DSHS to return a nonresident patient committed to a DSHS mental health facility or other mental health facility under Section 571.0081, Health and Safety Code, to the proper agency in the patient's state of residence.

Authorizes DSHS, subject to Section 571.0081, Health and Safety Code, to enter into reciprocal agreements with the state or local authorities, rather than proper agencies, of other states to facilitate the return of persons committed to mental health facilities in this state or another state to the states of their residence.

Requires the state returning a committed patient to another state to bear the expenses of returning the patient, unless the state agrees to share costs under a reciprocal agreement.

Defines "state or local authority" in Section 571.0081, Health and Safety Code.

Requires DSHS, if a state or local authority of another state petitions DSHS, to enter into a reciprocal agreement with the state or local authority to facilitate the return of persons committed to mental health facilities in this state to the state of their residence unless DSHS determines that the terms of the agreement are not acceptable.

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Requires that a reciprocal agreement entered into by DSHS require DSHS to develop a process for returning persons committed to mental health facilities to their state of residence, and requires that the process meet certain requirements.

Requires DSHS to coordinate, as appropriate, with a mental health facility, a mental hospital, health service providers, courts, and law enforcement personnel located in the geographic area nearest the petitioning state.

Makes application of the change in law made by this Act prospective.

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Assessment of Psychological Status For Emergency Order for Protective Services—H.B. 908 *by Representative Nevárez—Senate Sponsor: Senator Uresti*

If the Department of Family and Protective Services (DFPS) determines that an elderly person or a person with disabilities is suffering from certain abuse, neglect, or exploitation, that the person lacks capacity to consent to protective services, and that no consent can be obtained, current statute authorizes DFPS to petition certain courts for an emergency order authorizing protective services, and requires the petition to contain certain content, including a medical report. Statute provides that, in lieu of the medical report, if certain circumstances occur, certain other information may be provided, including an assessment of the person's psychological status. Interested parties note that statute allows only for master social workers and licensed psychologists to perform this assessment of such a person who might be suffering from abuse, neglect, or exploitation in order to recommend emergency protective services without the consent of such person. Such parties express concern that due to the limited number of master social workers and licensed psychologists available in rural counties, such elderly persons or persons with disabilities may not be adequately protected. This bill:

Requires an assessment of the elderly or disabled person's psychological status to be performed by a licensed professional counselor, who is the entity added by the bill, licensed psychologist, or master social worker who has training and expertise in issues related to abuse, neglect, and exploitation. Updates the language requiring the person performing the assessment to sign a report stating certain information to reflect the addition of the licensed professional counselor.

Administration and Monitoring of Health Care Provided to Foster Children—H.B. 915 *by Representative Kolkhorst et al.—Senate Sponsor: Senator Nelson*

Interested parties contend that increased accountability and awareness is needed from those making medical decisions on behalf of foster children and assert that there is a need to ensure that the use of psychotropic medication by foster youth is appropriate, necessary, and closely monitored. This bill:

Requires a guardian ad litem appointed for a child in a proceeding under Chapter 262 (Procedures in Suit by Governmental Entity to Protect Health and Safety of Child) or 263 (Review of Placement of Children Under Care of Department of Protective and Regulatory Services), Family Code, in addition to other duties required, to review the medical care provided to the child, and, in a developmentally appropriate manner, seek to elicit the child's opinion on the medical care provided.

Requires an attorney ad litem appointed for a child in a proceeding under Chapter 262 or 263, Family Code, in addition to other duties required, to review the medical care provided to the child; in a developmentally appropriate manner, seek to elicit the child's opinion on the medical care provided; and for a child at least 16 years of age, advise the child of the child's right to request the court to authorize the child to consent to the child's own medical care.

Defines "advanced practice nurse" and "physician assistant" in Chapter 263, Family Code.

Requires the court at each permanency hearing to perform certain actions, including reviewing the medical care provided to the child; ensuring the child has been provided the opportunity, in a developmentally

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appropriate manner, to express the child's opinion on the medical care provided; and for a child receiving psychotropic medication, determining whether the child has been provided appropriate psychosocial therapies, behavior strategies, and other non-pharmacological interventions, and has been seen by the prescribing physician, physician assistant, or advanced practice nurse at least once every 90 days for purposes of the required review. Updates a reference from the Texas Youth Commission to the Texas Juvenile Justice Department in this provision.

Requires the court, at each placement review hearing, to determine certain factors, including whether the child is receiving appropriate medical care; the child has been provided the opportunity, in a developmentally appropriate manner, to express the child's opinion on the medical care provided; and a child who is receiving psychotropic medication has been provided appropriate psychosocial therapies, behavior strategies, and other non-pharmacological interventions, and has been seen by the prescribing physician, physician assistant, or advanced practice nurse at least once every 90 days for purposes of the required review. Updates a reference from the Texas Youth Commission to the Texas Juvenile Justice Department in this provision.

Requires the Department of Family and Protective Services (DFPS), for a youth taking prescription medication, to ensure that the youth's transition plan includes provisions to assist the youth in managing the use of the medication and in managing the child's long-term physical and mental health needs after leaving foster care, including provisions that inform the youth about certain information and resources.

Defines "advanced practice nurse," "physician assistant," and "psychotropic medication" in Chapter 266 (Medical Care and Educational Services for Children in Foster Care), Family Code.

Requires that the training required by Section 266.004(h) (relating to prohibiting a person from being authorized to consent to medical care provided to a foster child unless the person has completed a DFPS-approved training program related to informed consent and the provision of all areas of medical care) include training related to informed consent for the administration of psychotropic medication and the appropriate use of psychosocial therapies, behavior strategies, and other non-pharmacological interventions that should be considered before or concurrently with the administration of psychotropic medications. Sets forth certain information that must be acknowledged in writing regarding the training and understanding of the topics.

Provides that consent to the administration of a psychotropic medication is valid only if the consent is given voluntarily and without undue influence and the person authorized by law to consent for the foster child receives verbally or in writing certain information regarding the condition, the medication, and alternatives.

Requires DFPS to notify the child's parents of the initial prescription of a psychotropic medication to a foster child and of any change in dosage of the psychotropic medication at the first scheduled meeting between the parents and the child's caseworker after the date the psychotropic medication is prescribed or the dosage is changed, and provides that DFPS is not required to provide notice under this provision to a parent who meet certain conditions.

Requires the court, at each hearing under Chapter 263, Family Code, or more frequently if ordered by the court, to review a summary of the medical care provided to the foster child since the last hearing and requires that the summary include certain information, including information regarding, for a child receiving

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a psychotropic medication any psychosocial therapies, behavior strategies, or other non-pharmacological interventions that have been provided to the child, and the dates since the previous hearing of any office visits the child had with the prescribing physician, physician assistant, or advanced practice nurse.

Requires the person authorized to consent to medical treatment for a foster child prescribed a psychotropic medication to ensure that the child has been seen by the prescribing physician, physician assistant, or advanced practice nurse at least once every 90 days to allow the physician, physician assistant, or advanced practice nurse to appropriately monitor the side effects of the medication, and to determine whether the medication is helping the child achieve the treatment goals and continued use of the medication is appropriate.

Requires the Health and Human Services Commission or an agency operating part of the state Medicaid managed care program, as appropriate (HHSC), to implement a system under which HHSC will use Medicaid prescription drug data to monitor the prescribing of psychotropic drugs for children who are in the conservatorship of DFPS and enrolled in the STAR Health Medicaid managed care program or eligible for both Medicaid and Medicare, and children who are under the supervision of DFPS through an agreement under the Interstate Compact on the Placement of Children.

Repeals the heading to Subchapter A (General Provisions), Chapter 266 (Medical Care and Educational Services for Children in Foster Care), Family Code.

Provides that the changes in law made by the Act apply to a suit affecting the parent-child relationship pending in a trial court on or filed on or after the effective date of the Act.

Failure to Report Abuse or Neglect of a Child—H.B. 1205 *by Representative Parker et al.—Senate Sponsor: Senator Carona*

Currently, Chapter 261, Family Code provides that a person commits an offense if the person has cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect and knowingly fails to report as provided in this chapter. This bill:

Provides that a person who is a professional responsible for a child's care, custody, or welfare commits an offense if the person is required to make a report under Section 261.101(a) (relating to requiring a person having cause to believe a person has abused or neglected a child to immediately make a report), Family Code, and knowingly fails to make a report as provided in this chapter.

Provides that the offense is a Class A misdemeanor, except that the offense is a state jail felony if it is shown on the trial of the offense that the actor intended to conceal the abuse or neglect.

Law Enforcement and Missing Children—H.B. 1206 *by Representative Parker et al.—Senate Sponsor: Senator Huffman*

In 2011, the Texas Legislature created the Texas Parental Rights Advisory Panel to study and provide recommendations to the legislature regarding a parent's right to possession of or access to the parent's

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child, including interference with that right by the other parent to further prevent and protect children abducted by a parent. This bill:

Requires a local law enforcement agency (agency), on receiving a report of a child missing who was taken or retained without the permission of the custodian and with the effect of depriving the custodian of possession of or access to the child for a period of not less than 48 hours to immediately make a reasonable effort to locate the child and determine the well-being of the child.

Requires the agency, if the agency has reason to believe that the child is a victim of abuse or neglect to notify the Department of Family and Protective Services (DFPS).

Allows the agency to take possession of the child.

Allows DFPS to initiate an investigation into the allegation of abuse or neglect and take possession of the child.

Access to Child Protective Services Information by Court-Appointed Volunteers—H.B. 1227 *by Representative Dukes—Senate Sponsor: Senators Williams and West*

A court-appointed volunteer advocate, sometimes known as a court-appointed special advocate (CASA) volunteer, may review certain records pertaining to the child for whom the advocate is providing services. Interested parties note that that the current method of reviewing that information, which includes doing so at the child protective services office, is inefficient and time consuming for the advocates. This bill:

Requires the Department of Family and Protective Services (DFPS), subject to the availability of money as described, to develop an Internet application that allows a court-appointed volunteer advocate representing a child in the managing conservatorship of DFPS to access the child's case file through DFPS's automated case tracking and information management system and to add the volunteer advocate's findings and reports to the child's case file.

Requires the court-appointed volunteer advocate to maintain the confidentiality required by statute and rule for the information accessed by the advocate through the system.

Authorizes DFPS to use money appropriated to DFPS and money received as a gift, grant, or donation to pay for the costs of developing and maintaining the Internet application and authorizes DFPS to solicit and accept gifts, grants, and donations of any kind and from any source for purposes related to the bill's provisions.

Requires the executive commissioner of the Health and Human Services Commission, as soon as practicable after the effective date of the Act, to adopt rules necessary to implement these provisions.

Requires DFPS, as soon as practicable after the effective date of the Act, to solicit money, if necessary, and develop the Internet application as required.

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Confidentiality of Certain Department of Family and Protective Services Information—H.B. 1648 *by Representative Raymond—Senate Sponsor: Senator Nelson*

Interested parties express concern that current law does not adequately provide for the confidentiality of audio or visual depictions or recordings of a child made by the Department of Family and Protective Services (DFPS) in the course of an inspection or investigation of certain facilities and programs. This bill:

Provides that a photograph, videotape, audiotape, or other audio or visual recording, depiction, or documentation of a child that is made by DFPS in the course of an inspection or investigation authorized by Chapter 42 (Regulation of Certain Facilities, Homes, and Agencies that Provide Child-Care Services), Human Resources Code, or Section 261.401 (Agency Investigation), Family Code, is confidential, is not subject to release under Chapter 552 (Public Information), Government Code, and may be released only as required by law or rules adopted by the executive commissioner of the Health and Human Services Commission.

Experiential Life-Skills Training For Transitioning Youth in Foster Care—H.B. 2111 *by Representative Strama—Senate Sponsor: Senator Nelson*

The transitional living services program administered by the Department of Family and Protective Services was established to prepare youth aging out of foster care for independent living. This bill:

Requires experiential life-skills training that DFPS requires a foster care provider to provide or assist youth who are age 14 or older in obtaining to improve their transition to independent living to include, rather than providing that it may include, training in certain practical activities, and, when appropriate, using public transportation.

Requires DFPS to require a person with whom DFPS contracts for transitional living services for foster youth to provide or assist youth in obtaining, among other services, services that will assist youth in developing skills in food preparation and nutrition education that promotes healthy food choices.

Requires an entity with which DFPS contracts for transitional living services for foster youth to, when appropriate, partner with a community-based organization to assist the entity in providing the services.

Provides that a change in law made by this Act applies only to a person who enters into a contract with DFPS to provide transitional living services for foster youth on or after the effective date of this Act.

Educational Needs of Children in the Conservatorship of DFPS—H.B. 2619 *by Representative Naishtat—Senate Sponsor: Senators West and Zaffirini*

Interested parties contend that a foundation of support for foster youth in regard to their educational goals is needed. Interested parties note that foster youth might not receive educational goal support or there may be confusion regarding that support, such as in regard to who is responsible for specific education decision-making rights for the foster child and who can assist in ensuring the child's educational needs and goals are met. This bill:

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Requires a guardian ad litem appointed to represent a child in the managing conservatorship of the Department of Family and Protective Services (DFPS), as well as an attorney ad litem appointed to represent a child in such managing conservatorship, before each scheduled hearing under Chapter 263 (Review of Placement of Children Under Care of Department of Protective and Regulatory Services), Family Code, to determine whether the child's educational needs and goals have been identified and addressed. Provides that these provisions apply only to a suit affecting the parent-child relationship filed on or after the effective date of this Act and that a suit filed before that date is governed by the law in effect on the date the suit was filed and the former law is continued in effect for that purpose.

Authorizes the court, if a child in the temporary or permanent conservatorship of DFPS is eligible to participate in a school district's special education program, when necessary to ensure that the educational rights of the child are protected, to appoint a surrogate parent who meets certain requirements. Sets forth provisions regarding persons to be given consideration by the court in the appointment of a surrogate parent and regarding the prohibition of certain entities from being appointed as a surrogate parent.

Requires DFPS, unless the rights and duties of DFPS to make decisions regarding the child's education have been limited by court order, to file with the court a report identifying the name and contact information for each person who has been designated by DFPS to make educational decisions on behalf of the child and who has been assigned to serve as the child's surrogate parent in accordance with certain state and federal law for purposes of decision-making regarding special education services, if applicable.

Requires that the required report, not later than the fifth day after the date an adversary hearing under Section 262.201 (Full Adversary Hearing; Findings of the Court) or Section 262.205 (Hearing When Child Not in Possession of Governmental Entity) is concluded, be filed with the court and a copy be provided to each person entitled to a permanency hearing notice and the school the child attends.

Sets forth provisions regarding the updating and filing of the required report if a person other than a person identified in the report is designated to make educational decisions or assigned to serve as a surrogate parent.

Requires the court at each permanency hearing to perform certain actions, including identifying an education decision-maker for the child if one has not previously been identified, and updates a certain provision in this requirement previously referencing the Texas Youth Commission (TYC) to reference the Texas Juvenile Justice Department (TJJD).

Requires the court to also review the service plan, permanency report, and other information submitted at the hearing to determine certain aspects regarding the child and plans for the child, including determining whether the child's education needs and goals have been identified and addressed, in addition to projecting a likely date by which the child may be returned to and safely maintained in the child's home, placed for adoption, or placed in permanent managing conservatorship.

Requires the court, at each placement review hearing, to determine certain aspects regarding the child's placement, permanency plans, transition planning, and services and needs provided and needed, including determining whether an education decision-maker for the child has been identified and the child's education needs and goals have been identified and addressed, and updates a certain provision in this requirement previously referencing TYC to reference TJJD.

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Requires DFPS to develop, in accordance with 42 U.S.C. Section 675, a plan to ensure the educational stability of a foster child.

Requires DFPS to make the education passport for a foster child available to certain persons, including any person authorized by law to make educational decisions for the foster child.

Entitles a student enrolled in a primary or secondary public school who is placed in the conservatorship of DFPS and at a residence outside the attendance area for the school or outside the school district to continue to attend the school in which the student was enrolled immediately before entering conservatorship until the student successfully completes the highest grade level offered by the school at the time of placement without payment of tuition, rather than entitling a student enrolled in high school in grade 9, 10, 11, or 12 who is placed in temporary foster care by the Texas Department of Human Services at a residence outside the attendance area for the school or outside the school district to complete high school at the school in which the student was enrolled at the time of placement without payment of tuition.

Requires the Texas Education Agency, in recognition of the challenges faced by students in substitute care, to assist the transition of substitute care students from one school to another by performing certain actions, including ensuring that school records for a student in substitute care are transferred to the student's new school not later than the 10th working day, rather than the 14th day, after the date the student begins enrollment at the school and requiring school districts to provide notice to the child's educational decision-maker and caseworker regarding events that may significantly impact the education of a child, including certain specific events.

Requires a school district to excuse a student from attending school for certain purposes, including travel for those purposes, including for a child in the conservatorship of DFPS attending a mental health or therapy appointment or family visitation as ordered by a court under Chapter 262 (Procedures in Suit by Governmental Entity to Protect Health and Safety of Child) or Chapter 263, Family Code, or a temporary absence resulting from an appointment with a health care professional if that student commences classes or returns to school on the same day of the appointment.

Provides that the changes in law made by this Act to the Education Code apply beginning with the 2013-2014 school year.

Information Relating to Abuse Investigations Available to Adoptive Parents—H.B. 3259 *by Representative Wu—Senate Sponsor: Senator Huffman*

Chapter 162 (Adoption), Family Code, requires the Department of Family and Protective Services (DFPS) to prepare and provide a health, social, educational, and genetic history report to prospective adoptive parents. This report sometimes misses critical information, such as an investigation regarding whether a child was the a victim of sexual abuse while residing in a foster home or other residential child-care facility. Because the investigation is typically conducted by residential child care licensing investigation staff, rather than a caseworker, it is not incorporated into the report.

Children's advocacy centers provide support in cases of child abuse and neglect and often help create video interviews of children who have been the victims of sexual violence or similar crimes. Current law

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regarding the confidentiality and use of such materials refers to "audiotapes" and "videotapes." However, these types of media are now stored on disks and hard drives. This bill:

Expands the records that prospective adoptive parents have the right to examine under Section 162.006 (Right to Examine Records), Family Code, to include any records relating to an investigation of abuse in which the child was an alleged or confirmed victim of sexual abuse while residing in a foster home or other residential child-care facility.

Changes references to "audiotapes" to "audio recordings" and "videotapes" to "video recordings."

Protection and Care of Persons Who Are Elderly or Disabled or Who Are Children—S.B. 152 *by Senators Nelson and West—House Sponsor: Representative Kolkhorst*

Interested parties contend that expanded protections are needed for patients at state hospitals and recommend increased oversight, additional employee training, and strengthened abuse and neglect reporting requirements. This bill:

Provides that the Department of Aging and Disability Services (DADS) and the Department of State Health Services (DSHS) include community services operated by those departments and certain facilities, as appropriate, including the El Paso Psychiatric Center.

Defines, in Chapter 552 (State Hospitals), Health and Safety Code, "direct care employee" to mean a state hospital employee who provides direct delivery of services to a patient, "direct supervision" to mean supervision of the employee by the employee's supervisor with the supervisor physically present and providing the employee with direction and assistance while the employee performs his or her duties, "patient" to mean an individual who is receiving voluntary or involuntary mental health services at a state hospital, and "state hospital" to mean a hospital operated by DSHS primarily to provide inpatient care and treatment for persons with mental illness.

Requires the executive commissioner of the Health and Human Services Commission (executive commissioner; HHSC) to adopt a policy requiring a state hospital employee who knows or reasonably suspects that another state hospital employee is illegally using or under the influence of a controlled substance to report that knowledge or reasonable suspicion to the superintendent of the state hospital.

Requires DSHS, before a state hospital employee begins to perform the employee's duties without direct supervision, to provide the employee with competency training and a course of instruction about the general duties of a state hospital employee and, upon completion of such training and instruction, to evaluate the employee for competency, and requires DSHS to ensure that the employee competency course focuses on certain topics and that the required training provides instruction and information regarding certain topics relevant to providing care for individuals with mental illness.

Requires DSHS, in addition to the above required training and before a direct care employee begins to perform the employee's duties without direct supervision, to provide the employee with certain training and instructional information regarding implementation of the interdisciplinary treatment program for each

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patient for whom the employee will provide direct care. Requires DSHS, in addition to that required training to provide, certain training in accordance with the specialized needs of the population being served.

Requires the executive commissioner to adopt rules that require a state hospital to provide refresher training courses to employees at least annually, unless DSHS determines that a particular employee's performance will not be adversely affected in the absence of such training.

Requires DSHS, not later than January 1, 2014, to develop the required training, and requires DSHS to ensure that each state hospital employee receives the required training, regardless of when the employee was hired, not later than September 1, 2014.

Requires DSHS to develop an information management, reporting, and tracking system for each state hospital to provide DSHS with information necessary to monitor serious allegations of abuse, neglect, or exploitation.

Requires DSHS to develop risk assessment protocols for state hospital employees for use in identifying and assessing possible instances of abuse or neglect.

Requires HHSC's Office of Inspector General (inspector general), not later than May 1, 2014, to begin to employ and commission peace officers for the purpose of assisting a state or local law enforcement agency in the investigation of an alleged criminal offense involving a patient of a state hospital and provides that such a peace officer is a peace officer for purposes of Article 2.12 (Who are Peace Officers), Code of Criminal Procedure.

Requires the inspector general to prepare a summary report for each investigation conducted with the assistance of the inspector general under the relevant subchapter, and sets forth certain required content in the report, certain entities to whom the inspector general is required to deliver the report, and provisions regarding disclosure of the summary report and disclosure and confidentiality of information and materials compiled for an investigation.

Requires the inspector general to prepare an annual status report of the inspector general's activities under the relevant subchapter, and sets forth certain information that is aggregated and disaggregated by individual state hospitals regarding certain data that is to be included in the annual status report and the entities to whom the inspector general is required to submit the annual status report.

Prohibits DSHS or a state hospital from retaliating against a DSHS employee, a state hospital employee, or any other person who in good faith cooperates with the inspector general under the relevant subchapter.

Requires a person or professional, in addition to certain duties to make a report regarding child abuse and neglect, to make a report in certain manners as required by certain specified law, as applicable, if the person or professional has cause to believe that an adult was a victim of abuse or neglect as a child and the person or professional determines in good faith that disclosure of the information is necessary to protect the health and safety of another child or an elderly or disabled person.

Provides that the requirements to report under Section 261.101 (Persons Required to Report; Time to Report), Family Code, applies without exception to an individual whose personal communications may

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otherwise be privileged, including certain persons, specifically adding an employee or member of a board that licenses or certifies a professional.

Sets forth provisions entitling DSHS to obtain criminal history record information related to certain persons who have certain connections with a state hospital and who would be placed in direct contact with a patient at a state hospital; provides that the relevant section entitling DSHS to criminal history record information does not prohibit the DSHS from obtaining and using criminal history record information as provided by other law; and provides that the provisions relating to criminal history record information apply only to background and criminal history checks performed on or after the effective date of this Act.

Provides that the duties to report regarding the abuse, neglect, or exploitation of an elderly or disabled person as imposed by certain specified law applies without exception to a person whose knowledge concerning possible abuse, neglect, or exploitation is obtained during the scope of the person's employment or whose professional communications are generally confidential, including certain persons, specifically adding an employee or member of a board that licenses or certifies a professional.

Repeals Section 552.011 (Definition), Health and Safety Code.

Requires the executive commissioner, not later than December 1, 2013, to adopt rules necessary to implement added Subchapter C (Powers and Duties of Department Related to State Hospitals), Chapter 552, Health and Safety Code.

Social Study Evaluator Access to Certain Records of DFPS—S.B. 330

by Senators Huffman and West—House Sponsor: Representative Senfronia Thompson

Domestic relations offices (DROs) provide social study evaluations pursuant to a court order in adoption proceedings and when conservatorship, possession, or access is contested. The Department of Family and Protective Services (DFPS) has provided DROs with information for more than 40 years. This information is critical to the completeness of the evaluation and the ultimate safety of the children involved. DFPS has requested statutory clarification of its authority to provide unredacted records for social study evaluations. This bill:

Adds Section 107.05145 (Social Study Evaluator Access to Investigative Records of Department of Family and Protective Services; Offense) to the Family Code, authorizing a social study evaluator to obtain from DFPS a complete, unredacted copy of any investigative record regarding abuse or neglect that relates to any person residing in the residence subject to the social study.

Provides for confidentiality of such records.

Makes it a Class A misdemeanor to disclose confidential information in violation of this section.

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Requiring a Visitation Plan For Certain Children Taken Into Possession by DFPS —S.B. 352 *by Senator West—House Sponsor: Representative Naomi Gonzalez*

Research and practice indicates that frequent and quality contact between children and their parents promotes well-being in children and increases the possibility of reunification if a child has been removed from the home. This bill:

Requires the development of a visitation plan regarding children who are in the temporary managing conservatorship of the Department of Family and Protective Services (DFPS), and for whom the permanency goal is to reunify them with their parents.

Requires an initial visit between a child and parent who is otherwise entitled to possession of the child within three days of DFPS being named temporary managing conservator, unless:

- DFPS determines that visitation is not in the child's best interest; or
- the visitation with the parent would conflict with a court order relating to possession of or access to the child.

Requires DFPS, before a hearing conducted under Chapter 262, Subchapter C (Adversary Hearing), Family Code, to develop a temporary visitation schedule in collaboration with parents of the child.

Provides that the visitation schedule may conform to DFPS minimum visitation policies.

Sets forth the factors DFPS must consider in developing the temporary visitation schedule.

Provides that, unless modified by court order, the schedule remains in effect until a visitation plan is developed under this Act.

Authorizes DFPS to include the temporary visitation schedule in any report submitted to the court before or during a hearing under Subchapter C.

Authorizes the court to render any necessary order regarding the temporary visitation schedule.

Requires DFPS, not later than the 30th day after the date DFPS is named temporary managing conservator of a child, to develop a visitation plan in collaboration with the parents of the child.

Sets forth what DFPS must consider in determining the frequency and circumstances of visitation, such as the safety and best interest of the child.

Requires DFPS, not later than the 10th day before the date of a status hearing, to file a copy of the visitation plan with the court.

Authorizes DFPS to amend the visitation plan on mutual agreement of the child's parents or as DFPS considers necessary to ensure the safety of the child.

Requires that any amendment to the visitation plan be in the child's best interest and that a copy of any amended visitation plan be filed with the court.

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Prohibits a visitation plan from conflicting with a court order relating to possession of or access to the child.

Requires the court at the first hearing held after the date an original or amended visitation plan is filed with the court to review the visitation plan, taking into consideration the factors specified in this Act.

Authorizes the court to modify, or order DFPS to modify, an original or amended visitation plan at any time.

Authorizes a parent who is entitled to visitation under a visitation plan to at any time file a motion with the court to request review and modification of an original or amended visitation plan.

Requires a court, after reviewing an original or amended visitation plan, to render an order regarding a parent's visitation with a child that the court determines appropriate.

Requires the court, if the court finds that visitation between a child and a parent is not in the child's best interest, to render an order that states the reasons for finding that visitation is not in the child's best interest; and outlines specific steps the parent must take to be allowed to have visitation with the child.

Provides that if the order regarding visitation between a child and a parent requires supervised visitation, the order must outline specific steps the parent must take to have the level of supervision reduced.

Authorizes DFPS to obtain criminal history record information that relates to a person who volunteers to supervise visitation.

Emergency Shelter Facilities With No License Providing Services to Minors—S.B. 353

by Senator West—House Sponsor: Representative Dukes

Chapter 42 (Regulation of Certain Facilities, Homes, and Agencies that Provide Child-Care Services), Human Resources Code, regulates child care facilities. Section 42.041 (Required License), Subsection (b), exempts certain facilities from obtaining a child-care facility license, including emergency shelter facilities providing shelter to a minor mother who is the sole support of her minor children, unless the facility would otherwise require a license as a child-care facility. However, under the Family Code, an emergency shelter facility is authorized to provide shelter and care to a minor and the minor's child or children, if any. This creates a conflict, as Section 42.041(b) allows an emergency shelter to provide emergency care to minor mothers and their children, but not to minors without children unless the emergency shelter is licensed as a child care facility. This bill:

Amends the emergency shelter facilities exemption under Section 42.041(b) to cover an emergency shelter facility, other than a facility that would otherwise require a license as a child-care facility, that provides care to minors and such minors' children, if any, if the facility is currently under a contract with a state or federal agency; or meets the requirements regarding family violence centers.

Changes a reference to the Texas Youth Commission to the Texas Juvenile Justice Department.

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Flexible Response System For Investigations of Child Abuse or Neglect Reports—S.B. 423 *by Senator Nelson—House Sponsor: Representative Raymond*

The Senate Committee on Health and Human Services interim report to the 83rd Legislature recommended improving upon the state's differential response process through the use of a differential response system, also known as an alternative response system, to address reports of abuse and neglect, which allows for a traditional investigative track of high-risk, serious cases and an alternative, less adversarial track in cases where intervention is required, depending on the case. The report noted that although both abuse and neglect are of concern, the more forensic investigative approach developed for abuse cases may not be as appropriate in a neglect case in which more of the caseworker's focus should be on assessing how to help a family safely care for their child, rather than focus on fault finding and designating a perpetrator. This bill:

Requires the Department of Family and Protective Services (DFPS), in assigning priorities and prescribing investigative procedures based on the severity and immediacy of the alleged harm to a child, to establish a flexible response system to allow DFPS to make the most effective use of resources to investigate and respond to reported cases of abuse and neglect, rather than to make the most effective use of resources by investigating serious cases of abuse and neglect and by screening out less serious cases of abuse and neglect if DFPS makes a certain determination.

Authorizes DFPS, notwithstanding Section 261.301 (Investigation of Report), Family Code, in accordance with this section and DFPS rules, to conduct an alternative response to a report of abuse or neglect if the report does not allege sexual abuse of a child, allege abuse or neglect that caused the death of a child, or indicate a risk of serious physical injury or immediate serious harm to a child.

Authorizes DFPS to administratively close a reported case of abuse and neglect without completing the investigation or alternative response and without providing services or making a referral to another entity for assistance if DFPS determines, after contacting a professional or other credible source, that the child's safety can be assured without further investigation, response, services, or assistance.

Provides that, in determining how to classify a reported case of abuse or neglect under the flexible response system, the child's safety is the primary concern.

Authorizes the classification of a case to be changed as warranted by the circumstances.

Sets forth certain requirements for an alternative response to a report of abuse or neglect.

Prohibits an alternative response to a report of abuse or neglect from including a formal determination of whether the alleged abuse or neglect occurred.

Authorizes DFPS to implement the alternative response in one or more of DFPS's administrative regions before implementing the system statewide, rather than implementing the flexible response system by establishing a pilot program in a single DFPS service region; and requires DFPS to study the results of the system in the regions where the system has been implemented in determining the method by which to implement the system statewide.

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Requires the executive commissioner of the Health and Human Services Commission, not later than December 1, 2013, to adopt rules necessary to implement these provisions.

Deletes existing text referencing less serious cases.

Foster Care Placement Decisions—S.B. 425

by Senator Nelson—House Sponsor: Representative Farney et al.

Currently, consultation between certain involved parties is recommended but not required when making foster care placement decisions. This bill:

Requires the Department of Family and Protective Services (DFPS), in making placement decisions, to, except when making an emergency placement that does not allow time for the required consultations, consult with the child's caseworker, attorney ad litem, and guardian ad litem and with any court-appointed volunteer advocate for the child, rather than consult with the child's caseworker and the child's attorney ad litem, guardian ad litem, or court-appointed volunteer advocate when possible.

Home Visiting Program For At-Risk Families—S.B. 426

by Senator Nelson et al.—House Sponsor: Representative Zerwas

Home visiting programs help facilitate the delivery of specialist services, such as parenting classes, in the homes of certain at-risk families to improve outcomes for these pregnant women, children, and families. Participating in a home visiting program is voluntary, and programs are usually available to pregnant women or young children. This bill:

Adds Subchapter X (Texas Home Visiting Program), Chapter 531 (Health and Human Services Commission), Government Code, and authorizes the Health and Human Services Commission (HHSC) to adopt rules as necessary to implement this subchapter.

Defines "home visiting program" as a voluntary-enrollment program in which early childhood and health professionals repeatedly visit over a period of at least six months the homes of pregnant women or families with children under the age of six who are born with or exposed to one or more risk factors, and defines "risk factors" to mean factors that make a child more likely to experience adverse experiences leading to negative consequences, including preterm birth, poverty, low parental education, having a teenaged mother or father, poor maternal health, and parental underemployment or unemployment.

Requires HHSC to create a strategic plan to serve at-risk pregnant women and families with children under the age of six through home visiting programs that improve outcomes for parents and families.

Provides that a pregnant woman or family is considered at-risk for these purposes and may be eligible for voluntary enrollment in a home visiting program if the woman or family is exposed to one or more risk factors, and authorizes HHSC to determine if a risk factor or combination of risk factors experienced by an at-risk pregnant woman or family qualifies the woman or family for enrollment in a home visiting program.

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Provides that a home visiting program is classified as either an evidence-based program or a promising practice program and specifies what are an evidence-based program and a promising practice program.

Requires HHSC to ensure that at least 75 percent of funds appropriated for home visiting programs are used in evidence-based programs, with any remaining funds dedicated to promising practice programs.

Requires HHSC to actively seek and apply for any available federal funds to support home visiting programs, including federal funds from the Temporary Assistance for Needy Families program, and authorizes HHSC to accept gifts, donations, and grants to support home visiting programs.

Requires HHSC to ensure that a home visiting program achieves favorable outcomes in at least two of the following areas: improved maternal or child health outcomes; improved cognitive development of children; increased school readiness of children; reduced child abuse, neglect, and injury; improved child safety; improved social-emotional development of children; improved parenting skills, including nurturing and bonding; improved family economic self-sufficiency; reduced parental involvement with the criminal justice system; and increased father involvement and support.

Sets forth provisions related to evaluation of a home visiting program, its outcome indicators, its effectiveness, ensuring demonstrated fidelity to its research model, developing internal processes to share data and information, analysis of its performance, monitoring, and ongoing quality improvement.

Requires HHSC, not later than December 1, 2014, to prepare and submit a report on state-funded home visiting programs to certain legislative committees or their successors and to include information regarding the status of the implementation process and data on the number of families being served and their demographic information, and provides that the related section expires January 1, 2015.

Requires HHSC, not later than December 1 of each even-numbered year, to prepare and submit a report on state-funded home visiting programs to certain legislative committees or their successors and to include certain information regarding the home visiting programs. Provides that the related Section 531.9871 (Reports to Legislature), Government Code, takes effect on January 15, 2015.

Provider of Last Resort For Foster and Relative Day Care Services—S.B. 430

by Senator Nelson—House Sponsor: Representative Guillen et al.

The Department of Family and Protective Services (DFPS) currently provides funding for foster, relative, and protective day care services. The Legislative Budget Board, in its January 2013 report, "Texas State Government Effectiveness and Efficiency Report: Selected Issues and Recommendations," noted that there is no process for DFPS to verify that the state is the provider of last resort for these day care services for relative and foster caregivers and recommended that a standardized process be implemented to verify that kinship caregivers and foster parents have attempted to find community-based child care services before receiving day care services through DFPS. This bill:

Defines "day care," in the relevant sections, to mean the assessment, care, training, education, custody, treatment, or supervision of a foster child by a person other than the child's foster parent for less than 24 hours a day, but at least two hours a day, three or more days a week.

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Requires DFPS, in accordance with executive commissioner of the Health and Human Services Commission (executive commissioner) rule, to implement a process to verify that each foster parent who is seeking monetary assistance from DFPS for day care for a foster child has attempted to find appropriate day-care services for the foster child through community services, including Head Start programs, prekindergarten classes, and early education programs offered in public schools. Requires DFPS to specify the documentation the foster parent is required to provide to DFPS to demonstrate compliance with the established requirements.

Prohibits DFPS, except as provided otherwise, from providing monetary assistance to a foster parent for day care for a foster child unless DFPS receives the required verification.

Authorizes DFPS to provide monetary assistance to a foster parent for a foster child without the required verification if DFPS determines the verification would prevent an emergency placement that is in the child's best interest.

Requires DFPS, in accordance with executive commissioner rule, to implement a process to verify that each relative and designated caregiver who is seeking monetary assistance or additional support services from DFPS for day care for a child has attempted to find appropriate day-care services for the child through community services, including Head Start programs, prekindergarten classes, and early education programs offered in public schools. Provides, specific to the relative and designated caregiver situation, provisions similar to those noted above for the foster care situation related to documentation requirements, prohibition of assistance, and authorization of assistance in regard to an emergency placement.

Placement for Children in the Department of Family and Protective Services—S.B. 534 *by Senator West—House Sponsor: Representative Dukes*

The Department of Family and Protective Services (DFPS) seeks to identify stable placement for children placed in its care. Permanency planning meetings are opportunities for various stakeholders in a child's case to come together to ensure appropriate goals and objectives are set and acted upon to achieve permanency for a child in foster care. Interested parties note the need to enhance permanency planning meetings to assist with timelier reunification or placement. A placement review report is required to be filed with the court by DFPS and provided to certain persons prior to a placement review hearing. The placement review report must identify DFPS's permanency goal for the child and include other elements. This bill:

Requires DFPS to hold a permanency planning meeting for each child for whom DFPS is appointed temporary managing conservator (TMC) not later than the 45th day after the date DFPS is named TMC of the child and not later than five months after the date DFPS is named TMC of the child.

Requires DFPS, at the five-month permanency planning meeting, to identify any barriers to achieving a timely permanent placement for the child, and develop strategies and determine actions that will increase the probability of achieving a timely permanent placement for the child.

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Authorizes the five-month permanency planning meeting and any subsequent permanency planning meeting to be conducted as a multidisciplinary permanency planning meeting if DFPS determines that such a meeting will assist DFPS in placing the child with an adult caregiver who will permanently assume legal responsibility for the child and facilitate the child's exit from the conservatorship of DFPS.

Requires, except as otherwise provided, that DFPS make reasonable efforts to include certain persons in each multidisciplinary permanency planning meeting and notify those persons of the meeting, and to give the required notice by email if possible.

Provides that DFPS is not required to include such a person in a multidisciplinary permanency planning meeting or to notify that person of a meeting if DFPS or its authorized designee determines that the person's presence at the meeting may have a detrimental effect on the safety or well-being of another participant in the meeting or the success of the meeting because a parent or the child has expressed an unwillingness to include that person in the meeting.

Provides that Section 263.009 (Permanency Planning Meeting) applies only to a child placed in the temporary managing conservatorship of DFPS on or after the effective date of the Act.

Requires that the placement review report, among other requirements, with respect to a child committed to the Texas Juvenile Department, rather than the Texas Youth Commission, or released under that entity's supervision, perform certain actions.

Requires that the placement review report also, among other requirements, identify any placement changes that have occurred since the most recent court hearing concerning the child and describe any barriers to sustaining the child's placement, including any reason for which a substitute care provider has requested a placement change.

Requires, except as otherwise provided, a substitute care provider with whom DFPS contracts to provide substitute care services for a child to include in a discharge notice the reason for the child's discharge and the provider's recommendation regarding a future placement for the child that would increase the child's opportunity to obtain a stable placement.

Requires the provider, in an emergency situation in which DFPS is required under the terms of the contract with the substitute care provider to remove a child within 24 hours after receiving the discharge notice, to provide the required information to DFPS not later than 48 hours after the provider sends the discharge notice.

Consent by a Minor to Housing or Care Through Transitional Living Program—S.B. 717 *by Senator West—House Sponsor: Representative Naishtat*

Under current law, certain homeless youth 16 years of age or older may consent to emergency shelter care and certain types of medical treatment. However, such minors cannot contract for transitional housing without the consent of a parent or guardian. This bill:

Defines "transitional living program" (TLP).

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Authorizes a minor to consent to housing or care provided to the minor or the minor's child or children through a TLP if the minor is 16 years of age or older and resides separately from the minor's parent, managing conservator, or guardian and manages the minor's own financial affairs; or is unmarried and is pregnant or is the parent of a child.

Provides that the minor's consent is not subject to disaffirmance because of minority.

Authorizes a TLP to provide housing or care to the minor or the minor's child or children with or without the consent of the parent, managing conservator, or guardian.

Requires a TLP to attempt to notify the minor's parent, managing conservator, or guardian regarding the minor's location.

Provides that a TLP is not liable for providing housing or care to the minor or the minor's child or children, except for the TLP's own acts of negligence.

Provides that a TLP may rely on a minor's written statement containing the grounds on which the minor has capacity to consent to housing or care.

Provides that to the extent of any conflict between these provisions and Section 32.003 (Consent to Treatment by Child), Family Code, Section 32.003 prevails.

Reports of Missing and Exploited Children—S.B. 742 *by Senator Carona—House Sponsor: Representative Frullo*

Texas law enforcement currently uses an established National Crime Information Center database for reporting missing children; however, there is no single unified process that exists to allow law enforcement in different jurisdictions to submit reports of attempted child abductions or to report or document the activity of habitual runaways. This bill:

Establishes that "attempted child abduction," for the purposes of this chapter, does not include an attempted abduction in which the actor was a relative of the person intended to be abducted.

Establishes that the clearinghouse is a central repository of information on missing children, missing persons, and attempted child abductions.

Requires a law enforcement officer or local law enforcement agency reporting an attempted child abduction to the clearinghouse to make the report by use of the Texas Law Enforcement Telecommunications System or a successor system of telecommunications used by law enforcement agencies and operated by the Department of Public Safety of the State of Texas (DPS).

Requires a local law enforcement agency, on receiving a report of an attempted child abduction, to immediately, but not later than eight hours after receiving the report, provide any relevant information regarding the attempted child abduction to the clearinghouse.

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Requires the public safety director of DPS to adopt rules regarding the procedures for a local law enforcement agency on receiving a report of a missing child who had been reported missing on four or more occasions in the preceding 24-month period or is in foster care or in the conservatorship of the Department of Family and Protective Services and had been reported missing on two or more occasions in the preceding 24-month period.

Requires that the rules require the law enforcement agency, in entering information regarding the report into the national crime information center missing person file for a missing child, to indicate that the child is endangered and include relevant information regarding the prior occasions on which the child was reported missing.

Requires that the required information, if, at the time the initial entry into the national crime information center missing person file is made, the local enforcement agency has not determined that the requirements apply to the report of the missing child, be added to the entry promptly after the agency investigating the report determines that the missing child is appropriately described.

Requires each law enforcement agency to provide any information regarding an attempted child abduction to the missing children and missing persons information clearinghouse.

Authorizes DPS to award grants to certain nonprofit organizations to assist DPS in the performance of duties related to missing or exploited children, including any duty related to the missing children and missing persons information clearinghouse.

Requires an officer to complete an education and training program on missing and exploited children as a requirement for an intermediate or advanced proficiency certificate.

Requires the Texas Commission on Law Enforcement Officer Standards and Education to establish the training program and dictates the length and content of the program.

Foster Parent Pilot Program in Bexar County—S.B. 769 *by Senator Uresti—House Sponsor: Representative McClendon*

Interested parties note that foster families may not have the knowledge needed to address the behavior of a foster child resulting from the child's behavioral health needs or from extreme trauma experienced from living in a troubled home; and, therefore, they have recommended foster parents be provided additional training regarding these matters. This bill:

Requires the Department of Family and Protective Services (DFPS), not later than May 1, 2014, to establish a pilot program to provide specialized training to foster parents of children who have been traumatized or have serious mental health needs if DFPS or another state agency is able to provide the training using existing resources or a local governmental entity or charitable organization is able to provide the training at no cost to the state.

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Requires DFPS to establish the pilot program in a county with a population of at least 1.5 million that is within 200 miles of an international border, which refers to Bexar County; coordinate the specialized training as part of community-based services and support provided under a Wraparound individualized planning process for foster children as prescribed by the Texas Integrated Funding Initiative Consortium; and evaluate the pilot program not later than the second anniversary of the program's establishment.

Requires DFPS to prepare a report containing the required evaluation and DFPS's recommendations on the feasibility and continuation of the pilot program and to submit electronically a copy of the report to certain persons not later than December 1, 2016. Provides that the related section expires September 1, 2017.

Training Program For Child Protective Services Managers—S.B. 771 *by Senators Uresti and Nelson—House Sponsor: Representative Raymond*

According to the Senate Committee on Health and Human Services interim report to the 83rd Legislature, one of the ways in which the child protective services (CPS) division of the Department of Family and Protective Services (DFPS) can reduce turnover is to train CPS supervisors prior to placement. Interested parties note that currently new CPS supervisors are allowed up to 60 days to complete supervisor training after assuming a managerial role. These parties state that it is important for supervisors to be prepared for their new role from the beginning, thus enhancing the caseworker-supervisor relationship. This bill:

Requires DFPS to develop and implement a training program that each employee who is newly hired or promoted to a management position in the CPS division is required to complete before the employee begins serving in the management position.

Requires that the training program be designed to assist the employee in developing skills, including communication, decision-making, and strategic thinking skills, to prepare the employee to assume management duties, including managing employee workloads, conducting effective unit meetings, managing a mobile workforce, implementing program and operational policies, and completing performance plans.

Authorizes DFPS to waive this training for an employee who has completed another training program provided by DFPS that is similar to this required management training.

Provides that these provisions apply only to a person who is newly hired or promoted to a management position in the CPS division of DFPS on or after January 1, 2014.

Extended Foster Care and Trial Independence—S.B. 886 *by Senator Uresti—House Sponsor: Representative Lewis*

Interested parties note that the Department of Family and Protective Services provided recommendations that clarify provisions in regard to extended foster care in order to receive certain federal reimbursement. This bill:

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Defines "extended foster care," rather than "foster care"; defines "trial independence," rather than "trial independence period"; and redefines "young adult" in Subchapter G (Extended Jurisdiction After Child's 18th Birthday), Chapter 263 (Review of Placement of Children Under Care of Department of Protective and Regulatory Services), Family Code.

Provides that a young adult is assigned trial independence status when the young adult does not enter extended foster care at the time of the young adult's 18th birthday or exits extended foster care before the young adult's 21st birthday.

Provides that a court order, except as provided otherwise, is not required for a young adult to be assigned trial independence status.

Provides that trial independence is mandatory for a period of at least six months beginning on the date of the young adult's 18th birthday for a young adult who does not enter extended foster care at the time of that birthday or the date the young adult exits extended foster care.

Authorizes a court to order trial independence status extended for a period that exceeds the mandatory period but does not exceed one year from the date the period from the date the mandatory trial independence commences.

Requires a young adult who enters or reenters extended foster care after a period of trial independence, except as provided otherwise, to complete a new period of trial independence.

Provides that the trial independence status of a young adult ends on the young adult's 21st birthday.

Provides that, except as provided otherwise, a court that had jurisdiction over a young adult on the day before the young adult's 18th birthday continues to have extended jurisdiction over the young adult and requires the court to retain the case on the court's docket while the young adult is in extended foster care and during trial independence.

Modifies provisions regarding the date when the court's extended jurisdiction over certain young adults terminates.

Provides that a court with extended jurisdiction described by Section 263.602 (Extended Jurisdiction), Family Code, is not required to conduct periodic hearings described in the section for a young adult during trial independence and prohibits the court from compelling a young adult who has elected to not enter or has exited extended foster care to attend a court hearing.

Authorizes a court with extended jurisdiction during trial independence to, at the request of a young adult, conduct a hearing described by Section 263.602(b) (relating to requiring a court with extended jurisdiction over a young adult in extended foster care to conduct foster care review hearings every six months) or by Section 263.6021 (Voluntary Extended Jurisdiction for Young Adult Receiving Transitional Living Services), Family Code, to review any transitional living services the young adult is receiving during trial independence.

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Provides that the extended jurisdiction of the court under Section 263.6021, Family Code, unless the young adult reenters extended foster care before the end of the court's extended jurisdiction described by Section 263.6021(a) (relating to authorizing a court that had jurisdiction over a young adult on the day before the young adult's 18th birthday, to, at the young adult's request, render an order that extends the court's jurisdiction beyond the end of trial independence if the young adult receives transitional living services from DFPS), terminates on the earlier of the young adult's 21st birthday or the date the young adult withdraws consent to the extension of the court's jurisdiction in writing or in court.

Provides that a young adult for whom a guardian is appointed and qualifies, notwithstanding any other provision of Subchapter G, Chapter 263, Family Code, is not considered to be in extended foster care or trial independence and the court's jurisdiction ends on the date the guardian for the young adult is appointed and qualifies unless the guardian requests the extended jurisdiction of the court under Section 263.604 (Guardian's Consent to Extended Jurisdiction), Family Code.

Provides that the changes in law made by the Act to Subchapter G, Chapter 263, Family Code, apply to a suit affecting the parent-child relationship that is filed on or after the effective date of the Act, and pending in a trial court on the effective date of the Act, regardless of the date on which the suit was filed.

Child Abuse and Neglect Reporting and Training at Certain Entities—S.B. 939 *by Senators West and Uresti—House Sponsors: Representatives Parker and Rick Miller*

H.B. 1041, 81st Legislature, Regular Session, 2009, required each school district to adopt and implement a child sexual abuse policy. In 2011, the 82nd Legislature enacted further legislation in regard to such school policies to encompass all child maltreatment, expanded a similar policy requirement to other entities, and required training related to these topics. This bill:

Requires the Texas Education Agency (TEA) to develop a policy governing the reports of child abuse or neglect as required by Chapter 261 (Investigation of Report of Child Abuse or Neglect), Family Code. Requires that policy to require each school district and open-enrollment charter school employee to report child abuse or neglect in the manner required by Chapter 261, Family Code, and requires each school district and open-enrollment charter school to adopt the policy.

Requires that the training concerning prevention techniques for and recognition of sexual abuse and all other maltreatment of children meet certain conditions, including that the training is required to be provided, as part of a new employee orientation, to all new school district and open-enrollment charter school employees and to existing district and open-enrollment charter school employees on a schedule adopted by TEA by rule until all district and open-enrollment charter school employees have taken the training, rather than to new school district and open-enrollment charter school educators, including counselors and coaches, and other district and charter school professional staff members. Removes the training requirement authorizing this training to be provided annually to any district or charter school staff member.

Requires each public school and open-enrollment charter school to post in a clearly visible location in a public area of the school that is readily accessible to students a sign in English and in Spanish that contains the toll-free telephone number operated by the Department of Family and Protective Services to receive

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reports of child abuse or neglect, and authorizes the commissioner of education to adopt rules relating to the size and location of the sign.

Defines "other maltreatment" in Section 51.9761 (Child Abuse Reporting Policy and Training), Education Code.

Requires each institution of higher education to adopt a policy governing the reporting of child abuse and neglect as required by Chapter 261, Family Code, and requires that policy to require each employee of the institution to report child abuse and neglect in the manner required.

Requires each institution of higher education to provide training for employees who are professionals as defined by Section 261.101 (Persons Required to Report; Time to Report), Family Code, in prevention techniques for and the recognition of symptoms of sexual abuse and other maltreatment of children and the responsibility and procedure of reporting suspected occurrences of sexual abuse and other maltreatment, and requires the training to include certain topics regarding sexual abuse and other maltreatment.

Requires a licensed facility to require each employee of the facility who attends a training program required by Section 42.0426(a)(1) (relating to requiring a licensed facility to provide training for staff members in recognition of symptoms of certain child abuse and the responsibility of reporting such suspected occurrences of abuse), Human Resources Code, to sign a statement verifying the employee's attendance at the training program, and requires the licensed facility to maintain the statement in the employee's personnel records.

Assessments For Guardianship Services by DADS—S.B. 1235 *by Senator West—House Sponsor: Representative Naishtat*

Under current law, the Department of Aging and Disability Services (DADS) has the authority under the Human Resources Code to obtain financial records of wards or proposed wards from financial institutions. However, at times, DADS runs into difficulty gathering the records because DADS is not listed under exemptions to Section 59.006 (Discovery Of Customer Records), Finance Code. Currently, for persons alleged to have an intellectual disability, an application for guardianship requires a determination of mental retardation (DMR) from the preceding 24 months. In practice, courts typically accept updates or endorsements to older DMRs if the update or endorsement took place in the previous 24 months. This bill:

Adds a records request for the assessment of the provision of guardianship services to Section 59.006.

Changes certain references from "mental retardation" to "intellectual disability."

Permits a court to grant an application to create a guardianship for a proposed ward if a written letter or certificate shows that not earlier than 24 months before the hearing date a physician or psychologist licensed in this state or certified by DADS updated or endorsed in writing a prior determination of an intellectual disability for the proposed ward made by such a physician or psychologist.

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Extension of Emergency Order For Protective Services For Certain Persons—S.B. 1236 *by Senator West—House Sponsor: Representative Naomi Gonzalez*

Under current law, an emergency order from Adult Protective Services (APS) expires after 10 days, with an allowance for two 30-day extensions effective from the date of the original order. This means that an emergency order can be in effect for 60 days from the date the order is signed. This bill:

Permits a judge to grant up to a 30-day extension of certain emergency orders from the date the order would have expired, rather than the date it went into effect.

Assistance and Education Regarding Personal Finance For Certain Foster Care Children—S.B. 1589 *by Senators Zaffirini and Uresti—House Sponsor: Representative Dukes*

Interested parties note that youth who turn 18 and age out of foster care often face "instant adulthood" and must be prepared to manage their own affairs, including their finances. Such parties recommend training and opportunities for the foster care youth to gain knowledge and experience necessary to the transition process. Interested parties contend that although statute requires foster care providers to assist certain youth with obtaining experiential life skills training to improve their transition to independent living and guiding documents emphasize the importance of financial literacy skills, the statute does not include a comprehensive list of financial literacy skills and opportunities for financial education are limited for foster care youth. This bill:

Deletes existing text authorizing experiential life-skills training, which the Department of Family and Protective Services (DFPS) is required to require a foster care provider to provide or assist youth who are age 14 or older in obtaining to improve their transition to independent living, to include training in balancing a checkbook.

Requires that the experiential life-skills training include a financial literacy education program that includes instruction on certain financial literacy topics and assists a youth who has a source of income to establish a savings plan and, if available, a savings account that the youth can independently manage.

Requires DFPS to require a person with whom DFPS contracts for transitional living services for foster youth to provide or assist youth in obtaining certain services, including a savings or checking account if the youth is at least 18 years of age and has a source of income.

Funding of the Texas Home Visiting Program Through Voluntary Contributions—S.B. 1836 *by Senator Deuell—House Sponsor: Representative Zerwas*

Home visiting involves trained personnel providing targeted services for parents, young children, and their families in their homes in order to support the family and improve the family's outcomes. This bill:

Creates the Texas Home Visiting program (THVP) trust fund as a trust fund outside the treasury with the comptroller of public accounts of the State of Texas (comptroller); requires that the trust fund be administered by the Office of Early Childhood Coordination (OECC) and rules adopted by the executive

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commissioner of the Health and Human Services Commission (HHSC); and provides that credits of money in the fund are not state funds or subject to legislative appropriation.

Provides that the trust fund consists of money from certain voluntary contributions; authorizes money in the fund to be spent without appropriation by OECC only for the purpose of THVP administered by HHSC; and requires that the interest and income from the assets of the trust fund be credited to and deposited in the trust fund.

Authorizes a person requesting a copy or certified copy of a birth, marriage, or divorce record to make a voluntary contribution of \$5 to promote healthy early childhood by supporting THVP. Sets forth the content and format to be presented on paper or electronic application form for those copies.

Authorizes a local registrar or county clerk, notwithstanding certain other law, to collect the additional voluntary contribution, and requires the local registrar or county clerk who collects the voluntary contribution, notwithstanding certain other law, to send the voluntary contribution to the comptroller, who is required to deposit the voluntary contribution in the THVP trust fund.

Authorizes a person applying for a marriage license to make a voluntary contribution of \$5 to promote healthy early childhood by supporting THVP, and details how the voluntary contribution information is to be presented on the application for a marriage license form. Requires a county clerk to collect the additional voluntary contribution.

Requires a county clerk, if the county clerk collects a fee for issuing a marriage license, to deposit certain fees as provided, including, if applicable, the \$5 voluntary contribution collected to promote healthy early childhood by supporting THVP to be sent to the comptroller, who is required to deposit the money received in the THVP trust fund.

Provides that the change in law made by this Act applies only to a person who applies for a marriage license or requests a copy or certified copy of a birth, marriage, or divorce record on or after January 1, 2014.

Regulation of Child-Care Providers by TWC and Local Workforce Development Boards—H.B. 376

by Representative Strama et al.—Senate Sponsor: Senator Zaffirini

The Texas Workforce Commission (TWC) funds subsidized child-care services to eligible parents who are working or seeking education or training. Statute mandates that child care providers consider the quality of services offered in each program and that preference be given to high quality services. The Texas Rising Star (TRS program) provides guidelines for evaluating and rating the quality of child-care providers and has established graduated reimbursement rates for programs meeting criteria. Interested parties express concern that there are not sufficient incentives, resources, and assistance to encourage programs to be of the highest quality. This bill:

Authorizes any appropriate indicator of quality child-care services to be considered under Section 29.158(d) (relating to requiring certain entities, in coordinating child-care services under the section and in making any related decision to contract with another provider for child-care services to consider the quality of the services involved in the proposed coordination or contracting decision and give preference to services of the highest quality), Education Code, including certain indicators, including whether the provider of the services meets TRS program certification criteria, rather than meets the Texas Rising Star Provider criteria described by 40 T.A.C. Section 809.15(b).

Authorizes certain entities to purchase goods and services through the comptroller of public accounts of the State of Texas, including a child-care provider that meets TRS program certification criteria, rather than a child-care provider that meets the Texas Rising Star Provider criteria described by TWC rules.

Requires each local workforce development board (board) to establish graduated reimbursement rates for child care based on TWC's TRS program, rather than based on TWC's designated vendor program.

Requires that the minimum reimbursement rate for a TRS program provider be greater than the maximum rate established for a provider who is not a TRS program provider for the same category of care, rather than requires that the minimum reimbursement rate for designated vendors be at least five percent greater than the maximum rate established for nondesignated vendors for the same category of care.

Requires that the reimbursement rate be at least five percent higher for a provider with a two-star rating, at least seven percent higher for a provider with a three-star rating, and at least nine percent higher for a provider with a four-star rating.

Requires that the TRS program established rate differential be funded with federal child-care development funds, rather than requires the designated vendor rate established differential to be funded with federal child care development funds dedicated to quality improvement activities.

Prohibits a board, notwithstanding certain other law, from reimbursing a provider under the provided reimbursement rates before the date any revisions to rules recommended by the TRS program review work group are adopted by TWC.

Provides that the TRS program is a voluntary, quality-based child-care rating system of child-care providers participating in TWC's subsidized child-care program.

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Requires TWC to adopt rules to administer the TRS program, including guidelines for rating a child-care provider who provides child care to a child younger than 13 years of age enrolled in the subsidized program.

Requires TWC to make money available to each board to hire necessary employees to provide technical assistance the child care and development block grant and authorizes a board, in addition, to use money available from other public or private sources to hire necessary employees for the program.

Requires each board to allocate a portion of the board's federal child care development funds dedicated to quality improvement activities to a competitive procurement process for a system for quality child care for children under four years of age that encourages child care providers to voluntarily meet the certification criteria of TWC's TRS program, rather than meet the criteria of TWC's designated vendor program or national accreditation.

Requires TWC, notwithstanding any other law, to ensure that, to the extent federal child care development funds dedicated to quality improvement activities are used to improve quality and availability of child care, those funds are used for certain reasons relating to quality child care programs, technical assistance, professional development, educational materials, and educational information, and deletes the requirement TWC, notwithstanding any other law, to ensure that, to the extent federal child care development funds dedicated to quality improvement activities are used to improve quality and availability of child care, those funds are used only for quality child care programs.

Requires each board to use at least two percent of the board's yearly allocation from TWC for quality child care initiatives; authorizes a board, in addition, to use money available from other public or private sources for quality child care initiatives; requires a board to give priority to quality child care initiatives that benefit child care facilities that are working toward TRS certification or are TRS certified providers working toward a higher certification level; and requires each board to annually report to TWC regarding the board's use of the two percent allocation.

Redefines "quality child-care indicator" in Section 2308.3171 (Information on Quality Child Care), Government Code.

Requires each board to determine the manner in which to provide information on quality child-care indicators to each licensed or registered child-care provider in the area; requires each board to post in a prominent place on the board's Internet website home page and at any physical location where the board provides services certain lists; and requires a child-care provider who receives funding or reimbursement for child-care services from a board to post a certification or accreditation at the entrance of the provider's facility.

Sets forth provisions regarding requiring each board to provide technical assistance to TRS program providers and to providers seeking certification under the TRS program.

Establishes the TRS program review work group (work group) to propose revisions to TWC's rules on the TRS program and sets forth provisions regarding the composition of the work group and meetings.

Requires the work group, not later than May 1, 2014, to submit to the executive director recommendations proposing revisions to TWC's guidelines relating to the TRS program and requires the work group, in making its recommendations, to consider certain topics.

Requires TWC, not later than September 1, 2014, to propose rules that incorporate the proposed revisions submitted by the work group.

Provides that the section related to the TRS program work group expires December 1, 2014.

Regulation of the Practice of Physical Therapy—H.B. 588
by Representative Craddick—Senate Sponsor: Senator Uresti

Under current law, the requirements for a person to renew a license as a physical therapist (PT) or a PT assistant in Texas vary depending on the specific circumstances of the license holders. In addition, interested parties have identified statutory provisions that are in need of an update. This bill:

Provides that information maintained by the Executive Council of Physical Therapy and Occupational Therapy Examiners (ECPTOTE) or the Texas Board of Physical Therapy Examiners (TBPTE) regarding the home address or personal telephone number of a person licensed under Chapter 453 (Physical Therapists), Occupations Code, or a person who is an owner or manager of a PT facility registered under the chapter is confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code.

Requires a person licensed under Chapter 453, Occupations Code, or a person who is an owner or manager of a PT facility registered under Chapter 453, Occupations Code, to provide TBPTE with a business address or address of record that will be subject to disclosure under Chapter 552, Government Code.

Requires a license holder under Chapter 453, Occupations Code, to display the license holder's license, rather than to display the license holder's license and renewal certificate, in a conspicuous place in the principal office in which the license holder practices PT.

Authorizes a person whose license has been expired for 90 days or less to renew the license by paying to ECPTOTE the renewal fee and a late fee set by ECPTOTE in an amount that does not exceed one-half of the amount charged for examination for the license, rather than the renewal fee and a fee that is equal to one-half of the amount charged for examination for the license.

Authorizes a person, if a person's license has been expired for more than 90 days but less than one year, to renew the license by paying to ECPTOTE all unpaid renewal fees and a late fee set by ECPTOTE in an amount that does not exceed the amount charged for examination for the license, rather than by paying to ECPTOTE all unpaid renewal fees and a fee that is equal to the amount charged for examination for the license.

Requires a person whose license has been expired for one year or longer to comply with TBPTE's requirements and procedures to reinstate the license and pay a reinstatement fee in the amount set by ECPTOTE, rather than prohibits a person whose license has been expired for one year or longer from

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renewing the license. Authorizes the person, if the person is unable to comply with TBPTE's requirements to reinstate the license, to obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license.

Requires ECPTOTE, at least 30 days before the expiration of a person's license, to provide the person with notice of the impending license expiration, rather than to send written notice of the impending license expiration to the person at the person's last known address according to the records of ECPTOTE.

Authorizes TBPTE to renew without reexamination the expired license of a person who was licensed to practice as a PT or PT assistant in this state, moved to another state, is currently licensed and in good standing in the other state, and meets TBPTE's requirements for renewal, rather than authorizes TBPTE to renew without reexamination the license of a person who was licensed to practice as a PT or PT assistant in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding application. Requires the person to pay to ECPTOTE a renewal fee set by ECPTOTE in an amount that does not exceed the examination fee for the license, rather than a fee that is equal to the examination fee for the license.

Requires TBPTE and ECPTOTE, not later than December 1, 2013, to adopt rules and fees necessary to implement the provisions related to renewal of licenses.

Provides that the provisions related to renewal of licenses apply only to the renewal of a PT or PT assistant license that expires on or after December 1, 2013, and provides that a license that expires before that date is governed by the law in effect on the date the license expires, and the former law is continued in effect for that purpose.

Membership of the Texas State Board of Examiners of Psychologists—H.B. 646

by Representative Diane Patrick et al.—Senate Sponsor: Senator Uresti

The nine-member Texas State Board of Examiners of Psychologists (TSBEP) regulates the practice of psychology and consists of psychologists, psychological associates, and public members. While licensed specialists in school psychology are under the purview of TSBEP, current statute does not require any TSBEP member to be a school psychologist. This bill:

Requires that one member of certain members appointed to TSBEP practice as a licensed specialist in school psychology.

Provides that this change in the qualifications of TSBEP members does not affect the entitlement of a member serving on TSBEP immediately before the effective date of the Act to continue to serve for the remainder of the member's term.

Requires the governor, as the terms of TSBEP members expire, to appoint or reappoint a member who has the required qualifications for a member as added by the Act.

Housing and Health Services Coordination Council Composition—H.B. 736

by Representative Farias—Senate Sponsor: Senator Van de Putte

S.B. 1878, 81st Legislature, Regular Session, 2009, established a housing and health services coordination council (council). The purpose of the council is to increase state efforts to offer service-enriched housing through increased coordination of housing and health services. The council consists of 16 members, including the director, agency representatives, and members appointed by the governor. Currently, there is not a council member specifically related to veterans. This bill:

Increases the composition of the council from 16 to 17 members by adding as a member one representative from the Texas Veterans Commission, appointed by the head of that agency.

Uniform Emergency Volunteer Health Practitioners Act—H.B. 746

by Representative Ashby—Senate Sponsor: Senator Schwertner

In response to problems in the deployment of health practitioners during disasters as a result of a lack of uniformity in state laws regarding the scope of practice and licensing of such practitioners, the Uniform Law Commission developed a model uniform law, the Uniform Emergency Volunteer Health Practitioners Act, to regulate volunteer health practitioners providing services during disasters, which a number of states have adopted. This bill:

Authorizes the added Chapter 115 (Health or Veterinary Services Provided in Catastrophic Circumstances), Occupations Code, to be cited as the Uniform Emergency Volunteer Health Practitioners Act (Act).

Defines "department," "disaster relief organization," "division," "emergency," "emergency declaration," "Emergency Management Assistance Compact," "entity," "health facility," "health practitioner," "health services," "host entity," "license," "scope of practice," and "veterinary services."

Defines "volunteer health practitioner" (VHP) to mean a health practitioner who provides health or veterinary services without compensation, and provides that the term does not include a practitioner who receives compensation under a preexisting employment relationship with a host entity or affiliate that requires the practitioner to provide health services in this state, unless the practitioner is not a resident of this state and is employed by a disaster relief organization providing services in this state while an emergency declaration is in effect.

Provides that Chapter 115, Occupations Code, applies to VHPs who are registered with the VHP registration system administered by the Department of State Health Services (DSHS) and who provide health or veterinary services in this state for a host entity while an emergency declaration is in effect.

Authorizes the Texas Division of Emergency Management (TDEM), while an emergency declaration is in effect, by order to limit, restrict, or otherwise regulate the duration of practice by VHPs; the geographical areas in which VHPs are authorized to practice; the types of VHPs who may practice; and any other matters necessary to coordinate effectively the provision of health or veterinary services during the emergency; and provides that such an issued order may take effect immediately, without prior notice or comment, and is not a rule within the meaning of Chapter 2001 (Administrative Procedure), Government Code.

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Requires a host entity that uses VHPs to provide health or veterinary services in this state to consult and coordinate its activities with TDEM to the extent practicable to provide for the efficient and effective use of VHPs and comply with laws relating to the management of emergency health or veterinary services.

Requires DSHS to administer a VHP registration system that meets certain requirements and contains certain information.

Authorizes DSHS, to satisfy certain requirements, to use information available in the Texas disaster volunteer registry maintained by DSHS or to enter into agreements with disaster relief organizations or the verification systems of other states for the advance registration of VHPs under 42 U.S.C. Section 247d-7b.

Requires a state agency, while an emergency declaration is in effect, that grants a license to a health practitioner to coordinate with DSHS to provide licensing or criminal history record information for VHPs seeking registration. Prohibits DSHS from allowing the applicant to register and prohibits the applicant from serving as a VHP if an applicant for such registration has an unacceptable licensing or criminal history.

Authorizes TDEM, a person authorized to act on behalf of TDEM, or a host entity, while an emergency declaration is in effect, to confirm whether VHPs used in this state are registered with the VHP registration system and provides limitations as to what confirmation entails.

Authorizes DSHS, on request by an authorized person in this state or a similarly authorized person in another state, to notify the person of the identity of VHPs registered with the registration system and whether the practitioners are licensed and in good standing and have an acceptable criminal history.

Provides that a host entity is not required to use the services of a VHP even if the practitioner meets certain criteria.

Authorizes a VHP registered with the VHP registration system who is licensed and in good standing in another state and has an acceptable criminal history, while an emergency declaration is in effect, to practice in this state to the extent authorized as if the practitioner were licensed in this state.

Provides that such a qualified VHP is not entitled to the protections of Chapter 115, Occupations Code, if the practitioner is licensed in more than one state and any license of the practitioner is suspended, revoked, or subject to an agency order limiting or restricting practice privileges or has been voluntarily terminated under threat of sanction.

Defines, for Section 115.007 (No Effect on Credentialing and Privileging), "credentialing" and "privileging." Provides that Chapter 115, Occupations Code, does not affect credentialing or privileging standards of a health facility and does not preclude a health facility from waiving or modifying those standards while an emergency declaration is in effect.

Requires a VHP, subject to other provisions, to adhere to the scope of practice for a similarly licensed practitioner established by the licensing provisions or other laws of this state.

Provides that, except as otherwise provided, Chapter 115, Occupations Code, does not authorize a VHP to provide a service that is outside the practitioner's scope of practice, even if a similarly licensed practitioner in this state would be permitted to provide the service.

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Authorizes TDEM to modify or restrict the health or veterinary services that a VHP is authorized to provide and authorizes an order under this provision to take effect immediately, without prior notice or comment, and is not a rule within the meaning of Chapter 2001 (Administrative Procedure), Government Code.

Authorizes a host entity to restrict the health or veterinary services that a VHP is authorized to provide.

Provides that a VHP does not engage in unauthorized practice unless the practitioner has reason to know of any limitation, modification, or restriction or that a similarly licensed practitioner in this state would not be permitted to provide the service, and specifies what determines whether a VHP has reason to know of these circumstances.

Provides that, in addition to the authority granted by the law of this state other than Chapter 115, Occupations Code, to regulate the conduct of health practitioners, a licensing board or other disciplinary authority in this state is authorized to impose administrative sanctions on a health practitioner licensed in this state for conduct outside of this state in response to an out-of-state emergency; is authorized to impose administrative sanctions on a practitioner not licensed in this state for conduct in this state in response to an in-state emergency; and is required to report any administrative sanction imposed on a practitioner licensed in another state to the appropriate licensing board or other disciplinary authority in any other state in which the practitioner is known to be licensed.

Requires a licensing board or other disciplinary authority, in determining whether to impose an administrative sanction, to consider the circumstances in which the conduct took place, including certain specified aspects.

Provides that Chapter 115, Occupations Code, does not limit rights, privileges, or immunities provided to VHPs by laws other than that chapter, and, except as otherwise provided, the chapter does not affect requirements for the use of health practitioners under the Emergency Management Assistance Compact.

Authorizes TDEM, under the Emergency Management Assistance Compact, to incorporate into the emergency forces of this state VHPs who are not officers or employees of this state or a political subdivision of this state.

Authorizes TDEM to adopt rules to implement these provisions. Requires TDEM, in adopting rules, to consult with and consider the recommendations of the entity established to coordinate the implementation of the Emergency Management Assistance Compact and to consult with and consider rules adopted by similarly empowered agencies in other states to promote uniformity in the application of these provisions and to make the emergency response systems in the various states reasonably compatible.

Sets forth provisions regarding limitations on civil liability for VHPs and limitations on liability for a person who operates, uses, or relies on information provided by the VHP registration system.

Requires a court or governmental entity, in applying and construing Chapter 115, Occupations Code, to take into consideration the need to promote uniformity of the law with respect to the subject matter of this Act among states that enact similar uniform laws.

Practice of Psychology—H.B. 807

by Representative Zerwas—Senate Sponsor: Senator Schwertner

Under current law, certain persons employed by a governmental agency are exempt from licensing requirements for psychologists, which means that a person employed at a governmental agency may call himself or herself a "psychologist" even if the person does not have the appropriate doctoral degree or any of the required training and expertise associated with a license to practice psychology. Interested parties express concern that these discrepancies can be confusing to patients and the general public. This bill:

Defines, in the relevant sections, "authorized provider" to mean a physician licensed to practice in this state, a psychologist licensed to practice in this state, a professional licensed to practice in this state and certified by the department, or a provider certified by the department before September 1, 2013.

Authorizes a person believed to be a person with mental retardation, the parent of the person if the person is a minor, or the guardian of the person to make written application to an authorized provider, rather than to the Department of Aging and Disability Services (DADS), a community center, a physician, or a psychologist licensed to practice in this state or certified by DADS, for a determination of mental retardation using forms provided by DADS.

Requires an authorized provider, rather than a physician or psychologist licensed to practice in this state or certified by DADS, to perform the determination of mental retardation, and authorizes DADS to charge a reasonable fee for certifying an authorized provider, rather than for certifying a psychologist.

Requires the authorized provider, rather than the physician or psychologist, to base the determination on an interview with the person and on a professional assessment that meets certain minimum criteria.

Authorizes the authorized provider, rather than a physician or psychologist, to use a previous assessment, social history, or relevant record from a school district, a public or private agency, or a physician or psychologist if the authorized provider, rather than the physician or psychologist, determines that the assessment, social history, or record is valid.

Requires that the determination of mental retardation, if the person is indigent, to be performed at DADS expense by an authorized provider, rather than by a physician or psychologist licensed in this state or certified by DADS.

Provides that Chapter 501 (Psychologists), Occupations Code, does not apply to certain activities or services, including the activity or service of a person, or the use of an official title by the person, who is employed as a psychologist or psychological associate by a regionally accredited institution of higher education, rather than by a governmental agency or regionally accredited institution of higher education, if the person performs duties the person is employed by the institution to perform within the confines of the institution, rather than if the person performs duties the person is employed by the agency or institution to perform within the confines of the agency or institution, or the activity or service of a person who is employed by a governmental agency if the person performs duties the person is employed by the agency to perform within the confines of the agency and does not represent that the person is a psychologist.

Exempts a psychologist from Section 501.153 (Fee Increase), Occupations Code, if the psychological services provided and the psychologist's use of an official title are within the scope of the psychologist's employment as described by Section 501.004(a)(1) or (6), which are included in the above statement.

Authority of a Psychologist to Delegate the Provision of Certain Care—H.B. 808
by Representative Zerwas—Senate Sponsor: Senator Deuell

Interested parties contend that clarification is needed regarding reimbursement to licensed psychologists by insurance companies for services rendered by certain personnel under the psychologist's supervision, since, the parties assert, some insurance companies are not reimbursing for such services. This bill:

Authorizes a psychologist licensed under Chapter 501 (Psychologists), Occupations Code, to delegate to a provisionally licensed psychologist, a newly licensed psychologist who is not eligible for managed care panels, a person who holds a temporary license issued under Section 501.263 (Temporary License), and a person who satisfies Section 501.255(a) (relating to authorizing applicants to take an examination for a provisional license if the applicant meets certain criteria) and is in the process of acquiring the supervised experience required by Section 501.252(b)(2) (relating to requiring that a person have at least two years of supervised experience in the field of psychology to be licensed) any psychological test or service that a reasonable and prudent psychologist could delegate within the scope of sound psychological judgment if the psychologist determines that the test or service can be properly and safely performed by the person; the person does not represent to the public that the person is authorized to practice psychology; and the test or service will be performed in the customary manner and in compliance with any other law.

Provides that the delegating psychologist remains responsible for the psychological test or service performed by the person to whom the test or service is delegated, and the test or service is considered to be delivered by the delegating psychologist for billing purposes, including bills submitted to third-party payors. Requires the person to inform each patient on whom the test or service is performed that the person is being supervised by a licensed psychologist.

Authorizes the Texas State Board of Examiners of Psychologists (TSBEP) to determine whether a psychological test or service may be properly and safely delegated and whether a delegated act constitutes the practice of psychology.

Authorizes a person who is a licensed psychologist and to whom another psychologist delegates a psychological test or service to represent that the person is engaged in the practice of psychology.

Provides that a person to whom another psychologist delegates a psychological test or service is not considered to be engaged in the independent practice of psychology without a license issued under Chapter 501, Occupations Code, unless the person acts with the knowledge that the delegation and the action taken under the delegation violate Subtitle I (Regulation of Psychology and Counseling), Title 3 (Health Professions), Occupations Code.

Cottage Food Products and Operations—H.B. 970

by Representative Eddie Rodriguez et al.—Senate Sponsor: Senator Deuell et al.

As a result of recent legislation, individuals who meet certain criteria can produce specific types of foods, such as baked goods or canned jelly, in their homes and sell directly to consumers without being regulated by a local health department. Interested parties have noted that the laws have led to the establishment and growth of small businesses. These parties contend that restricting the sale of these foods to such an individual's home and conflicts with zoning authorities have created barriers and recommend addressing these issues as well as allowing for the production of more types of foods, such as is permitted in some other states. This bill:

Redefines "baked good" and defines "farm stand" in Chapter 437 (Regulation of Food Service Establishments, Retail Food Stores, Mobile Food Units, and Roadside Food Vendors), Health and Safety Code.

Redefines "cottage food production operation" to mean an individual, operating out of the individual's home, who produces at the individual's home, subject to Section 437.0196 (Potentially Hazardous Food; Prohibition for Cottage Food Production Operations), Health and Safety Code, certain food products; has an annual gross income of \$50,000 or less from the sale of the described food; sells the produced foods only directly to consumers at the individual's home, a farmers' market, a farm stand, or a municipal, county, or nonprofit fair, festival, or event; and delivers products to the consumer at the point of sale or another location designated by the consumer.

Provides that the exemption that a cottage food production operation is not a food service establishment for purposes of Chapter 437, Health and Safety code, does not affect the application of Sections 431.045 (Emergency Order), 431.0495 (Recall Orders), and 431.247 (Delegation of Powers or Duties) authorizing the Department of State Health Services (DSHS) or other local health authority to act to prevent an immediate and serious threat to human life or health.

Prohibits a local government authority from regulating the production of food at a cottage food production operation.

Requires that food sold by a cottage food production operation be packaged in a manner that prevents product contamination, except that a food item is not required to be packaged if it is too large or bulky for conventional packaging.

Requires that labels on all of the foods a cottage food production operation sells to consumers include the name and address of the cottage food production operation and a statement that the food is not inspected by DSHS or a local health department.

Requires that the information required to be included on the label, for foods not required to be packaged, be provided to the consumer on an invoice or receipt.

Prohibits a cottage food production operation from selling any of the foods through the Internet, by mail order, or at wholesale.

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Requires an individual who operates a cottage food production operation to have successfully completed a basic food safety education or training program for food handlers accredited under Subchapter D (Food Service Programs), Chapter 438 (Public Health Measures Relating to Food), Health and Safety Code, and provides that an individual operating a cottage food production operation is not required to complete a basic food safety education or training program for food handlers before January 1, 2014.

Prohibits an individual from processing, preparing, packaging, or handling cottage food products unless the individual meets education or training program requirements; is directly supervised by such an individual; or is a member of the household in which the cottage food products are produced.

Defines "potentially hazardous food" in Section 437.0196 (Potentially Hazardous Food; Prohibition for Cottage Food Production Operations), Health and Safety Code, and prohibits a cottage food production operation from selling to customers potentially hazardous foods.

Defines "cottage food production operation" and "home" in Subchapter C (Regulation of Cottage Food Production Operations), Chapter 211 (Municipal Zoning Authority), Local Government Code, and in Subchapter M (Regulation of Cottage Food Production Operations), Chapter 231 (County Zoning Authority), Local Government Code.

Prohibits a municipal zoning ordinance or a county zoning ordinance from prohibiting the use of a home for cottage food production operations, and provides that the relevant subchapter for each does not affect the right of a person to bring a cause of action under other law against an individual for nuisance or another tort arising out of the individual's use of the individual's home for cottage food production operations.

Advertising by Certain Facilities That Provide Emergency Services—H.B. 1376

by Representative Kolkhorst—Senate Sponsor: Senator Nelson

Interested parties have expressed concern that certain freestanding emergency medical facilities are being advertised as urgent care clinics, but are billing patients at higher emergency room rates. This bill:

Provides that the added Subchapter H (Freestanding Emergency Medical Care Facilities Associated with Licensed Hospitals), Chapter 241 (Hospitals), Health and Safety Code, applies only to a freestanding emergency medical care facility that is exempt from the licensing requirements of Chapter 254 (Freestanding Emergency Medical Care Facilities) under Section 254.052(7) (relating to providing that certain facilities are not required to be licensed under the chapter, including a facility located within or connected to a licensed hospital or a hospital that is owned and operated by the state) or (8) (relating to providing that certain facilities are not required to be licensed under the chapter, including a facility that is owned by a licensed hospital or a hospital that is owned and operated by the state, and is surveyed as a service of the hospital by an organization that has been granted deeming authority as a national accreditation program for hospitals by the Centers for Medicare and Medicaid Services (CMS) or granted provider-based status by CMS), Health and Safety Code.

Prohibits such a described facility from advertising or holding itself out as a medical office, facility, or provider other than an emergency room if the facility charges for its services the usual and customary rate charged for the same service by a hospital emergency room in the same region of the state or located in a region of the state with comparable rates for emergency health care services.

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Requires the Department of State Health Services (DSHS), subject to certain other law, to adopt rules for a notice to be posted in a conspicuous place in the facility that notifies prospective patients that the facility is an emergency room and charges rates comparable to a hospital emergency room. Requires DSHS, as soon as practicable after the effective date of the Act, to adopt rules relating to the required notice.

Authorizes the assessment of an administrative penalty against a hospital that violates the subchapter.

Food Regulation Information Provided by the Department of State Health Services—H.B. 1392 *by Representative Susan King et al.—Senate Sponsor: Senator Nelson*

Interested parties contend that they have experienced difficulties obtaining information regarding food regulations from the Department of State Health Services (DSHS) and have expressed a need for DSHS to provide clear and timely guidance concerning these regulations. This bill:

Adds Subchapter H (Information on Department Food Regulation), Chapter 438 (Public Health Measures Relating to Food), Health and Safety Code.

Requires DSHS, unless otherwise prohibited by law, on receipt of a written request for information pertaining to the regulation of food, to provide a reasonable and substantial response to the request not later than the 30th day after the date DSHS receives the request.

Requires DSHS, on receipt of a written request regarding the applicability to a specific circumstance of a regulation or the requirements for compliance with the regulation, to provide an official written determination regarding the applicability of the regulation or the requirements for compliance with the regulation to the requestor not later than the 30th day after the date DSHS receives the request.

Provides that such an official determination is valid until the regulation that is the subject of the determination is amended by statute or DSHS rule.

Prohibits an inspector from issuing to a person a citation for a violation of a food regulation if the person provides the inspector with an official determination that contradicts the opinion of the inspector.

Requires the executive commissioner of the Health and Human Services Commission (executive commissioner), not later than December 1, 2013, to adopt the rules necessary to implement the subchapter.

Requires the executive commissioner to periodically evaluate DSHS's food safety rules and modify the rules as necessary to improve consistency and communication in food regulation.

Provides that the Act applies only to a request for information or official determination made to DSHS on or after January 1, 2014, and provides that such a request made to DSHS before January 1, 2014, is governed by the law in effect immediately before the effective date of the Act, and that law is continued in effect for that purpose.

Exemption of Registered Dental Laboratories From Certain Licensing Requirements—H.B. 1395
by Representative Susan King—Senate Sponsor: Senator Nelson

Interested parties note that dental laboratories are subject to regulation by two state agencies, the Texas State Board of Dental Examiners and the Department of State Health Services, as well as the federal government, which such parties contend is duplicative, costly, and places dental laboratories at a competitive disadvantage to out-of-state laboratories. This bill:

Exempts a person from licensing under Subchapter L (Device Distributors and Manufactures), Chapter 431 (Texas Food, Drug, and Cosmetic Act), Health and Safety Code, if the person holds a registration certificate issued under Chapter 266 (Regulation of Dental Laboratories), Occupations Code, and engages only in conduct within the scope of that registration.

Temporary Licensing of a Dentist Who Provides Voluntary Charity Care—H.B. 1491
by Representative Branch et al.—Senate Sponsor: Senator Schwertner

Interested parties note that there are programs, such as the Texas Dental Association Smiles Foundation, Texas Mission of Mercy, and Fluoride Fest, that provide free dental care to underserved Texans and which rely in some part on the contributions of volunteer dentists. These parties state that, occasionally, out-of-state dentists express an interest in volunteering at such charity dental events, but that there is no mechanism for any form of limited license to allow these practitioners to participate in such charitable events. This bill:

Provides that, in Section 256.1016 (Temporary License for Charitable Purpose), Occupations Code, "voluntary charity care" has the meaning assigned by Texas State Board of Dental Examiners (TSBDE) rule under Section 256.102 (Retired Status).

Requires TSBDE to grant a temporary license for a dentist whose practice consists only of voluntary charity care to a reputable dentist who meets certain requirements under Sections 256.101 (Issuance of License to Certain Out-of-State Applicants) and who ceased practicing dentistry in another state that TSBDE has determined has licensing requirements that are substantially similar to the requirements of this state not more than two years before the date the dentist applies for the temporary license and was licensed in good standing at the time the dentist ceased practicing dentistry, or is currently licensed in another state that TSBDE has determined has licensing requirements that are substantially similar to the requirements of this state.

Requires a dentist issued such a temporary license to confine the dentist's practice to voluntary charity care, practice only in a geographic area specified by the license, and practice only for the period specified by the license.

Requires TSBDE to adopt rules as necessary to implement these provisions.

Requires TSBDE to take disciplinary action against such a licensed dentist for a violation of Subtitle D (Dentistry) or TSBDE rules in the same manner as against a dentist licensed under Subchapter A (Issuance of License to Practice Dentistry), Chapter 256 (Licensing of Dentists and Dental Hygienists).

Controlled Substance Registration and Regulation of Pain Management Entities—H.B. 1803
by Representative Callegari—Senate Sponsor: Senator Huffman

Interested parties note that the renewal dates for the requirement that persons licensed to practice medicine in Texas to register with the Texas Medical Board (TMB) and the requirement of registration under the Texas Controlled Substances Act are not synchronized, creating a burden and causing confusion for physicians. Interested parties express interest in updating and clarifying law in regard to pain management clinics. This bill:

Provides that a separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, analyzes, dispenses, or possesses a controlled substance, except that the director of the Department of Public Safety of the State of Texas (director; DPS) or an employee of DPS designated by the director is prohibited from requiring separate registration for certain persons, including a physician licensed under Subtitle B (Physicians), Title 3 (Health Professions), Occupations Code.

Requires the director or an employee of DPS designated by the director, notwithstanding certain other law, to continue to send renewal notices to registrants who are physicians, and provides that the related subsection expires January 1, 2016.

Provides that the registration under the Texas Controlled Substances Act of a physician licensed under Subtitle B, Title 3, Occupations Code, is valid for a period of not less than two years and expires on the same date the physician's registration permit issued by the Texas Medical Board (TMB) under Chapter 156 (Registration of Physicians), Occupations Code, expires.

Provides that, notwithstanding that provision, a registration of a licensed physician that is in effect on January 1, 2014, expires on the date on which the physician's registration permit issued by TMB expires, and provides that the subsection expires January 1, 2017.

Authorizes the director or an employee of DPS designated by the director to charge a physician registered under Section 481.0645 (Registration, Renewal, and Fees for Physicians), Health and Safety Code, a nonrefundable registration fee of not more than \$50 and a late fee for each application submitted after the expiration of the grace period.

Authorizes a physician to request the renewal of the physician's registration under the Texas Controlled Substances Account by remitting the information required under Section 481.063 (Registration Application; Issuance or Denial), Health and Safety Code, and the required fee to TMB, which TMB is required to allow to be submitted and paid, respectively, electronically.

Requires a physician requesting renewal to meet all eligibility requirements under Section 481.063(e) (relating to authorizing an application for registration to manufacture, distribute, analyze, dispense, or conduct research with a controlled substance to be denied under certain circumstances), Health and Safety Code.

Requires the director or an employee of DPS designated by the director to adopt any rules necessary to administer the section related to registration, renewal, and fees for physicians and to coordinate with TMB

in the adoption of rules necessary under the section to prevent any conflicts between rules adopted by the agencies and to ensure that the administrative burden to physicians is minimized.

Requires TMB to accept the renewal application and fee submitted by a physician under Section 481.0645, Health and Safety Code, for a registration under Subchapter C (Regulation of Manufacture, Distribution, and Dispensation of Controlled Substances, Chemical Precursors, and Chemical Laboratory Apparatus), Chapter 481, Health and Safety Code; by rule to adopt a procedure for submitting a registration renewal application and remitting the registration fee to DPS; and to coordinate a physician's controlled substance registration renewal with the registration required under Chapter 156, Occupations Code, so that the times of registration, payment, and notice are the same and provide a minimum of administrative burden to TMB and to physicians.

Modifies registration permit renewal application notice to require TMB, at least 60 days before the date on which a physician's registration permit expires, to send to each physician at the physician's last known address according to the board's records a registration permit renewal application notice and a renewal notice for the physician's registration with DPS under Subchapter C, Chapter 481, Health and Safety Code.

Provides that Chapter 168 (Regulation of Pain Management Clinics), Occupations Code, does not apply to certain entities, including a clinic owned or operated by a physician who treats patients within the physician's area of specialty and who personally uses other forms of treatment, including surgery, with the issuance of a prescription for a majority of the patients, or a clinic owned or operated by an advanced practice nurse licensed in this state who treats patients in the nurse's area of specialty and who personally uses other forms of treatment with the issuance of a prescription for a majority of the patients.

Provides that a person who owns or operates a pain management clinic is engaged in the practice of medicine.

Provides that the changes in law made to Subchapter C, Chapter 481, Health and Safety Code, apply only to a registration under that subchapter that expires on or after the effective date of the Act, and provides that the changes in law made to Chapter 156, Occupations Code, apply only to a registration permit under that chapter that expires on or after the effective date of the Act.

Provides that an unexpired registration under Subchapter C, Chapter 481, Health and Safety Code, held by a physician on the effective date of the Act expires on the date on which the registration permit issued to the physician under Chapter 156, Occupations Code, expires.

Pilot Program to Authorize Certain Accreditation Surveys of Assisted Living Facilities—H.B. 1971
by Representatives John Davis and Cortez—Senate Sponsor: Senator Deuell

Recently enacted legislation allows an assisted living facility (ALF) to obtain a third-party accreditation in lieu of an inspection by the state if the accreditation meets certain minimum standards and conditions. Two organizations were identified as nationally recognized organizations with the standards and conditions that could potentially accommodate such third-party accreditation and the legislature later added provisions that allowed the approval of other organizations that could meet the statutory requirements. Interested parties have expressed concern that, given the scarcity of state resources, the growing demand for new facilities, and that one of those entities, The Joint Commission, no longer participates in ALF accreditation, the ability

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to conduct timely accreditation of new facilities has become more difficult and those parties are therefore looking for an alternative to address this situation. This bill:

Authorizes the Department of Aging and Disability Services (DADS) to develop and implement a pilot program to authorize the use of an accreditation survey that complies with Section 247.032(b) (relating to requiring DADS to accept a certain accreditation survey instead of certain inspections or survey, but only if certain criteria are met) to fulfill the requirements for a life and safety code survey or inspection or another survey or inspection required by Subchapter B (Licensing, Fees, and Inspections), Chapter 247 (Assisted Living Facilities), Health and Safety Code.

Authorizes DADS, if DADS implements the pilot program, to implement the pilot program with the goal that not later than August 31, 2014, at least one assisted living facility (ALF) will have used an accreditation survey for the purposes of the section.

Requires that the accreditation commission's standards meet or exceed ALF licensing requirements established by the executive commissioner of the Health and Human Services Commission (executive commissioner) as required by Section 247.032(b)(1) (relating to requiring DADS to accept a certain accreditation survey instead of certain inspections or survey, but only if the accreditation commission's standards meet or exceed the requirement for licensing of the executive commissioner for an ALF). Provides that the related section expires September 1, 2015.

Remedial Plans to Resolve Complaints Filed With the Texas Optometry Board—H.B. 2627

by Representative Zedler—Senate Sponsor: Senator Eltife

Interested parties assert that the Texas Optometry Board (TOB) would benefit from an additional process for resolving investigations of practitioners licensed under the Texas Optometry Act who commit minor infractions or of cases in which the appropriate remedy is something other than a limit on the optometrist's ability to practice. The parties note that remedial plans have been enacted for the Texas Medical Board and would give TOB a useful tool for resolving such investigations. This bill:

Authorizes TOB to issue and establish the terms of a remedial plan to resolve the investigation of a complaint.

Prohibits a remedial plan from containing a provision that revokes, suspends, limits, or restricts a person's license or other authorization to practice optometry or therapeutic optometry, or assesses an administrative penalty against a person.

Prohibits the imposition of a remedial plan to resolve complaints concerning certain factors.

Prohibits TOB from issuing a remedial plan to resolve a complaint against a license holder if the license holder has entered into a remedial plan with TOB in the preceding 24 months for the resolution of a different complaint.

Requires TOB, if a license holder complies with and successfully completes the terms of a remedial plan, to remove all records of the remedial plan from TOB's records on the second anniversary of the date the license holder successfully completes the remedial plan.

Authorizes TOB to assess a fee against a license holder participating in a remedial plan in an amount necessary to recover the costs of administering the plan.

Requires TOB, not later than January 1, 2014, to adopt rules necessary to implement these provisions.

Provides that the relevant section applies only to a complaint under the Texas Optometry Act filed on or after the Act's effective date, and that such a complaint filed before that date is governed by the law in effect on the date the complaint was filed and that law is continued in effect for that purpose.

Employment Related to Certain Consumer-Directed Services and Employee Registries—H.B. 2683

by Representative Price—Senate Sponsor: Senator Nelson

Interested parties state that the legislature created the employee misconduct registry and the nurse aide registry to ensure that personnel who commit acts of abuse, neglect, exploitation, misappropriation, or misconduct against residents and consumers are prohibited from employment in certain facilities and agencies regulated by the Department of Aging and Disability Services (DADS). Such parties also note that there is a current gap in the information reported to these registries in relation to the consumer-directed services model option of care. This bill:

Defines "consumer" and "consumer-directed service option" and redefines "direct contact with a consumer" in Chapter 250 (Nurse Aide Registry and Criminal History Checks of Employees and Applicants for Employment in Certain Facilities Serving the Elderly, Persons With Disabilities, or Persons With Terminal Illnesses), Health and Safety Code.

Prohibits a facility or individual employer from employing an applicant:

- if the facility or individual employer determines, as a result of a criminal history check, that the applicant has been convicted of an offense listed in the chapter that bars employment or that a conviction is a contraindication to employment with the facility or to direct contact with the individual using the consumer-directed service option (CDS option), rather than a contraindication to employment with the consumers the facility or employer serves;
- if the applicant is a nurse aide, until the facility or individual employer further verifies that the applicant is listed in the nurse aide registry; and
- until the facility or individual employer verifies that the applicant is not designated in the registry maintained under the chapter or in the employee misconduct registry as having a finding entered into the registry concerning abuse, neglect, or mistreatment of an individual using the CDS option or a consumer, or misappropriation of the property of an individual using the CDS option or of a consumer.

Requires a facility or individual employer to immediately discharge any employee who is designated in the nurse aide registry or the employee misconduct registry as having committed an act of abuse, neglect, or mistreatment of an individual using the CDS option or a consumer, or misappropriation of the property of an individual using the CDS option or of a consumer; or whose criminal history check reveals conviction of a crime that bars employment or that the individual employer or the facility determines is a contraindication to employment.

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Requires a facility or an individual employer or financial management services agency on behalf of an individual employer, in addition to the initial verification of employability, to search the noted registries annually to determine whether any employee of the facility or of an individual employer is designated in either registry as having abused, neglected, or exploited a consumer or an individual using the CDS option; and maintain in the facility's or individual employer's books and records, rather than in each employee's personal file, a copy of the results of the search.

Prohibits a person for whom the facility or the individual employer is entitled to obtain criminal history record information from being employed in a facility or by an individual employer if the person has been convicted of certain offenses, including an offense under Section 32.53 (Exploitation of a Child, Elderly Individual, or Disabled Individual), Penal Code.

Defines "consumer," "consumer-directed service option," "financial management service agency," and "individual employer" and redefines "employee" and "reportable conduct" in Chapter 253 (Employee Misconduct Registry), Health and Safety Code.

Require the Department of Aging and Disability Services (DADS), if DADS receives a report that an employee of certain entities, including an individual employer, committed reportable conduct, to forward that report to the Department of Family and Protective Services for investigation.

Require DADS to complete the hearing and the hearing record not later than the 120th day after the date DADS receives a request for a hearing.

Requires DADS, if DADS in accordance with Chapter 253, Health and Safety Code, finds that an employee of a facility or of an individual employer has committed reportable conduct, to make a record of certain information.

Requires certain entities, including an individual employer or a financial management services agency on behalf of the individual employer, to search certain registries to determine whether the applicant for employment is designated in either registry as having abused, neglected, or exploited an individual using the CDS option or a consumer, rather than a resident or consumer of a facility or agency or an individual receiving services from a facility or agency, before certain entities, including an individual employer, is authorized to hire an employee.

Prohibits such entities from employing a person who is listed in either registry as having abused, neglected, or exploited an individual using the CDS option or a consumer.

Sets forth an additional provision requiring these entities, in addition to the initial verification of employability, to annually search the noted registries in regard to employees.

Requires each of certain entities, including an individual employer, to notify its employees in a manner prescribed by DADS about the employee misconduct registry, and that an employee is prohibited from being employed if the employee is listed in the registry.

Redefines "employee" in Subchapter I (Employee Misconduct Registry), Chapter 48 (Investigations and Protective Services for Elderly and Disabled Persons), Human Resources Code.

Repeals Section 250.003(c-1) (relating to requiring an individual employer to immediately discharge any employee whose criminal history check reveals conviction of a crime that bars employment or that the individual employer determines is a contraindication to employment as provided by the chapter), Health and Safety Code.

Practice of Dentistry—H.B. 3201

by Representative Kolkhorst—Senate Sponsor: Senator Nelson

Interested parties express concern regarding the ability of the Texas State Board of Dental Examiners (TSBDE), which regulates the practice of dentistry, to investigate and resolve complaints in a timely and efficient manner due to inefficient process and a lack of funding and staff. Interested parties also express concern regarding the lack of information available concerning dental service organizations (DSOs). This bill:

Requires TSBDE to collect a \$55 surcharge for the fee for the issuance of a dental license and the fee for the renewal of a dental license and to deposit each surcharge collected to the credit of the dental public assurance account, which is an account in the general revenue fund that is required to be appropriated only to TSBDE to pay for TSBDE's enforcement program, including an expert panel.

Provides that investigation files and other records are confidential, except that TSBDE is required to inform the license holder of the specific allegations against the license holder, rather than are confidential and are required to be divulged only to the persons investigated at the completion of the investigation.

Prohibits a member of TSBDE from expressing an oral or written opinion or serving as an expert witness in a civil action that is related to an administrative matter within TSBDE's jurisdiction, brought against or for a person licensed or registered under Subtitle D (Dentistry), Title 3 (Health Professions), Occupations Code, and, for the injury to or death of a patient or for a violation of the standard of care or the commission of malpractice, rather than prohibiting a member of TSBDE from serving as an expert witness in a suit involving a health care liability claim against a dentist for injury to or death of a patient unless the member receives approval from TSBDE or an executive committee of TSBDE to serve as an expert witness.

Defines "dental service agreement" and "dental service organization".

Requires TSBDE to collect from dentists licensed by TSBDE in conjunction with the issuance and renewal of each dental license the number and type of dentists employed by the license holder, if any; the name under which the license holder provides dental services and each location at which those services are provided by that license holder; whether the license holder is a participating provider under the Medicaid program or the child health plan program; whether the license holder is employed by or contracts with a DSO and certain related information; whether the license holder owns all or part of a DSO and certain related information; whether the license holder is a party to a dental service agreement and certain related information; and if the license holder owns all or part of a DSO, whether that practice is a party to a dental service agreement and certain related information.

Requires a DSO, if requested by TSBDE, to provide to TSBDE the address of the locations where the DSO provides dental services in this state and the name of each dentist providing dental services at each location.

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Requires TSBDE, not later than November 1 of each even-numbered year, to provide a report to the legislature on the collected information and on TSBDE's use of the information in the exercise of TSBDE's statutory authority to regulate the practice of dentistry.

Requires TSBDE, if TSBDE has jurisdiction, to complete a preliminary investigation of the complaint not later than the 60th day after the date of receiving the complaint, rather than to investigate the complaint to determine the facts concerning the complaint. Requires TSBDE to first determine whether the license holder constitutes a continuing threat to the public welfare. Requires TSBDE, on completion of the preliminary investigation, to determine whether to officially proceed on the complaint. Provides that, if TSBDE fails to complete the preliminary investigation in the time required, TSBDE's official investigation of the complaint is considered to commence on that date.

Removes the requirement that the rules adopted regarding procedures established by which a TSBDE employee is authorized to dismiss a complaint if the investigation does not reveal a violation require a TSBDE employee to consult with a dentist member of TSBDE before dismissing a complaint relating to patient morbidity, professional conduct, or quality of care.

Requires TSBDE by rule to provide for expert panels appointed by TSBDE to assist with complaints and investigations relating to professional competency by acting as expert dentist and dental hygienist reviewers and sets forth provisions relating to criteria for the members and rules to be adopted concerning the panel.

Requires that the complaint, if the preliminary investigation indicates that an act by a license holder falls below an acceptable standard of care, be reviewed by an expert panel consisting of license holders who practice in the same specialty as the license holder who is the subject of the complaint or in another specialty that is similar to the license holder's specialty. Requires the expert panel to report in writing the panel's determinations based on the review and that the report specify the standard of care that applies to the facts that are the basis of the complaint and the clinical basis for the panel's determinations.

Sets forth procedures for expert review of complaints and the issuance of a final written report.

Authorizes TSBDE to delegate authority to TSBDE employees to issue licenses Subtitle D, Occupations Code, to applicants who clearly meet all licensing requirements. Requires that the application, if TSBDE employees determine that the applicant does not clearly meet all licensing requirements, be returned to TSBDE. Provides that a license issued under the provision does not require formal TSBDE approval.

Authorizes the parent or guardian of a child younger than 18 years of age to be present in the treatment room during the child's dental treatment or procedure, unless the dentist determines in the dentist's professional judgment that the presence of the parent or guardian in the treatment room is likely to have an adverse effect on the treatment or the child. Provides that, in this provision, "parent or guardian" includes a person authorized by law to consent for the medical or dental treatment of a child younger than 18 years of age.

Authorizes TSBDE to delegate to a committee of TSBDE employees the authority to dismiss or enter into an agreed settlement of a complaint that does not relate directly to patient care or that involves only administrative violations and requires that the disposition determined be approved by TSBDE at a public meeting. Requires that a delegated complaint be referred for informal proceedings under Section 263.0075

(Informal Settlement Conference; Restitution), Occupations Code, if the committee determines that the complaint should not be dismissed or settled, the committee is unable to reach an agreed settlement, or the affected license holder requests that the complaint be referred for informal proceedings.

Sets forth provisions regarding the informal settlement conference notice, a written statement to be provided with the notice, rescheduling of the conference, the license holder's rebuttal, and recording of the conference.

Authorizes TSBDE to issue and establish the terms of a remedial plan to resolve the investigation of a complaint filed under Subtitle D, Occupations Code.

Prohibits a remedial plan from containing a provision that revokes, suspends, limits, or restricts a person's license or other authorization to practice dentistry or dental hygiene or assesses an administrative penalty against a person.

Prohibits a remedial plan from being imposed to resolve certain complaints and prohibits TSBDE from issuing a remedial plan to resolve a complaint against a license holder if the license holder has previously entered into a remedial plan with TSBDE for the resolution of a different complaint filed under the subtitle.

Provides that a remedial plan is public information and that, in civil litigation, a remedial plan is a settlement agreement under Rule 408, Texas Rules of Evidence.

Requires TSBDE to adopt rules necessary to implement the provisions related to a remedial plan.

Requires TSBDE, not later than December 1, 2013, to adopt rules necessary to implement the bill's provisions.

Provides that Section 254.004(c) (relating to requiring TSBDE to collect surcharges for certain fees), Occupations Code, as added, applies only to an application for an original dental license or for renewal of a dental license filed on or after September 1, 2013, and provides that an application filed before that date is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

Provides that Sections 254.006(b) (relating to providing confidentiality of investigation files and other records), 255.006 (General Rules Regarding Complaint Investigation and Disposition), 255.0065 (Composition of Expert Panels), 255.0066 (Determination of Competency), 255.0067 (Reports; Procedures for Expert Review), 263.0076 (Informal Settlement Conference Notice), and 263.0077 (Remedial Plan), Occupations Code, as provided by this Act, apply only to the investigation and resolution of a complaint filed with TSBDE on or after January 1, 2014. Provides that a complaint filed before that date is governed by the law in effect on the date the complaint was filed, and the former law is continued in effect for that purpose.

Provides that except for Section 10 of the Act and Sections 254.004(c), 254.004(d) (relating to the depositing of the surcharge collected to the credit of the dental public assurance account), and Section 254.019 (Definitions), Occupations Code, which are effective September 1, 2013, the bill's provisions are effective January 1, 2014.

Notation of Death on a Birth Certificate and the Release of Birth Certificate Information—H.B. 3253 *by Representative Zerwas—Senate Sponsor: Senator Nelson*

Birth records are maintained by the Vital Statistics Unit within the Department of State Health Services in both paper and electronic form. Local registrars and county clerks also maintain copies of birth records of individuals born in the district or county, as applicable. Upon the death of an individual younger than 55 years of age, the state registrar and the local registrar or county clerk are required to mark the paper records conspicuously as "deceased," a process which is known as a birth-death match. Interested parties contend that removing the restriction regarding persons younger than 55 years of age may assist with reducing the potential of identity theft and fraud for older individuals. This bill:

Requires the state registrar, on receipt of the death certificate of a person, rather than on receipt of the death certificate of a person younger than 55 years of age, whose birth is registered in this state, to conspicuously note the person's date of death on the person's birth certificate.

Requires the state registrar to notify, rather than to provide computer generated abstracts, transcripts, or copies of the death certificate to, the county clerk of the county in which the person was born and the local registrar of the registration district in which the person was born of the person's death, and changes previous use of the term "decedent" to "person."

Requires the county clerk or local registrar, on receipt of the notification of death, to conspicuously note the person's date of death on the person's birth certificate, rather than to make a conspicuous notation on the decedent's birth certificate that the person is dead.

Prohibits information under the section of the birth certificate entitled "For Medical and Health Use Only" from being released or made public on subpoena or otherwise, except that release is authorized to be made for certain purposes and persons, including to a faculty member at a medical school for statistical or medical research.

Licensing and Regulation of Emergency Medical Services Providers—H.B. 3556 *by Representatives Kolkhorst and Raymond—Senate Sponsor: Senator Nelson*

The Department of State Health Services (DSHS) regulates emergency medical services (EMS) providers. Interested parties contend that the current EMS provider licensure and regulation process have contributed to an increase in such providers and Medicaid fraud involving such providers. This bill:

Requires DSHS to issue to an EMS provider applicant a license that is valid for two years if DSHS is satisfied that certain conditions are met, including the applicant, rather than the EMS provider, has adequate staff to meet the related prescribed staffing standards and adopted rules; the applicant, rather than the EMS provider, offers safe and efficient services for emergency prehospital care and transportation of patients; the applicant possesses sufficient professional experience and qualifications to provide EMS and has not been excluded from participation in the state Medicaid program; the applicant holds a letter of approval issued by the governing body of the municipality or the commissioners court of the county in which the applicant is located and is applying to provide EMS, as applicable; and the applicant, rather than the EMS provider, complies with the adopted rules.

Requires a person who applies for a license or for a renewal of a license, in addition to the other requirements for obtaining or renewing an EMS provider license, to provide DSHS with a letter of credit issued by a federally insured bank or savings institution in the amount of \$100,000 for the initial license and for renewal of the license on the second anniversary of the date the initial license is issued and set amounts for the renewal of the license on certain anniversaries of the date the initial license is issued; if the applicant participates in the medical assistance program, the Medicaid managed care program, or the child health plan program, provide the Health and Human Services Commission (HHSC) with a surety bond in the amount of \$50,000; and submit for DSHS approval certain information regarding the provider's administrator of record who satisfies the position's requirements. Exempts an EMS provider that is directly operated by a governmental entity from the provision.

Provides that the administrator of record for a licensed EMS provider is prohibited from being employed or otherwise compensated by another private for-profit EMS provider; is required to meet the qualifications required for an emergency medical technician or other health care professional license or certification issued by this state, which is a requirement that does not apply to an EMS provider that held a license on September 1, 2013, and has an administrator of record who has at least eight years of experience providing EMS; and is required to submit to a criminal history record check at the applicant's expense.

Sets forth provisions regarding the authorization to require an administrator of record initially approved by DSHS to complete an education course and a requirement for annual continuing education for an approved administrator of record.

Exempts an EMS provider that is directly operated by a governmental entity from the section related to the administrator of record.

Requires DSHS, not later than December 1 of each even-numbered year, to electronically submit a report to certain entities on the effect of Sections 773.05711 (Additional Emergency Medical Services Provider License Requirements) and 773.05712 (Administrator of Record), Health and Safety Code, that includes certain data relating to licenses issued and denied, licenses suspended or revoked for violations, fraud, and complaints, and coordination efforts of DSHS and the Texas medical board related to those sections.

Requires an EMS provider applicant to obtain a letter of approval from the governing body of the municipality in which the applicant is located and is applying to provide EMS, or if the applicant is not located in a municipality, the commissioners court of the county in which the applicant is located and is applying to provide EMS.

Authorizes a governing body of a municipality or a commissioners court of a county to issue such a letter of approval only if the governing body or commissioners court determines that certain conditions relating to the addition of another licensed EMS provider: not interfering with or adversely affecting the provision of such services by operating providers, remedying an existing provider shortage, and not causing an oversupply of such providers.

Prohibits an EMS provider from expanding operations to or stationing any EMS vehicles in a municipality or county other than the municipality or county from which the provider obtained the letter of approval until after the second anniversary of the date the provider's initial license was issued, unless the expansion or stationing occurs in connection with certain events.

Provides that Section 773.0573 (Letter of Approval From Local Governmental Entity), Health and Safety Code, does not apply to renewal of an EMS provider license, or to a municipality, county, emergency services district, hospital, or EMS volunteer provider organization in this state that applies for an EMS provider license.

Sets forth provisions regarding the authorization to suspend, revoke, or deny an EMS provider license on certain grounds regarding the provider's administrator of record, employee, or other representative; and exempts an EMS provider that is directly operated by a governmental entity from the section.

Provides that Section 773.0571, Health and Safety Code, as amended by this Act, and Section 773.0573, Health and Safety Code, as added by this Act, apply only to an application for approval of an EMS provider license submitted to DSHS on or after the effective date of the Act; and provides that an application submitted before the effective date of the Act is governed by the law in effect immediately before the effective date of the Act, and that law is continued in effect for that purpose.

Licensing Requirements For Newly Constructed Assisted Living Facilities—H.B. 3729
by Representative Coleman—Senate Sponsor: Senator Van de Putte

Interested parties contend that clarification is needed in regard to the issuance of a provisional license for newly constructed assisted living facilities (ALFs) if certain conditions are met because the laws relating to such an issuance are being interpreted too narrowly and do not align with certain legislation's original intent. This bill:

Requires the Department of Aging and Disabilities (DADS) to, upon submission of a written request by the applicant, automatically issue a six-month provisional license without conducting a life safety code inspection before issuance of the provisional license to a newly constructed facility, rather than to upon submission of a written request by the applicant, automatically issue provisional license to a newly constructed facility, if:

- the license applicant has submitted building plans to DADS for an early compliance review in accordance with Section 247.0261 (Early Compliance Review), Health and Safety Code, rather than the facility is in compliance with resident care standards;
- all local approvals, including a certificate of occupancy where required, have been obtained;
- a complete license application form, rather than a complete license application, is submitted within 30 days of receipt of all local approvals;
- the license fee has been paid;
- DADS determines that the license applicant or a person who owns the license applicant and controls the operations of the license applicant constructed another facility in this state that complies with DADS's life safety code standards; and
- the facility is in compliance with resident care standards based on an on-site health inspection.

Deletes from the conditions a requirement regarding requiring the license applicant to submit working drawings and specifications to DADS for review before beginning construction.

Military Limited Volunteer License to Practice Medicine—S.B. 61
by Senator Nelson et al.—House Sponsor: Representative Cortez

Interested parties note that some physicians serving military personnel and veterans in Texas are licensed in another state and are therefore unable to provide charitable care to other patient populations in this state, such as the uninsured. This bill:

Requires the Texas Medical Board (TMB) to adopt rules relating to the issuance of a military limited volunteer license.

Authorizes TMB to issue a military limited volunteer license to practice medicine to an applicant who is licensed and in good standing, or was licensed and retired in good standing, as a physician in another state; is or was authorized as a physician to treat personnel enlisted in a branch of the United States armed forces or veterans; and meets any other requirement prescribed by TMB rule.

Prohibits TMB from issuing such a license to certain applicants.

Authorizes a physician to practice medicine under such a license only at a clinic that primarily treats indigent patients and prohibits the physician from receiving compensation for medical services rendered at the clinic.

Provides that a military limited volunteer license hold is subject to TMB rules, including rules regarding disciplinary action, license registration and renewal, and continuing medical education.

Criminal History Record Information For Certain Applicants and Clients of DARS—S.B. 128
by Senator Nelson—House Sponsor: Representative Naishtat

Interested parties note that the authority for the Department of Assistive and Rehabilitative Services (DARS) to obtain criminal history information is not consistent throughout DARS. This bill:

Entitles DARS, rather than the Texas Rehabilitation Commission (TRC), to obtain from the Department of Public Safety of the State of Texas (DPS) criminal history record information that relates to certain persons, including an applicant for services of DARS, rather than for rehabilitation services of TRC, and makes additional conforming changes.

Authorizes DARS, rather than TRC, to obtain criminal history record information, rather than criminal conviction record information, from the Texas Department of Criminal Justice (TDCJ) and from DPS if the criminal history records relate to an applicant selected for employment with DARS; an applicant for services of DARS, rather than an applicant for rehabilitation services; or a client of DARS..

Requires the executive commissioner of the Health and Human Services Commission, rather than the board of TRC, by rule to establish criteria for denying a person's application for employment based on criminal history record information, rather than criminal history background information.

Removes the requirement that TRC treat all criminal history record information as privileged and confidential and for TRC use only.

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Repeals Section 411.0985 (Access to Criminal History Record Information: Texas Commission for the Blind), Government Code, Section 91.0165 (Criminal History Record Information), Human Resources Code.

Issuance of a License to Practice Orthotics and Prosthetics—S.B. 141

by Senator Huffman—House Sponsor: Representative Sarah Davis

Interested parties recommend aligning education and training standards for orthotists and prosthetists to current national standards. This bill:

Requires that the requirements for a license established by Texas Board of Orthotics and Prosthetics (board) rule include the requirement that the applicant hold a bachelor's or graduate degree in orthotics and prosthetics from certain programs or a bachelor's degree in another subject and an orthotic and prosthetic certificate issued by certain practitioner education programs.

Requires the applicant, in order to meet the clinical residency requirements for a license, to complete a professional clinical residency that meets the requirements established by board rule and is conducted under the direct supervision of a licensed orthotist, licensed prosthetist, or a licensed prosthetist orthotist in the discipline for which licensure is sought, rather than complete at least 1,900 hours of professional clinical residency under the direct supervision of such persons in the discipline for which licensure is sought.

Requires that the clinical residency requirements adopted by the board be equivalent to or exceed the standards set by the National Commission on Orthotic and Prosthetic Education.

Authorizes the board to issue a student registration certificate to an individual who is working toward fulfilling the requirements for a license as an orthotist, prosthetist, or prosthetist orthotist; and holds either of certain credentials, including a graduate degree in orthotics and prosthetics from certain programs; or who is a student who is currently enrolled in a graduate program in this state in orthotics and prosthetics that meets certain criteria and submits to the board a written certification from the graduate program in which the student is enrolled that the student has successfully completed the academic prerequisites to enter a professional clinical residency.

Provides that the changes in law made by the Act to Chapter 605 (Orthotists and Prosthetists), Occupations Code, apply only to an application for a license or student registration certificate submitted to the board on or after January 1, 2014, and provides that an application submitted before that date is governed by the law in effect immediately before the effective date of the Act and the former law is continued in effect for that purpose.

Requires the board, not later than December 1, 2013, to adopt rules to implement the provisions.

Use of Certain Electronically Readable Information by Health Care Providers—S.B. 166

by Senators Deuell and Schwertner—House Sponsor: Representative Larson

Current law prohibits physicians and other health care providers from using the electronic strip on a driver's license as a tool to check patients into their practice. At both the federal and state levels, tremendous

resources have been expended to develop electronic medical records (EMRs), yet the initial access for health care settings requires significant, often duplicative, paperwork. Despite the fact that medical records technology has advanced to allow health care providers to move to more accurate and secure electronic systems, patients and providers are still faced with large paper systems during the check-in process. In 2007, the Texas Legislature passed H.B. 1060, which permitted Texas hospitals to use the electronic strip on a driver's license as a tool to admit patients into their facilities. This bill:

Provides that the prohibition relating to a person committing an offense if the person accesses, uses, compiles, or maintains a database of electronically readable information derived from a driver's license, commercial driver's license, or personal identification certificate, does not apply to a health care provider or hospital that accesses, uses, compiles, or maintains a database of the information to provide health care services to the individual who holds the driver's license, commercial driver's license, or personal identification certificate.

Prohibits a health care provider or hospital, except as otherwise provided, from selling, transferring, or otherwise disseminating the information derived from a driver's license, commercial driver's license, or personal identification certificate to a third party for any purpose, including any marketing, advertising, or promotional activities.

Authorizes a health care provider or hospital that obtains information derived from a driver's license, commercial driver's license, or personal identification certificate to transfer the information only in accordance with certain rules to a business associate or subcontractor who is to use the information only to service or maintain the health care provider's or hospital's database of information.

Requires a health care provider or hospital to use an alternative method for collecting the individual's information if an individual objects to the health care provider or hospital collecting the individual's information from the individual's driver's license.

Defines "health care provider."

Dispensing of Aesthetic Pharmaceuticals by Physician and Optometrists—S.B. 227 [VETOED]

by Senator Williams—House Sponsor: Representative Zerwas

Interested parties note that currently Texas prohibits a physician from dispensing certain aesthetic pharmaceuticals directly to patients. This bill:

Defines, in the added Chapter 116 (Dispensing of Aesthetic Pharmaceuticals), Occupations Code, "aesthetic pharmaceutical," "physician," and "therapeutic optometrist."

Authorizes a physician or therapeutic optometrist to dispense to the physician's or therapeutic optometrist's patients an aesthetic pharmaceutical in excess of the patient's immediate needs without obtaining a license under Chapter 558 (License to Practice Pharmacy), Occupations Code, and authorizes the physician or therapeutic optometrist to charge a fee for dispensing the pharmaceutical.

Prohibits a therapeutic optometrist from dispensing an aesthetic pharmaceutical if that prescription does not fall within the scope of the practice of therapeutic optometry.

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Requires a physician or therapeutic optometrist, before dispensing an aesthetic pharmaceutical to a patient, to inform the patient that the prescription for the pharmaceutical may be filled at a pharmacy, if available at a pharmacy, or dispensed in the physician's or therapeutic optometrist's office.

Requires that each state and federal labeling and recordkeeping requirement applicable to an aesthetic pharmaceutical be followed and documented, and requires a record maintained under the relevant section to be accessible as provided under state and federal law.

Requires the Texas Medical Board (TMB) and the Texas State Board of Pharmacy (TSBP) to jointly adopt rules for physicians, and the Texas Optometry Board (TOB) and TSBP to jointly adopt rules for therapeutic optometrists, to govern the packaging, labeling, and dispensing of aesthetic pharmaceuticals under this chapter; requires TMB and TOB to adopt reasonable fees as necessary to implement this chapter; and prohibits a fee adopted under this section from exceeding a fee adopted under Section 554.006 (Fees), Chapter 554 (Board Powers and Duties; Rulemaking Authority), Occupations Code, for authorizing a pharmacist to dispense pharmaceuticals.

Provides that the aesthetic pharmaceutical group consists of bimatoprost, hydroquinone, and tretinoin.

Provides that Section 157.002(b) (relating to authorizing a physician to delegate the act of administering or providing dangerous drugs in the physician's office) and Section 157.002(c) (relating to authorizing a physician to delegate the act of administering or providing dangerous drugs through a facility licensed by TSBP), Occupations Code, do not authorize a physician or a person acting under the supervision of a physician to keep a pharmacy, advertised or otherwise, for the retail sale of dangerous drugs, other than as authorized under Chapter 116 and Section 158.003 (Dispensing of Dangerous Drugs in Certain Rural Areas), Occupations Code, without complying with the applicable laws relating to the dangerous drugs. Provides that Section 563.051 (General Delegation of Administration and Provision of Dangerous Drugs), Occupations Code, does not do so either, other than as authorized under Chapter 116 and Section 158.003.

Requires TMB, TOB, and TSBP to adopt rules for the implementation of Chapter 116 not later than March 1, 2014.

Provides that the added Sections 116.002 (Dispensing Permitted; Fee Authorized) and 116.003 (Notice; Labeling; Recordkeeping), Occupations Code, take effect March 1, 2014.

Regulation of Speech-Language Pathology and Audiology and the Fitting and Dispensing of Hearing Instruments—S.B. 312

by Senator Hegar—House Sponsor: Representative Laubenberg

The State Board of Examiners for Speech-Language Pathology and Audiology was reviewed by the Texas Sunset Advisory Commission in 2010 and was continued in existence by the legislature in 2011. Interested parties contend that the sunset bill enacted in 2011 did not include several "clean-up" provisions and that updates are needed in these practice areas as well. This bill:

Provides that Chapter 401 (Speech-Language Pathologists and Audiologists), Occupations Code, does not prevent a person in an industrial setting from engaging in hearing testing as a part of a hearing

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conservation program in compliance with federal Occupational Safety and Health Administration (OSHA) regulations, deleting the qualifying language regarding the person being certified by an agency acceptable to OSHA.

Requires the State Board of Examiners for Speech-Language Pathology and Audiology (board) and the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments (committee), with the assistance of the Department of State Health Services (DSHS), to jointly adopt rules to establish requirements for the fitting and dispensing of hearing instruments by the use of telepractice.

Requires an applicant to be eligible for licensing as a speech-language pathologist or audiologist to meet certain criteria, including having successfully completed at least 36 semester hours in courses that are acceptable toward a graduate degree by the college or university in which the courses are taken, at least 24 of which are required to be in the professional area for which the license is requested, rather than requiring at least 24 of which are required to be in the professional area for which the license is requested and at least six of which are required to be in audiology if the application is for a speech-language pathology license, or in speech-language pathology if the application is for an audiology license.

Removes a certain requirement regarding notification of examination results by the board within a certain time frame.

Defines "military service member" and "military spouse" in the added Section 401.315 (Licensing for Military Spouses), Occupations Code.

Requires the board to issue a license to a military spouse who was licensed in good standing as a speech-language pathologist or audiologist in another state as of the date of the application, holds a master's degree in at least one of the areas of communicative sciences or disorders from a program accredited by a national accrediting organization that is approved by the board and recognized by the United States secretary of education under the Higher Education Act of 1965 (20 U.S.C. Section 1001 et seq.), and has not been the subject of a disciplinary action in any jurisdiction in which the applicant is or has been licensed.

Defines "telepractice" in added Section 401.405 (Telepractice), Occupations Code, and in added Section 402.354 (Telepractice), Occupations Code.

Authorizes the board to adopt rules consistent with the joint rules under Section 401.2022 (Joint Rules for Fitting and Dispensing Hearing Instruments by Telepractice), Occupations Code, to provide for the practice of speech-language pathology or audiology by the use of telepractice by a person licensed under Chapter 401, Occupations Code, including rules that establish the qualifications and duties of license holders who use telepractice.

Authorizes the committee to adopt rules consistent with the joint rules under Section 402.1023 (Joint Rules for Fitting and Dispensing of Hearing Instruments by Telepractice), Occupations Code, to provide for the fitting and dispensing of hearing instruments by the use of telepractice, including rules that establish the qualifications and duties of license holders who use telepractice.

Repeals Section 401.309 (Temporary License), Occupations Code; Section 401.314 (Limited License to Practice in Public Schools), Occupations Code; and Section 401.355(c) (relating to requiring the board to

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notify license applicants of continuing education requirements and changes to continuing education), Occupations Code.

Authorizes the board by rule to establish a procedure to issue an audiologist license to a person who submits an application before September 1, 2014, and who has a master's degree in audiology and was licensed as an audiologist in this state between September 1, 2007, and September 1, 2011.

Makes application of Section 401.304 (Applicant Eligibility), Occupations Code, as amended by the Act, prospective to January 1, 2015.

Requires the board and the committee to jointly adopt rules under Sections 401.2022 and 402.1023, Occupations Code, as added by the Act, not later than January 1, 2014.

Requires the board, not later than January 1, 2014, to adopt any rules necessary to implement Section 401.304, Occupations Code, as amended by the Act, and Section 401.405, Occupations Code, as added by the Act.

Requires the committee to adopt any rules necessary to implement Section 402.354, Occupations Code, as added by the Act, not later than January 1, 2014.

Continuing Education For Pharmacists and Interim Study Regarding Opioid Drugs—S.B. 316 *by Senator Uresti—House Sponsor: Representative Sarah Davis*

According to the Centers for Disease Control and Prevention, there were 16,651 overdose deaths involving opioid analgesics in 2010. In March 2013, the National Association of Attorneys General sent a letter to the United States Food and Drug Administration (FDA) encouraging the FDA to ensure that general prescription opioids are designed with tamper-resistant features. This bill:

Requires the Texas State Board of Pharmacy (TSBP) to develop a continuing education (CE) program regarding opioid drug abuse and the delivery, dispensing, and provision of tamper-resistant opioid drugs after considering input from interested persons, and authorizes TSBP by rule to require a license holder to satisfy a number of the required CE hours through attendance of such a program.

Requires the standing committee of the senate that has primary jurisdiction over health and human services (committee) to conduct an interim study regarding opioid abuse and the provision of tamper-resistant opioids; authorizes the committee to establish appropriate criteria for the study to accomplish the study's purpose; and requires that the study include an examination of matters relating to prescription opioid abuse and the use and effectiveness of tamper-resistant opioids.

Requires the committee, not later than December 1, 2014, to submit a report of the committee's findings and recommendations, with certain required content, to the lieutenant governor and the speaker of the house of representatives for consideration by the 84th Legislature.

Provides that the relevant section related to the committee's interim study and report expires September 1, 2015.

Utilization Review Process For STAR + PLUS Managed Care Organizations—S.B. 348
by Senators Schwertner and Deuell—House Sponsor: Representative Kolkhorst

In the January 2013 "Texas State Government Effectiveness and Efficiency Report: Selected Issues and Recommendations," the Legislative Budget Board (LBB) recommended oversight of managed care organizations (MCOs) to ensure appropriate use of state funds, specifically in regard to the STAR+PLUS Medicaid managed care program (STAR+PLUS), a capitated Medicaid service delivery model that integrates acute and long-term services and supports. The LBB noted a financial incentive exists for STAR+PLUS MCOs to recommend inappropriate placement of persons in the STAR+PLUS home and community-based services and support (HCBS) program and recommended implementation of a utilization review process, including review of functional assessment activities. This bill:

Requires the Health and Human Services Commission's (HHSC's) office of contract management (office of contract management) to establish an annual utilization review process for MCOs participating in STAR+PLUS.

Requires HHSC to determine the topics to be examined in the review process, except that the review process is required to include a thorough investigation of each MCO's procedures for determining whether a recipient should be enrolled in the STAR+PLUS HCBS program, including the conduct of functional assessments for that purpose and records relating to those assessments.

Requires the office of contract management to use the utilization review process to review each fiscal year every MCO participating in STAR+PLUS or only the MCOs that, using a risk-based assessment process, the office of contract management determines have a higher likelihood of inappropriate client placement in the STAR+PLUS HCBS program.

Requires the office of contract management, notwithstanding a certain other provision, during the state fiscal biennium ending August 31, 2015, to use the utilization review process to review every MCO participating in STAR+PLUS, and provides that the related subsection expires September 1, 2016.

Requires HHSC, in conjunction with the office of contract management, to provide a report to the standing committees of the senate and house of representatives with jurisdiction over the Medicaid program not later than December 1 of each year and sets forth requirements of that report. Requires HHSC to provide the first report not later than December 1, 2014.

Prohibits a service provider who contracts with the MCO from being held liable for the good faith provision of services based on an authorization from the MCO if a utilization review results in a determination to recoup money from an MCO.

Complaints Filed With the Texas State Board of Pharmacy—S.B. 404
by Senator Schwertner—House Sponsor: Representative Sarah Davis

Recent legislation enacted certain due process reforms relating to complaints filed with the Texas Medical Board. Interested parties contend that similar due process reforms applicable to complaints filed with the Texas State Board of Pharmacy (TSBP) should also be enacted. This bill:

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Requires TSBP, for each complaint TSBP receives, to maintain certain information regarding the complaint, including the complainant's identity.

Prohibits TSBP from considering or acting on a complaint involving a violation alleged to have occurred more than seven years before the date the complaint is received by TSBP.

Requires that a rule adopted under Section 565.056 (Informal Proceedings), Occupations Code, among other requirements, if an informal meeting will be held, require notice of the time and place of the informal meeting be given to the license holder not later than the 45th day before the date of the informal meeting.

Requires that the notice be accompanied by a written statement of the nature of the allegations against the license holder and the information TSBP intends to use at the informal meeting.

Authorizes the license holder, if TSBP does not provide the statement or information when the notice is provided, to use that failure as grounds for rescheduling the informal meeting.

Requires the license holder to provide to TSBP the license holder's rebuttal not later than the 15th day before the date of the meeting in order for that information to be considered at the meeting.

Sets forth provisions regarding the recording of the informal meeting.

Authorizes TSBP to issue and establish the terms of a remedial plan to resolve the investigation of a complaint.

Prohibits a remedial plan from being imposed to resolve complaints concerning certain factors.

Prohibits TSBP from issuing a remedial plan to resolve a complaint against a license holder if the license holder has entered into a remedial plan with TSBP in the preceding 24 months for the resolution of a different complaint.

Requires TSBP, if a license holder complies with and successfully completes the terms of a remedial plan, to remove all records of the remedial plan from TSBP's records on the fifth anniversary of the date TSBP issues the terms of the remedial plan.

Authorizes TSBP to assess a fee against a license holder participating in a remedial plan in an amount necessary to recover the costs of administering the plan.

Authorizes TSBP to adopt rules necessary to implement the provisions related to the remedial plan, and requires TSBP to, not later than January 1, 2014, adopt rules related to the remedial plan.

Provides that the provisions related to a remedial plan apply only to a complaint filed on or after the effective date of the Act and that a complaint filed before that date is governed by the law in effect on the date the complaint was filed, and that law is continued in effect for that purpose.

Provides that the provisions related to including the complainant's identity, informal proceedings, and the limitation on considering or acting on certain complaints apply only to the investigation of a complaint filed

on or after the effective date of the Act and that an investigation of a complaint filed before that date is governed by the law in effect on the date the complaint was filed, and that law is continued in effect for that purpose.

Advanced Practice Registered Nurses and Physician Assistants—S.B. 406
by Senator Nelson et al.—House Sponsor: Representative Kolkhorst et al.

In its interim report to the 83rd Legislature, the House Committee on Public Health recommended replacing and or revising the current opaque regulatory scheme of physician delegation and supervision, specifically noting the complexity of prescriptive delegation, with a simpler regulatory framework based upon physician-led collaboration with advanced nurse practitioners and physician assistants (PAs) to allow more flexibility and increase patient access. Interested parties, including physicians, advanced nurse practitioners, PAs, and legislators, worked together on an agreed-to bill in relation to the topic. This bill:

Defines, in Subchapter B (Delegation to Advanced Practice Registered Nurses and Physician Assistants), Chapter 157 (Authority of Physician to Delegate Certain Medicaid Acts, Occupations Code, "advanced practice registered nurse," "device," "health professional shortage area," "hospital," "medication order," "nonprescription drug," "physician group practice," "practice serving a medically underserved population," "prescribe or order a drug or device," "prescription drug," and "prescriptive authority agreement," and deletes the definition of "carrying out or signing a prescription drug order."

Provides that a physician's authority to delegate the prescribing or ordering of a drug or device, rather than a physician's authority to delegate the carrying out or signing of a prescription drug order, under this subchapter is limited to nonprescription drugs, dangerous drugs, and controlled substances to the extent provided.

Authorizes a physician, except as provided otherwise, to delegate the prescribing or ordering of a controlled substance, rather than to delegate the carrying out or signing of a prescription drug order for a controlled substance, only if the prescription meets certain conditions.

Authorizes a physician to delegate the prescribing or ordering of a controlled substance listed in Schedule II as established by the commissioner of the Department of State Health Services under the Texas Controlled Substances Act only in a hospital facility-based practice under Section 157.054 (Prescribing at Facility-Based Practice Sites), Occupations Code, in accordance with policies approved by the hospital's medical staff or a committee of the hospital's medical staff as provided by the hospital bylaws to ensure patient safety and as part of the care provided to a patient who has been admitted to the hospital for an intended length of stay of 24 hours or greater or is receiving services in the emergency department of the hospital; or as part of the plan of care for the treatment of a person who has executed a written certification of a terminal illness, has elected to receive hospice care, and is receiving hospice treatment from a qualified hospice provider.

Requires the Texas Medical Board (TMB) to adopt rules that require a physician who delegates the prescribing or ordering of a drug or device, rather than a physician who delegates the carrying out or signing of a prescription drug order under this subchapter, to register with TMB the name and license number of a PA or an advanced practice registered nurse (APRN) to whom a delegation is made.

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Authorizes a physician to delegate to an APRN or a PA, acting under adequate physician supervision, the act of prescribing or ordering a drug or device as authorized through a prescriptive authority agreement between the physician and the APRN or PA, as applicable.

Provides that a physician and an APRN or a PA are eligible to enter into or be parties to a prescriptive authority agreement only if certain conditions are met in regard to the APRN or PA.

Prohibits the combined number of APRNs and PAs with whom a physician may enter into a prescriptive authority agreement from exceeding seven APRNs and PAs or the full-time equivalent of seven APRNs and PAs, except that the provision does not apply to a prescriptive authority agreement if the prescriptive authority is being exercised in a practice serving a medically underserved population or a facility-based practice in a hospital under Section 157.054, Occupations Code.

Sets forth certain minimum requirements for the prescriptive authority agreement and sets forth certain requirements for the periodic face-to-face meetings between the APRN or PA and the physician, which is one of the required methods for documenting the implementation of the prescriptive authority quality assurance and improvement plan required under the minimum requirements for the agreement. Authorizes the prescriptive authority agreement to include other provisions agreed to by the physician and APRN or PA.

Prohibits a party to a prescriptive authority agreement from waiving, voiding, or nullifying by contract any provision of Section 157.0512 (Prescriptive Authority Agreement) or Section 157.0513 (Prescriptive Authority Agreement: Information), Occupations Code.

Requires an individual, in the event that a party to a prescriptive authority agreement is notified that the individual has become the subject of an investigation by TMB, the Texas Board of Nursing (BON), or Texas Physician Assistant Board (PAB), to immediately notify the other party to the prescriptive authority agreement.

Requires that the prescriptive authority agreement and any amendments be reviewed at least annually, dated, and signed by the parties to the agreement.

Requires that Section 157.0512, Occupations Code, be liberally construed to allow the use of prescriptive authority agreements to safely and effectively utilize the skills and services of APRNs and PAs.

Prohibits TMB from adopting rules pertaining to the elements of a prescriptive authority agreement that would impose requirements in addition to the requirements under Section 157.0512, Occupations Code, and authorizes TMB to adopt other rules relating to physician delegation under Chapter 157, Occupations Code.

Requires TMB, BON, and PAB, not later than January 1, 2014, to jointly develop responses to frequently asked questions relating to prescriptive authority agreements and provides that the related subsection expires January 1, 2015.

Requires TMB, BON, and PAB to jointly develop a process to exchange certain information regarding each physician, APRN, and PA who has entered into a prescriptive authority agreement; by which each board is required to immediately notify the other boards when a license holder of the board becomes the subject of

an investigation involving the delegation and supervision of prescriptive authority, as well as the final disposition of any such investigation; and by which each board is required to maintain and share a list of the board's license holders who have been subject to a final adverse disciplinary action for an act involving the delegation and supervision of prescriptive authority.

Authorizes the board that receives notice, if TMB, BON, or PAB received a notice that a license holder of the board has become the subject of an investigation involving the delegation and supervision of prescriptive authority, to open an investigation against a license holder of the board who is party to a prescriptive authority agreement with the license holder who is under investigation by the board that provided notice.

Requires TMB to maintain and make available to the public a searchable online list of parties who have entered into a prescriptive authority agreement and with whom they have entered into such an agreement and to collaborate with BON and PAB to maintain and make available to the public a list of those persons who are prohibited from entering into or practicing under a prescriptive authority agreement.

Authorizes TMB or an authorized TMB representative, if TMB receives a notice under that a license holder of the board has become the subject of an investigation involving the delegation and supervision of prescriptive authority, to enter, with reasonable notice and at a reasonable time, unless the notice would jeopardize an investigation, a site where a party to a prescriptive authority agreement practices to inspect and audit any records or activities relating to the implementation and operation of the agreement and requires that any such inspection or audit be conducted, to the extent reasonably possible, in a manner that minimizes disruption to the delivery of patient care.

Authorizes one or more physicians licensed by TMB to delegate, to one or more PAs or APRNs acting under adequate physician supervision whose practice is facility-based at a hospital or licensed long-term care facility, the administration or provision of a drug and the prescribing or ordering of a drug or device, rather than the administration or provision of a drug and the carrying out or signing of a prescription drug order, if each of the delegating physicians meet certain criteria. Provides that the limits on the number of APRNs or PAs to whom a physician may delegate under Section 157.0512, Occupations Code, do not apply to such a physician whose practice is facility-based under Section 157.054, Occupations Code, provided that the physician is not delegating in a freestanding clinic, center, or practice of the facility. Sets certain limitations on such a physician's authority to delegate.

Prohibits a facility-based physician from delegating at more than one hospital, rather than licensed hospital, or more than two long-term care facilities under Section 157.054, Occupations Code, unless approved by TMB. Prohibits the facility-based physician from being prohibited from delegating the prescribing or ordering of drugs or devices under Section 157.0512 at other practice locations, including hospitals or long-term care facilities, provided that the delegation at those locations complies with all the requirements of Section 157.0512, Occupations Code.

Authorizes TMB to adopt additional methods to implement a physician's prescription or the delegation of prescriptive authority, rather than the signing of a prescription under a physician's order, standing medical order, standing delegation order, or other order or protocol.

Requires that the delegation of authority to administer or provide controlled substances under Section 157.059(b) (relating to authorizing a physician to delegate to a PA offering obstetrical services and certified

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by TMB as specializing in obstetrics or an APRN recognized by BON as a nurse midwife the act of administering or providing controlled substances to the PA's or nurse midwife's clients during intrapartum and immediate postpartum care), Occupations Code, be under a certain order, agreement, or protocol, including a prescriptive authority agreement, that requires adequate and documented availability for access to medical care. Provides that the authority of a physician to delegate under Section 157.059 (Delegation Regarding Certain Obstetrical Services), Occupations Code, is limited to seven, rather than four, nurse midwives or PAs or their full-time equivalents and the designated facility at which the nurse midwife or PA provides care. Provides that Section 157.059, Occupations Code, does not limit the authority of a physician to delegate the prescribing or ordering of a controlled substance under the subchapter, rather than the carrying out or signing of a prescription drug order involving a controlled substance under the subchapter.

Provides that a physician, unless the physician has reason to believe the PA or APRN lacked the competency to perform the act, is not liable for an act of a PA or an APRN solely because the physician signed certain documentation or entered into a prescriptive authority agreement, authorizing the PA or APRN to administer, provide, prescribe or order a drug or device, rather than to administer, provide, carry out, or sign a prescription drug order.

Defines "practice serving a medically underserved population," rather than "site serving a medically underserved population," in Section 156.056 (Certain Volunteer Services), Occupations Code, and Section 204.1565 (Informal Continuing Medical Education), Occupations Code.

Requires PAB, in conjunction with TMB and BON, to perform the functions and duties relating to prescriptive authority agreements assigned to PAB in Sections 157.0512 and 157.0513, Occupations Code.

Authorizes medical services provided by a PA to include certain services, including requesting, receiving, and signing for the receipt of pharmaceutical sample prescription medications and distributing the samples to patients in a specific practice setting in which the PA is authorized to prescribe pharmaceutical medications and sign prescription drug orders as provided by Section 157.0512 or 157.054, Occupations Code, rather than as provided by Section 157.052 (Prescribing at Sites Serving Certain Medically Underserved Populations), 157.053 (Prescribing at Physician Primary Practice Sites), 157.054, 157.0541 (Prescribing at Alternate Sites), or 157.0542 (Board Waiver of Delegation Requirements), Occupations Code, or as otherwise authorized by PAB rule, and prescribing or ordering a drug or device, rather than signing or completing a prescription, as provided by Subchapter B, Chapter 157, Occupations Code.

Prohibits the number of PAs a physician is authorized to supervise in a practice setting from being less than the number of PAs to whom a physician is authorized to delegate the authority to prescribe or order a drug or device in that practice setting under Subchapter B, Chapter 157, Occupations Code.

Redefines "professional nursing" in Chapter 301 (Nurses), Occupations Code.

Provides that a reference in any other law to an "advanced nurse practitioner" or "advanced practice nurse" means an APRN.

Defines "advanced practice registered nurse," rather than "advanced practice nurse," in Section 301.152 (Rules Regarding Specialized Training), Occupations Code.

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Requires BON to adopt rules to license a registered nurse as an APRN; establish any specialized education or training, including pharmacology, that an APRN is required to have to prescribe or order a drug or device as delegated by a physician under Section 157.0512 or 157.054, Occupations Code; a system for approving an APRN to prescribe or order a drug or device as delegated by a physician under Section 157.0512 or 157.054, Occupations Code, on the receipt of evidence of completing the specialized education and training requirement, and a system for issuing a prescription authorization number to an approved APRN; and concurrently renew any license or approval granted to an APRN under the subsection and a license renewed by the APRN under Section 301.301 (License Renewal), Occupations Code. Deletes existing text requiring BON to adopt rules to establish any specialized education or training, including pharmacology, that a registered nurse must have to carry out a prescription drug order; and a system for assigning an identification number to a registered nurse who provides BON with evidence of completing the specialized education and training requirement; approve a registered nurse as an APRN; and initially approve and biennially renew an advanced practice nurse's authority to carry out or sign a prescription drug order under Chapter 157, Occupations Code.

Requires BON in conjunction with TMB and PAB to perform the functions and duties relating to prescriptive authority agreements assigned to BON in Sections 157.0512 and 157.0513, Occupations Code.

Redefines "practitioner" for Chapters 551-566, Occupations Code, in the Texas Controlled Substances Act, and in the Texas Dangerous Drug Act.

Requires that a contract between a managed care organization (MCO) and the Health and Human Services Commission (HHSC) for the organization to provide health care services to recipients contain certain provisions, including a requirement that, notwithstanding any other law, the organization use APRNs and PAs in addition to physicians as primary care providers to increase the availability of primary care providers in the organization's provider network and treat APRNs and PAs in the same manner as primary care physicians with regard to selection and assignment as primary care providers, inclusion as primary care providers in the organization's provider network, and inclusion as primary care providers in any provider network directory maintained by the organization.

Requires that the pilot program, which the Employees Retirement System of Texas is required to develop and implement to make available a licensed advanced practice nurse or PA to provide authorized on-site health services at a selected location to certain state employees in order to reduce the cost of health care and increase the wellness and productivity of state employees, provide for certain provisions, including a licensed physician who meets certain criteria who will delegate to and supervise the APRN or PA under a prescriptive authority agreement, rather than who will perform all supervisory functions described by Section 157.052(e) (relating to providing that physician supervision is adequate for the purposes of Section 157.052 (Prescribing at Sites Serving Certain Medically Underserved Populations), Occupations Code, if a delegation physician meets certain conditions), Occupations Code.

Requires the executive commissioner of HHSC, notwithstanding any other law, to adopt rules to require an MCO or other entity to ensure that APRNs and PAs are available as primary care providers in the organization's or entity's provider network. Requires that the rules require APRNs and PAs to be treated in the same manner as primary care physicians with regard to certain provisions.

Requires HHSC or an agency operating part of the medical assistance program, as appropriate, notwithstanding any other law, to ensure that APRNs and PAs may be selected by and assigned to

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recipients of medical assistance as the primary care providers of those recipients. Requires HHSC or an agency operating part of the medical assistance program, as appropriate, to require that APRNs and PAs be treated in the same manner as primary care physicians with regard to selection and assignment as primary care providers and inclusion as primary care providers in any directory of providers of medical assistance maintained by HHSC or an agency operating part of the medical assistance program, as appropriate.

Authorizes an APRN or a PA acting under adequate physician supervision and to whom a physician has delegated the authority to prescribe and order drugs and devices under Chapter 157, Occupations Code, to the extent allowed by federal law, to order and prescribe durable medical equipment and supplies under the medical assistance program.

Repeals Sections 157.052 (Prescribing at Sites Serving Medically Underserved Populations), 157.053 (Prescribing at Physician Primary Practice Sites), 157.0541 (Prescribing at Alternate Sites), and 157.0542 (Board Waiver of Delegation Requirements), Occupations Code.

Requires that the calculation under Chapter 157, Occupations Code, as amended by the Act, of the amount of time an APRN or a PA has practiced under the delegated prescriptive authority of a physician under a prescriptive authority agreement include the amount of time the APRN or PA practiced under the delegated prescriptive authority of that physician before the effective date of the Act.

Requires TMB, BON, and PAB, not later than November 1, 2013, to adopt the rules necessary to implement the bill's provisions.

Regulation of Certain Child-care Facilities and Administrators of Those Facilities—S.B. 427

by Senator Nelson—House Sponsor: Representative Raymond

Interested parties assert that the housing needs of children who are victims or potential victims of human trafficking need to be addressed and recommend exempting certain shelter facilities from certain child-care licensing requirements to enable these shelters to more expediently provide shelter for such children. Interested parties also contend that inspecting certain low-risk child-care facilities every two years, rather than annually, will enable more resources to be focused on high-risk facilities. Interested parties assert that protections for children in child-care operations are important and that background and criminal history checks and administrative sanctions or penalties are methods for ensuring their protection. This bill:

Provides that Section 42.041 (Required License), Chapter 42 (Regulation of Certain Facilities, Homes, and Agencies That Provide Child-Care Services), Human Resources Code, does not apply to certain entities, including a facility operated by a nonprofit organization that does not otherwise operate as a child-care facility that is required to be licensed under the section, provides emergency shelter and care for not more than 15 days to children 13 years of age or older but younger than 18 years of age who are victims of alleged human trafficking; is located in a municipality with a population of at least 600,000 that is in a county on an international border; and meets one of the following criteria: is licensed by, or operates under an agreement with, a state or federal agency to provide shelter and care to children; or meets the eligibility requirements for a contract under Section 51.005(b)(3) (relating to requiring contracts between the Department of Family and Protective Services (DFPS) and nonprofit organizations to require the persons operating a family violence center to provide certain services victims of family violence as the center's

primary purpose); updates a reference in the provision to the Texas Youth Commission to reference the Texas Juvenile Justice Department.

Authorizes DFPS, in accordance with rules adopted by the executive commissioner of the Health and Human Services Commission (executive commissioner; HHSC), to designate a licensed day-care center or group day-care home for a biennial inspection if DFPS determines, based on previous inspections, that the facility has a history of substantial compliance with minimum licensing standards; and requires the biennial inspection of a day-care center or group day-care home to be unannounced.

Requires, in accordance with rules adopted by the executive commissioner, the director, owner, or operator of certain entities, including a residential child-care facility, to submit a complete set of fingerprints of each person whose name is required to be submitted by the director, owner, or operator under Section 42.056(a) (relating to requiring the director, owner, or operator of a child-care facility, child-placing agency, or family home to, during certain circumstances, to submit to DFPS for use in conducting background and criminal history checks the name of certain persons), Human Resources Code, unless the person is only required to have the person's name submitted based on certain specified criteria.

Requires, in accordance with rules adopted by the executive commissioner, the director, owner, or operator of a facility, rather than a child-care facility, or family home to submit a complete set of fingerprints of each person whose name is required to be submitted by the director, owner, or operator under Section 42.056(a), Human Resources Code, if certain conditions exist.

Authorizes DFPS to impose an administrative sanction or an administrative penalty against a facility or family home licensed, registered, or listed under Chapter 42, Human Resources Code, that violates the chapter or a rule or order adopted under the chapter; and authorizes DFPS, in addition, to impose an administrative penalty against a facility or family home or a controlling person of a facility or family home if the facility, family home, or controlling person commits certain acts, rather than against a residential child-care facility or a controlling person of a residential child-care facility if the facility or controlling person commits certain acts.

Requires that, except as provided otherwise, nonmonetary administrative sanctions including corrective action plans, probation, and evaluation periods, be imposed when appropriate before administrative penalties, rather than requiring nonmonetary administrative penalties or remedies, including but not limited to corrective action plans, probation, and evaluation periods, be imposed when appropriate before monetary penalties. Sets forth certain violations that in some manner relate to the required background and criminal history checks for which DFPS is authorized to impose an administrative penalty without first imposing a nonmonetary administrative sanction.

Defines "controlling person," "general residential operations," and "permit" in Chapter 43 (Regulation of Child-Care and Child-Placing Agency Administrators, Human Resources Code).

Prohibits a person, except as provided otherwise, from serving as a child-care administrator of a general residential operation, rather than child-care institution, without a license issued by DFPS under Chapter 43, Human Resources Code.

Requires a person, to be eligible for a child-care administrator's license or a child-placing agency administrator's license, to meet certain requirements for each, both including providing information for DFPS's use in conducting a criminal history and background check, including a complete set of the

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person's fingerprints, and satisfying the minimum requirements under DFPS rules relating to criminal history and background checks.

Requires the executive commissioner of the Health and Human Services Commission to adopt rules consistent with Section 42.056 (Required Background and Criminal History Checks; Criminal Penalties), Human Resources Code, relating to requiring a criminal history and background check before issuing or renewing a license under Chapter 43, Human Resources Code.

Requires a license holder, to be eligible for license renewal, to, in addition to another requirement, provide information for DFPS's use in conducting a criminal history and background check under Section 43.004(c) (relating to requiring DFPS, before issuing a license under Chapter 43, Human Resources Code, to conduct a criminal history and background check of the applicant using certain information), Human Resources Code, and applicable DFPS rules, including a complete set of the person's fingerprints.

Authorizes DFPS to deny, revoke, suspend, or refuse to renew a license, or place on probation or reprimand a license holder for certain conduct, including engaging in conduct that makes the license holder ineligible for a permit under Section 42.072 (License, Listing, or Registration Denial, Suspension, or Revocation) or employment as a controlling person or service in that capacity in a facility or family home under Section 42.062 (Certain Employment and Service Prohibited), Human Resources Code.

Repeals Section 42.056(a-3) (relating to requiring the director, owner, or operator of a child-placing agency, foster home, or foster group home to, before a child for whom DFPS is the managing conservator is placed with the agency or in the home, submit a complete set of fingerprints of certain persons) and Section 43.001(1) (relating to defining "child-care institution") Human Resources Code.

Provides that the changes in law made to Section 42.078 (Administrative Penalty), Human Resources Code, apply only to a violation committed on or after the effective date of the Act, and provides that a violation committed before the effective date is governed by the law in effect when the violation was committed, and the former law is continued in effect for that purpose.

Background & Criminal History Checks Relating to Children in Residential Care Facilities—S.B. 428 *by Senator Nelson—House Sponsor: Representative Raymond*

Child-care facilities, child-placing agencies, and family homes are required to submit certain information to the Department of Family and Protective Services (DFPS) so that DFPS can conduct background and criminal history checks on certain people who may visit the facility or foster home, in addition to other individuals. DFPS also conducts certain background and criminal history checks as part of its investigations. Interested parties note that such practices can result in duplicative checks for certain persons and note that such duplicative checks create administrative and cost barriers to creating a mentoring program through Child Protective Services in which foster parents can mentor birth parents in preparation for reunification. This bill:

Provides that the director, owner, or operator of a residential child-care facility is not required to submit to DFPS the information required for use in conducting a background and criminal history check on a parent or other relative of a child who is a client in care at the facility if DFPS has on file for the parent or relative a

background and criminal history check and the background and criminal history check was conducted within the two-year period preceding the date the parent or relative visits the client at the facility.

Regulation of the Practice of Pharmacy—S.B. 869

by Senator Van de Putte—House Sponsor: Representative Zedler

Interested parties contend that revisions to provisions of the Texas Pharmacy Act, including provisions related to pharmacy technicians and pharmacy technician trainees, licensing and license renewal requirements, and the powers or duties of the Texas State Board of Pharmacy (TSBP), are necessary to clean up statutory language and improve the regulation of pharmacies and pharmacists. This bill:

Redefines "pharmacy technician" to state that the term does not include a pharmacy technician trainee and defines "pharmacy technician trainee" to mean an individual who is registered with TSBP as a pharmacy technician trainee and is authorized to participate in a pharmacy technician training program.

Requires TSBP to regulate the practice of pharmacy in this state by, among other activities, regulating the training, qualifications, and employment of certain professionals, including pharmacy technician trainees.

Authorizes TSBP to receive and spend money, or use gifts, grants, and other funds and assets, in addition to certain money collected, in accordance with state law, rather than to receive and spend money from a party, other than the state, in addition to certain money collected, in accordance with state law.

Requires TSBP to establish rules for the use and the duties of a pharmacy technician trainee, in addition to a pharmacy technician, in a pharmacy licensed by TSBP, and requires a pharmacy technician and pharmacy technician trainee to be responsible to and be directly supervised by a pharmacist.

Prohibits TSBP from adopting a rule establishing a ratio of pharmacists to pharmacy technicians and pharmacy technician trainees in a Class C pharmacy or limiting the number of pharmacy technician trainees that are authorized be used in a Class C pharmacy, in addition to the current prohibition against limiting the number of pharmacy technicians in such a pharmacy.

Authorizes TSBP to take disciplinary action against an applicant for a pharmacist-intern registration or the holder of a current or expired pharmacist-intern registration in the same manner as against an applicant for a license or a license holder by imposing a sanction authorized under Section 565.051 (Discipline Authorized), Occupations Code, if TSBP finds that the applicant or registration holder has engaged in conduct described by Section 565.001 (Applicant for or Holder of License to Practice Pharmacy), Occupations Code.

Prohibits a person from renewing a license to practice pharmacy if the person holds a license to practice pharmacy in another state that has been suspended, revoked, canceled, or subject to an action that prohibits the person from practicing pharmacy in that state.

Prohibits a pharmacy from renewing a license if the pharmacy's license to operate in another state has been suspended, revoked, canceled, or subject to an action that prohibits the pharmacy from operating in that state.

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Authorizes a pharmacist to dispense a dosage form of a drug different from that prescribed, such as a tablet instead of a capsule or a liquid instead of a tablet, if the form dispensed meets certain criteria and with the patient's consent, rather than with the patient's consent and notification to the practitioner.

Requires a prescription for a controlled substance, to be a valid prescription, to be issued for a legitimate medical purpose by a practitioner acting in the usual course of the practitioner's professional practice; provides that the responsibility for the proper prescribing and dispensing of controlled substances is on the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription; and provides that Section 562.056 (Practitioner-Patient Relationship Required), Occupations Code, does not prohibit a pharmacist from dispensing a prescription when a valid practitioner-patient relationship is not present in an emergency.

Requires a Class A or Class C pharmacy that serves the public to display in public view the license of the pharmacist-in-charge of the pharmacy, rather than each pharmacist employed in the pharmacy; and requires a pharmacy to maintain and make available to the public on request proof that each pharmacist, pharmacist-intern, pharmacy technician, and pharmacist technician trainee working in the pharmacy holds the appropriate license or registration.

Authorizes TSBP to discipline an applicant for or the holder of a current or expired license to practice pharmacy if TSBP finds that the applicant or license holder has, among other actions, developed an incapacity that could prevent, in addition to prevents, the applicant or license holder from practicing pharmacy with reasonable skill, competence, and safety to the public; been disciplined by a pharmacy board or by another health regulatory board of this state or another state for conduct substantially equivalent to conduct described under the relevant subsection; failed to adequately supervise a task delegated to a pharmacy technician trainee; inappropriately delegated a task delegated to a pharmacy technician trainee; or been convicted or adjudicated of a criminal offense that requires registration as a sex offender.

Authorizes that information or material compiled by TSBP in connection with an investigation to be disclosed to, among other certain entities, an entity in another jurisdiction that registers or disciplines pharmacy technicians or pharmacy technician trainees, or to an to an entity that administers a board-approved pharmacy technician certification examination, but removes the provision authorizing such information or material to be disclosed under a court order.

Authorizes a person whose certain license or registration, including a pharmacy technician trainee registration, in this state has been revoked or restricted under Subtitle J (Pharmacy and Pharmacists), Title 3 (Health Professions), Occupations Code, whether voluntarily or by TSBP action, to, after the first anniversary of the effective date of the revocation or restriction, petition TSBP for reinstatement or removal of the restriction of the registration.

Incorporates pharmacy technician trainees into renamed Chapter 568 (Pharmacy Technicians and Pharmacy Technician Trainees), Occupations Code, which currently addresses pharmacy technicians.

Requires TSBP, in establishing certain rules, to require that a pharmacy technician trainee have a high school diploma or a high school equivalency certificate or be working to achieve an equivalent diploma or certificate and to adopt rules that permit a pharmacy technician trainee to perform only nonjudgmental technical duties under the direct supervision of a pharmacist.

Requires a person to register with TSBP before beginning work in a pharmacy in this state as a pharmacy technician or a pharmacy technician trainee, deleting the requirement that a pharmacy technician is required to register with TSBP annually or biennially, as determined by rule, on a TSBP-prescribed form.

Deletes the provision authorizing TSBP to allow a pharmacy technician to petition TSBP for a special exemption from the pharmacy technician certification requirement if the pharmacy technician on September 1, 2001, has been employed as a pharmacy technician in this state for at least 10 years and the technician's employer approves the petition.

Requires an applicant for registration as a pharmacy technician or a pharmacy technician trainee to be of good moral character and submit an application on a TSBP-prescribed form and provides that a person's registration as a pharmacy technician or pharmacy technician trainee remains in effect as long as the person meets the qualifications established by rule.

Authorizes TSBP to take disciplinary action under Section 568.0035 (Discipline Authorized; Effect on Trainee), Occupations Code, against an applicant for or the holder of a current or expired pharmacy technician or pharmacy technician trainee registration if TSBP determines that the applicant or registrant has committed certain acts.

Authorizes TSBP, on a determination that a ground for discipline exists under Section 568.003 (Grounds for Disciplinary Action), Occupations Code, to impose certain sanctions.

Requires the disciplinary panel appointed to determine whether a registration under Chapter 568, Occupations Code, should be temporarily suspended or restricted, if a majority of the panel determines from evidence or information presented to the panel that the registrant by continuation in practice as a pharmacy technician or pharmacy technician trainee would constitute a continuing threat to the public welfare, to temporarily suspend or restrict the registration.

Requires that the ratio of pharmacists to pharmacy technicians and pharmacy technician trainees in a Class A pharmacy be at least one pharmacist for every five pharmacy technicians or pharmacy technician trainees if the Class A pharmacy dispenses not more than 20 different prescription drugs and does not produce intravenous or intramuscular drugs on-site.

Requires a pharmacy technician or a pharmacy technician trainee, not later than the 10th day after the date of a change of address or employment, to notify TSBP in writing of the change.

Requires every insurer or other entity providing pharmacist's professional liability insurance, pharmacy technician professional and supplemental liability insurance, or druggist's professional liability insurance covering certain persons, including a pharmacy technician trainee, in this state to submit to TSBP certain information at the time prescribed and provides that the duty to report that information, if such a person does not carry or is not covered by such insurance and is insured by a nonadmitted carrier or other entity providing pharmacy professional liability insurance that does not report under the Subtitle J, Title 3, Occupations Code, is the responsibility of the pharmacist, pharmacy technician, pharmacy technician trainee, or pharmacy license holder. Requires that certain information, including the pharmacy technician trainee registration number, be furnished to TSBP not later than the 30th day after receipt by the insurer of the notice of claim letter or complaint from the insured.

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Requires TSBP to review the information relating to certain persons, including a pharmacy technician trainee, against whom at least three professional liability claims have been reported within a five-year period in the same manner as if a complaint against the person had been made under Chapter 555 (Public Interest Information and Complaint Procedures), Occupations Code.

Authorizes a criminal justice agency to disclose criminal history record information that is the subject of an order of nondisclosure under Section 411.081(d) (relating to authorizing a person to petition a court that placed the defendant on deferred adjudication for an order of nondisclosure under the subsection if certain conditions are met), Government Code, to certain noncriminal justice agencies or entities only, including TSBP.

Repeals Chapter 567 (Labeling Requirements for Certain Prescription Drugs or Drug Products) and Section 568.007 (Registration of Pharmacy Technician Trainee), Occupations Code.

Composition of Texas Physician Assistant Board—S.B. 889 [VETOED] *by Senator Uresti—House Sponsor: Representative Laubenberg*

Physician assistants (PAs) are currently governed by the Texas Physician Assistant Board (TPAB), which consists of nine members, specifically three practicing PAs, three physicians, and three public members. Interested parties express concern that the majority of TPAB is not composed of members who are PAs, that its presiding officer is not a PA, and that there are not enough members to assist in performing TPAB's duties, particularly given the increase of PAs in this state. This bill:

Increases the composition of the TPAB from nine appointed members to 13 appointed members by increasing the number of practicing PA members, who each have at least five years of clinical experience as a PA, from three persons to seven persons.

Provides that the terms of four or five members, as applicable, rather than three members, expire on February 1 of each odd-numbered year.

Specifies that the governor is required to designate a PA member of TPAB, rather than a member of TPAB, as the presiding officer of TPAB to serve in that capacity at the will of the governor.

Requires the governor, not later than November 1, 2013, to appoint the four new members to TPAB as follows:

- one member for a term expiring February 1, 2015;
- one member for a term expiring February 1, 2017; and
- two members for terms expiring February 1, 2019.

Provides that if, on the effective date of this Act, the presiding officer of TPAB does not meet the qualifications for office as presiding officer, the presiding officer is removed from office as presiding officer on that date, and requires the governor, as soon as practicable on or after the effective date of this Act, to appoint a presiding officer who meets the qualifications.

Re-examination For Professional Counselor License—S.B. 913

by Senator Lucio—House Sponsor: Representative Naishtat

Under current law, an applicant for licensure as a professional counselor can take the licensing examination two times and then may not reapply until certain conditions are met. Texas contracts with the National Board for Counselor Certification (NBCC) to administer the licensing examination. Texas standards regarding retesting are not consistent with those of NBCC or those of other states, resulting in administrative burdens for the state. This bill:

Prohibits an applicant for a professional counselor license who has failed three, rather than two, successive examinations from reapplying for another examination before the second anniversary of the date of the last examination taken by the applicant or the date the applicant has satisfactorily completed nine graduate semester hours in the applicant's weakest portion of the examination.

Criminal History Checks For Employees of Certain Facilities Licensed by DSHS—S.B. 944

by Senator Nelson—House Sponsor: Representative Kolkhorst

Interested parties note a need for increasing the standard for employment in mental health units of hospitals in order to protect patients in those units. It has been noted that hospitals are not required to conduct criminal history checks for certain non-licensed employees in those units. Interested parties have asserted that background checks should be conducted for these persons, particularly for those persons who have direct access to patients, which would result in facilities not employing persons convicted of certain offenses. This bill:

Redefines, in Section 250.001 (Definitions), Chapter 250 (Nurse Aide Registry and Criminal History Checks of Employees and Applicants for Employment in Certain Facilities Serving the Elderly, Persons with Disabilities, or Persons with Terminal Illnesses), Health and Safety Code, "facility" to include a mental health service unit of a hospital licensed under the Texas Hospital Licensing Law.

Photo Identification Badge Required For Certain Health Care Providers at Hospitals—S.B. 945

by Senator Nelson—House Sponsor: Representative Sarah Davis

Interested parties assert that hospital patients should be better informed regarding the level of training of health care professionals who provide direct patient care. This bill:

Defines, in the added Section 241.009 (Photo Identification Badge Required), Health and Safety Code, "health care provider" and "hospital."

Requires a hospital to adopt a policy requiring a health care provider providing direct patient care at the hospital to wear a photo identification badge during all patient encounters, unless precluded by adopted isolation or sterilization protocols.

Requires the badge to be of sufficient size and worn in a manner to be visible and to clearly state at minimum the provider's first or last name; the department of the hospital with which the provider is

associated; the type of license held by the provider, if the provider holds a license under Title 3 (Health Professions), Occupations Code; and if applicable, the provider's status as a student, intern, trainee, or resident.

Licensing Under the Medical Practices Act—S.B. 949
by Senator Nelson—House Sponsor: Representative J.D. Sheffield

Interested parties assert that it is necessary to clarify the definition of "license holder" in the Medical Practices Act to align more closely with the definition used by the Texas Medical Board (TMB). Additionally, other interested parties express concern with health care professional shortages in certain areas of the state and recommend addressing the physician shortage issue by allowing certain qualified, out-of-state doctors to more easily obtain a Texas medical license. This bill:

Defines in Subtitle B (Physicians), Title 3 (Health Professions), Occupations Code, "license holder" as a person holding a license, permit, or certificate issued under this subtitle.

Provides that the time frame to pass each part of the examination does not apply to an applicant who is licensed and in good standing as a physician in another state; has been licensed for at least five years; does not hold a medical license in the other state that has or has ever had any restrictions, disciplinary orders, or probation; and will practice in a medically underserved area or a health manpower shortage area.

Authorizes TMB by to rule establish a process to verify that a person, after meeting the requirements, practices only in medically underserved area or a health manpower shortage area.

Repeals Section 155.0045 (Additional Eligibility Requirement for Certain Aliens), Occupations Code.

Local Anesthesia and Peripheral Nerve Blocks Administered in Outpatient Setting—S.B. 978
by Senator Deuell—House Sponsor: Representative Sarah Davis

Currently, rules adopted by the Texas Medical Board (TMB) under Subchapter C (Anesthesia in Outpatient Settings), Chapter 162 (Regulation of Medicine), Occupations Code, do not apply to an outpatient setting in which only local anesthesia, peripheral nerve blocks, or both are used. Interested parties contend that when this provision and the related law were first passed, local anesthesia in an outpatient setting was primarily being used only for minor procedures. These parties express concern that local anesthesia is now being used for certain more significant procedures in outpatient settings and concern regarding the larger and possibly toxic levels of anesthesia for these procedures as well as other related complications. This bill:

Provides that rules adopted by TMB under Subchapter C, Chapter 162, Occupations Code, do not apply to certain facilities or settings, including an outpatient setting in which only local anesthesia, peripheral nerve blocks, or both are used in a total dosage amount that does not exceed 50 percent of the recommended maximum safe dosage per outpatient visit, rather than an outpatient setting in which only local anesthesia, peripheral nerve blocks or both are used. Updates a reference within this provision to refer to The Joint Commission, rather than its former name, the Joint Commission on Accreditation of Healthcare Organizations.

Provides that the change in law made by this Act to Section 162.103 (Applicability), Occupations Code, and rules adopted by TMB under Subchapter C, Chapter 162, Occupations Code, apply only to an outpatient setting in which only local anesthesia, peripheral nerve blocks, or both are used on or after the effective date of this Act, and provides that an outpatient setting in which only local anesthesia, peripheral nerve blocks, or both are used before the effective date of this Act is governed by the law in effect on the date the local anesthesia, peripheral nerve blocks, or both are used, and the former law is continued in effect for that purpose.

Regulation of the Practice of Nursing—S.B. 1058

by Senator Nelson—House Sponsor: Representative Susan King

During each interim, the Texas Board of Nursing (BON) and other stakeholders review the Nursing Practice Act (NPA) and identify issues and make recommendations in regard to the nursing statute. This bill:

Provides that NPA does not apply under certain circumstances, including to an act performed by a person licensed by another state agency if the act is authorized by the statute under which the person is licensed except that if the person also holds a license under NPA and the act is within the practice of nursing, BON is authorized to take action against that license based on that act.

Requires BON by rule to develop a system for obtaining criminal history record information for a person accepted for enrollment in a nursing educational program that prepares the person for initial licensure as a registered or vocational nurse by requiring the person to submit to the board a set of fingerprints that meets certain requirements, rather than authorizes BON by rule to develop a system for initiating the process of obtaining such information for applicants for a license under NPA by requiring persons who enroll or plan to enroll in an educational program that prepares a person for a license as a registered nurse to submit to BON a set of fingerprints that meets certain requirements. Authorizes BON to develop a similar system for an applicant for enrollment in a nursing educational program.

Authorizes BON to file a petition under Section 301.257, Occupations Code, based on the results of a criminal history record information check conducted under Section 301.2511; requires BON by rule to adopt requirements for the petition and determination and sets forth requirements for the rules; and requires BON to make a determination of license eligibility not later than the 120th day after the date the person submits the required documents to BON.

Requires a license holder, as part of a continuing competency program, to complete at least two hours of continuing education (CE) relating to nursing jurisprudence and nursing ethics before the end of every third two-year licensing period; requires BON to adopt rules implementing the requirement; and prohibits BON from requiring a license holder to complete more than four hours of such CE.

Requires a license holder whose practice includes older adult or geriatric populations, as part of a continuing competency program, to complete at least two hours of CE relating to those populations or maintain certification in an area of practice relating to those populations; requires BON to adopt rules implementing the requirement; and prohibits BON from requiring a license holder to complete more than six hours of such CE.

HEALTH AND HUMAN SERVICES—REGULATORY

Provides that a person is subject to denial of a license or to disciplinary action under Subchapter J (Prohibited Practices and Disciplinary Actions) for certain acts, including revocation, suspension, or denial of, or any other action relating to, the person's license or privilege to practice nursing in another jurisdiction or under federal law.

Authorizes BON, by order, in addition to or instead of an action under Section 301.453(a) (relating to requiring BON to impose certain actions against a person who has committed an act listed in Section 301.452(b) (relating to certain actions subjecting a person to denial of a licensure or to disciplinary action)), to require the person to follow certain actions, including abstaining from the consumption of alcohol or the use of drugs and submit to random periodic screening for alcohol or drug use.

Prohibits BON, except in the case of a temporary suspension authorized under Section 301.455 (Temporary License Suspension or Restriction) or 301.4551 (Temporary License Suspension for Drug or Alcohol Use), Occupations Code, or an action taken in accordance with an agreement between BON and a license holder, from taking any disciplinary action, rather than initiating a disciplinary action, relating to a license unless certain criteria are met.

Requires BON or BON's authorized representative, unless there is an agreed disposition of the complaint under Section 301.463 (Agreed Disposition), Occupations Code, if probable cause is found under Section 301.457(e)(2) (relating to requiring BON to conduct an investigation to determine whether probable cause exists that a nurse committed an act that violated law), to file, rather than initiate proceedings by filing, formal charges against the nurse.

Authorizes BON, notwithstanding Section 2001.089 (Issuance of Subpoena), Government Code, to request issuance of a subpoena to be served in any manner authorized by law, including personal service by a BON investigator or by certified mail, rather than including personal service by a BON investigator and service by certified mail.

Sets forth provisions regarding confidentiality and disclosure of the complaint, filing of formal charges, nature of those charges, final BON order, and disciplinary proceedings, if BON orders a nurse to participate in a peer assistance program approved by BON.

Adds the definition of "deferred action" in Subchapter N (Corrective Action Proceeding and Deferred Action), Occupations Code.

Authorizes BON, for any action or complaint for which BON proposes to impose on a person a sanction other than a reprimand or a denial, suspension, or revocation of a license, to defer the final action BON has proposed if the person conforms to conditions imposed by BON and, if the person successfully meets the imposed conditions, dismiss the complaint.

Provides that, except as provided otherwise, a deferred action by BON is not confidential and is subject to disclosure in accordance with Chapter 552 (Public Information), Government Code, and provides that if the person successfully meets the conditions imposed by BON in deferring final action and BON dismisses the action or complaint, the deferred action of BON is confidential to the same extent as a complaint is confidential under Section 301.466 (Confidentiality), Occupations Code.

Requires the executive director of the Health and Human Services Commission to report periodically to BON on the corrective or deferred actions imposed, including certain data.

Provides that, except to the extent provided by the section, a person's acceptance of a corrective or deferred action does not constitute an admission of a violation but does constitute a plea of nolo contendere; authorizes BON to treat a person's acceptance of corrective or deferred action as an admission of a violation if BON imposes a sanction on the person for a subsequent violation of NPA or a rule or order adopted under NPA; and authorizes BON to consider a corrective or deferred action taken against a person to be a prior disciplinary action under NPA when imposing a sanction on the person for a subsequent violation of NPA or a rule or order adopted under NPA.

Repeals Section 301.1607 (Pilot Program on Deferral of Final Disciplinary Action), Occupations Code.

Provides that, except as provided otherwise, the changes in law made by the Act to NPA apply only to a violation that occurs on or after the effective date of the Act, and provides that a violation that occurs before that date is governed by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose.

Provides that the changes in law made by the Act to Subchapter N, Chapter 301, Occupations Code, apply to a violation that occurs before, on, or after the effective date of the Act.

Provides that the added sections relating to CE apply only to a licensing period that begins on or after January 1, 2014.

Use of Certain Designations by a Physical Therapist—S.B. 1099
by Senator Zaffirini—House Sponsor: Representative Susan King

Current law protects certain professional titles and letter designations used to identify physical therapists by prohibiting a person from using the terms and designations in connection with the person's name or business without an appropriate license. Persons can earn a doctor of physical therapy degree or a master of physical therapy degree, but the designations "DPT" and "MPT" are not protected under current law. This bill:

Prohibits a person, including the person's employee or other agent or representative, unless the person is a physical therapist, from using in connection with the person's name or business activity certain words, letters, abbreviations, or other insignia, including the letters "DPT" or "MPT."

Licensing and Inspection of Certain Out-of-State Pharmacies—S.B. 1100
by Senator Van de Putte—House Sponsor: Representative Susan King

Pharmaceutical compounding refers to the creation of a pharmaceutical product tailored to the needs of specific clients through the combination of medically appropriate ingredients. In October 2012, there was a widespread outbreak of meningitis caused by contaminated injections prepared by a compounding pharmacy in Massachusetts, which affected persons in numerous states. This bill:

HEALTH AND HUMAN SERVICES—REGULATORY

Authorizes the Texas State Board of Pharmacy (TSBP) to inspect a nonresident pharmacy licensed by TSBP that compounds sterile preparations as necessary to ensure compliance with the safety standards and other requirements of Subtitle J (Pharmacy and Pharmacists), Occupations Code, and TSBP rules, and requires a nonresident pharmacy to reimburse TSBP for all expenses, including travel, incurred by TSBP in inspecting the pharmacy.

Prohibits a pharmacy located in another state from shipping, mailing, or delivering to this state a prescription drug or device dispensed under a prescription drug order, or dispensed or delivered as authorized by Subchapter D (Compounded and Prepackaged Drugs), Chapter 562 (Practice by License Holder), rather than shipping, mailing, or delivering to this state a prescription drug or device dispensed under a prescription drug order to a resident of this state, unless the pharmacy is licensed by TSBP or is exempt under Section 560.004 (Exemption), Chapter 560 (Licensing of Pharmacies), Occupations Code.

Requires an applicant, to qualify for a pharmacy license, to submit to TSBP a set license fee and a completed application that meets certain criteria, including contains a statement of certain information, including the license number of each pharmacist who is employed by the pharmacy, if the pharmacy is located in this state, or who is licensed to practice pharmacy in this state, if the pharmacy is located in another state, rather than if the pharmacy is a Class E pharmacy.

Requires a pharmacy located in another state that applies for a license, rather than requiring an applicant, to qualify for a Class E pharmacy license, in addition to satisfying certain other requirements, to provide to TSBP certain information, including evidence of the applicant's ability to provide to TSBP a record of a prescription drug order dispensed or delivered as authorized by Subchapter D, Chapter 562, by the applicant to a resident of or practitioner in this state not later than 72 hours after the time TSBP requests the record; an affidavit by the pharmacist-in-charge that states that the pharmacist has read and understands the laws and rules relating to the applicable license, rather than the laws and rules relating to a Class E pharmacy; and any other information TSBP determines necessary.

Prohibits a license from being issued to a pharmacy that compounds sterile preparations unless the pharmacy has been inspected by TSBP to ensure the pharmacy meets the safety standards and other requirements of Subtitle J, Occupations Code, and TSBP rules.

Authorizes TSBP to accept, as satisfying that inspection requirement for a pharmacy located in another state, an inspection report issued by the pharmacy licensing board in the state in which the pharmacy is located if TSBP determines that the other state has comparable standards and regulations applicable to pharmacies, including standards and regulations related to health and safety, and the pharmacy provides to TSBP any requested documentation related to the inspection.

Sets forth an additional renewal requirement for a pharmacy license for a pharmacy that compounds sterile preparations, including such a pharmacy located in another state, regarding an inspection.

Requires a pharmacy to report in writing to TSBP not later than the 10th day after the date of certain events, including a final order against the pharmacy license holder by the regulatory or licensing agency of the state in which the pharmacy is located if the pharmacy is located in another state, rather than is a Class E pharmacy, or a final order against a pharmacist who is designated as the pharmacist-in-charge of the pharmacy by the regulatory or licensing agency of the state in which the pharmacy is located if the pharmacy is located in another state, rather than is a Class E pharmacy.

Prohibits a pharmacy from compounding and dispensing a sterile preparation unless the pharmacy holds a license as required by TSBP rule.

Requires a pharmacy that compounds a sterile preparation to notify TSBP immediately of any adverse effects reported to the pharmacy or that are known by the pharmacy to be potentially attributable to a sterile preparation compounded by the pharmacy, and not later than 24 hours after the pharmacy issues a recall for a sterile preparation compounded by the pharmacy.

Authorizes TSBP, unless compliance would violate the pharmacy or drug statutes or rules in the state in which the pharmacy is located, to discipline an applicant for or the holder of a nonresident pharmacy license, rather than the holder of a Class E pharmacy license, if TSBP finds that the applicant or license holder has failed to comply with certain requirements, rules, and law.

Requires TSBP to give notice of a disciplinary action by TSBP against a license holder located in another state, rather than against the holder of a Class E pharmacy license, to the regulatory or licensing agency of the state in which the pharmacy is located.

Requires that service of process on a nonresident pharmacy, rather than a Class E pharmacy, under Section 565.058 (Subpoena Authority) or 565.061 (Administrative Procedure), Occupations Code, or for disciplinary action taken by TSBP under Section 565.061 be on the owner and pharmacist-in-charge of the pharmacy, as designated on the pharmacy's license application.

Requires TSBP, not later than March 1, 2014, to adopt rules necessary to implement these provisions.

Makes application of Section 560.052 (Qualifications), Occupations Code, as amended by this Act, and Section 561.0032 (Additional Renewal Requirement for Compounding Pharmacy), Occupations Code, as added by this Act, prospective.

Training of Employees of Certain Covered Entities—S.B. 1609

by Senator Schwertner—House Sponsor: Representatives Kolkhorst and Naishtat

H.B. 300 (relating to protecting the privacy of certain health information and to providing administrative, civil, and criminal penalties), 82nd Legislature, Regular Session, 2011, enhanced the protection of personal health information. Interested parties note that H.B. 300 contained specific training requirements for the protection of personal information and assert that certain training requirements resulted in unintended expenses and administrative burdens for covered entities. This bill:

Requires each covered entity to provide training to its employees regarding the state and federal law concerning protected health information as necessary and appropriate for the employees to carry out the employees' duties for the covered entity, rather than to provide a training program to its employees regarding the state and federal law concerning protected health information as it relates to the covered entity's particular course of business and each employee's scope of employment.

Requires an employee of a covered entity to complete the training not later than the 90th day, rather than the 60th day, after the date the employee is hired by the covered entity.

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Requires the employee, if the duties of an employee of a covered entity are affected by a material change in state or federal law concerning protected health information, to receive the training within a reasonable period, but not later than the first anniversary of the date the material change in law takes effect, rather than requiring an employee of a covered entity to receive training at least once every two years.

Requires a covered entity to require an employee of the entity who receives the training to sign, electronically or in writing, a statement verifying the employee's completion of training, rather than a statement verifying the employee's attendance at the training program. Requires the covered entity to maintain the signed statement until the sixth anniversary of the date the statement is signed.

Monitoring of Prescriptions For Certain Controlled Substances—S.B. 1643 *by Senators Williams and Nelson—House Sponsor: Representative Alvarado*

Interested parties note that although controlled substances have valid medical uses, controlled substances also have the potential for abuse and addiction. Such parties note that Texas law and recent legislation have provided mechanisms, specifically the Texas Prescription Program, for monitoring Schedule II through Schedule V controlled substances prescriptions for the purposes of investigating and preventing drug diversion and recommend additional amendments to these laws to further those purposes. Additionally, the Texas Medical Board (TMB) has oversight over pain management clinics, which is an area which may also be related to prescription drug abuse. This bill:

Redefines, in the Texas Controlled Substances Act, "hospital" to mean certain medical facilities, including an ambulatory surgical center licensed under Chapter 243 (Ambulatory Surgical Centers), Health and Safety Code, rather than licensed by the Texas Department of Health, and approved by the federal government to perform surgery paid by Medicaid on patients admitted for a period of not more than 24 hours, and adding a freestanding emergency medical care facility licensed under Chapter 254 (Freestanding Emergency Medical Care Facilities), Health and Safety Code.

Redefines, in the Texas Controlled Substances Act, "patient" to include a human for whom or an animal for which a drug is intended to be administered, dispensed, delivered, or prescribed by a practitioner.

Defines "health information exchange" in the Texas Controlled Substances Act.

Prohibits the director of the Department of Public Safety of the State of Texas (DPS) or an employee of DPS designated by the director of DPS (director) from permitting any person to have access to information submitted under Section 481.074(q) (relating to requiring each dispensing pharmacist to send certain information required by the director to the director by electronic transfer or another form approved by the director not later than the seventh day after the date the prescription is completely filled) or Section 481.075 (Official Prescription Program), Health and Safety Code, except certain persons, including if the director finds that proper need has been shown to the director, a pharmacy technician acting at the direction of a pharmacist or a licensed nurse acting at the direction of a practitioner and is inquiring about a recent Schedule II, III, IV, or V prescription history of a particular patient of the practitioner.

Authorizes a person authorized to receive information under Section 481.076(a)(3)(B) (relating to the exception authorizing certain health professionals inquiring about a recent Schedule II, III, IV, or V prescription history of a particular patient of the practitioner to be permitted access to information submitted

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to the director under Section 481.074(q) or Section 481.075, Health and Safety Code) or Section 481.076(a)(3)(C) (relating to the exception authorizing a pharmacist or practitioner who is inquiring about the person's own dispensing or prescribing activity to be permitted access to such information), Health and Safety Code, to access that information through a health information exchange, subject to proper security measures to ensure against disclosure to unauthorized persons.

Authorizes a person authorized to receive information under Section 481.076(a)(3)(B), Health and Safety Code, to include that information in any form in the medical or pharmacy record of the patient who is the subject of the information and provides that any information included in a patient's medical or pharmacy record is subject to any applicable state or federal confidentiality or privacy laws.

Requires the director to remove from the information retrieval system, destroy, and make irretrievable the record of the identity of a patient submitted to the director not later than the end of the 36th calendar month, rather than the 12th calendar month, after the month in which the identity is entered into the system, but authorizes the director to retain a patient identity for a certain period of time in a certain circumstance.

Provides that a person commits an offense if the person knowingly gives, permits, or obtains unauthorized access to certain information submitted to the director, including information under Section 481.074(q), Health and Safety Code.

Creates the interagency prescription monitoring work group (work group) to evaluate the effectiveness of prescription monitoring and offer recommendations to improve the effectiveness and efficiency of recordkeeping and other functions related to the regulation of dispensing controlled substances by prescription; sets forth provisions related to the composition of the work group and its meetings; and requires the work group, not later than December 1 of each even-numbered year, to submit to the legislature its recommendations relating to prescription monitoring.

Prohibits the Texas Medical Board (TMB), if an applicant for a certificate under Chapter 168 (Regulation of Pain Management Clinic), Occupations Code, is under investigation by TMB for a violation of the Medical Practices Act, TMB rules, or other law relating to the prescription, dispensation, administration, supply, or sale of a controlled substance, from making a decision on the application until TMB has reached a final decision on the matter under investigation.

Provides that a violation of Chapter 168, Occupations Code, or a rule adopted under the chapter is grounds for disciplinary action, including a temporary suspension or restriction, against a certified pain management clinic or an owner or operator of a certified clinic.

Restrictions on Disaster Remediation Contracts Following a Locally Declared Emergency—H.B. 762
by Representative Guillen—Senate Sponsor: Senator Carona

H.B. 1711, 82nd Legislature, Regular Session, 2011, amended the Business and Commerce Code to prohibit a disaster remediation contractor from requiring a person to make a full or partial payment under a contract before the contractor begins work and from requiring that the amount of any partial payment under the contract exceed an amount reasonably proportionate to the work performed, including any materials delivered. The bill required a disaster remediation contract subject to the bill's provisions to be in writing and to reference the prohibited actions. The bill made a violation of these provisions a deceptive trade practice and prohibited a person from waiving the provisions by contract or other means. It applies to disasters declared by the governor. This bill:

Redefines "natural disaster" to mean the occurrence of widespread or severe damage, injury, or loss of life or property related to any natural cause, including fire, flood, earthquake, wind, storm, or wave action, that results in a disaster declaration by the governor or a local disaster declaration by a county judge under Chapter 418 (Emergency Management), Government Code.

Penalties For Certain Images and Recordings Captured by Unmanned Aircraft—H.B. 912
by Representatives Gooden et al.—Senate Sponsor: Senator Estes

It is anticipated that the use of unmanned vehicles and aircraft operating in the airspace of the United States will increase in coming years. Legislation is necessary to address the purposes and manner for which the vehicles and aircraft may be used and to establish privacy provisions regarding the capturing of images of private property and persons located on private property. This bill:

Defines "image" to mean any capturing of sound waves, thermal, infrared, ultraviolet, visible light, or other electromagnetic waves, odor, or other conditions existing on or about real property in this state or an individual located on that property.

Sets forth certain situations when it is lawful to capture images using an unmanned aircraft in Texas, including:

- for purposes of professional or scholarly research and development by a person acting on behalf of an institution of higher education, as defined by Section 61.003, Education Code;
- in an airspace designated as a test site or range authorized by the Federal Aviation Administration for the purpose of integrating unmanned aircraft systems into the national airspace;
- as part of an operation, exercise, or mission of any branch of the United States military;
- the image is captured by a satellite for mapping purposes;
- the image is captured for certain purposes by or for an electric or natural gas utility;
- with the consent of the individual who owns or lawfully occupies the real property captured in the image;
- pursuant to a valid search or arrest warrant;
- if the image is captured by a law enforcement authority or a person who is under contract with or otherwise acting under the direction or on behalf of a law enforcement authority in certain situations;

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- if the image is captured by state or local law enforcement authorities or a person who is under contract with or otherwise acting under the direction or on the behalf of state authorities in certain circumstances;
- at the scene of a spill or suspected spill of hazardous materials;
- for the purpose of fire suppression;
- for the purpose of rescuing a person whose life or well-being is in imminent danger;
- if the image is captured by a Texas licensed real estate broker in connection with the marketing, sale, or financing of real property, provided that no individual is identifiable in the image;
- of real property or a person on real property that is within 25 miles of the United States border;
- from a height no more than eight feet above ground level in a public place, if the image was captured without using any electronic, mechanical, or other means to amplify the image beyond normal human perception;
- of public real property or a person on that property;
- if the image is captured by the owner or operator of an oil, gas, water, or other pipeline for the purpose of inspecting, maintaining, or repairing pipelines or other related facilities, and is captured without the intent to conduct surveillance on an individual or real property located in Texas;
- in connection with oil pipeline safety and rig protection; or
- in connection with port authority surveillance and security.

Provides that a person commits a Class C misdemeanor offense if the person uses an unmanned aircraft to capture an image of an individual or privately owned real property in Texas with the intent to conduct surveillance on the individual or property captured in the image.

Provides that it is a defense to prosecution should the person destroy the image as soon as the person had knowledge that the image was captured in violation of this section and without disclosing, displaying, or distributing the image to a third party.

Provides that a person commits Class C misdemeanor offense if a person captures an image of an individual or privately owned property in Texas with the intent to conduct surveillance on the individual or property and possesses, discloses, displays, distributes, or otherwise uses that image.

Provides that each image a person possesses, discloses, displays, distributes, or otherwise uses in violation of this section is a separate offense.

Provides that it is a defense to prosecution for the possession of an image that the person destroyed the image as soon as the person had knowledge that the image was captured in violation of Section 423.003, Government Code.

Provides that it is a defense to prosecution for the disclosure, display, distribution, or other use of an image that the person stopped disclosing, displaying, distributing, or otherwise using the image as soon as the person had knowledge that the image was captured in violation of Section 423.003, Government Code.

Prohibits certain illegally or incidentally captured images from disclosure and use as evidence in any criminal or juvenile proceeding, criminal action, or administrative proceeding; is not subject to disclosure,

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inspection, or copying under Chapter 552 (Public Information), Government Code; and is not subject to discovery, subpoena, or other means of legal compulsion for its release.

Authorizes images captured in violation of Section 423.003, Government Code, to be disclosed and used as evidence to prove a violation of this chapter and provides that such an image is subject to discovery, subpoena, or other means of legal compulsion for that purpose.

Authorizes an owner or tenant of privately owned real property located in this state to bring against a person who, in violation of Section 423.003, Government Code, captured an image of the property or the owner or tenant while on the property an action to enjoin a violation or imminent violation of Section 423.003 or 423.004, Government Code; recover a civil penalty of \$5,000 for all images captured in a single episode in violation of Section 423.003, Government Code, or \$10,000 for disclosure, display, distribution, or other use of any images captured in a single episode in violation of Section 423.004, Government Code; or recover actual damages if the person who captured the image in violation of Section 423.003, Government Code discloses, displays, or distributes the image with malice.

Provides that for purposes of recovering the civil penalty or actual damages, all owners of a parcel of real property are considered to be a single owner and all tenants of a parcel of real property are considered to be a single tenant.

Requires that, in addition to any civil penalties authorized, the court award court costs and reasonable attorney's fees to the prevailing party.

Provides that the venue for an action under Section 423, Government Code, is governed by Chapter 15 (Venue), Civil Practice and Remedies Code.

Provides that an action brought under this section must be commenced within two years from the date the image was captured in violation of Section 423.003, Government Code, or initially disclosed, displayed, distributed, or otherwise used in violation of Section 423.004.

Requires the Department of Public Safety of the State of Texas to adopt rules and guidelines for use of an unmanned aircraft by a law enforcement authority in Texas.

Requires each state law enforcement agency and each county or municipal law enforcement agency located in a county or municipality with a population greater than 150,000, that used or operated an unmanned aircraft during the preceding 24 months to issue a report to the governor, lieutenant governor, and each member of the legislator not earlier than January 1 and not later than January 15 containing certain information.

Creation of Texas Task Force 1 Type 3 Rio Grande Valley—H.B. 1090 [VETOED] *by Representative "Mando" Martinez et al.—Senate Sponsor: Senator Hinojosa*

Currently there is no regional response task force located in the Rio Grande Valley to respond to natural and man-made disasters, such as hurricanes that the region is vulnerable to. This bill:

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Requires that the board of regents of the Texas A&M University System establish Texas Task Force 1 Type 3 Rio Grande Valley as a program of the Texas A&M Engineering Extension Service.

Provides that during any period in which the Texas Task Force 1 Type 3 Rio Grande Valley is activated by the Texas Division of Emergency Management, or during any training session sponsored or sanctioned by a task force, a participating nongovernment member or local government employee member is included in the coverage provided under Chapter 501 (Workers' Compensation Insurance Coverage for State Employees, Including Employees Under the Direction or Control of the Board of Regents of Texas Tech University), Labor Code, in the same manner as an employee, as defined by Section 501.001 (Definitions), Labor Code.

Requires that a study be completed by the Department of Public Safety of the State of Texas (DPS) of Texas Task Force 1 Type 3 Rio Grande Valley on or before the effective date of H.B. 1090 and include an assessment of the effectiveness of the task force and any lessons learned from the operation of that task force; the need to establish and operate similar task forces in other regions; and any other matter that DPS considers relevant to the topic of the study.

Energy Security Technologies For Certain Governmental Facilities—H.B. 1864

by Representative Wu—Senate Sponsor: Senator Estes

In 2007, the legislature passed certain disaster preparedness and emergency management bills that required an evaluation of combined heat and power and co-generation for certain governmental buildings and facilities. Combined heat and power is an on-site energy system that efficiently produces electricity for heating and cooling. This bill:

Redefines a critical governmental facility to mean a building owned by the state, including by an institution of higher education as defined by the Education Code.

Requires the State Energy Conservation Office to establish guidelines for the evaluation of whether equipping a facility with a combined heating and power system would result in expected energy savings that would exceed the costs of purchasing, operating, and maintaining the system over a 20-year period.

Repeals Chapter 2311 (Energy Security Technologies For Critical Governmental Facilities), Government Code.

9-1-1 Services—H.B. 1972

by Representative Klienschmidt—Senate Sponsor: Senator Hancock

The purpose of this bill is to update existing language in certain provisions of the Health and Safety Code relating to 9-1-1 service. Current statute regarding emergency communications is arguably outdated with the public's use of modern communications technologies.

Current law provides liability and confidentiality protections for all of those involved in delivering 9-1-1 calls. By expanding the limited liability provided to 9-1-1 service providers to include communications service

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providers, developers of software used in providing 9-1-1 service, and third parties or other entities involved in providing 9-1-1 service, it can better reflect the modern communication technologies. This bill:

Provides that a service provider of communications service involved in providing 9-1-1 service, a manufacturer of equipment used in providing 9-1-1 service, a developer of software used in providing 9-1-1 service, a third party or other entity involved in providing 9-1-1 service, or an officer, director, or employee of the service provider, manufacturer, developer, third party, or other entity involved in providing 9-1-1 service is not liable for any claim, damage, or loss arising from the provision of 9-1-1 service unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct.

Requires that this Act provides protection relating to confidentiality and immunity and protection from liability with at least the same scope and to at least the same extent as described by federal law.

Provides that information that a service provider of communications service is required to furnish to a governmental entity, including a regional planning commission, emergency communications district, or public safety answering point, in providing 9-1-1 service or that a service provider, third party, or other entity voluntarily furnishes at the request of a governmental entity in providing 9-1-1 service is confidential and is not available for public inspection.

Provides that information that a service provider furnishes to the Commission on State Emergency Communications (CSEC) or an emergency communication district to verify or audit emergency service fees or surcharge remittances and that includes access line or market share information of an individual service provider is confidential and not available for public inspection.

Requires that this section be interpreted to provide protection relating to confidentiality and immunity and protection from liability with at least the same scope and to at least the same extent as described by federal law.

Redefines, in this section, "9-1-1 service" and "public safety answering point" or "PSAP."

Provides that a person commits an offense if the person makes a call to a 9-1-1 service, or requests 9-1-1 service using an electronic communications device, when there is not an emergency and knowingly or intentionally remains silent, or makes abusive or harassing statements to a public safety answering point (PSAP) employee.

Provides that a person commits an offense if the person knowingly permits an electronic communications device, including a telephone, under the person's control to be used by another person.

Provides that an individual commits an offense if the individual knowingly prevents or interferes with another individual's ability to place an emergency call or to request assistance, including a request for assistance using an electronic communications device, in an emergency from a law enforcement agency, medical facility, or other agency or entity the primary purpose of which is to provide for the safety of individuals.

Provides that an individual commits an offense if the individual recklessly renders unusable an electronic communications device, including a telephone, that would otherwise be used by another individual to place

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an emergency call or to request assistance in an emergency from a law enforcement agency, medical facility, or other agency or entity the primary purpose of which is to provide for the safety of individuals.

Redefines "emergency."

Repeals Section 772.401 (Definition), Health and Safety Code.

Provides that defining "9-1-1 service" as a communications service and other amendments effective September 1, 2013, does not expand or change the authority or jurisdiction of a public agency or CSEC over commercial mobile service or wireline service including Voice over Internet Protocol service or Internet Protocol enabled service or expand the authority of a public agency or CSEC to assess 9-1-1 fees.

Emergency Notification System Use by Certain Public Service Providers—H.B. 3096 *by Representative Senfronia Thompson—Senate Sponsor: Senator Eltife*

Emergency notification systems are used by public entities to provide information to the public regarding events ranging from flood warnings to notices that water will be turned off for a few hours for maintenance work. These systems communicate via phone messages, text messages, and email. Today's telecommunications advances allow for rapid, efficient deployment of messages to get information out quickly.

Current law places requirements on what public service providers must have in their emergency notification systems. Public service providers are defined as entities providing essential products or services to the public that are regulated under the Natural Resources, Utilities, and Water Codes, including common carriers, telecommunications providers, and other entities providing or producing heat, light, power, or water. While systems for large cities like Houston or Dallas may desire more robust systems, those found in smaller areas servicing a local municipal utility district, for example, should not require such large-scale systems. This bill:

Provides that the requirements of communications by public service providers during disasters and emergencies do not apply to a public service provider serving 250,000 or fewer customers, or an emergency notification system that is in use by a public service provider on June 1, 2011.

Texas Statewide Mutual Aid System—H.B. 3178 *by Representative Phillips—Senate Sponsor: Senator Estes*

The Federal Emergency Management Agency (FEMA) has cited parts of current Texas law regarding the statewide mutual disaster aid system as a reason to decline disaster relief to some jurisdictions. Under the law, local governments may enter into mutual aid agreements to assist one another when response needs exceed an individual jurisdiction's capabilities. The law was originally intended to encourage local governments in a planning region to work together within the region. However, critics assert that local governments and others involved in emergency management have found that certain procedures and requirements for regional mutual aid overstep local control of emergency management planning and thus have not endorsed or adhered to the policies. This bill:

Removes the time limit for when a verbal request for mutual aid assistance must be confirmed in writing.

Requires a local government entity requesting mutual aid assistance from another local government entity under the system that requires a response that exceeds 12 consecutive hours, to reimburse the actual costs of providing mutual aid assistance to the responding local government entity, including costs for personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation, incurred by the responding local government entity in response to a request for reimbursement.

Repeals Section 418.114 (Procedures for Mutual Aid), Government Code.

Uniform Application Form Following Disasters—S.B. 171 *by Senator West—House Sponsor: Representative Pickett*

Individuals applying for assistance after incurring damage from a natural disaster must often file multiple forms with multiple agencies and nonprofits. A single application could better assist these individuals. This bill:

Requires the chief of the Texas Division of Emergency Management to establish a workgroup of appropriate emergency management council members, local government officials, and nonprofit organizations to determine if a uniform application form for assistance following a disaster may be developed for use by state agencies and by persons requesting assistance from state agencies. Requires the workgroup to report its findings, including recommendations for any necessary statutory changes, to the legislature before September 1, 2014.

Access to Certain Facilities by Search and Rescue Dogs and Their Handlers—S.B. 1010 *by Senator Taylor—House Sponsor: Representative Greg Bonnen*

Texas faces numerous emergency situations every year and when disasters strike, search and rescue teams often travel with little advance notice to locations across Texas. While traveling, search and rescue teams frequently experience difficulties in securing lodging, food, and public transportation. This bill:

Defines "handler," "housing accommodations," "public facility," and "search and rescue dog."

Prohibits the owner, manager, or operator of a public facility, or an employee or other agent of the owner, manager, or operator, from denying a search and rescue dog or a search and rescue dog's handler admittance to the facility because of the presence of the handler's search and rescue dog.

Prohibits the owner, manager, or operator of a common carrier, airplane, railroad train, motor bus, streetcar, boat, or other public conveyance or mode of transportation operating within this state, or an employee or other agent of the owner, manager, or operator, from refusing to accept as a passenger a search and rescue dog or the dog's handler or requiring the dog's handler to pay an additional fare because of the search and rescue dog.

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Provides that the discrimination prohibited by this section includes refusing to allow a search and rescue dog or the dog's handler to use or be admitted to a public facility; a ruse or subterfuge calculated to prevent or discourage a search and rescue dog or the dog's handler from using or being admitted to a public facility; and failing to make a reasonable accommodation in a policy, practice, or procedure to allow a search and rescue dog or the dog's handler to be admitted to a public facility.

Prohibits a policy relating to the use of a public facility by a designated class of persons from the general public from prohibiting the use of the particular public facility by a search and rescue dog or the dog's handler.

Entitles a search and rescue dog's handler to full and equal access, in the same manner as other members of the general public, to all housing accommodations offered for rent, lease, or compensation in this state, subject to any condition or limitation established by law that applies to all persons, except that the handler may not be required to pay an extra fee or charge or security deposit for the search and rescue dog.

Provides that a person commits a misdemeanor offense and faces a penalty of not less than \$300 or more than \$1,000 for the discrimination of a search and rescue dog or its handler at certain facilities.

Provides that it is a defense to prosecution under Subsection (a) that the actor requested the search and rescue dog handler's credentials under Section 785.005 and the handler failed to provide the actor with the credentials.

Requires a handler who accompanies a search and rescue dog to ensure that the dog is properly harnessed or leashed.

Authorizes a person to maintain a cause of action against a dog's handler for personal injury, property damage, or death resulting from the failure of the dog's handler to properly harness or leash the dog under the same law applicable to other causes brought for the redress of injuries caused by animals.

Provides that the handler of a search and rescue dog is liable for any property damage caused by the search and rescue dog to a public facility or to housing accommodations.

Provides that a governmental unit is subject to liability only as provided by Chapter 101 (Tort Claims), Civil Practice and Remedies Code, and a public servant is subject to liability only as provided by Chapter 108 (Limitation of Liability for Public Servants), Civil Practice and Remedies Code.

Authorizes a person to ask a search and rescue dog handler to display proof that the handler is a person with certification issued by the National Association for Search and Rescue or other state or nationally recognized search and rescue agency.

Homeland Security Strategy—S.B. 1393

by Senator Estes—House Sponsor: Representatives Pickett and Flynn

The United States Department of Homeland Security establishes the framework for the development of state and local homeland security plans, and each state is responsible for creating a plan to address that state's unique homeland security environment. The current guiding document, the National Preparedness

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Goal, contains five mission areas: prevention, protection, mitigation, response, and recovery. The five key mission areas are generally accepted across the nation for purposes of homeland security and emergency management, and are expected to continue to be incorporated into future federal documents. This bill:

Requires the governor to direct homeland security in this state and to develop a statewide homeland security strategy that improves the state's ability to:

- protect against, rather than detect and deter threats to, homeland security threats and hazards;
- respond to homeland security emergencies;
- recover from homeland security emergencies;
- mitigate the loss of life and property by lessening the impact of future disasters; and
- prevent significant criminal and terrorist attacks.

Requires that the governor's homeland security strategy complement and operate in coordination with federal strategic guidance on homeland security.

Describes the composition of the Homeland Security Council.

Homeland Security Strategy—S.B. 1394

by Senator Estes—House Sponsor: Representatives Pickett and Flynn

Current law requires that a statewide critical infrastructure protection strategy be developed and reported annually to the governor. The statewide critical infrastructure protection strategy is a duplicative plan because high-level strategies for the protection of critical infrastructure are already incorporated into the overall state homeland security strategy. Providing details on the security measures at certain facilities in an unclassified critical infrastructure protection strategy could potentially make the facilities more vulnerable. This bill:

Requires the homeland security council (council) to advise the governor on the implementation of the governor's homeland security strategy by state and local agencies and provide specific suggestions for helping those agencies implement the strategy, and other matters related to the planning, development, coordination, and implementation of initiatives to promote the governor's homeland security strategy.

Deletes existing text requiring the council to advise the governor on the development and coordination of a statewide critical infrastructure protection strategy.

Deletes existing text requiring the council annually to submit to the governor a report stating the council's progress in developing and coordinating a statewide critical infrastructure protection strategy.

Deletes existing text requiring each permanent special advisory committee created under Subchapter B-1 (Permanent Special Advisory Committees), Government Code, to advise the governor on the development and coordination of a statewide critical infrastructure protection strategy.

Federal Secret Security Clearance For Members of the Public Safety Commission—S.B. 1814
by Senator Estes—House Sponsor: Representative Fletcher

The members of the five-person Public Safety Commission, which oversees the Department of Public Safety of the State of Texas (DPS), are privy to sensitive information, some of which is classified. DPS works closely with its federal partners to ensure the safety of our state, which sometimes involves the sharing of classified information. It is important that DPS have the ability to keep the Public Safety Commission informed without running afoul of the federal restrictions that govern the handling of classified information. This bill:

Provides that it is a ground for removal from the Public Safety Commission if a member engages in certain conduct, including if the member does not request, receive, and maintain a federal secret level security clearance.

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Definition of Rural Area For Purposes of Certain Housing Assistance—H.B. 429

by Representative Guillen—Senate Sponsor: Senator Zaffirini

The definition of "rural area" for purposes of certain housing assistance administered by the Texas Department of Housing and Community Affairs (TDHCA) is unclear because of a difference in the term's requirements between the Government Code and TDHCA's definition. This bill:

Redefines "rural area" in Section 2306.004(28-a), Government Code, as an area that is located outside the boundaries of a primary metropolitan statistical area or a metropolitan statistical area or an area that is located within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area, if the statistical area has a population of 25,000 or less and does not share a boundary with an urban area.

Authorizes proposed or existing developments that have been awarded or received federal financial assistance provided under Section 514, 515, or 516 of the Housing Act of 1949 (42 U.S.C. Section 1484, 1485, or 1486) to apply for certain low-income housing tax credits for the uniform state service region in which the development is located regardless of whether the development is located in a rural area.

Repeals Section 2306.6702(12) (defining "rural area" in Subchapter DD (Low Income Housing Tax Credit Program)), Government Code.

Restricts the application of the new definition of "rural area" to apply only to an application for financial assistance that is submitted by a housing development to TDHCA on or after September 1, 2013.

Property Owners' Association Contracts With an Association Board Member—H.B. 503

by Representative Hernandez Luna—Senate Sponsor: Senator Garcia

There have been instances where homeowners' associations board members approve contracts that would benefit them, their family members, or entities in which they have a financial interest. This bill:

Authorizes an association to enter into an enforceable contract with a current association governing board member (board) (board member), a person related to a current board member within the third degree by consanguinity or affinity, as determined under Chapter 573 (Degrees of Relationship; Nepotism Prohibitions), Government Code, a company in which a current board member has a financial interest in at least 51 percent of profits, or a company in which a person related to a current board member within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a financial interest in at least 51 percent of profits only if certain conditions are satisfied.

Limits the application of the bill to contracts entered into on or after the effective date of the bill.

Ability of Tenant Representative to Serve as Commissioner of a Local Housing Authority—H.B. 654

by Representative Cortez et al.—Senate Sponsor: Senator Hinojosa

Term limits cause tenant commissioners to be replaced after they are fully trained and are most effective. Tenant commissioners are the only commissioners subject to these term limits. This bill:

Repeals Sections 392.0331(f) (relating to prohibiting a commissioner appointed under this section from serving more than two consecutive two-year terms) and (f-1) (relating to providing that Subsection (f) does not apply to a municipality that has a municipal housing authority in which the total number of units is 150 or fewer), Local Government Code.

Applies the repeals of the two sections to a commissioner appointed under Section 392.0331 (Appointment of Tenant Representative as Commissioner of Municipal, County, or Regional Housing Authority), Local Government Code, without regard to when the commissioner was appointed.

Property Owners' Associations' Dedicatory Instruments and Displays of Flags—H.B. 680

by Representative Burkett et al.—Senate Sponsor: Senator Patrick

Although current law prohibits a property owners' association from preventing the installation or erection of at least one flagpole per property that is not more than 20 feet in height, a property owners' association can restrict the location of the flag to the back yard of the property. This bill:

Defines "front yard."

Authorizes a property owners' association to adopt or enforce reasonable dedicatory instrument provisions that regulate the size, number, and location of flagpoles on which flags are displayed, except that the regulation is prohibited from preventing the installation or erection of at least one flagpole per property that is not more than 20 feet in height and, subject to applicable zoning ordinances, easements, and setbacks of record, is located in the front yard of the property or is attached to any portion of a residential structure owned by the property owner and not maintained by the property owners' association.

Authorizes a property owner who has a front yard and who otherwise complies with any permitted property owners' association regulations to elect to install a flagpole.

Electric Service by a Residential Landlord—H.B. 1086

by Representatives Eddie Rodriguez and Bohac—Senate Sponsors: Senator Eltife and Garcia

The 81st Legislature, Regular Session, 2009, passed H.B. 882 which prohibited a residential landlord from interrupting electric service to a tenant unless the interruption results from bona fide repairs, emergencies, or construction. That prohibition does not take into account a case in which a rental property resident directly pays the landlord for electricity and the resident fails to pay an electric bill issued by the landlord. The only option for such a landlord is to seek eviction of the resident, which can be costly and time-consuming. This bill:

Prohibits a landlord from interrupting or causing the interruption of water, wastewater, gas, or electric service furnished to a tenant by the landlord as an incident of the tenancy or by other agreement unless the interruption results from bona fide repairs, construction, or an emergency.

Authorizes the tenant, if a landlord or a landlord's agent violates this provision, to, in addition to other remedies available under law, recover from the landlord an amount equal to the sum of the tenant's actual

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damages, one month's rent plus \$1,000, whichever is greater, reasonable attorney's fees, and court costs, less any delinquent rents or other sums for which the tenant is liable to the landlord.

Authorizes a landlord who submeters electricity or allocates or prorates nonsubmetered master metered electricity to interrupt or cause the interruption of electric service for nonpayment by the tenant of an electric bill issued to the tenant under certain circumstances.

Prohibits a landlord from interrupting or causing the interruption of electric service of a tenant who, before the interruption date specified in the notice the interruption will cause a person residing in the tenant's dwelling to become seriously ill or more seriously ill by having a physician, nurse, nurse practitioner, or other similar licensed health care practitioner attending to the person who is or may become ill provide a written statement to the landlord or a representative of the landlord stating that the person will become seriously ill or more seriously ill if the electric service is interrupted, and entered into a deferred payment plan.

Prohibits the landlord, if a tenant has established the circumstances necessary to avoid electric service interruption, from interrupting or causing the interruption of the tenant's electric service before the 63rd day after the date those circumstances are established or an earlier date agreed to by the landlord and the tenant.

Requires that a deferred payment plan for the purposes of this section be in writing.

Requires that the deferred payment plan allow the tenant to pay the outstanding electric bill in installments that extend beyond the due date of the next electric bill and requires the plan to provide that the delinquent amount is authorized to be paid in equal installments over a period equal to at least three electric service billing cycles.

Prohibits a landlord from interrupting or causing the interruption of electric service to a tenant who receives energy assistance for a billing period during which the landlord receives a pledge, letter of intent, purchase order, or other notification that the energy assistance provider is forwarding sufficient payment to continue the electric service.

Requires the landlord, if a delinquent electric bill is paid, or a deferred payment plan is entered into, during normal business hours, to reconnect the tenant's electric service within two hours of payment or entry into the deferred payment plan.

Prohibits a landlord from interrupting or causing the interruption of electric service under certain circumstances.

Prohibits a landlord who provides notice from applying a payment made by a tenant to avoid interruption of electric service or reestablish electric service to rent or any other amounts owed under the lease.

Prohibits the landlord from evicting a tenant for failure to pay an electric bill when the landlord has interrupted the tenant's electric service unless the tenant fails to pay for the electric service after the electric service has been interrupted for at least two days, not including weekends or state or federal holidays.

Authorizes a reconnection fee to be applied if electric service to the tenant is disconnected for nonpayment of bills.

Requires that the reconnection fee be computed based on the average cost to the landlord for the expenses associated with the reconnection, but prohibits the fee from exceeding \$10.

Prohibits a reconnection fee from being applied unless agreed to by the tenant in a written lease that states the exact dollar amount of the reconnection fee.

Prohibits a fee from being applied to a deferred payment plan.

Operation of Master Mixed-Use Property Owners' Associations—H.B. 1824
by Representatives Harper-Brown and Ratliff—Senate Sponsor: Senator Hancock

Current law regarding certain provisions of legislation governing master mixed-use property owners' associations is unclear. This bill:

Establishes that Chapter 209 (Texas Residential Property Owners Protection Act), Property Code, does not apply to a property owners' association subject to Chapter 214 (Master Mixed-Use Property Owners' Associations), Property Code.

Authorizes the declaration and any supplementary declaration, including amendments, modifications, or corrections, notwithstanding any provision of the certificate of formation, declaration, or bylaws to the contrary, under Section 215.008 (Voting), Property Code, to be amended by a simple majority of the eligible votes being cast in favor of the amendment.

Provides that to the extent of any conflict or inconsistency, Section 215.0135 (Association Records), Property Code, prevails over other provisions of law and the dedicatory instruments of a property owners' association subject to this chapter. Provides that this section is the exclusive procedure for a property owner to inspect the books and records of the association.

Requires a property owners' association, except as otherwise stated, to, on written request as provided by this section, make the books and records of the association open to and reasonably available for examination by an owner or a person designated in a written instrument signed by the owner as the owner's agent, attorney, or certified public accountant. Entitles an owner, except as otherwise stated, to obtain copies of the books and records from the association.

Establishes that an attorney's files and records relating to the property owners' association, excluding invoices, are not records of the association and are not subject to inspection by the owner or the owner's authorized representative or to production in a legal proceeding. Establishes that this does not require production of a document that is covered by the attorney-client privilege.

Requires an owner or the owner's authorized representative to submit a written request by certified mail to the mailing address of the property owners' association or the association's authorized representative, as reflected on the most current management certificate filed under Section 215.013 (Management Certificate), Property Code, for access to the books and records of the association.

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Establishes the time requirement for a property owners' associations to fill requests or notify the requestor if fulfillment is not possible within the timeline. Requires that the inspection, if an inspection is requested or required, take place at a mutually agreed on time during normal business hours of the property owners' association, and the requesting party is required to identify the books and records for the association to copy and forward to the requesting party.

Authorizes a property owners' association to produce books and records requested under this section in hard copy, electronic, or other format reasonably available to the association. Requires a property owners' association board to adopt a records production and copying policy that prescribes the costs the association will charge for the compilation, production, and reproduction of information requested under this section. Establishes the requirements and restrictions regarding the cost the association can charge. Authorizes information to be released in an aggregate or summary manner that would not identify an individual property owner.

Establishes that the property owners' association, except where explicitly stated, is not required to release or allow inspection of any books or records that identify certain information regarding individual owners' financial, violation, contact information, or property plans; legal files; or association personnel files. Requires that these types of books and records be made available for inspection if the express written approval of the owner whose records are the subject of the request for inspection is provided to the property owners' association or a court orders the release of the books and records or orders that the books and records be made available for inspection.

Requires a property owners' association to adopt and comply with a document retention policy that includes certain requirements.

Authorizes a member of a property owners' association who is denied access to or copies of the association books or records to which the member is entitled under this section to file a petition with the county court at law in which all or part of the property that is governed by the association is located requesting relief in accordance with this subsection. Authorizes the county court at law, if the county court at law finds that the member is entitled to access to or copies of the records, to grant certain remedies. Entitles the association, if the property owners' association prevails in an action regarding access to books or records, to a judgment for court costs and attorney's fees incurred by the association in connection with the action.

Requires a person, on or before the 10th business day before the date the person brings an action against a property owners' association under this section, to send written notice to the association of the person's intent to bring the action. Establishes the requirements of the notice.

Requires the association or its agent, before a property owners' association is authorized to file a suit against an owner, other than a suit to collect a regular or special assessment or judicial foreclosure under the association's lien, or charge an owner for property damage, to give written notice sent to the owner by certified mail, return receipt requested, to the property address of the owner. Establishes the requirements of the notice.

Establishes that if the owner is entitled to an opportunity to cure a violation, the owner, except as provided by Section 215.009(c) (relating to authorizing an association to use self-help to enforce its restrictive covenants against a residential or commercial property owner under certain circumstances), Property

Code, has the right to submit a written request for a hearing to discuss and verify facts and resolve the matter at issue before a committee appointed by the board of the property owners' association or before the board if the board does not appoint a committee. Requires the association to hold a hearing under this section not later than the 30th day after the date the board receives the owner's request for a hearing and to notify the owner of the date, time, and place of the hearing not later than the 10th day before the date of the hearing. Authorizes the board or committee or the owner to request a postponement, and if requested, a postponement is required to be granted for a period of not more than 10 days. Authorizes additional postponements to be granted by agreement of the parties. Provides that the notice and hearing provisions of this section and Section 215.016 (Notice Required Before Certain Enforcement Actions), Property Code, do not apply if the association files a suit seeking a temporary restraining order or temporary injunctive relief or a suit that includes foreclosure as a cause of action.

Requires a property owners' association to adopt reasonable guidelines to establish an alternative payment schedule by which an owner is authorized to make partial payments to the association for delinquent regular or special assessments or any other amount owed to the association without accruing additional monetary penalties. Establishes that monetary penalties do not include reasonable costs associated with administering the payment plan or interest. Establishes that a property owners' association is not required to enter into a payment plan with an owner who failed to honor the terms of a previous payment plan. Requires a property owners' association to file the association's guidelines under this section in the real property records of each county in which any portion of the subdivision is located.

Low Income Housing Tax Credits Awarded to At-Risk Developments—H.B. 1888
by Representatives Anchia and Alvarado—Senate Sponsor: Senator Hinojosa

The federal Housing Tax Credit Program establishes certain statutorily mandated "set-asides" which the Texas Department of Housing and Community Affairs is required to allocate for. One of these includes investment in housing units that are "at-risk" of being removed from the housing pool. This bill:

Redefines "at-risk development" to include a development that proposes to rehabilitate or reconstruct houses that meet specific requirements.

Requires the Texas Department of Housing and Community Affairs (TDHCA) to set aside for eligible at-risk developments not less than 15 percent of the housing tax credits available for allocation in the calendar year. Establishes which at-risk developments are eligible for housing tax credits set aside.

Operation of Certain Condominium Unit Owners' Associations—H.B. 2075
by Representative Anchia—Senate Sponsor: Senator West

Condominium associations are unable to borrow money to pay for the necessary repairs after a disaster because their dedicatory instruments did not permit them to secure a loan by pledging assessment. This bill:

Redefines "declaration" and defines "dedicatory instrument."

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Authorizes the condominium unit owners' association (association), acting through the board of directors or the body designated to act on behalf of the association (board), unless otherwise provided by the declaration, to take certain actions, including to impose interest and late charges for late payments of assessments, returned check charges, and, if notice and an opportunity to be heard are given in accordance with Subsection (d) (relating to requiring the association to give to the unit owner a written notice before it may charge the owner for property damage), Property Code, reasonable fines for violations of the declaration, bylaws, and rules of the association.

Authorizes the association by resolution of the board, except as otherwise specified, to borrow money and assign as collateral for the loan authorized by the resolution the association's right to future income, including the right to receive assessments and the association's lien rights.

Requires that the loan or assignment, if a dedicatory instrument requires a vote of members of the association to borrow money or assign the association's right to future income or the association's lien rights, be approved as provided by the dedicatory instrument. Authorizes the board, to determine whether a vote for that purpose may be cast electronically, by absentee ballot, in person or by proxy at a meeting called for that purpose, or by written consent. Provides that, if a lower approval threshold is not provided by the dedicatory instrument, approval requires the consent of owners holding 67 percent of all voting interests.

Authorizes insurance policies maintained under Section 82.111(a) (relating to requiring the association to maintain certain insurance elements), Property Code, to provide for commercially reasonable deductibles as the board determines appropriate or necessary.

Requires that any portion of the condominium for which insurance is required that is damaged or destroyed, except as otherwise specified, be promptly repaired or replaced by the association unless the condominium is terminated, repair or replacement would be illegal under any state or local health or safety statute or ordinance, or at least 80 percent of the unit owners vote to not rebuild. Authorizes each owner of a unit to vote, regardless of whether the owner's unit or limited common element has been damaged or destroyed. Authorizes a vote to be cast electronically or by written ballot if a meeting is not held for that purpose or in person or by proxy at a meeting called for that purpose. Provides that, except as otherwise specified, the cost of repair or replacement in excess of the insurance proceeds is a common expense, and the board is authorized to levy an assessment to pay the expenses in accordance with each owner's common expense liability. Requires any insurance proceeds attributable to the damaged common elements, if the entire condominium is not repaired or replaced, to be used to restore the damaged area to a condition compatible with the remainder of the condominium, the insurance proceeds attributable to units and limited common elements that are not rebuilt are required to be distributed to the owners of those units and the owners of the units to which those limited common elements were assigned, or to their mortgagees, as their interests may appear, and the remainder of the proceeds to be distributed to all the unit owners in accordance with each owner's undivided interest in the common elements unless otherwise provided in the declaration.

Requires the party who would be responsible for the repair in the absence of insurance, if the cost to repair damage to a unit or common element covered by the association's insurance is less than the amount of the applicable insurance deductible, to pay the cost for the repair of the unit or common element.

Provides that, if the association's insurance provides coverage for the loss and the cost to repair the damage to a unit or common element is more than the amount of the applicable insurance deductible, the

dedicatory instruments determine payment for the cost of the association's deductible and costs incurred before insurance proceeds are available. Establishes that, if the dedicatory instruments are silent, the board by resolution is required to determine the payment of those costs, or if the board does not approve the resolution, the costs are a common expense. Provides that a resolution under this subsection is considered a dedicatory instrument and is required to be recorded in each location in which the declaration is recorded.

Authorizes the association, if damage to a unit or the common elements is due wholly or partly to an act or omission of any unit owner or a guest or invitee of the unit owner, to assess the deductible expense and any other expense in excess of insurance proceeds against the owner and the owner's unit.

Authorizes the owner of a unit purchased at a foreclosure sale of the association's lien for assessments to redeem the unit not later than the 90th day after the date of the foreclosure sale. Requires the owner, if the association is the purchaser, to pay to the association to redeem the unit all amounts due the association at the time of the foreclosure sale, interest from the date of foreclosure sale to the date of redemption at the rate provided by the declaration for delinquent assessments, reasonable attorney's fees and costs incurred by the association in foreclosing the lien, any assessment levied against the unit by the association after the foreclosure sale, and any reasonable cost incurred by the association as owner of the unit, including costs of maintenance and leasing. Requires the redeeming owner, if a party other than the association is the purchaser, to pay to the purchaser of the unit at the foreclosure sale an amount equal to the amount bid at the sale, interest on the bid amount computed from the date of the foreclosure sale to the date of redemption at the rate of six percent, any assessment paid by the purchaser after the date of foreclosure, and any reasonable costs incurred by the purchaser as the owner of the unit, including costs of maintenance and leasing. Requires the redeeming owner to also pay to the association all assessments that are due as of the date of the redemption and reasonable attorney's fees and costs incurred by the association in foreclosing the lien. Requires the purchaser of the unit at the foreclosure sale, on redemption, to execute a deed with no warranty to the redeeming unit owner.

Requires the county clerk of each county in which a management certificate is filed as required by this section to record the management certificate in the real property records of the county and index the document as a "Condominium Association Management Certificate."

Requires each association that recorded a management certificate under this section before September 1, 2013, to ensure that all management certificates are recorded and indexed as provided by Section 82.116(a-1) (relating to providing the requirements of the condominium association management certificate), Property Code, to record a new management certificate on or before January 1, 2014.

Merger of Housing Authorities in Certain Municipalities and Counties—H.B. 2975
by Representative Naomi Gonzalez—Senate Sponsor: Senator Rodríguez

A merger between city and county housing authorities may be beneficial, but is not currently authorized. This bill:

Establishes that this bill applies only to the merger of housing authorities operating in a county that has a population of 800,000 or more and is located on the international border and a municipality that has a

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population of more than 600,000 and less than 700,000 and is located in a county with a population of 800,000 or more.

Establishes that the county housing authority is merged into the housing authority for the municipality if the commissioners court of a county and the governing body of a municipality declare by resolutions that there is a need for the county housing authority to consolidate its powers with the municipal housing authority under this chapter.

Authorizes the commissioners court and the governing body of the municipality to adopt a resolution declaring that there is a need for a merger only if the commissioners court and the governing body of the municipality each find that a merged housing authority would be more efficient or economical than separate county and municipal housing authorities in carrying out their purposes.

Prohibits the commissioners court, if a county housing authority has outstanding obligations, from adopting a resolution declaring a need for a merger unless each obligee of the authority and each party to a contract, bond, note, or other obligation of the authority agrees to the substitution of the municipal housing authority on the contract, bond, note, or other obligation; and the commissioners of the county housing authority and of the municipal housing authority to be merged each adopt resolutions consenting to the transfer of the rights, contracts, agreements, obligations, and property of the county housing authority to the municipal housing authority.

Establishes that in a proceeding involving the validity or enforcement of, or relating to, a contract of a merged housing authority, proof of a certain resolution adopted by the commissioners court of the county and the governing body of the municipality is conclusive evidence that the merged housing authority is authorized to transact business and exercise its powers.

Provides that when housing authorities are merged in the manner provided by this section the rights, contracts, agreements, obligations, and property of the county housing authority become those of the municipal housing authority. Provides that when housing authorities are merged in the manner provided by this section the county housing authority is required to execute deeds of the property to the municipal housing authority, which is required to file the deeds with the county clerk of the county where the real property is located. Provides that when housing authorities are merged in the manner provided by this section a person with rights or remedies against the county housing authority may assert, enforce, and prosecute those rights or remedies against the municipal housing authority.

Provides that the vesting of the real property in the municipal housing authority is not contingent upon compliance with the county housing authority's requirement to execute deeds of the property to the municipal housing authority, which is required to file the deeds with the county clerk of the county where the real property is located.

Establishes that at the time housing authorities are merged, the county housing authority ceases to exist, except for the purpose of winding up the affairs of the authority and executing the deeds of real property to the municipal housing authority.

Provides that, notwithstanding Section 392.017(b) (relating to authorizing a municipal housing authority to undertake a housing project outside the boundaries of the municipality in which it is authorized to exercise its powers only under certain circumstances), Local Government Code, the area of operation of a merged

housing authority is the county in which the authority is created, excluding any part of the county that is within the territorial boundaries of a municipality other than the municipality operating the municipal housing authority into which the county housing authority was merged.

Authorizes the area of operation of a merged housing authority, in addition to certain other housing authorities, to extend to and include another municipality, county, or other political subdivision of this state, under the terms of a cooperation agreement made under Section 392.059 (Cooperation With Other Governmental Entities or Housing Authorities), Local Government Code.

Authorizes a merged housing authority, in addition to a county or regional housing authority, to borrow money, accept grants, and exercise its powers to provide housing for farmers of low income.

Authorizes the owner of a farm operated, or worked on, by farmers of low income in need of safe and sanitary housing to file an application with a merged housing authority requesting that the authority provide safe and sanitary housing for the farmers. Requires the housing authority to consider the applications in connection with the formulation of projects or programs to provide housing for farmers of low income.

Appointment of a Board Member of a Property Owners' Association to Fill a Vacancy—H.B. 3176
by Representative Bohac—Senate Sponsor: Senator Taylor

Current law states that to fill a vacancy on the board of a property owners' association the vacancy must have occurred because of resignation, death, or disability. In practice, this means that if a board seat is vacant because there was no candidate to fill it at the time of election, that spot cannot be filled until the term for that seat is up. This bill:

Authorizes a governing body of a property owners' association (board) member to be appointed by the board to fill a vacancy on the board. Requires a board member appointed to fill a vacant position to serve for the remainder of the unexpired term of the position.

Property Owners' Association Management Certificates in County Records—H.B. 3800
by Representative Coleman—Senate Sponsor: Senator Hinojosa

Under current law, a Texas residential property owners' association is required to record a management certificate in the real property records in each county in which any portion of a residential subdivision to which the act applies is located. However, there is no consistent method of indexing the certificates in the various county clerks' offices. This bill:

Requires the county clerk of each county in which a management certificate is filed to record the management certificate in the real property records of the county and index the document as a "Property Owners' Association Management Certificate."

Requires each property owners' association that is subject to Section 209.004 (Management Certificates), Property Code, immediately before September 1, 2013, to ensure that all management certificates are recorded and indexed in accordance with Section 209.004(a-1), Property Code, as added by this Act, on or after September 1, 2013, and not later than January 1, 2014, to file the association's management

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certificate under that section, regardless of whether the association filed a management certificate before September 1, 2013. Provides that this does not affect the time in which a property owners' association is required to file the association's management certificate under Section 209.004, Property Code, if the association's initial duty to file the management certificate arises on or after September 1, 2013.

Housing Plan Developed and Certain Housing Information Collected and Reported—S.B. 109

by Senators West and Hinojosa—House Sponsor: Representative Dutton

The Texas Department of Housing and Community Affairs (TDHCA) is required to annually produce the State of Texas Low Income Housing Plan (SLIHP) to report on general policy issues and focus on the needs of specific populations, such as individuals with special needs and the homeless. Currently, veterans, farmworkers, youth who are aging out of foster care, and elderly individuals are not included in the specific populations section of SLIHP. Additionally, a requirement of TDHCA to collect foreclosure data, which was placed in statute last session, ended up costing TDHCA more than originally anticipated. This bill:

Requires that the annual low-income housing report include among certain content a comprehensive statement of the activities of the TDHCA during the preceding year to address the needs identified in the state low income housing plan prepared as required by Section 2306.0721 (Low Income Housing Plan), Government Code, including TDHCA's progress in meeting the goals established in the previous housing plan, including goals established with respect to the populations described by Section 2306.0721(c)(1) (relating to providing the requirements of the Low Income Housing Plan), Government Code, and recommendations on how to improve the coordination of TDHCA services to the populations described by Section 2306.0721(c)(1), Government Code.

Requires that the integrated state low income housing plan include an estimate and analysis of the size and the different housing needs of certain populations in each uniform state service region, including veterans, farmworkers, youth who are aging out of foster care, and elderly individuals. Requires that the integrated state low income housing plan also include the number and geographic location of those foreclosures in the state.

Repeals Section 51.0022 (Foreclosure Data Collection), Property Code.

Home Loan Program Operated by Texas State Affordable Housing Corporation—S.B. 286

by Senator Hinojosa—House Sponsor: Representative Greg Bonnen

The professional educators home loan program and the firefighter, law enforcement or security officer, and emergency medical services personnel home loan program are both operated and administered by The Texas State Affordable Housing Corporation (TSAHC) for the purpose of assisting working Texas families in achieving the goal of homeownership. Additionally, the firefighter, law enforcement or security officer, and emergency medical services personnel home loan program expires September 1, 2014. This bill:

Renames the "Firefighter, Law Enforcement or Security Officer, and Emergency Medical Services Personnel Home Loan Program" to "Homes for Texas Heroes." Redefines "home" for purposes of this program to include "professional educator" as an approved resident. Defines "allied health program faculty

member," graduate allied health program," "graduate professional nursing program," "professional educator," "professional nursing program faculty member," and "undergraduate allied health program."

Requires TSAHC to include professional educators in the program and adds professional educators to all the program's requirements and restrictions. Establishes that a professional educator is one who is employed by a school district or is an allied health or professional nursing program faculty member in this state.

Removes the expiration date of the program. Removes the previous section establishing the separate professional educators home loan program and the fire fighter, law enforcement or security officer, and emergency medical services personnel home loan program.

Obligations of Residential Landlords—S.B. 630

by Senators Carona and West—House Sponsor: Representative Naishtat

The Property Code, which governs the rights and responsibilities of both tenants and landlords, is silent on a landlord's statutory duty to provide a tenant with a copy of the tenant's lease. While many landlords regularly provide tenants a copy of their lease, regardless of the provisions of the Property Code, there are instances where tenants enter into a lease and are not provided with a copy.

Under the Property Code, landlords are prohibited from retaliating against tenants when the tenant has engaged in lawful conduct including exercising a right or remedy against a landlord, providing a landlord with a notice to repair, or complaining in good faith to the governmental entity responsible for enforcing building or housing codes. However, unlike the majority of other states, current law does not prohibit retaliatory actions by the landlord for the tenant's participation or involvement with a tenant organization. This bill:

Requires a landlord, not later than the third business day after the date the lease is signed by each party to the lease, to provide at least one complete copy of the lease to at least one tenant who is a party to the lease.

Requires the landlord, if more than one tenant is a party to the lease, not later than the third business day after the date a landlord receives a written request for a copy of a lease from a tenant who has not received a copy of the lease to provide one complete copy of the lease to the requesting tenant.

Provides that a landlord's failure to provide a complete copy of the lease does not invalidate the lease or prevent the landlord from prosecuting or defending a legal action or proceeding to enforce the lease.

Prohibits a landlord from continuing to prosecute and requires a court to abate an action to enforce the lease, other than an action for nonpayment of rent, only until the landlord provides to a tenant a complete copy of the lease if the tenant submits to the court evidence in a plea in abatement or otherwise that the landlord failed to comply with this Act.

Authorizes a landlord to comply with this section by providing to a tenant a complete copy of the lease in a paper format, in an electronic format if requested by the tenant, or by email if the parties have communicated by email regarding the lease.

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Prohibits a landlord from retaliating against a tenant by taking an retaliatory action because the tenant takes certain actions, including establishes, attempts to establish, or participates in a tenant organization.

Compliance and Programs at the Texas Department of Housing and Community Affairs—S.B. 659 *by Senator West—House Sponsor: Representative Dutton*

Currently, TDHCA, is only authorized to debar, or prohibit, applicants who violated state and federal rules from application to, or participation in, future awards through the Low-Income Housing Tax Credit program. However, there are other programs and funds allocated by TDHCA. This bill:

Requires TDHCA to develop, and the governing board of TDHCA (board) by rule to adopt, a policy providing for the debarment of a person from participation in programs administered by TDHCA. Authorizes TDHCA to debar a person from participation in a TDHCA program on the basis of the person's past failure to comply with any condition imposed by TDHCA in the administration of its programs. Requires TDHCA to debar a person from participation in a TDHCA program if the person materially or repeatedly violates any condition imposed by TDHCA in connection with the administration of a TDHCA program, including a material or repeated violation of a land use restriction agreement regarding a development supported with a housing tax credit allocation. Authorizes a person debarred by TDHCA from participation in a TDHCA program to appeal the person's debarment to the board.

Requires TDHCA, for a violation other than a violation that poses an imminent hazard or threat to health and safety, to provide the owner of a development with 30 days for a failure to file the annual owner's compliance report and 90 days for any other failure to comply under this section to correct a failure to comply with a condition or law described by Section 2306.6719(a)(1) (relating to authorizing TDHCA to contract with an independent third party to monitor a development during its construction or rehabilitation for compliance with any conditions imposed by TDHCA in connection with the allocation of housing tax credits to the development), Government Code, or Section 2306.6719 (a)(2) (relating to authorizing TDHCA to contract with an independent third party to monitor a development during its construction or rehabilitation for compliance with appropriate state and federal laws, as required by other state law or by the board), Government Code. Authorizes the executive director of TDHCA (director), for good cause shown, to extend the periods provided. Prohibits a development, for purposes of determining eligibility to apply for and receive financial assistance from TDHCA, from being considered to be in noncompliance with an applicable condition or law if the owner of the development takes appropriate corrective action during the period provided. Requires TDHCA to submit to the applicable federal agency any report required by federal law regarding an owner's noncompliance with a condition or law; and for purposes of developing and administering the policy relating to debarment, consider recurring violations of a condition or law, including violations that are corrected during the applicable period.

Purchase of a Home Though a Reverse Mortgage—S.J.R. 18 *by Senator Carona—House Sponsor: Representative Villarreal*

A reverse mortgage for purchase allows homeowners, age 62 or older, to use a Federal Housing Administration-insured home equity conversion mortgage to finance the acquisition of a new home. Currently, reverse mortgages for purchase are not expressly permitted in the Texas Constitution, although traditional reverse mortgages are authorized. A traditional reverse mortgage allows homeowners age 62 or

older to borrow against the equity of their homestead. Under current law, borrowers are not obligated to make principal or interest payments unless triggered by specific occurrences codified in the Texas Constitution. Current law further requires mandatory counseling for all reverse mortgages, with the prerequisite that the individual own their home. This resolution proposes a constitutional amendment to:

Authorize reverse mortgages for purchase of a homestead property; require the prospective borrower and the spouse of the prospective borrower to participate in counseling prior to closing; and require that the borrower be issued a detailed disclosure 12 days prior to closing.

Require that the disclosure clearly and conspicuously inform the borrower of situations in which foreclosure could occur.

Postjudgment Interest in Medicare Subrogation and Filings in Liability Claims—H.B. 658 *by Representatives Sheets and Krause—Senate Sponsor: Senator Watson*

In Medicare subrogation lien cases, defendants are currently forced to wait for the issuance of a recovery demand letter from the Center for Medicare and Medicaid before making payment on their judgment. While a defendant is waiting for this letter, post judgment interest accrues on the lien, increasing the total cost paid. Defendants may be forced to pay additional costs due to delay caused by the federal government. This bill:

Provides that interest on damages subject to Medicare subrogation not accrue on the unpaid balance of an award of damages to a plaintiff before the defendant receives a recovery demand letter issued by the Centers for Medicare and Medicaid Services or a designated contractor.

Provides that postjudgment interest does not accrue if the defendant pays the unpaid balance before the 31st day after the date the defendant receives the recovery demand letter.

Provides that this Act does not apply if the defendant appeals the award of damages.

Provides that this does not prevent the accrual of postjudgment interest on any portion of an award to which the United States does not have a subrogation right under federal law.

Amends the health care liability law to:

- require a claimant to serve the expert report on a defendant not later than the 120th day after the date that defendant's original answer is filed, rather than from the date of the petition; and
- require a defendant physician or health care provider file and serve any objection to the sufficiency of the report not later than the later of the 21st day after the date the report is served or the 21st day after the date the defendant's answer is filed.

Automobile Insurance Coverage—H.B. 949

by Representative Smithee et al.—Senate Sponsor: Senator Watson

Prior to 2003, an insurance company was required to include coverage for a newly acquired or replaced vehicle in its standard personal Texas automobile policy. Since 2003, the newly acquired and replaced vehicle coverage has not been required as standard coverage for a personal automobile insurance policy, although most insurers include such coverage.

However, because insurers have different policies, problems have arisen for purchasers who acquire a vehicle, particularly on a weekend or holiday, who are not able to contact their insurance company or insurance agent to verify that they are covered. The purchaser unknowingly drives a vehicle that is not covered, leaving the purchaser at risk. This is also problematic for the automobile dealer who cannot tell from looking at the proof of coverage whether the purchaser's policy provides coverage during the transition period. This bill:

Requires that a personal automobile insurance policy contain a provision defining a covered vehicle for a motor vehicle acquired by the insured during the policy term.

Provides that coverage is required only for a vehicle that is a private passenger automobile, or a pickup, utility vehicle, or van with a gross vehicle weight of 25,000 pounds or less that is not used for the delivery or transportation of goods, materials, or supplies, other than samples, unless the delivery of the goods, materials, or supplies is not the primary use for which the vehicle is employed, or the vehicle is used for farming or ranching.

Provides that coverage is required only for a vehicle that is acquired during the policy term and of which the insurer is notified on or before the 20th day after the date on which the insured becomes the owner of the vehicle, or a later date specified by the policy.

Requires that coverage for a vehicle that replaces a covered vehicle shown in the declarations for the policy be the same as the coverage for the vehicle being replaced.

Requires an insured to notify the insurer of a replacement vehicle during the above prescribed time only if the insured wishes to add coverage for damage to the vehicle, or continue existing coverage for damage to the vehicle after that period expires.

Requires that coverage for a vehicle that is acquired during the policy term in addition to the covered vehicles shown in the declarations for the policy and of which the insurer is notified be the broadest coverage provided under the policy for any covered vehicle shown in the declarations.

Providing Information to State Employees Regarding Insurance Coverage—H.B. 1265

by Representative Guillen—Senate Sponsor: Senator Zaffirini

Men have a one-in-six chance and women a one-in-ten chance of not surviving from age 35 to normal retirement age. Most United States workers believe they have a two percent or less risk of becoming disabled, but the actual probability of becoming disabled for three months or longer is closer to 30 percent. This bill is based on a Legislative Budget Board recommendation. This bill:

Requires the board of trustees (board) administering the Employees Retirement System of Texas (ERS) to by rule ensure that employees receive information about life coverage, accidental death and dismemberment coverage, and long-term and short-term loss of salary coverage, if those coverages are included in a group coverage plan.

Requires that this information contain descriptions of probabilities of death and disability and policy exclusions and limitations.

Authorizes the board by rule to provide this information in printed materials for new employees.

Authorizes the board to use printed materials, online presentations, and educational presentations to ensure the information is provided to employees.

Requires the board, if applicable, to annually review these materials and presentations to determine whether changes are necessary.

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Requires the Texas Department of Insurance, if applicable, to adopt rules for considering and making changes to the materials or presentations.

Requires the board to publish the required information on the ERS website.

Requires the board to adopt rules to implement this Act not later than January 1, 2014.

Surplus Lines Insurance Premium Taxes—H.B. 1405 *by Representative Smithee—Senate Sponsor: Senator Carona*

Current law designates the surplus lines agent of record as the party responsible for paying the surplus lines insurance premium tax. The designation of the responsible party is clear when the transaction involves only one party. However, there are instances where transactions involve more than one licensed surplus lines agent. Typically one agent exercises underwriting authority for the insurance carrier, and another agent or broker will be responsible for interacting with the insured. Involving two agents creates uncertainty as to which agent is responsible for filing taxes, retaining information, or performing other agent duties. This bill:

Requires the surplus lines agent to collect from the insured the surplus line tax at the time of delivery of the cover note, certificate of insurance, policy, or other initial confirmation of insurance and the full amount of the gross premium charged by the eligible surplus lines insurer for the insurance.

Requires the managing underwriter to collect, report, and pay the surplus line tax if a surplus lines agent places an insurance policy with a managing underwriter.

Authorizes a surplus lines agent and a managing underwriter to enter into an agreement to provide that the surplus lines agent is responsible for filing, reporting, collection, payment, and all other requirements under state law, including the requirement to pay the surplus line tax and file the tax report.

Requires that an agreement be in writing and be entered into at or before the time coverage is bound by the insurer under the policy.

Authorizes the agreement to apply to multiple policies or all policies between a surplus lines agent and a managing underwriter.

Requires a surplus lines agent for the filing, reporting, collection, payment, and other requirements imposed by state law not later than the 60th day after the later of the effective date or the issue date of new or renewal surplus lines insurance, to file with the Surplus Lines Stamping Office of Texas (stamping office) a copy of the policy issued, or if the policy has not been issued, a copy of the certificate, cover note, or other confirmation of insurance delivered to the insured.

Requires the surplus lines agent to also promptly file certain other documents with the stamping office.

Requires a surplus lines agent for the filing, reporting, collection, payment, and other requirements imposed to report to and file with the stamping office a copy of each surplus lines insurance contract as provided in the stamping office's plan of operation.

Authorizes the Texas Department of Insurance (TDI) to accept that filing instead of the filings with the stamping office.

Requires a surplus lines agent to maintain a complete record of each surplus lines contract obtained by the agent, including if applicable, an agreement under the provisions of tax collocations by an agent.

Requires a managing underwriter with whom an insurance policy is placed in the manner under the provisions of tax collocations by an agent to maintain appropriate records and make the records available for inspection by TDI and the comptroller of public accounts of the State of Texas, including records of an agreement, if any, under the provisions of tax collocations by an agent that applies to the policy.

Contractual Subrogation Rights of Payors of Certain Benefits—H.B. 1869
by Representative Price et al.—Senate Sponsor: Senator Duncan

Relating to contractual subrogation and other recovery rights of certain insurers and benefit plan issuers. Under current Texas law, when a health insurance policy owner is injured by another party and that policy holder receives payment from the health insurance carrier, the carrier has the right to take action to collect damages against the other party. This is called subrogation. One issue is when the carrier pays the injured claimant's medical bills and the injuring party lacks sufficient coverage to pay the claimant's medical expenses. In some such cases, the carrier then claims a significant amount of, or even all of, the claimant's recovery to reimburse itself for the amounts it paid the claimant. This bill:

Adds Chapter 140 (Contractual Subrogation Rights of Payors of Certain Benefits) to the Civil Practice and Remedies Code:

- Defines "covered individual," "payor of benefits," and "payor."
- Provides that this chapter applies to an issuer of a health benefit plan.
- Exempts from this chapter certain specified programs or plans.
- Provides that in the event of a conflict between this chapter and another law, this chapter controls.
- Authorizes an issuer of a plan that provides payments or medical benefits to or on behalf of a covered individual as a result of a personal injury caused by the tortious conduct of a third party to contract to be subrogated to and have a right of reimbursement for payments made or costs of benefits provided from the individual's recovery for that injury, subject to this chapter.
- Limits the share of recovery by all payers if an injured covered individual is entitled by law to seek a recovery from the third-party tortfeasor for benefits paid or provided by a subrogee :
 - when a covered individual is not represented by an attorney in obtaining a recovery, to an amount that is equal to the lesser of one-half of the covered individual's gross recovery; or the total cost of benefits paid, provided, or assumed by the payor as a direct result of the tortious conduct of the third party; or
 - when a covered individual is represented by an attorney in obtaining a recovery, to an amount that is equal to the lesser of one-half of the covered individual's gross recovery, less attorney's fees and procurement costs; or the total cost of benefits paid or assumed by the payor as a direct result of the tortious conduct of the third party, less attorney's fees and procurement costs.
- Provides that a common law doctrine that requires an injured party to be made whole before a subrogee makes a recovery does not apply to the recovery of a payor.

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- Bars a court from awarding costs or attorney's fees to any party in the action if a declaratory judgment action is brought under this chapter.
- Requires a payor whose interest is not actively represented by an attorney in an action to recover for a personal injury to a covered individual to pay to an attorney representing the covered individual a fee in an amount determined under an agreement entered into between the attorney and the payor, plus a pro rata share of expenses incurred in connection with the recovery.
- Requires a court, in the absence of such an agreement, to award to the attorney, payable out of the payor's share of the total gross recovery, a reasonable fee for recovery of the payor's share, not to exceed one-third of the payor's recovery.
- Requires a court, if the attorney representing the payor actively participates in obtaining a recovery, to apportion between the covered individual's and the payor's attorneys a fee payable out of the payor's subrogation recovery.
- Provides that in apportioning the award: the court must consider the benefit accruing to the payor as a result of each attorney's service; and the total attorney's fees may not exceed one-third of the payor's recovery.
- Bars a payor from pursuing a recovery against a covered individual's first-party recovery.
- Authorizes a payor of benefits to pursue recovery against uninsured/underinsured motorist coverage or medical payments coverage only if the covered individual or the covered individual's immediate family did not pay the premiums for the coverage.
- Provides that this chapter does not create a cause of action or prevent a payor of benefits from waiving, negotiating, or not pursuing any claim or recovery.

Repeals Section 172.015 (Subrogation; Adequate Recovery), Local Government Code.

Participation by Institutions of Higher Education in State Group Benefits Program—H.B. 2127

by Representative Howard et al.—Senate Sponsor: Senator Watson

Current law allows adjunct faculty members at Texas' public colleges and universities to participate in the group health insurance plans administered by the Employees Retirement System of Texas (ERS), The University of Texas System, and the Texas A&M University System. However, participation is severely limited by stringent eligibility guidelines and the eligibility criteria exclude most adjunct librarians. This bill:

Changes the eligibility requirements for an adjunct faculty member at a public institution of higher education, providing that the person must have taught least one course in the regular fall and spring semester at the public institution of higher education in the preceding academic year, rather than each semester in the three preceding academic years.

Provides that a professional librarian who is an adjunct faculty member at a public institution of higher education is eligible to participate in the group benefits program as an employee if the faculty member receives compensation as an adjunct faculty member.

Requires the ERS board of trustees to include coverage in an insurance policy or contract or evidence of coverage delivered, issued for delivery, or renewed on or after January 1, 2014.

Authorizes the board of trustees to include coverage before January 1, 2014, if the board determines that the coverage may reasonably be included.

Eligibility of Dependents For Coverage Under State Employee Group Benefits—H.B. 2155

by Representative Callegari—Senate Sponsor: Senator Duncan

Under current law, the Employees Retirement System group benefits program covers a member's mentally or physically incapacitated child over the age of 25 years only if the child was previously enrolled in certain insurance coverage. This bill:

Strikes eligibility provisions requiring a child who is mentally or physically incapacitated to be at least 26 years old and be enrolled as a participant in certain health benefits coverage.

Life Settlement Contracts For the Payment of Long-Term Care and Consideration of a Life Insurance Policy in Determining Eligibility For Medical Assistance—H.B. 2383

by Representative Eiland et al.—Senate Sponsor: Senator Duncan

Interested parties recommend enabling Medicaid applicants who own a life insurance policy to enter into a life settlement contract to cover their long-term care expenses. This bill:

Defines "long-term care services and support" (LTCSS) for added Section 32.02613 (Life Insurance Assets; Life Insurance Policy Conversion), Human Resources Code.

Authorizes the owner of a life insurance policy with a face amount of more than \$10,000 to enter into a life settlement contract for the benefit of a recipient of LTCSS in exchange for direct payments to a health care provider for the provision of those services to that recipient or to the state to offset the costs of providing those services to that recipient under the medical assistance program.

Requires that the proceeds of a life settlement contract be used for the payment of LTCSS, except for the amount specified for funeral expenses, and authorizes the medical assistance program, to the extent feasible and allowed under federal law, to act only as the secondary payor for LTCSS provided to a person who is eligible for medical assistance and for whose benefit an owner of a life insurance policy has entered into a life settlement contract.

Requires that such a life settlement contract, in addition to the requirements under Chapter 1111A (Life Settlement Contracts), Insurance Code, provide that the lesser of five percent of the face amount of the life insurance policy or \$5,000 is reserved and is payable to the owner's estate or a named beneficiary for funeral expenses; provide that the balance of proceeds under the life settlement contract that are unpaid on the death of the owner must be paid to the owner's estate or a named beneficiary; and specify the total amount payable for the benefit of the recipient of LTCSS under the life settlement contract.

Requires that all proceeds of such a life settlement contract be held in an irrevocable state or federally insured account for the benefit of the recipient of LTCSS or for payment as otherwise required.

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Authorizes only a recipient of LTCSS for whose benefit an owner enters into such a life settlement contract to choose the provider and type of services provided to the recipient and paid for out of the described account described, and provides that any attempt by a person to require the recipient to choose a specific provider is strictly prohibited and constitutes an unfair method of competition or an unfair or deceptive act or practice under the Insurance Code.

Requires a person who enters into a life settlement contract with an owner of a life insurance policy under the section to maintain a surety bond executed and issued by an insurer authorized to issue surety bonds in this state; a policy of errors and omissions insurance; or a deposit in the amount of \$500,000 in any combination of cash, certificates of deposit, or securities.

Requires a life settlement contract provider who enters into life settlement contracts with owners of life insurance policies, in accordance with the requirements of Chapter 1111A, Insurance Code, to file with the Texas Department of Insurance (TDI) all life settlement contract forms used by the provider and all advertising and marketing materials used by the provider.

Provides that Section 1111A.022(a)(2)(A) (relating to requiring that antifraud initiatives include an antifraud plan, which is required to be submitted to the commissioner of insurance and is required to include a description of the procedures for detecting and investigating possible fraudulent life settlement acts and procedures for resolving material inconsistencies between medical records and insurance applications), Insurance Code, does not apply to a life insurance policy that is the subject of such a life settlement contract if the contract has been in force at least five years.

Prohibits a claim against a life settlement contract provider with whom an owner of a life insurance policy enters into a life settlement contract by the owner, the owner's estate, a named beneficiary, or any other person with respect to the contract from exceeding the face amount of the policy, less the proceeds paid under the contract, plus the total amount of premiums paid by the owner since entering into the contract, and requires a life settlement contract provider to pay a claim from the funds in the described account.

Authorizes TDI, in accordance with Chapter 1111A, Insurance Code, to conduct periodic market examinations of each person who enters into such a life settlement contract with an owner of a life insurance policy.

Requires the Health and Human Services Commission (HHSC) or an agency operating part of the medical assistance program, as appropriate, to educate applicants for LTCSS under the medical assistance program about options for life insurance policies, including options that do not allow a life insurance policy to be considered as an asset or resource in determining eligibility for medical assistance.

Requires the executive commissioner of HHSC (executive commissioner), in consultation with the commissioner of insurance, to adopt rules necessary to implement the added section and requires that the rules ensure that proceeds from a life settlement contract are used to reimburse the provider of LTCSS or the state to offset the cost of medical assistance LTCSS; eligibility and need for medical assistance are determined without considering the balance of proceeds from a life settlement contract; and payments to a provider of LTCSS and applied income payments are made in accordance with Chapter 32 (Medical Assistance Program), Human Resources Code.

Provides that the entry into a life settlement contract by an owner of a life insurance policy is not the only method by which the owner may avoid having the policy considered as an asset or resource in determining the eligibility of the owner for medical assistance.

Prohibits HHSC or an agency operating part of the medical assistance program, as appropriate, notwithstanding the provisions of the section, from implementing a provision of the section if HHSC determines that implementation of the provision is not cost-effective or feasible. Provides that subject to this provision, the executive commissioner is required, not later than January 1, 2014, to adopt rules necessary to implement the added section.

Provides that the change in law made by the Act applies only to a determination of eligibility of a person for medical assistance benefits made on or after January 1, 2014, subject to the above provision, and provides that a determination of eligibility made before January 1, 2014, is governed by the law in effect immediately before the effective date of the Act, and the former law is continued in effect for that purpose.

Health Benefit Coverage For Facilities Providing Brain Injury Rehabilitation—H.B. 2929

by Representative Sheets—Senate Sponsor: Senator Deuell

Chapter 1352 (Brain Injury), Insurance Code, extends medically necessary post-acute brain injury health care coverage to certain eligible policyholders. Most insurance carriers adhere to the intent of this statute, with one major exception. This carrier, whose market includes State of Texas employees and retirees after it took over the Employees Retirement System of Texas (ERS) health care plan contract, has refused to take over patients' coverage when they were receiving treatment from a provider licensed as an assisted living facility (ALF), claiming that such coverage is custodial care, even though these ALFs are licensed and accredited to provide a full continuum of specialized post-acute brain injury rehabilitation. This bill:

Provides that Chapter 1352 applies to a basic coverage plan under Chapter 1551 (Texas Employees Group Benefits Act) and to group health coverage made available by a school district in accordance with the Education Code.

Provides that Chapter 1352 does not apply to a standard health benefit plan issued under Chapter 1507 (Consumer Choice of Benefits Plans), Insurance Code.

Provides that to the extent that a change in law made to Chapter 1352 after January 1, 2013, would otherwise require this state to make a payment under the federal Patient Protection and Affordable Care Act, a qualified plan is not required to provide a benefit that exceeds the specified essential health benefits required under federal law.

Prohibits a health benefit plan under Chapter 1352 from imposing an annual limitation on the number of days of post-acute care treatment covered under the plan.

Prohibits a health benefit plan from limiting the number of days of covered post-acute care or the number of days of covered inpatient care to the extent that the treatment or care is determined to be medically necessary as a result of and related to an acquired brain injury.

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Requires the insured's or enrollee's treating physician to determine whether treatment or care is medically necessary in consultation with the treatment or care provider, the insured or enrollee, and, if appropriate, members of the insured's or enrollee's family.

Provides that such determination is subject to review.

Prohibits an issuer of a health benefit plan that contracts with or approves admission to a service provider under Chapter 1352 from refusing to contract with or approve admission to an ALF for services that are required under this chapter, within the scope of the ALF's license, and within the scope of the services provided under a nationally recognized accredited rehabilitation program for brain injury.

Requires the issuer of a health benefit plan that requires or encourages insureds or enrollees to use health care providers designated by the plan to ensure that the services required by Chapter 1352 that are within the scope of the license of an ALF are made available and accessible to the insureds or enrollees at an adequate number of ALFs.

Bars a health benefit plan from treating care provided in accordance with Chapter 1352 as custodial care solely because it is provided by an ALF if the facility holds a nationally recognized accreditation for a rehabilitation program for brain injury.

Authorizes the commissioner of insurance to require that a licensed ALF that provides covered post-acute care other than custodial care under Chapter 1352 hold a nationally recognized accreditation for a rehabilitation program for brain injury.

Compensatory Payments and Reinsurance Agreements With Title Insurance—H.B. 3106

by Representative Morrison—Senate Sponsor: Senator Carona

Texas law requires most title insurance policies to be generated based on evidence from geographically indexed title companies from the county in which the relevant property is located. For every transaction, the local title producing agent must gather and produce all title evidence at the inception of the process, but does not receive compensation until the policy is actually issued. While some projects are completed quickly, ensuring that the rural title company is compensated in a timely manner, other projects, such as large utility projects, can require months or years to complete. In those instances, the rural title company has no mechanism for immediate compensation and instead must wait out the duration of the project until the title insurance policy is actually issued.

The lag-time associated with these utility projects is typically not a problem for title companies located in larger cities because unlike their rural counterparts, they generate regular and consistent title insurance premiums. In contrast, the rural title companies often generate significantly fewer premiums and waiting years to receive compensation can put rural companies at financial risk. This bill:

Provides that this Act applies to a utility project that is designed to produce, generate, transmit, distribute, sell, or furnish electric energy, and valued on completion at more than \$25 million.

Authorizes a payment for furnishing title evidence for the issuance of a title insurance policy related to a project to be a flat fee or fee calculated on an hourly basis that is payable on the date the title evidence is

furnished and does not exceed \$25,000, or a portion of the title insurance premium based on the percentage established by the commissioner of insurance (commissioner) for payment by a title insurance company, title insurance agent, or direct operation for services performed by another title insurance company, title insurance agent, or direct operation, and payable on the date of the issuance of the policy for which the evidence is furnished.

Requires that the payment be made by the proposed insured to the title insurance company, title insurance agent, or direct operation that furnishes the title evidence, and credited against the title insurance premium charged for the issuance of the title insurance policy for which the evidence is furnished.

Provides that nothing in this Act may be construed to allow the payment of an amount in violation of the premium rates promulgated or the division of premium established by the commissioner.

Provides an exception to a payment to a reinsurer for a certain assumption of reinsurance.

Authorizes a title insurance company to obtain reinsurance by a reinsurance treaty or other reinsurance agreement from an assuming insurer with a financial strength rating of B+ or better from the A. M. Best Company that meets certain requirements, if the title insurance company has provided the Texas Department of Insurance with an affidavit that contains facts that demonstrate the title insurance company was unable after diligent effort to procure sufficient reinsurance from another title insurance company, and states the terms of the reinsurance treaty or other reinsurance agreement that the title insurance company will obtain.

Health Benefit Coverage For Enrollees With Autism Spectrum Disorder—H.B. 3276
by Representative Simmons et al.—Senate Sponsor: Senator Deuell et al.

Current law requires insurers to cover expenses for enrollees diagnosed with autism spectrum disorder from the date of diagnosis until the enrollee completes nine years of age. However, interested parties assert that a critical oversight exists with respect to insurers' coverage of screening for autism spectrum disorder, even though coverage of treatment begins on the date a child is diagnosed. This bill:

Requires a health benefit plan, at a minimum, to provide coverage for screening a child for autism spectrum disorder at the ages of 18 and 24 months and treatment of autism spectrum disorder.

Expands those eligible to provide treatment to include an individual acting under the supervision of a health care practitioner.

Provides that the coverage requirements do not apply to a qualified health plan if a determination is made that Chapter 1355 (Benefits for Certain Mental Disorders), Subchapter A (Group Health Benefit Plan Coverage), Insurance Code, requires the qualified health plan to offer benefits in addition to the essential health benefits required by the federal Patient Protection and Affordable Health Care Act; and Texas must make payments to defray the cost of the additional benefits mandated by this subchapter.

Administration of and Benefits Payable by TRS—H.B. 3357 by Representatives Callegari and Murphy—Senate Sponsor: Senator Duncan

The Teacher Retirement System of Texas (TRS) delivers retirement and related benefits as authorized by law for TRS members and their beneficiaries. Interested parties contend that to comply with fiduciary standards, funds held in the TRS trust must be used exclusively for the benefit of members. These parties assert that technical and clarifying changes need to be made to the current laws regulating TRS to provide for the efficient delivery of benefits. This bill:

Authorizes a person who is not a member of the TRS board of trustees (board) to speak at the meeting from a remote location by telephone conference call.

Authorizes certain retirees to change the optional annuity selection made by the retiree to a standard service or disability retirement annuity.

Provides that if the beneficiary is the spouse or former spouse of the retiree, the beneficiary must sign a notarized consent to such change.

Requires a court in a divorce proceeding involving the retiree and beneficiary to approve or order the change.

Provides that such change cancels the designation of beneficiary with respect to the optional annuity benefit but does not cancel a designation with respect to any other benefit payable by TRS on the death of the retiree.

Provides that if the beneficiary designated at the time of the retiree's retirement was the spouse of the retiree at the time of the designation and the parties divorce after the designation, the former spouse who was designated beneficiary must give written, notarized consent to the change of beneficiary.

Expands the pool of persons the governor must use when appointing two members to the TRS board of trustees (board) to include persons currently employed or have been employed by a charter school, or regional education service center.

Authorizes the board or its audit committee to conduct a closed meeting in accordance with Subchapter E (Procedures Relating to Closed Meeting), Chapter 551, Government, with TRS' internal or external auditors to discuss certain specified topics; and to deliberate or confer with a third person or persons regarding a procurement to be awarded by the board if, before conducting the closed meeting, a majority of the trustees in an open meeting vote that deliberating or conferring in an open meeting would have a detrimental effect on the position of the retirement system in negotiations with a third person.

Requires the board to vote or take final action on the procurement in an open meeting.

Provides that the medical board appointed by the board is not subject to subpoena regarding findings it makes in assisting the TRS executive director or board, and that its members may not be held liable for any opinions, conclusions, or recommendations.

Requires the board to adopt a code or codes of ethics applicable to trustees, employees, and certain contractors or any categories of contractors.

Authorizes any code of ethics adopted to:

- impose enhanced disclosure requirements on employees exercising significant fiduciary authority;
- impose disclosure requirements on contractors for certain expenditures; or
- address topics related to ethical conduct.

Strikes provisions regarding financial disclosures.

Provides that violations of the common law of conflict of interests do not void TRS contracts.

Requires TRS to adopt procedures for disclosing and curing violations of the common law of conflict of interests.

Strikes provisions limiting TRS' payment of certain administrative expenses and its ability to transfer certain interest.

Strikes requirements that TRS staff report to the board at each meeting regarding certain funds; and that TRS annually provide summaries of these reports to certain specified persons.

Strikes a provision providing that certain money appropriated by the state to TRS remain in the general revenue fund until expenses are approved.

Strikes provisions regarding the use of certain previously unreported service for establishing service credit.

Expands provisions that certain records are confidential and not subject to public disclosure to include information about the records of a participant.

Expands confidentiality regarding certain records and information to an administering firm, carrier, attorney, consultant, or governmental agency acting in cooperation with or on behalf of TRS.

Adds email addresses to information TRS is not authorized to compile or disclose.

Expands "participant" to include an employee or contractor of an employer covered by TRS for whom records were received by TRS for the purpose of administering the terms of the plan.

Requires employers to provide TRS with information specifying the type of position held by each member and the work email address for each member.

Makes the following changes regarding dependents:

- expands the definition to include a child who is lawfully placed for legal adoption; and
- changes references to "recognized natural child" to "natural child."

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Authorizes a trustee to spend a part of the money received for the group program to offset a part of the costs for optional coverage paid by retirees if the group program is projected to remain financially solvent during the currently funded biennium.

Authorizes a school district to contract with another district or an open-enrollment charter holder for services at a campus charter.

Provides that an employee of the district or open-enrollment charter holder providing contracted services to a campus charter is eligible for membership in and benefits from TRS if the employee would be eligible for membership and benefits if holding the same position at the employing district or open-enrollment charter school operated by the charter holder.

Repeals Section 825.211 (Certain Interests in Loans, Investments, or Contracts Prohibited), Government Code; Section 825.411 (Payroll Deductions for Credit Service), Government Code; and Section 1579.103 (Definition of Employee), Insurance Code.

Declarations Page For Residential Property Insurance—S.B. 112 *by Senator Lucio et al.—House Sponsor: Representative Smithee*

Consumers often assume that the deductible percentage is applied to the amount of the loss. It is not. It applies to the insured value of the home. Deductibles on health plans are calculated as a percentage of the claim, and consumers utilize their health plans on a more regular basis than their homeowners insurance so this misunderstanding is natural.

Listing the dollar amounts of all deductibles on the declarations page would help eliminate this confusion and educate the consumer about the value he or she is receiving for the premium paid. Many large companies already state deductibles in terms of dollar amounts. This requirement would address an issue that is more common among small insurers that are not utilizing time-tested forms. This bill:

Requires that a residential property insurance policy form include a declarations page that lists and identifies each type of deductible under the residential property insurance policy and states the exact dollar amount of each deductible under the residential property insurance policy.

Requires that the declarations page, if a residential property insurance policy or an endorsement attached to the policy contains a provision that may cause the exact dollar amount of a deductible under the policy to change, identify or include a written disclosure that clearly identifies the applicable policy provision or endorsement.

Requires that the policy provision or endorsement explain how any change in the applicable deductible amount is determined.

Authorizes a disclosure containing a list, or a disclosure containing an identification of each applicable policy provision or endorsement, to be provided on a page separate from the declarations page.

Outstanding Total Liability of a Mortgage Guaranty Insurer—S.B. 147
by Senator Deuell—House Sponsor: Representative Smithee

Private mortgage insurance helps lenders make funds available to home buyers for low down payment mortgages by insuring these institutions against a significant portion of the financial risk or default. The private mortgage insurance industry's mission is to help put as many people as possible into homes sooner for less money down, and to ensure that they stay in those homes. By insuring conventional low down payment mortgages, private mortgage insurers have made homeownership a reality for more than 800,000 Texans.

Repealing the retained risk and reinsurance provisions of Section 3502.158 (Limit on Coverage for Certain Insureds), Texas Insurance Code, would reduce costs. The repeal of the statute will reduce costs for companies and the Texas Department of Insurance (TDI) without any increase in risk since the risk is currently retained in the company and its affiliates.

The 25 percent limitation contained in this statute has never achieved its intended purpose, which was to shift a portion of the risk of default to third-party reinsurers. Third-party reinsurance for mortgage guaranty insurance turned out to be non-existent. As a result, reinsurance to meet the statutory requirement is now provided by affiliated reinsurers set up for that purpose. These transactions provide no new capital and only add to costs.

In order to meet the demand by lenders for higher coverage, the statutory requirement forces these companies to establish, license, and maintain separate affiliated entities, and to capitalize them to meet minimum statutory requirements as well as expected losses. Separate books and records, periodic reports, and licenses must also be maintained for each entity both by the companies and TDI. Incurring these significant costs and administrative burdens is of no benefit when all of the risk remains within the company and its affiliates. This bill:

Deletes existing text requiring a mortgage guaranty insurer to compute the insurer's liability for the purposes of this section on the basis of the insurer's liability under the election as provided by Section 3502.158 (Limit on Coverage for Certain Insureds).

Repeals Section 3502.158, Insurance Code.

Verification of Motor Vehicle Financial Responsibility Information—S.B. 181
by Senators Hegar and West—House Sponsor: Representative Guillen et al.

Current law requires the operator of a motor vehicle, on request, to provide evidence of financial responsibility to a peace officer or to a person involved in an accident with the operator. Evidence of financial responsibility may be exhibited through a liability insurance policy or a photocopy of such a policy, a standard proof of motor vehicle liability insurance provided by the Texas Department of Insurance, an insurance binder that confirms the operator is in compliance, a surety bond certificate, a certificate of deposit with the comptroller of public accounts of the State of Texas covering the vehicle, a copy of the certificate of deposit, or a certificate of self-insurance covering the vehicle issued. By increasing the options for displaying evidence of financial responsibility allowing a driver to show proof of insurance on a

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wireless communication device would make it easier for the operator of that vehicle to comply with state law. This bill:

Allows the use of an image displayed on a wireless communication device that includes the information required for a standard proof of motor vehicle liability insurance form as provided by a liability insurer as acceptable evidence of financial responsibility under circumstances in which a motor vehicle operator is required to provide such evidence on request to a peace officer or a person involved in an accident with the operator.

Prohibits a peace officer who has access to a financial responsibility verification program from issuing a citation for a violation relating to establishing financial responsibility for a motor vehicle unless the officer attempts to verify through the program that financial responsibility has been established for the vehicle and is unable to make that verification.

Specifies that the display of an image that includes such financial responsibility information on a wireless communication device does not constitute effective consent for a law enforcement officer, or any other person, to access the contents of the device except to view the information.

Specifies that the authorization of the use of a wireless communication device to display such financial responsibility information does not prevent a court of competent jurisdiction from requiring a person to provide a paper copy of the person's evidence of financial responsibility in a hearing or trial or in connection with discovery proceedings or the commissioner of insurance from requiring a person to provide a paper copy of the person's evidence of financial responsibility in connection with any inquiry or transaction conducted by or on behalf of the commissioner.

Exempts a telecommunications provider from liability to the operator of the motor vehicle for the failure of a wireless communication device to display such financial responsibility information.

Inquires Made by the Texas Department of Insurance—S.B. 183 *by Senator Carona—House Sponsor: Representative Sheets*

Under Section 38.001 (Inquiries) of the Insurance Code, the Texas Department of Insurance (TDI) is authorized to issue a request for information to any insurer in the state and the insurer must respond within 10 days after the date of the request. The Insurance Code permits TDI to request information related to an insurer's business condition or any matter connected with that insurer's transactions that TDI considers necessary for the public good or the proper discharge of its duties. This broad authority can mean that information requests have the potential to be substantial. Due to the amount of time and resources it can take to gather the relevant information, in some instances, 10 days is an inadequate amount of time to prepare a response. This bill:

Requires a person receiving an inquiry under Subsection (b) to respond to the inquiry in writing not later than the 15th day, rather than the 10th day, after the date the inquiry is received.

Requires TDI, if TDI receives written notice from the person that additional time is required to respond to the inquiry, to grant a 10-day extension of the time to respond to the inquiry.

Requires TDI to maintain a record of all inquiries made by TDI under this Act.

Insurer's Duty to Provide Information in a Fraud Investigation—S.B. 411

by Senator Carona—House Sponsor: Representative Eiland

Under Section 701.108 (Insurer's Duty to Provide Information), Insurance Code, insurers have a duty to provide information or material requested by an authorized governmental agency relating to a matter under investigation. The fraud unit of the Texas Department of Insurance (TDI) issues requests to insurers relating to criminal fraud investigations under the authority of this statute. Currently, there is no timeline within which the insurers must respond to those requests, although fraud investigations are time-sensitive and accumulating relevant evidence is necessary for the fraud unit's investigation. This bill:

Requires an insurer, on the written request of an authorized governmental agency, to provide to the agency any relevant information or material relating to a matter under investigation.

Requires an insurer to respond to a request from TDI not later than the 15th day after the date the request is received.

Requires TDI, on written request of the insurer, to extend the period 10 days.

Self-Insurance Funds Established by Governmental Units—S.B. 531

by Senator Duncan—House Sponsor: Representative Smithee

Section 2259.031 (Establishment of Fund), Government Code, authorizes a governmental unit to establish a self-insurance fund to protect the governmental unit and its officers, employees, and agents from any insurable risk or hazard. These funds were created to provide affordable coverage for the variety of risks encountered by cities and other political subdivisions throughout Texas. Current law does not specifically provide that self-insurance funds may purchase reinsurance (contract made between an insurer and a third party to limit the insurer's potential liability). Various statutes and rules applicable to political subdivisions require that they enter into insurance contracts. In addition, some licensing agencies and other authorities require proof of insurance in the form of an insurance certificate or require an insurance agent's signature, countersignature, or approval. Self-insurance funds provide coverage, but not insurance. This bill:

Authorizes a governmental unit to purchase reinsurance for a risk covered through its self-insurance fund (fund).

Provides that any law or regulation requiring insurance may be satisfied by coverage provided through the fund; and a certificate of insurance or an insurance agent's signature, countersignature, or approval may be satisfied by a certificate of coverage issued on behalf of the governmental unit demonstrating that coverage is provided through the fund.

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Insurance Deposit Requirements—S.B. 631

by Senator Carona—House Sponsor: Representative Morrison

Section 406 (Special Deposits Required under Potentially Hazardous Conditions) of the Texas Insurance Code states that the commissioner of insurance (commissioner) can require an insurer to submit a deposit to the Office of the Comptroller of Public Accounts of the State of Texas (comptroller) if the commissioner determines that certain conditions exist that may be hazardous to the insurer's policyholders, enrollees, or creditors or to the public. Hazardous conditions generally relate to the insurer's financial or operating condition, the insurer's relationship with affiliates, the nature and amount of the insurer's investments, and contracts or agreements the insurer has entered into that may lead to contingent liability or relate to guaranty or surety. Often, these hazardous situations can be rectified and in those instances, insurers may request to withdraw their deposit. The commissioner has the sole discretion to approve or deny a request, subject to appeal at the insurer's discretion. Current law requires the commissioner to approve or deny the request by formal order, which is inefficient and labor intensive. This bill:

Requires the commissioner to issue a letter approving or an order denying, rather than an order approving or denying, an application under this section not later than the 30th day after the date the Texas Department of Insurance receives the application.

Prohibits the comptroller from releasing a deposit made under this chapter, or any part of the deposit, and prohibits the comptroller from accepting a substitute for a deposited security unless the commissioner issues a letter, rather than an order, approving the withdrawal or substitution.

Barring Insurers From Capping Fees For Certain Optometric Services or Products—S.B. 632

by Senator Carona—House Sponsor: Representative Lozano

When a provider participating in a health care plan treats a patient for a condition or with a procedure that is not covered by the plan, generally the provider bills the patient for the provider's usual and customary fee. However, some insurers by contract limit the amount a provider, such as an optometrist, can charge an insured patient for services or products not covered by the plan. Current law prohibits insurers from capping fees on noncovered dental services. This bill:

Defines "covered product or service" and "vision care product or service."

Prohibits a contract between an insurer and an optometrist or therapeutic optometrist from limiting the fee the optometrist or therapeutic optometrist may charge for a product or service that is not a covered product or service; or requiring a discount on a product or service that is not a covered product or service.

Standard Request Form For Prior Authorization of Prescription Drug Benefits—S.B. 644

by Senator Huffman—House Sponsor: Representative Zerwas

Prior authorization is often required by insurance companies, pharmacy benefits managers, and workers' compensation carriers for some medicines before they can be dispensed to patients and paid for by the insurer. Each insurer has different prior authorization forms and the number of forms has increased,

resulting in a time-consuming process for physicians and pharmacists before patients receive their medication. This bill:

Adds Subchapter F (Standard Request Form for Prior Authorization of Prescription Drug Benefits) to Chapter 1369, Insurance Code:

- Defines "prescription drug."
- Sets forth the types of a health benefit plans covered by this subchapter.
- Requires the commissioner of insurance by rule to:
 - prescribe a single, standard form for requesting prior authorization of prescription drug benefits;
 - require a health benefit plan issuer (issuer) or the agent of the issuer that manages or administers prescription drug benefits (agent) to use such form;
 - require the Texas Department of Insurance (TDI) and an issuer or its agent make the form available electronically on their respective websites; and
 - establish penalties for failure to accept the form and acknowledge receipt of the form as required by commissioner rule.
- Requires an issuer or its agent, not later than the second anniversary of the date national standards for electronic prior authorization of benefits are adopted, to exchange prior authorization requests electronically with a prescribing provider who has e-prescribing capability and who initiates a request electronically.
- Requires the commissioner, in prescribing the form, to:
 - develop the form with input from the advisory committee on uniform prior authorization forms (committee); and
 - consider certain state or federal forms, as well as national or draft standards.
- Requires the commissioner to appoint the committee to advise the commissioner on the developing the single, standard prior authorization form.
- Requires the advisory committee to determine:
 - a single standard form for requesting prior authorization of prescription drug benefits;
 - the length of the standard prior authorization form;
 - the length of time allowed for acknowledgement of receipt of the form by the issuer or its agent;
 - the acceptable methods to acknowledge receipt; and
 - the penalty for failure to acknowledge receipt of the form.
- Requires the commissioner to consult with the committee regarding any proposed rule and authorizes the commissioner to consult the committee with respect to amendment of an adopted rule.
- Requires the commissioner, not later than the second anniversary of the final approval of the standard prior authorization form, and every two years subsequently, to convene the committee to review the standard prior authorization form, examine the form's effectiveness and impact on patient safety, and determine whether changes are needed.
- Sets forth the composition of the committee.
- Provides that a member of the committee serves without compensation.
- Provides that certain specified statutes regarding government advisory committees do not apply to the committee.

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- Provides that an issuer or its agent that fails to use or accept the prescribed form or fails to acknowledge the receipt of a completed form is subject to the penalties established by the commissioner.

Requires the commissioner to prescribe a standard form not later than January 1, 2015.

Refund of Unearned Premium From Automobile or Residential Property Insurance—S.B. 698

by Senator Carona—House Sponsor: Representative Eiland

Section 558.002 (Applicability of Chapter; Refund of Unearned Premium), Insurance Code, requires insurance carriers to promptly refund premiums owed to policyholders upon the cancellation of a policy. The returned money is referred to as "unearned premium." However, because the term "promptly refund" is not clearly defined in code, nor is a timeline within which insurers must return the unearned premium stated. Policyholders do not always receive unearned premium in a timely manner. This bill:

Requires an insurer to refund the appropriate portion of any unearned premium to the policyholder not later than the 15th business day after the effective date of cancellation or termination of a policy of personal automobile or residential property insurance.

Requires a guaranty association to refund any unearned premium not later than the 30th business day after the date the guaranty association receives any necessary and accurate financial information, including supporting accounting information, required to determine unearned premium under a policy of personal automobile or residential property insurance.

Defines "business day" to mean a day other than a Saturday, Sunday, or holiday recognized by this state.

Texas Automobile Insurance Plan Association—S.B. 733

by Senator Carona—House Sponsor: Representative Sheets

Texas law requires motorists to show proof of financial responsibility, typically automobile insurance, as a condition for operating a motor vehicle on the highways, or when registering a vehicle, having the vehicle inspected, and/or receiving and renewing a Texas driver's license. Recognizing that some motorists might have difficulty in obtaining insurance through regular channels, the legislature created the Texas Automobile Insurance Plan Association (association) as the state's automobile insurer of last resort. All insurers writing automobile liability insurance are required to be members of the association. Several statutory issues have been raised relating to the association and need to be addressed.

The association's governing board consists of 15 members who meet as necessary to conduct business. These meetings require a great degree of logistical planning, and there are instances where the governing body would benefit from having the ability to conduct meetings by telephone or teleconference, particularly in the event of a crisis situation. Current law, however, does not permit meetings to be conducted in this manner.

Additionally, the association, like all other insurers in Texas, sets and modifies rates. Currently, the association is required to obtain prior approval for rate changes on an annual basis. This method requires

that a proposed rate change be approved annually by the commissioner of insurance (commissioner) and be subject to a public hearing. This method is time consuming and carries a higher cost for the association. In contrast, admitted insurers in Texas typically employ the file and use method, which allows insurers to file a rate with the Texas Department of Insurance (TDI) and begin using that rate upon filing. However, TDI may later step in if it considers the filed rate to be inappropriate. This bill:

Authorizes the association, to report to the commissioner an authorized insurer's failure to pay the assessment to the association, rather than to the commissioner.

Authorizes the governing committee, notwithstanding Chapter 551 (Open Meetings), Government Code, or any other law, to meet by telephone conference call, videoconference, or other similar telecommunication method for any meeting purpose, including conducting a vote or establishing a quorum, regardless of the subject matter discussed or considered.

Provides that an association meeting is subject to the notice requirements that apply to other meetings of the governing committee.

Requires that the notice of a meeting authorized by this section specify that the location of the meeting is a location at which at least one member of the governing committee is physically present and state clear instructions and requirements for electronic attendance by a member of the governing committee.

Requires that each part of a meeting authorized be audible to the public at the location specified.

Requires that two-way audio communication be available during the entire meeting between all members of the governing committee attending a meeting authorized by this section, and if the two-way audio communication is disrupted so that a quorum of the committee is no longer participating in the meeting, the meeting is prohibited from continuing until the two-way audio communication is reestablished.

Requires that the plan of operation include an incentive program to target underserved geographic areas, which the commissioner by rule is required to designate.

Authorizes the plan of operation to include other incentive programs to encourage authorized insurers to write insurance on a voluntary basis and to minimize the use of the association as a means to obtain insurance.

Requires the association to file, rather than file annually, with TDI rates to be charged for insurance provided through the association for approval by the commissioner.

Authorizes the association to use a rate on the later of the date specified by the association in the filing or the date the rate is approved or considered approved under this subchapter.

Requires the commissioner, not later than the 30th day after the date the association files a rate, excluding a rate to approve the rate if the commissioner determines that the rate meets the standards under Section 2151.201 (Rate Standards) or disapprove the rate if the commissioner determines that the rate does not meet the standards.

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Provides that if the commissioner fails to act on or before the 30th day after the date the rate is filed, the rate is considered approved on the 31st day after the date of filing unless the approval period is extended.

Authorizes the commissioner to extend the approval period for one additional period not to exceed 30 days.

Authorizes the commissioner and the association to agree to extend the approval period for additional periods not to exceed 30 days.

Provides that if the commissioner does not affirmatively approve or disapprove the rate before the extended period expires, the rate is considered approved on the day after the date the extended period expires.

Requires the commissioner, before approving, disapproving, or modifying a filing described by Section 2151.2041, rather than 2151.202, to provide all interested persons a reasonable opportunity to review the filing, obtain a copy of the filing on payment of any legally required cost, and submit to the commissioner written comments, analyses, or information related to the filing.

Requires the commissioner, if the association files a rate that exceeds 105 percent of the current average rate for each coverage written through the association on the date of the filing, to conduct a hearing.

Requires the commissioner, before approving, disapproving, or modifying a filing to provide all interested persons a reasonable opportunity to review the filing, obtain a copy of the filing on payment of any legally required cost, and submit to the commissioner written comments, analyses, or information related to the filing.

Requires the commissioner, not later than the 45th day after the date TDI receives a filing described to schedule a hearing at which interested persons are authorized to present written or oral comments relating to the filing, and to make a conforming change.

Authorizes the association to file with the commissioner an amended filing to comply with the commissioner's comments not later than the 10th day after the date the association receives the commissioner's written disapproval.

Licensing of Captive Insurance Companies—S.B. 734 *by Senator Carona—House Sponsor: Representative Smithee*

Captive insurance companies (captives) are typically formed by large corporations for the purpose of providing insurance exclusively for the corporation. There are a number of types of captives that enable corporations, other entities, and individuals to self-insure, the most traditional type being a pure captive insurance company (pure captive). A pure captive offers a means to self-insure risk originating from a parent company and any affiliates. Under this model, the parent company provides capital in order to adequately fund the captive and, like an admitted carrier, determines what risks it will insure and the premium charged for that risk. Segregated account captive insurance companies are formed by a managing captive insurance company which oversees the individual segregated accounts. Like a pure captive, a segregated account captive insurance company exclusively insures the risk of its owner; however, the assets and liabilities of each segregated account and the managing captive company are separate from one another.

Currently, many other states allow captives. A captive is generally subject to different regulations than a traditional insurance carrier, and insurance commissioners typically have significant discretion to regulate and set the captive's minimum financial requirements based on the financial strength of the captive's owner, the parent company.

The Insurance Code does not currently allow for the formation of captives within the state; however, a number of large companies domiciled in Texas currently have a captive that has been formed in another state with captive enabling legislation. This creates additional expenses and administrative burdens for Texas companies because other states typically impose a number of obligations on an out-of-state company. This bill:

Provides that an annual tax is imposed on each captive insurance company that receives gross premiums subject to taxation.

Provides that the rate of the tax is one-half percent of the company's taxable premium receipts for a calendar year.

Requires the captive insurance company, except as provided by Subsection (c) (relating to providing that captive insurance companies are subject to Texas for-profit corporation law), in determining a captive insurance company's taxable premium receipts, to include the total gross amounts of premiums, membership fees, assessments, dues, revenues, and other considerations for insurance written by the captive insurance company in a calendar year from any kind of insurance written by the company on each kind of property or risk located in this state.

Provides that the following premium receipts are not included in determining a captive insurance company's taxable premium receipts: premium receipts received from another authorized insurer for reinsurance, returned premiums and dividends paid to policyholders, and premiums excluded by another law of this state.

Provides that a company is not entitled to a deduction for premiums paid for reinsurance in determining a captive insurance company's taxable premium receipts.

Provides that the annual minimum aggregate tax to be paid by a captive insurance company under this chapter is \$7,500 and the annual maximum aggregate tax to be paid by a company under this chapter is \$200,000.

Provides that gross premiums subject to taxation are not subject to taxes, surcharges, or other regulatory assessments or fees under this code other than insurance maintenance taxes.

Provides that the total tax imposed by this chapter is due and payable not later than March 1 after the end of the calendar year for which the tax is due.

Requires a captive insurance company that had a net tax liability for the previous calendar year of more than \$1,000 to make semiannual prepayments of tax on March 1 and August 1. Requires that the tax paid on each date be equal to 50 percent of the total amount of tax the company paid under this chapter for the previous calendar year.

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Requires that the tax paid on each date, if the company did not pay a tax under this chapter during the previous calendar year, be equal to the tax that would be owed on the aggregate of the gross premiums for the two previous calendar quarters.

Authorizes the comptroller of public accounts of the State of Texas (comptroller) to refund any overpayment of taxes that results from the semiannual prepayment system prescribed by this section.

Requires a captive insurance company liable for the tax imposed to file annually with the comptroller a tax report on a form prescribed by the comptroller.

Provides that the tax report is due on the date the tax is due.

Authorizes the comptroller by rule to change the dates for reporting and paying taxes to improve operating efficiencies within the agency.

Requires that a change by the comptroller in a reporting or payment date retain the system of semiannual prepayments.

Entitles a captive insurance company to a credit on the amount of tax due for all examination and evaluation fees paid to this state during the calendar year for which the tax is due.

Provides that the limitations provided by Sections 803.007(1) (relating to prohibiting a credit on or an offset against the amount of premium taxes to be paid by a domestic company to the state in a taxable year from being allowed on a fee or examination expense paid to another state) and (2)(B) (relating to prohibiting a credit on or an offset against the amount of premium taxes to be paid by a domestic company to the state in a taxable year from being allowed on an examination expense paid in a different taxable year) for a domestic insurance company apply to a captive insurance company.

Provides that a captive insurance company operating is subject to the Business Organizations Code, including the requirement to be authorized by the secretary of state, to the extent those laws do not conflict with this Act.

Provides that Chapter 823 (Insurance Holding Company Systems) applies to a captive insurance company only if the company is affiliated with another insurer that is subject to Chapter 823.

Authorizes a captive insurance company to write any type of insurance, except as provided by this section, but is authorized to only insure the operational risks of the company's affiliates and risks of a controlled unaffiliated business.

Prohibits a captive insurance company from issuing life insurance; annuities; accident and health insurance for the company's parent and affiliates, except to insure employee benefits that are subject to the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.); title insurance; mortgage guaranty insurance; financial guaranty insurance; residential property insurance; personal automobile insurance; or workers' compensation insurance.

Prohibits a captive insurance company from issuing a type of insurance, including automobile liability insurance, that is required, under the laws of this state or a political subdivision of this state, as a prerequisite for obtaining a license or permit if the law requires that the liability insurance be issued by an insurer authorized to engage in the business of insurance in this state.

Authorizes a captive insurance company to issue a contractual reimbursement policy to an affiliated certified self-insurer or a similar affiliated entity expressly authorized by analogous laws of another state, or an affiliate that is insured by a workers' compensation insurance policy with a negotiated deductible endorsement.

Authorizes a captive insurance company to provide reinsurance to an insurer covering the operational risks of the captive insurance company's affiliates or risks of a controlled unaffiliated business that the captive insurance company is authorized to insure directly and employee benefit plans offered by affiliates; liability insurance an affiliate must maintain as a prerequisite for obtaining a license or permit if the law requires maintenance of the liability insurance; and workers' compensation insurance and employer liability policies issued to affiliates if the insurer that directly issues workers' compensation insurance and employer's liability policies or its licensed, if required by law, administrator or adjuster services all claims incurred during the policy period, and complies with all requirements for an insurer.

Requires a captive insurance company to provide notice to the commissioner of insurance (commissioner) of a reinsurance agreement that the company becomes a party to not later than the 30th day after the date of the execution of the agreement.

Requires a captive insurance company to provide notice of a termination of a previously filed reinsurance agreement to the commissioner not later than the 30th day after the date of termination.

Authorizes a captive insurance company to take credit for reserves on risks or portions of risks ceded to reinsurers.

Requires a captive insurance company to be formed for the purpose of engaging in the business of insurance.

Authorizes a captive insurance company to be formed and operated in any form of business organization authorized under the Business Organizations Code except a risk retention group or general partnership.

Authorizes a captive insurance company to be formed only as a nonprofit corporation if it is controlled by a nonprofit corporation.

Requires that the certificate of formation of a captive insurance company include the name of the company, which may not be the same as, deceptively similar to, or likely to be confused with or mistaken for any other existing business name registered in this state; the location of the company's principal business office; the type of insurance business in which the company proposes to engage; the number of directors or members of the governing body of the company; the number of authorized shares and the par value of the company's capital stock for a captive insurance company formed as a corporation; the amount of the company's initial capital and surplus; and any other information required by the commissioner as necessary to explain the company's objectives, management, and control.

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Requires the board of directors or governing body of a captive insurance company formed in this state to have at least three members, and requires at least one of the members to be a resident of this state.

Requires that the certificate of formation or bylaws of a captive insurance company authorize a quorum of the board of directors or governing body to consist of not fewer than one-third of the fixed number of directors or members of the governing body.

Requires a captive insurance company to maintain reserves in an amount stated in the aggregate to provide for the payment of all losses or claims for which the captive insurance company may be liable and that are incurred on or before the date of the annual report, whether reported or unreported, and unpaid as of the date of the annual report.

Requires a captive insurance company, in addition to the reserves required, to maintain reserves in an amount estimated to provide for the expenses of adjustment or settlement of the losses or claims.

Requires the captive insurance company to use generally accepted accounting principles as an accounting basis except that a captive insurance company that is required to hold a certificate of authority under another jurisdiction's insurance laws is required to use statutory accounting principles.

Prohibits an entity from engaging in business as a captive insurance company domiciled in this state unless it holds a certificate of authority to act as a captive insurance company issued by the Texas Department of Insurance (TDI).

Authorizes a captive insurance company, when permitted by its certificate of formation, to apply for a certificate of authority.

Provides that an entity does not qualify for a certificate of authority unless its affiliates have significant operations in this state, as determined by the commissioner; its board of directors or governing body holds at least one meeting each year in this state; it maintains its principal office and books and records in this state, unless the commissioner grants an application to relocate the entity's books and records; and it complies with Section 804.101 (Domestic Company) or 804.102 (Domestic Company that Maintains Principal Offices or Books, Records, and Accounts Out of State).

Prohibits TDI from issuing a certificate of authority to a captive insurance company unless the company possesses and maintains unencumbered capital and surplus in an amount determined by the commissioner after considering the amount of premium written by the captive insurance company, the characteristics of the assets held by the captive insurance company, the terms of reinsurance arrangements entered into by the captive insurance company, the type of business covered in policies issued by the captive insurance company, the underwriting practices and procedures of the captive insurance company, and any other criteria that has an impact on the operations of the captive insurance company determined to be significant by the commissioner.

Prohibits the amount of capital and surplus determined by the commissioner from being less than \$250,000.

Requires that the capital and surplus be in the form of United States currency; an irrevocable letter of credit, in a form approved by the commissioner and not secured by a guarantee from an affiliate, naming

the commissioner as beneficiary for the security of the captive insurance company's policyholders and issued by a bank approved by the commissioner; bonds of this state; or bonds or other evidences of indebtedness of the United States, the principal and interest of which are guaranteed by the United States.

Requires the incorporators or organizers, to obtain a certificate of authority for a captive insurance company, to pay to the commissioner an application fee and file with the commissioner an application for the certificate of authority, which is required to include a financial statement certified by two principal officers; a plan of operation and projections, which is required to include an actuarial report prepared by a qualified independent actuary; the captive insurance company's certificate of formation; an affidavit by the incorporators, organizers, or officers of the captive insurance company stating that the capital and surplus are the bona fide property of the company, and the certificate of formation is true and correct; and if the application provides for the issuance of shares of stock or other type of equity instrument without par value, a certificate authenticated by the incorporators or officers stating the number of shares or other type of equity instrument without par value that are subscribed, and the actual consideration received by the captive insurance company for those shares or other type of equity instrument.

Authorizes the commissioner, if the commissioner is not satisfied with the affidavit filed to require that the incorporators, organizers, or officers provide at their expense additional evidence before the commissioner takes action on the application.

Provides that the application fee required under this section is \$1,500 or a greater amount set by the commissioner by rule as necessary to recover the cost of administration.

Prohibits the application fee for a complete application filed on or before December 30, 2018, from exceeding \$1,500. Provides that this prohibition expires January 1, 2019.

Requires that fees collected under this section be deposited to the credit of the TDI operating account.

Requires the commissioner, after the application and application fee for a certificate of authority are filed with TDI and the applicant has complied with all legal requirements, to conduct an examination of the applicant to determine whether the minimum capital and surplus requirements are satisfied, the capital and surplus are the bona fide property of the applicant, and the applicant has fully complied with applicable insurance laws.

Authorizes the commissioner to appoint a competent and disinterested person to conduct the examination required by this section.

Requires the examiner to file an affidavit of the examiner's findings with the commissioner.

Requires the commissioner to record the affidavit.

Requires the commissioner to determine whether the capital structure of the applicant meets the requirements of this chapter; the officers or directors of the applicant have sufficient insurance experience, ability, standing, and good record to make success of the captive insurance company probable; the applicant is acting in good faith; and the applicant otherwise satisfies the requirements of this Act.

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Requires the commissioner, in evaluating the application, to consider the amount and liquidity of the applicant's assets relative to the risks to be assumed; the adequacy of the expertise, experience, and character of each individual who will manage the applicant; the overall soundness of the applicant's plan of operations and the projections contained in that plan; whether the applicant's affiliates have significant operations located in this state; and any other factors the commissioner considers relevant to determine whether the applicant will be able to meet its policy obligations.

Requires the commissioner, if the commissioner determines that the applicant has not met the standards set out above, to deny the application in writing, giving the reason for the denial. Requires the commissioner, on the applicant's request, to hold a hearing on a denial.

Requires the commissioner, not later than the 30th day after the date the commissioner receives the applicant's request for a hearing, to set a hearing date.

Requires the commissioner, if the commissioner does not deny the application, to approve the application and issue to the applicant a certificate of authority to engage in business as provided for in the applicant's certificate of formation, certify and file the approved document with TDI, and issue a certified copy of the certificate of authority to the applicant's incorporators or officers.

Prohibits a certificate of authority issued to a captive insurance company from being sold.

Provides that a captive insurance company holding a certificate of authority is not required to file a report, with certain exception.

Requires a captive insurance company that holds a certificate of authority to engage in captive insurance business in this state to file with the commissioner on or before March 1 of each year, a statement of the company's financial condition, verified by two of its executive officers and filed in a format prescribed by the commissioner, and on or before June 1 of each year, a report of its financial condition at last year-end with an independent certified public accountant's opinion of the company's financial condition.

Authorizes a captive insurance company to make a written application to the commissioner for filing its annual report required under this section on a fiscal year-end. Requires the company, if an alternative filing date is granted, to file the annual report not later than the 60th day after the date of the company's fiscal year-end; the report of its financial condition at last year-end with an independent certified public accountant's opinion of the company's financial condition not later than the 150th day after the date the annual report is due; and its balance sheet, income statement, and statement of cash flows, verified by two of its executive officers, before March 1 of each year to provide sufficient detail to support a premium tax return.

Provides that a captive insurance company without segregated accounts is not subject to a restriction on allowable investments.

Authorizes a captive insurance company without segregated accounts to make loans to its affiliates with the prior approval of the commissioner.

Requires that each loan be evidenced by a note approved by the commissioner.

Prohibits a captive insurance company from making a loan of the minimum capital and surplus funds.

Authorizes the commissioner to prohibit or limit an investment that threatens the solvency or liquidity of a captive insurance company.

Prohibits a captive insurance company from amending its certificate of formation unless the amendment has been filed with and approved by the commissioner.

Requires a captive insurance company to notify the commissioner in writing when issuing policyholder dividends.

Prohibits a captive insurance company from joining or contributing financially to any plan, pool, association, or guaranty or insolvency fund in this state, and a captive insurance company, its insured, or any affiliate is not entitled to receive any benefit from a plan, pool, association, or guaranty or insolvency fund for claims arising out of the operations of the company.

Authorizes the commissioner, after notice and an opportunity for hearing, to revoke or suspend the certificate of authority of a captive insurance company for insolvency or impairment of required capital or surplus to policyholders; failure to submit an annual report; failure to comply with the provisions of its own charter or bylaws; failure to submit to examination; failure to pay the cost of examination; failure to pay any tax or fee; removal of its principal office or books and records from this state without prior approval of the commissioner; use of practices that render its operation detrimental to the public or its condition unsound; or failure to otherwise comply with the laws of this state.

Authorizes the commissioner to adopt rules establishing standards to ensure that an affiliated company is able to exercise control of the risk management function of any controlled unaffiliated business to be insured by the captive insurance company.

Authorizes the commissioner after adoption of rules to approve the coverage of these risks by a captive insurance company.

Requires a captive management company, before providing captive management services to a licensed captive insurance company, to register with the commissioner by providing the information required on a form adopted by the commissioner.

Provides that a captive insurance company is subject to maintenance tax on direct premiums for risks located in this state as applicable to the individual lines of business written by the captive insurance company.

Authorizes the commissioner to adopt reasonable rules as necessary to implement the purposes and provisions of this Act.

Provides that any information filed by an applicant or captive insurance company under this Act is confidential and privileged for all purposes, including for purposes of Chapter 552 (Public Information), Government Code, a response to a subpoena, or evidence in a civil action.

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Prohibits the information from being disclosed without the prior written consent of the applicant or captive insurance company to which the information pertains.

Authorizes the commissioner or another person, if the recipient of the information has the legal authority to maintain the confidential or privileged status of the information and verifies that authority in writing, to disclose the information to any of the following entities functioning in an official capacity: a commissioner of insurance or an insurance department of another state; an authorized law enforcement official; a district attorney of this state; the attorney general; a grand jury; the National Association of Insurance Commissioners if the captive insurance company is affiliated with an insurance company that is part of an insurance holding company system as described in Chapter 823; another state or federal regulator if the state or federal regulator is operating in its official capacity and the applicant or captive insurance company to which the information relates operates in the entity's jurisdiction; an international insurance regulator or analogous financial agency operating in an official capacity, if the captive insurance company is affiliated with an insurance company that is part of an insurance holding company system as described in Chapter 823 and the holding company system operates in the entity's jurisdiction; or members of a supervisory college, if the captive insurance company is affiliated with an insurance company that is part of an insurance holding company system as described in Chapter 823.

Authorizes the commissioner to use information described in the furtherance of a legal or regulatory action relating to the administration of this code.

Authorizes an authorized foreign or alien captive insurance company licensed under laws of any jurisdiction to become a domestic captive insurance company in this state on a determination by the commissioner that the authorized foreign or alien captive insurance company has complied with all of the requirements of this chapter for the issuance of a certificate of authority to, and the Business Organizations Code for converting to an entity of this state for, a domestic captive insurance company of the same type.

Authorizes a domestic captive insurance company, on the approval of the commissioner, to transfer its domicile.

Provides that the captive insurance company, on the transfer, ceases to be a domestic captive insurance company.

Requires the commissioner to approve any proposed transfer unless the commissioner determines the transfer is not in the best interest of the policyholders.

Authorizes the commissioner to postpone or waive the imposition of any fees or taxes for a period not to exceed two years for any foreign or alien captive insurance company redomesticating to this state.

Insurance Rating and Underwriting For Certain Insurance Companies—S.B. 736 *by Senator Watson—House Sponsor: Representative Smithee*

Section 551.113 (Declination Prohibited; Consideration of Certain Claims), Insurance Code, prohibits an insurer from considering a customer inquiry as a basis for declination of insurance but does not address the use of that information in rating and other underwriting decisions. Concern has been raised that information collected by an insurance company when one of its policyholders makes an inquiry relating to the

policyholder's policy may be used against the policyholder in setting rates, premiums, or deductibles. This bill:

Prohibits an insurer from using an underwriting guideline based solely on whether a consumer inquiry has been made by or on behalf of the applicant or insured, or charging a rate that is different from the rate charged to other individuals for the same coverage or increasing a rate charged to an insured based solely on whether a consumer inquiry has been made by or on behalf of the applicant or insured.

Prohibits an insurer from considering a customer inquiry as a basis for nonrenewal or cancellation of an insurance policy.

Unlawful Acts Against and Criminal Offenses Involving the Medicaid Program—S.B. 746
by Senators Nelson and West—House Sponsor: Representative Kolkhorst

Interested parties contend that it is necessary to bring the Texas Medicaid Fraud Prevention Act into compliance with certain federal law in order to receive certain federal funds. This bill:

Provides that a person commits an unlawful act if the person commits certain acts, including conspiring to commit a violation of certain unlawful acts related to the Medicaid program; or knowingly makes, uses, or causes the making or use of a false record or statement material to, rather than knowingly makes, uses, or causes the making or use of a false record or statement to conceal, avoid, or decrease, an obligation to pay or transmit money or property to this state under the Medicaid program, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to this state under the Medicaid program.

Deletes the provision that a person commits an unlawful act if the person knowingly enters into an agreement, combination, or conspiracy to defraud the state by obtaining or aiding another person in obtaining an unauthorized payment or benefit from the Medicaid program or a fiscal agent.

Authorizes a person proceeding without the state's participation if the state declines to take over the civil action for a violation of certain unlawful acts to recover for an unlawful act for a period of up to six years before the date the lawsuit was filed, or for a period beginning when the unlawful act occurred until up to three years from the date the state knows or reasonably should have known facts material to the unlawful act, whichever of these two periods is longer, regardless of whether the unlawful act occurred more than six years before the date the lawsuit was filed, and prohibits a person from recovering for an unlawful act that occurred more than 10 years before the date the lawsuit was filed.

Authorizes a court, if the court finds that the action is based primarily on disclosures of specific information, other than information provided by the person bringing the action, relating to allegations or transactions in a Texas or federal criminal or civil hearing, in a Texas or federal legislative or administrative report, hearing, audit, or investigation, or from the news media, to award the amount the court considers appropriate but not more than 10 percent, rather than seven percent, of the proceeds of the action.

Requires that a court's determination of expenses, fees, and costs to be awarded to the plaintiff under Section 36.110(b) (relating to a payment award to a private plaintiff) be made only after the defendant has been found liable in the action or the claim is settled, rather than only after the state settles an action with a

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defendant that the court determined, after a hearing, was fair, adequate, and reasonable in accordance with Section 36.107(c) (relating to authorizing the state to settle an action with a defendant).

Requires the court to dismiss an action or claim under Subchapter C (Action by Private Persons), Chapter 36 (Medicaid Fraud Prevention), Human Resources Code, unless opposed by the attorney general, if substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed in a Texas or federal criminal or civil hearing in which the state or an agent of the state is a party, in a Texas legislative or administrative report, or other Texas hearing, audit, or investigation, or from the news media, unless the person bringing the action is an original source of the information. Redefines "original source" in this subsection.

Deletes provision prohibiting a person from bringing an action under Subchapter C, Chapter 36, Human Resources Code, that is based on the public disclosure of allegations or transactions in a criminal or civil hearing in which the state or an agent of the state is a party, in a legislative or administrative report, hearing, audit, or investigation, or from the news media, unless the person bringing the action is an original source of the information.

Entitles a person, including an employee, contractor, or agent, who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of a lawful act taken by the person or associated others in furtherance of an action under this subchapter, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under Subchapter C, Chapter 36, Human Resources Code, or other efforts taken by the person to stop one or more violations of certain unlawful acts to reinstatement with the same seniority status the person would have had but for the discrimination and not less than two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees.

Requires a person to bring suit on an action under Section 36.115 (Retaliation Against Person Prohibited), Human Resources Code, not later than the third anniversary of the date on which the cause of action accrues, which, for purposes of the section, the cause of action accrues on the date the retaliation occurs.

Repeals Section 36.113(c) (relating to requiring the court, before dismissing an action as barred, to give the attorney general an opportunity to oppose the dismissal), Human Resources Code.

Makes application of the changes in law made by this Act to Section 36.002 (Unlawful Acts), Section 36.110 (Award to Private Plaintiff), Section 36.113 (Certain Actions Barred), and Section 36.115, Human Resources Code, prospective.

Security Deposit Requirements For Certain Insurance Companies—S.B. 801 *by Senator Carona—House Sponsor: Representative Sheets*

The Insurance Code requires general property and casualty companies to deposit \$50,000 in cash or securities with the Texas Department of Insurance (TDI). This requirement is unique to general property and casualty companies and was originally enacted as a protection against insolvency. This provision has become unnecessary as current law gives TDI the authority to require deposits when a company's financial

situation is considered hazardous. Additionally, the \$50,000 requirement is outdated as a single claim could easily exceed that amount. This bill:

Authorizes a general casualty company, if, as a prerequisite to engaging in business of insurance in another state, country, or province, the company is required to deposit with the appropriate officer of that state, country, or province, or with the comptroller of public accounts of the State of Texas (comptroller), securities or cash, to deposit with the comptroller any authorized securities or cash sufficient to meet the requirement.

Authorizes a general casualty company to change the company's securities on deposit with the comptroller by withdrawing those securities and substituting an equal amount of other securities consisting only of United States currency; bonds of any state; bonds or other evidences of indebtedness of the United States the principle and interest of which are guaranteed by the United States; bonds or other interest-bearing evidences of indebtedness of a county or municipality of any state; notes secured by first mortgages on otherwise unencumbered real property in this state the title to which is valid and the payment of which is insured wholly or partly by the United States; or another form of security acceptable to the commissioner of insurance.

Deletes existing text authorizing a general casualty company to change the company's securities on deposit with the comptroller by withdrawing those securities and substituting an equal amount of other securities authorized by Subsection (a) (relating to requiring the company, on granting the charter to the company, to deposit with the comptroller \$50,000).

Repeals Section 861.252(a) (relating to requiring a general casualty company to deposit \$50,000 upon the granting of the charter to a general casualty company) and Section 982.306 (Deposit for Foreign Casualty Company Not Required), Insurance Code.

Regulating Certain Health Care Provider Network Contract Arrangements—S.B. 822
by Senator Schwertner—House Sponsor: Representative Eiland

Many health plans use third-party entities to assemble and credential physicians and other health care providers, to negotiate physician and provider discounts, and to access secondary or rental networks to make their primary networks more robust. Some third-party entities currently profit from inappropriately accessing network contracts and discounting physician or other health care provider payments without the physicians' or providers' permission or agreement. Little is known about the extent of these third parties' presence in the market or their interactions, if any, with the patient, physician, or other health care provider. Without this information, it becomes extremely difficult for the physician and health care providers to detect and identify who has access to their discounts, or whether that access was agreed upon. It may also be difficult for patients to determine whether a physician or provider is actually in their network or to determine the patient's portion of the expense for medical care. This bill:

Adds Chapter 1458 (Provider Network Contract Arrangements) to the Insurance Code:

- Defines "affiliate," "covered individual," "express authority," "health care services," "person," "provider," "provider network contract," and "health benefit plan."
- Provides that this chapter does not apply:

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- under circumstances in which access to the provider network is granted to an entity that operates under the same brand licensee program as the contracting entity; or
- to a contract between a contracting entity and a discount health care program operator.
- Grants the commissioner of insurance (commissioner) authority to adopt rules to implement this chapter.
- Requires a person who does not hold a certificate of authority issued by the Texas Department of Insurance (TDI) to engage in the business of insurance in this state (certificate) or who does not operate a health maintenance organization (HMO) to register with TDI not later than the 30th day after the date on which the person begins acting as a contracting entity in this state.
- Requires a contracting entity that holds a certificate or is an HMO to file an application for exemption from registration.
- Requires that an application for an exemption be accompanied by a list of the contracting entity's affiliates.
- Requires that the list be updated on an annual basis.
- Provides that the list of affiliates is public information.
- Sets forth what a person required to register must disclose.
- Provides that information required under this Act must be submitted in a written or electronic format adopted by the commissioner by rule.
- Authorizes TDI to collect a reasonable fee set by the commissioner as necessary to administer the registration process.
- Requires that such fees collected be deposited in the TDI operating fund.
- Requires the commissioner to grant an exemption for certain affiliates of a contracting entity if the contracting entity holds a certificate or is an HMO.
- Provides that this exemption is granted only to registration and that the entity granted an exemption is otherwise subject to this chapter.
- Sets forth what entities are considered a single separate line of business.
- Prohibits a contracting entity from selling, leasing, or otherwise transferring information regarding the payment or reimbursement terms of the provider network contract (PNC) without the express authority of and prior adequate notification to the provider.
- Provides that the prior adequate notification may be provided in the written format specified by a PNC subject to this chapter.
- Bars a contracting entity from providing a person access to health care services or contractual discounts under a PNC unless the PNC specifically states that the contracting entity may contract with a person to provide access to the contracting entity's rights and responsibilities.
- Provides that the PNC must require the contracting entity, on the request of the provider, to provide information necessary to determine whether a particular person has been authorized to access the provider's health care services and contractual discounts.
- Provides that for a PNC to be enforceable against a provider, the PNC must specify or reference a separate fee schedule for each line of business.
- Sets forth what the separate fee schedule may describe.
- States that the fee information may be provided by any reasonable method, including electronically.
- Authorizes the commissioner, by rule, to add additional lines of business for which express authority is required.

- Provides that a contracting entity may not provide a person access to health care services or contractual discounts under a PNC unless the PNC specifically states that the person must comply with all applicable terms, limitations, and conditions of the PNC.
- Requires a contracting entity to permit reasonable access, including electronic access, during business hours for the review of the PNC.
- Provides that such information may be used or disclosed only for the purposes of complying with the terms of the contract or state law.
- Authorizes the commissioner to impose a sanction or assess an administrative penalty on a contracting entity that violates this chapter or a rule adopted to implement this chapter.
- Sets forth when a provider's express authority is presumed for compliance with this Act.

Insurance For Portable Devices—S.B. 839

by Senator Hancock—House Sponsor: Representative Morrison

Portable electronics insurance protects consumers against loss, theft, damage, and internal malfunction of a portable electronic device. This type of insurance not only ensures that a consumer's investment in such a device is protected, but also ensures that a consumer has very little down time when a problem does occur, often receiving a replacement device the day after a claim has been made.

Texas last amended its law on portable electronics insurance in 2009 and with technology changing and expanding so rapidly an update for insurance regulations is needed to ensure protection of the public and adequate coverage for an expanding market. This bill:

Authorizes an insurer, except as otherwise provided by this subchapter, to terminate or change the terms and conditions of a policy of portable electronics insurance only after notice to the master or group policyholder and each enrolled customer.

Requires that notice be provided not later than the 30th day before the date of the termination or change.

Requires the insurer, if the insurer changes the terms and conditions of the policy, to provide to the master or group policyholder a revised policy or endorsement and provide to each enrolled customer a revised certificate, revised endorsement, updated brochure, or other document indicating that a change in the terms and conditions has occurred and a summary of the material changes and a disclosure, in a font that is capitalized, boldfaced, italicized, or underlined or is larger than or set off from the remainder of the document, that enrollment in coverage is optional and that provides information on how to discontinue enrollment.

Authorizes an insurer to terminate the coverage of an enrolled customer under a portable electronics insurance policy for fraud or material misrepresentation in obtaining coverage or in the presentation of a claim under the coverage.

Prohibits termination of coverage under this section from being effective before the 15th day after the date the insurer provides the customer notice of the termination.

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Authorizes an insurer to terminate the coverage of an enrolled customer under a portable electronics insurance policy without notice for nonpayment of premium, if the enrolled customer ceases to have an active service with the vendor of portable electronics, or if the enrolled customer exhausts the aggregate limit of liability, if any, under the terms of the portable electronics insurance policy.

Requires the insurer, if a portable electronics insurance policy is terminated, to send notice of termination to the enrolled customer not later than the 30th day after the date of exhaustion of the limit.

Requires the insurer, if the notice is not timely sent, to continue the customer's coverage, and provides that the aggregate limit of liability is waived until the insurer sends the notice of termination to the enrolled customer.

Requires a master or group policyholder who terminates a portable electronics insurance policy to provide notice to each enrolled customer, advising the enrolled customer of the termination of the policy and the effective date of termination.

Requires that the notice be provided to the enrolled customer not later than the 30th day before the date the termination becomes effective.

Requires that a notice required by this subchapter, or another notice or correspondence with respect to a portable electronics insurance policy that is required by law, be in writing and sent within the notice period, if any, specified by the statute or rule requiring the notice or correspondence.

Authorizes the notice or correspondence, notwithstanding any other law, to be sent by mail or by electronic means.

Requires that the notice or correspondence, if mailed, be sent to the master or group policyholder at the policyholder's mailing address specified for this purpose and to each affected enrolled customer's last known mailing address on file with the insurer, and requires the insurer or master or group policyholder to maintain proof of mailing in a form authorized or accepted by the United States Postal Service or other commercial mail delivery service.

Requires that the notice or correspondence, if sent by electronic means, be sent to the master or group policyholder at the policyholder's email address specified for this purpose and to each affected enrolled customer's last known email address as provided by the customer to the insurer or master or group policyholder, and requires that the insurer or master or group policyholder maintain proof that the notice or correspondence was sent.

Provides that an enrolled customer's provision of an email address to the insurer or master or group policyholder is considered consent to receive notices and correspondence by electronic means.

Authorizes a notice or correspondence described by this section to be sent on behalf of an insurer or master or group policyholder by a supervising entity appointed by the insurer.

Authorizes a vendor licensed to bill a customer for, and collect from a customer payment for, insurance coverage provided to the customer under this subchapter.

Provides that an insurer issuing a policy to a licensed vendor is considered to have received a premium from a vendor's customer enrolled in coverage on the customer's payment of the premium to the vendor.

Requires a licensed vendor to separately itemize on a customer's bill any charge to the customer for insurance coverage provided under this subchapter that is not included in the cost associated with the purchase or lease of the covered portable electronic device or related services.

Requires a licensed vendor, if insurance coverage provided under this subchapter is included in the cost associated with the purchase or lease of a covered portable electronic device or related services, to, at the time of the purchase or lease, clearly and conspicuously disclose the inclusion of that coverage to the customer.

Rebates or Inducements in Insurance—S.B. 840

by Senator Hancock—House Sponsor: Representative Eiland

Decisions to purchase insurance, or obtain information about insurance products and services, should be based on factors other than the consumer being offered or receiving anything of value.

Under current law, items of nominal value that are promotional, such as pens, calendars, and notepads, are not permitted and are viewed as rebating or inducements. These nominal items are not meaningful rebates of premium, nor do they genuinely induce purchasing decisions. This bill:

Provides that it is not a rebate or discrimination prohibited under Section 541.056(a) (relating to providing that it is an unfair method of competition or an unfair or deceptive act or practice in the business of insurance to knowingly permit certain actions) or 541.057 (Unfair Discrimination in Life Insurance and Annuity Contracts), in connection with an offer or sale of a life insurance policy or contract, accident and health insurance policy or contract, or annuity contract, to give, provide, or allow, or offer to give, provide, or allow an item that is a promotional advertising item, educational item, or traditional courtesy commonly extended to consumers and that is valued at \$25 or less.

Provides that the above does not prohibit an insurer or an insurer's agent or other representative from, in connection with an offer or sale of an insurance policy subject to this subchapter, giving, providing, or allowing or offering to give, provide, or allow an item that is a promotional advertising item, educational item, or traditional courtesy commonly extended to consumers and that is valued at \$25 or less.

Provides that Section 1806.104 (Prohibited Acts) does not prohibit an insurer, an insurer's employee, or a broker or agent from, in connection with an offer or sale of an insurance policy subject to this subchapter, giving, providing, or allowing or offering to give, provide, or allow an item that is a promotional advertising item, educational item, or traditional courtesy commonly extended to consumers and that is valued at \$25 or less.

Provides that Section 1806.153 (Unjust Discrimination; Rebates) does not prohibit an insurer from, in connection with an offer or sale of an insurance policy or contract subject to this subchapter, giving, providing, or allowing or offering to give, provide, or allow an item that is a promotional advertising item, educational item, or traditional courtesy commonly extended to consumers and that is valued at \$25 or less.

Provides that Subsection (c) (relating to prohibiting an agent from paying, permitting, or giving or offering to pay, permit, or give, directly or indirectly, to a person who does not hold a license as an agent certain rebates and fees) does not prohibit an agent from, in connection with an offer or sale of an insurance policy or contract, giving, providing, or allowing or offering to give, provide, or allow an item that is a promotional advertising item, educational item, or traditional courtesy commonly extended to consumers and that is valued at \$25 or less.

Investments Under the Insurance Code—S.B. 841
by Senator Hancock—House Sponsor: Representative Smithee

Texas currently prohibits insurance companies from investing in residential real estate. This prohibition is inconsistent with many states' policies on real estate investment, as well as the National Association of Insurance Commissioners' Model Act. In addition there is a growing demand to allow foreign investment as part of an insurers investment portfolio.

The Texas Department of Insurance, in its biennial report to the 83rd Legislature, identified allowing "additional investment authority for the largest, most financially stable insurers" as a way of attracting more companies to Texas. This bill:

Provides that Section 464.064(d) (relating to prohibiting an insurer from owning, developing, or holding an equity interest in any residential property or subdivision) does not apply to an insurer with admitted assets of \$10 billion or more.

Authorizes an insurer to make investments in foreign countries with funds in excess of minimum capital and surplus if the investments are similar to those authorized in the United States or Canada and meet certain financial limitations.

Prohibits the aggregate amount of an insurer's investments in a single foreign jurisdiction or of an insurer's debt obligations or investments within in a single foreign jurisdiction from exceeding, as to a debt obligation or investment within a foreign jurisdiction that is rated one or two by the securities valuation office, 10 percent of the insurer's admitted asset; or as to any foreign investment other than an investment described above.

Provides that Section 425.119(f) (relating to prohibiting an insurance company from owning, developing, or holding an equity interest in any residential property or subdivision) does not apply to an insurer with admitted assets of \$10 billion or more, as determined from the insurer's annual statements that are made as of the December 31 that precedes the date of the determination and are filed with the Texas Department of Insurance as required by law

Availability of Certain Property and Casualty Forms—S.B. 852
by Senator Taylor—House Sponsor: Representative Smithee

Chapter 35 (Electronic Transactions) of the Insurance Code permits an insurer to deliver a policy electronically, with consent from the insured. However, current state law does not address specific policy

form or type of delivery. Authorizing an insurer to post standard policies online would allow consumers to review policy forms of other insurers and could lead to more information being available for consumers shopping for insurance while reducing mailing, printing, paper, and other costs. This bill:

Authorizes an insurer, notwithstanding any other provision of this code relating to the delivery of policy forms, to elect to make a personal automobile, commercial automobile, inland marine, or residential property insurance policy available to an insured by posting a specimen policy on the insurer's Internet website instead of other authorized means.

Requires an insurer, on request of and at no cost to an insured, to provide to the insured a printed or electronic copy of a specimen policy applicable to the insured that is posted on the insurer's Internet website.

Requires an insurer that posts a specimen policy on the insurer's Internet website to, on issuance or renewal of a policy incorporating the specimen policy on the declarations page of the insured's policy, disclose that the specimen policy is available on the insurer's Internet website; clearly identify each posted specimen policy incorporated into the insured's policy; explain that and how an insured, on request and at no charge, is authorized to obtain a copy of the specimen policy from the insurer; and provide to the Texas Department of Insurance (TDI) and the Office of Public Insurance Counsel (OPIC) an electronic copy of the specimen policy that is authorized to be posted on the Internet website of TDI or OPIC.

Requires an insurer that during an insured's policy period posts a specimen policy or amends a posted specimen policy incorporated into an insured's policy to, on the date the specimen policy is posted or amended, in writing and in the insurer's customary manner of communicating with the insured notify the insured that the specimen policy is available on the insurer's Internet website; clearly identify each added or amended specimen policy incorporated into the insured's policy; and explain that and how the insured, on request and at no charge, is authorized to obtain a copy of the specimen policy from the insurer.

Requires that a specimen policy posted on the insurer's Internet website be, until no policy incorporating the specimen policy is in force, easily accessible on the website and provided in a format readily capable of being saved or printed using a widely available and free computer application or program.

Requires an insurer that posts a specimen policy on the insurer's Internet website under this chapter to for at least five years after the latest date a policy incorporating the specimen policy is in force preserve an electronic copy of the specimen policy, and make a printed or electronic copy of the specimen policy available on request at no cost.

Notice of Premium Increase For Major Medical Expense Policies—S.B. 853

by Senator Taylor—House Sponsor: Representative Sheets

The 82nd Legislature, Regular Session, 2011, enacted H.B. 1951, which requires that consumers with health benefit plan coverage receive adequate 60 days advance notice of premium increases. Interested parties contend that the intent was that the notice provision apply only to major medical insurance, but that under the current statute all accident and health insurance contracts, including supplemental insurance such as specified disease policies and disability policies, have been required to provide notice. This bill:

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Clarifies that the statute requiring notice of rate increase applies only to a major medical expense insurance policy.

Defines "major medical expense coverage."

Operation of Health Care Sharing Ministries—S.B. 874 *by Senator Hegar—House Sponsor: Representative Sanford*

Health care sharing ministries (HCSMs) provide health care cost-sharing arrangements among persons of similar and sincerely held beliefs. An HCSM is administered by a nonprofit religious organization acting as a clearinghouse for those who have medical expenses and those who desire to share the burden of those medical expenses. In an HCSM, one participant sends money, called a share, to other participants to cover medical expenses. HCSMs operate on a voluntary basis, and are regulated as charities. Insurance is a contract under which one party agrees, in exchange for premium payments, to be legally responsible for another's risk of loss. HCSMs are not insurance companies, as no participant assumes financial liability for any other participant's risk or guarantee any payment of medical bills. This bill:

Adds Subtitle K (Health Care Sharing Ministries), Chapter 1681, to Title 8, Insurance Code.

- Sets forth when a faith-based, nonprofit organization that is tax-exempt under the Internal Revenue Code qualifies for treatment as an HCSM.
- Sets forth what must be included in the written disclaimer required on or accompanying all applications and guideline materials distributed by or on behalf of the HCSM.
- Provides that an HCSM that complies with this chapter is not considered to be engaging in the business of insurance.

Exempts HCSMs that comply with Chapter 1681 from certain requirements of the Insurance Code.

Surplus Lines Insurance—S.B. 951 *by Senator Carona—House Sponsor: Representative Eiland*

In 2010, Congress passed the Dodd-Frank Act. The Dodd-Frank Act included a section called the Non-admitted and Reinsurance Reform Act (NRRA), which governs surplus lines and reinsurance. Surplus lines insurance is a type of insurance available for a unique or complex risk that an admitted carrier will not insure. In Texas, surplus lines insurance is governed under Chapter 981 (Surplus Lines Insurance) of the Texas Insurance Code. The NRRA preempts and conflicts with numerous sections in Chapter 981, creating confusion for surplus lines agents and insurers looking to Texas law for guidance. This bill:

Provides that this chapter applies to surplus lines insurance if the home state of the insured is this state.

Deletes existing text providing that this chapter applies to insurance of a subject that is resident, located, or to be performed in this state and that is obtained, continued, or renewed through negotiations or an application wholly or partly occurring or made within or from within this state or premiums wholly or partly remitted directly or indirectly from within this state.

Requires the commissioner of insurance (commissioner), effective on January 1, 2015, and on every fifth January 1 thereafter, by order to adjust the amounts to reflect the percentage change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor for the five-year period immediately preceding January 1 of the year of the adjustment.

Provides that Subsection (a)(1) (relating to authorizing an eligible surplus lines insurer to provide surplus lines insurance only if the full amount of required insurance cannot be obtained from an authorized insurer) does not apply to insurance procured for an exempt commercial purchaser if the agent procuring or placing the insurance discloses to the exempt commercial purchaser that comparable insurance may be available from the admitted market that is subject to more regulatory oversight than the surplus lines market, and a policy purchased in the admitted market may provide greater protection than the surplus lines insurance policy, and after receiving the notice, the exempt commercial purchaser requests in writing that the agent procure the insurance from or place the insurance with an eligible surplus lines insurer.

Provides that Subsection (a) (relating to requiring an eligible surplus lines insurer to maintain capital and surplus in an amount of at least \$15 million) does not apply to alien surplus lines insurers listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department, National Association of Insurance Commissioners.

Deletes existing text of Subsection (b) providing that if an eligible surplus lines insurer is an insurance exchange created by the laws of another state, the syndicates of the exchange are required to maintain under terms acceptable to the commissioner capital and surplus, or the equivalent under the laws of the exchange's domiciliary jurisdiction, in an amount of at least \$75 million in the aggregate; the exchange is required to maintain under terms acceptable to the commissioner at least 50 percent of the policyholder surplus of each individual syndicate in a custodial account accessible to the exchange or the exchange's domiciliary commissioner in the event of insolvency or impairment of the individual syndicate; and an individual syndicate, to be eligible to accept surplus lines insurance placements from this state as an exchange member, must maintain under terms acceptable to the commissioner capital and surplus, or the equivalent under the laws of the exchange's domiciliary jurisdiction, in the amount of at least \$5 million, if the syndicate is a member of an insurance exchange that maintains at least \$15 million for the protection of all exchange policyholders, or the greater of the minimum capital and surplus of the exchange's domiciliary jurisdiction or \$15 million.

Requires an alien surplus lines insurer to be listed on the on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department, National Association of Insurance Commissioners.

Deletes existing text requiring an alien surplus lines insurer, in addition to meeting the minimum capital and surplus requirements prescribed by Section 981.057 (Minimum Capital and Surplus Requirements), to provide evidence that the insurer maintains in the United States an irrevocable trust fund in a Federal Reserve System member bank in an amount of at least \$5.4 million for the protection of all its policyholders in the United States, and the trust fund consists of cash, securities, letters of credit, or investments of substantially the same character and quality as those that are eligible investments for the capital and statutory reserves of an insurer authorized to write similar kinds and classes of insurance in this state.

Requires an insurer, to issue surplus lines insurance in this state, to comply with all applicable nationwide uniform standards adopted by this state in accordance with 15 U.S.C. Section 8204.

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Requires a surplus lines agent to maintain a complete record of each surplus lines contract obtained by the agent, including if applicable, a copy of the daily report; the amount of the insurance and risks insured against; a brief general description of the property insured and the location of that property; the gross premium charged; the return premium paid; the rate of premium charged on the different items of property; the contract terms, including the effective date; the insured's name and post office address; the insurer's name and home office address; the amount collected from the insured; evidence establishing that the insured qualified as an exempt commercial purchaser and that the surplus lines agent complied with certain requirements especially if a diligent effort to obtain insurance in the admitted market was not made; and any other information required by the Texas Department of Insurance.

Repeals Section 981.052 (Good Reputation and Prompt Service Required); Section 981.053 (Competence, Trustworthiness, and Experience Required); Section 981.055 (Failure to Pay Penalty); Section 981.056 (Failure to Pay Premium Taxes); Section 981.059 (Alternative for Certain Insurer Groups); Section 981.060 (Exemption Due to Minimum Premium Level); Section 981.061 (Exemption Due to Certain Insurer Characteristics); and Section 981.062 (Exemption Due to Size of Insurer and Other Factors), of the Insurance Code.

Provides that an alien surplus lines insurer that was an eligible surplus lines insurer as it existed immediately before the effective date of this Act, continues to be an eligible surplus lines insurer.

Requires an alien insurer to comply with the trust fund requirements as they existed immediately before the effective date of this Act, in addition to the minimum capital and surplus requirements.

Information About Private Health Care Insurance Coverage and the Health Insurance Exchange for Individuals Applying For Certain Benefits and Services—S.B. 1057

by Senator Nelson—House Sponsor: Representative Zerwas

The Legislative Budget Board, in its January 2013 report, "Texas State Government Effectiveness and Efficiency Report: Selected Issues and Recommendations," recommended maximizing the use of private health insurance coverage for certain clients served by the Department of State Health Services (DSHS), particularly in response to the anticipated implementation of the health insurance exchange in accordance with the Affordable Care Act and its potential effect on certain programs and services provided by DSHS. This bill:

Defines, in added Section 1001.080 (Health Insurance Coverage Information), Health and Safety Code, "individual's legally authorized representative."

Provides that Section 1001.080, Health and Safety Code, applies to health or mental health benefits, services, or assistance provided by DSHS that DSHS anticipates will be impacted by a health insurance exchange, and includes certain services, programs, and assistance.

Prohibits DSHS, subject to certain other law, from providing the health or mental health benefits, services, or assistance unless the individual applying to receive the benefits, services, or assistance submits to DSHS on the form prescribed by DSHS a statement by the individual or the individual's legally authorized representative attesting that the individual does not have access to private health care insurance that

provides coverage for the benefit, service, or assistance, or, if the individual has access to private health care insurance that provides coverage for the benefit, service, or assistance, the information and authorization necessary for DSHS to submit a claim for reimbursement from the insurer for the benefit, service, or assistance. Requires DSHS, as soon as practicable after the effective date of the Act, to prescribe the required form.

Authorizes DSHS to waive the prohibition for an individual or for the health or mental health benefits, services, or assistance if DSHS determines that a benefit, service, or assistance is necessary during a crisis or emergency.

Defines, in Section 1001.081 (Health Insurance Exchange Information), Health and Safety Code, "health insurance exchange" to mean an American Health Benefit Exchange administered by the federal government under 42 U.S.C. Section 18041 or created under 42 U.S.C. Section 18031, and defines "individual's legally authorized representative."

Authorizes DSHS to develop informational materials regarding health care insurance coverage and subsidies available under a health insurance exchange, and requires DSHS to provide those informational materials to an individual or the individual's legally authorized representative who applies to receive the health or mental health benefits, services, or assistance and has an income above 100 percent of the federal poverty level.

Requires the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules necessary to implement these provisions.

Requires HHSC, as soon as possible after the effective date of the Act, to apply for any waiver or other authorization necessary to implement the Act and authorizes HHSC to delay implementing the Act until the waiver or authorization is granted.

Electronic Transmission of Documentation Involved in Insurance Transactions—S.B. 1074

by Senator Hegar—House Sponsor: Representative Greg Bonnen

Insurers know how to transmit insured documentation electronically, but some sections in the laws specify how some notices must be delivered. Documents can be provided electronically with the consumer's consent, but this law will clarify that electronic delivery will comply with the state's laws and meet the consumer's desire to handle insurance transactions entirely online.

Most states have adopted the Uniform Electronic Transactions Act which validates electronic versions of signatures, records, and storage as the legal equivalent to paper counterparts. Additionally, the federal government enacted the Electronic Signatures in Global and National Commerce Act in 2000 that allows the use of electronic records to satisfy any statute, regulation, or rule of law requiring that such information be provided in writing.

When consenting to do business electronically, consumers will be able to monitor and handle their business needs from anywhere in the world where there is Internet access. This bill:

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Provides that a notice to a party or other written communication with a party required in an insurance transaction or that is to serve as evidence of insurance coverage may be delivered, stored, and presented by electronic means only if the delivery, storage, or presentment complies with Chapter 322 (Uniform Electronic Transactions Act), Business and Commerce Code.

Provides that delivery of a written communication in compliance with this section is equivalent to any delivery method required by law, including delivery by first class mail, first class mail postage prepaid, or certified mail.

Provides that a written communication may be delivered by electronic means to a party by a regulated entity if it provides certain consent and adheres to certain requirements.

Requires the regulated entity, after consent of the party is given, in the event a change in the hardware or software requirements to access or retain a written communication delivered by electronic means creates a material risk that the party may not be able to access or retain a subsequent written communication to which the consent applies, to provide the party with a statement identifying the revised hardware and software requirements for access to and retention of a written communication delivered by electronic means, and disclosing the right of the party to withdraw consent without the imposition of any condition or consequence that was not disclosed and did not comply with state law.

Authorizes the written communication, if a written communication provided to a party expressly requires verification or acknowledgment of receipt, to be delivered by electronic means only if the method used provides for verification or acknowledgment of receipt.

Prohibits the legal effectiveness, validity, or enforceability of any contract or policy of insurance executed by a party from being denied solely due to the failure to obtain electronic consent or confirmation of consent of the party.

Provides that a withdrawal of consent by a party does not affect the legal effectiveness, validity, or enforceability of a written communication delivered by electronic means to the party before the withdrawal of consent is effective.

Provides that a withdrawal of consent is effective within a reasonable period of time after the date of the receipt by the regulated entity of the withdrawal.

Authorizes failure by a regulated entity to comply with state law to be treated by the party as a withdrawal of consent.

Provides that, if the consent of a party to receive a written communication by electronic means is on file with a regulated entity before September 1, 2013, and if the entity intends to deliver to the party written communications under this section, then before the entity may deliver by electronic means additional written communications, the entity must notify the party of the written communications that may be delivered by electronic means that were not previously delivered by electronic means and the party is authorized to withdraw consent to have written communications delivered by electronic means.

Provides that except as otherwise provided by law, an oral communication or a recording of an oral communication may not qualify as a written communication delivered by electronic means.

Provides that if a signature on a written communication is required by law to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the notary public or other authorized person and the other required information are attached to or logically associated with the signature or written communication.

Provides that this Act modifies, limits, or supersedes the provisions of the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001 et seq.) as authorized by Section 102 of that Act (15 U.S.C. Section 7002).

Maximum Allowable Costs Lists Under Medicaid Managed Care Pharmacy Benefit Plan—S.B. 1106
by Senator Schwertner et al.—House Sponsor: Representative John Davis

Interested parties express concern regarding the methodology used by pharmacy benefit managers (PBMs) to reimburse pharmacies participating in the Medicaid managed care program for dispensing certain prescription drugs to Medicaid patients. In these reimbursements, PBMs use a formula based on maximum allowable cost (MAC). These parties contend that there is no transparency in how a PBM determines which drugs will be reimbursed using a MAC formula, what the price will be, when the price will change, and what factors are used to determine MAC prices or price changes. This bill:

Requires a contract between a managed care organization (MCO) and the Health and Human Services Commission (HHSC) for the organization to provide health care services to recipients to contain, among other provisions, subject to a certain provision, a requirement that the MCO develop, implement, and maintain an outpatient pharmacy benefit plan for its enrolled recipients that meets certain criteria, including under which the MCO or pharmacy benefit manager (PBM), as applicable:

- is required, to place a drug on a MAC list, to ensure that the drug is listed as "A" or "B" rated in the most recent version of the United States Food and Drug Administration's Approved Drug Products with Therapeutic Equivalence Evaluations, also known as the Orange Book; has an "NR" or "NA" rating or a similar rating by a nationally recognized reference; and the drug is generally available for purchase by pharmacies in the state from national or regional wholesalers and is not obsolete;
- is required to provide to a network pharmacy provider, at the time a contract is entered into or renewed with the network pharmacy provider, the sources used to determine MAC pricing for the MAC list specific to that provider;
- is required to review and update MAC price information at least once every seven days to reflect any modification of MAC pricing;
- is required to, in formulating the MAC price for a drug, use only the price of the drug and drugs listed as therapeutically equivalent in the most recent version of the Orange Book;
- is required to establish a process for eliminating products from the MAC list or modifying MAC prices in a timely manner to remain consistent with pricing changes and product availability in the marketplace;
- is required to provide a procedure under which a network pharmacy provider may challenge a listed MAC price for a drug; respond to a challenge not later than the 15th day after the date the challenge is made; if the challenge is successful, make an adjustment in the drug price effective on the date the challenge is resolved, and make the adjustment applicable to all similarly situated network pharmacy providers, as determined by the MCO or PBM, as appropriate; if the challenge is denied, provide the

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reason for the denial; and report to HHSC every 90 days the total number of challenges that were made and denied in the preceding 90-day period for each MAC list drug for which a challenge was denied during the period;

- is required to notify HHSC not later than the 21st day after implementing a practice of using a MAC list for drugs dispensed at retail but not by mail; and
- is required to provide a process for each of its network pharmacy providers to readily access the MAC list specific to that provider, a provision which takes effect March 1, 2014.

Provides that, except as provided in the provision regarding access to the MAC list specific to that provider, a MAC list specific to a provider and maintained by an MCO or PBM is confidential.

Requires HHSC, in a contract between HHSC and an MCO, that is entered into or renewed on or after the effective date of this Act, to require that the MCO comply with this law.

Requires HHSC to seek to amend contracts entered into with MCOs before the effective date of this Act to require those MCOs to comply this law. Provides that to the extent of a conflict between the relevant subsection and a provision of a contract with an MCO entered into before the effective date of this Act, the contract provision prevails.

First Party Indemnity Coverage Purchased by Insurance Purchasing Groups—S.B. 1125

by Senator Carona—House Sponsor: Representative Smithee

Chapter 2201 (Risk Retention Groups and Purchasing Groups), Insurance Code, governs risk purchasing groups, which allow a group of individuals engaged in similar business or activities to purchase insurance coverage. Unlike a risk retention group, a risk purchasing group does not bear the group's risks but seeks coverage elsewhere. Risk purchasing groups often purchase additional insurance coverage for other risks that are related to, but not necessarily covered by, the liability insurance policy. The additional coverage may reduce the amount of exposure for claims arising under the liability insurance policy. This bill:

Authorizes a purchasing group composed primarily of employees of a political subdivision, including a county, municipality, or school district, to purchase first-party indemnity coverage, in addition to the liability coverage on a group basis for other risks to which members may be exposed provided that the aggregate coverage limit per group member for the risk does not exceed three percent of the per member coverage limit for liability coverage.

Authorizes a purchasing group to notify the commissioner of insurance of the group's intent to purchase coverage not later than the 60th day before the date the policy that includes the coverage is initially issued.

Provider Protection Plan—S.B. 1150

by Senators Hinojosa and Schwertner—House Sponsors: Representatives Guerra and Raymond

Interested parties assert that as the Medicaid managed care system is expanded, there is a need for modification and reform to allow for increased efficiency and enhanced provider engagement and

protection, particularly protections regarding prompt payment and reimbursement, prompt credentialing, and "red tape" elimination. This bill:

Requires the Health and Human Services Commission (HHSC), or an agency operating part of the state Medicaid managed care program, as appropriate, to develop and implement a provider protection plan that is designed to reduce administrative burdens placed on providers participating in a Medicaid managed care model or arrangement implemented under Chapter 533 (Implementation of Medicaid Managed Care Program), Government Code, and to ensure efficiency in provider enrollment and reimbursement, and requires HHSC, as soon as possible, but not later than September 1, 2014, to implement the provider protection plan.

Requires HHSC, or an agency operating part of the state Medicaid managed care program, as appropriate, to incorporate the measures identified in the plan, to the greatest extent possible, into each contract between a managed care organization (MCO) and HHSC for the provision of health care services to recipients.

Requires the provider protection plan to provide for:

- prompt payment and proper reimbursement of providers by MCOs;
- prompt and accurate adjudication of claims through provider education on the proper submission of clean claims and on appeals; acceptance of uniform forms through an electronic portal; and the establishment of standards for claims payments in accordance with a provider's contract;
- adequate and clearly defined provider network standards that are specific to provider type, including physicians, general acute care facilities, and other provider types defined by HHSC or an agency that is operating part of the state Medicaid managed care program, as appropriate, network adequacy standards in effect on January 1, 2013, and that ensure choice among multiple providers to the greatest extent possible;
- a prompt credentialing process for providers;
- uniform efficiency standards and requirements for MCOs for the submission and tracking of preauthorization requests for services provided under the Medicaid program;
- establishment of an electronic process through which providers in any MCO's provider network may submit electronic claims, prior authorization (PA) requests, claims appeals and reconsiderations, clinical data, and other documentation that the MCO requests for PA and claims processing, and obtain electronic remittance advice, explanation of benefits statements, and other standardized reports;
- the measurement of the rates of retention by MCOs of significant traditional providers;
- the creation of a work group to review and make recommendations concerning any of these requirements for which immediate implementation is not feasible at the time the plan is otherwise implemented, including the required process for submission and acceptance of attachments for claims processing and PA requests through an electronic process and, for any requirement that is not implemented immediately, recommendations regarding the expected fiscal impact of implementing the requirement and expected timeline for implementation of the requirement; and
- any other provision that HHSC or an agency operating part of the state Medicaid managed care program, as appropriate, determines will ensure efficiency or reduce administrative burdens on providers participating in a Medicaid managed care model or arrangement.

Standard Request Form For Prior Authorization of Health Care Services—S.B. 1216

by Senator Elife—House Sponsor: Representative Sarah Davis

Health benefit plan issuers require physicians to fill out a prior authorization form when the physician or provider requests a procedure, service, or supply that falls under their required list of items requiring prior authorization. Each health benefit plan issuer can have multiple prior authorization forms for the various services or supplies requested. Processing these various forms can delay and negatively impact patient care. This bill:

Adds Chapter 1217 (Standard Request Form For Prior Authorization of Health Care Services) to the Insurance Code:

- Defines "health benefit plan issuer" and "health care services."
- Sets forth which health benefit plans are covered under this chapter.
- Requires the commissioner of insurance (commissioner) by rule to:
 - prescribe a single, standard form for requesting prior authorization of health care services;
 - require a health benefit plan issuer (issuer) or the agent of the issuer that manages or administers health care services benefits (agent) to use the form for any prior authorization required by the plan of health care services; and
 - require the Texas Department of Insurance (TDI) and an issuer or agent to make the form available in paper form and electronically on their respective websites.
- Requires an issuer or agent:
 - not later than the second anniversary of the date national standards for electronic prior authorization of benefits are adopted, to exchange prior authorization requests electronically with a physician or health care provider who has electronic capability and who initiates a request electronically; and
 - for requests initiated on paper, to accept prior authorization requests using the standard paper form developed pursuant to this chapter.
- Requires the commissioner to:
 - develop the form with input from the committee on uniform prior authorization forms for health care services benefits (committee); and
 - consider certain state or federal forms, as well as national or draft standards.
- Requires the commissioner to appoint the committee to advise the commissioner on the technical, operational, and practical aspects of developing the single, standard prior authorization form.
- Requires the commissioner to consult with the committee regarding any proposed rule and authorizes the commissioner to consult the committee with respect to amendment of an adopted rule.
- Sets forth the composition of the committee.
- Provides that a member of the committee serves without compensation.
- Provides that certain specified statutes regarding government advisory committees do not apply to the committee.
- Provides that nothing in this chapter may be construed as:
 - authorizing the commissioner to decline to prescribe the form; and
 - permitting an issuer or agent to require prior authorization of health care services benefits when otherwise prohibited by law.

Requires the commissioner, not later than January 1, 2015, to by rule prescribe the standard form.

Use of Medicaid-Based Fee Schedule For Certain Reimbursement of Services—S.B. 1221

by Senator Paxton—House Sponsor: Representative Smithee

Medicaid has historically paid lower reimbursement rates for provider services than rates paid through commercial insurance plans. Significant changes in health care scheduled to occur in 2014 have created uncertainty about the impact on providers' compensation for health care services. While providers may agree to accept a low reimbursement rate for Medicaid patients, they may not be willing to provide services at that rate for patients covered under commercial health plans. This bill:

Prohibits an insurance company, health maintenance organization, or preferred provider organization (company or organization) that contracts with a health care provider to provide services in connection with Chapter 533 (Implementation of Medicaid Managed Care Program), Government Code, or Chapter 62 (Child Health Plan for Certain Low-Income Children), Health and Safety Code, from requiring the provider to provide access to or transfer the provider's name and contracted discounted fee for use with health benefit plans issued to individuals and groups under Chapter 1271 (Benefits Provided by Health Maintenance Organizations; Evidence of Coverage; Charges) or 1301 (Preferred Provider Benefit Plans), Insurance Code..

Authorizes a company or organization to provide access to or transfer a provider's name and discounted fee described only if:

- the company or organization provides written notice to the provider that is printed in conspicuous boldface type near a separate signature line and includes a statement substantially similar to the following: "By signing on this line, you may be agreeing to apply this company's Medicaid or CHIP fee schedule to services you provide to commercial insurance or HMO enrollees."; and
- the provider authorizes the access or transfer and agrees to accept the contracted discounted fee by signing such notice.

Defining Large and Small Employers Regarding Health Benefit Plans—S.B. 1332

by Senator Duncan—House Sponsor: Representative Smithee

The Texas Insurance Code defines a small employer as an entity that employs two to 50 eligible employees and a large employer as an entity that employs 51 or more eligible employees. This definition does not include part-time (noneligible) employees. The use of this definition results in more Texas employers being classified as small rather than large employers. Federal law defines employer size based on the total number of employees, including part-time employees. Recent changes in federal laws will significantly impact the small employer group benefits and rating structures. Amending the state definitions of small and large employers will allow certain employers to be defined as a large employer based on their total number of employees rather than the current state definition, which does not include part-time employees. This bill:

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Strikes "eligible" from the phrase "eligible employees" or references to "eligible employees" in various Insurance Code provisions regarding large and small employers.

Dissolving the Texas Health Insurance Pool—S.B. 1367 *by Senator Duncan—House Sponsor: Representative Smithee*

The Texas Health Insurance Pool (pool) provides premium assistance to help qualified lower income enrollees obtain health insurance coverage. Under the federal Patient Protection and Affordable Care Act, effective January 1, 2014, Texans will be able to buy guaranteed health insurance coverage, with no medical underwriting and no preexisting condition exclusions or waiting periods. This bill:

Defines "board," "commissioner," "department," "health benefit exchange," and "pool."

Requires the pool's board of directors (board) to develop a plan for dissolving the board and the pool in compliance with this Act; and transferring to the commissioner of insurance (commissioner) and the Texas Department of Insurance (TDI) certain obligations, assets, rights, or authority accruing to or held by the pool or board; and submit the plan to the commissioner for approval.

Sets forth the latest date on which the pool may issue health benefit coverage.

Sets forth the date that health benefit coverage issued to an individual by the pool terminates.

Authorizes TDI to exercise to recover overpayments or other amounts on behalf of the pool.

Requires funds belonging to the pool and any other assets of the pool to be transferred to TDI on dissolution of the pool.

Requires TDI to use any money transferred or collected by TDI under this Act to satisfy obligations of the pool.

Authorizes the commissioner to make certain assessments until the commissioner determines that all financial obligations of the board and the pool have been satisfied.

Requires money collected by TDI under this Act to be deposited to an account in the Texas Treasury Safekeeping Trust Company.

Authorizes the account to pay fees for the Texas Treasury Safekeeping Trust Company account.

Authorizes TDI to transfer money into the treasury local operating fund to disburse the money as required by this Act.

Requires the commissioner, when the commissioner determines that all financial obligations of the board and the pool have been satisfied, to make a final accounting with respect to pool finances and make any necessary final assessment; or refund certain surplus assessments or other money collected on behalf of the pool.

Provides that if certain money paid or payable under the Insurance Code is no longer necessary to finance premium discounts, the money must be distributed as follows:

- \$5 million to the corporation established under Chapter 182 (Texas Health Services Authority), Health and Safety Code; and
- any remaining money to the fund established under Subchapter F (Health Texas Small Employer Premium Stabilization Fund), Chapter 1508, Insurance Code, to be used before January 1, 2014, for a purpose provided by that subchapter; and on and after January 1, 2014, for any purpose authorized by the commissioner by rule to improve access to health benefit coverage for individuals without coverage.

Provides that certain money paid or payable is subject to audit by the State Auditor's Office.

Authorizes the commissioner by rule to delay the implementation of certain provisions of this Act if:

- the guaranteed issue of health benefit coverage is delayed;
- the operation of a health benefit exchange in this state is delayed; or
- the commissioner determines that health benefit coverage expected to be available on a guaranteed issue basis to a class of individuals eligible for coverage under Chapter 1506 (Texas Health Insurance Pool), Insurance Code, immediately before the effective date of this Act, is not reasonably available to those individuals in this state.

Repeals Chapter 1506 effective September 1, 2015.

Repeals various references to the pool in the Insurance Code, effective January 1, 2014.

Nonforfeiture Requirements of Certain Life Insurance Policies—S.B. 1386

by Senator Hancock—House Sponsor: Representative Sheets

In order to sell life insurance policies, insurers must maintain and incorporate statutory reserves with respect to their future obligations. Interested parties contend that the current law does not appropriately take into account differences in companies and the life insurance products they write, resulting in statutory reserves that, when compared to the amount reasonably necessary to pay future obligations, may be too high or too low. The National Association of Insurance Commissioners (NAIC) in 2009 adopted a revised Standard Valuation Law (SVL) using a principles-based reserving (PBR) approach to set life insurance reserves. SVL will take effect once 42 states representing 75 percent of the total United States premium adopt the revisions to the SVL. This bill:

Defines the "operative date of the valuation manual."

Permits policies issued before the operative date of the valuation manual to continue to use certain mortality tables.

Provides that for certain policies issued on or after the operative date of the valuation manual, the valuation manual must provide the standard ordinary mortality table for use in determining the minimum nonforfeiture standard that may be substituted for certain existing mortality tables.

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Provides that if the commissioner of insurance by rule adopts a standard ordinary mortality table adopted by NAIC for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, the minimum nonforfeiture standard determined in accordance with that table supersedes the standard provided by the valuation manual.

Maintains the current statutory annual nonforfeiture interest rate for a policy issued before the operative date of the valuation manual, except if the commissioner by rule adopts a different nonforfeiture interest rate.

Provides that for a policy issued on or after the operative date of the valuation manual, the annual nonforfeiture interest rate for any policy issued in a particular calendar year is provided by the valuation manual.

Prohibits the commissioner from implementing this Act before the operative date of the valuation manual.

Provides that this Act takes effect only if the 83rd Legislature, Regular Session, 2013, enacts amendments to Chapter 425 (Reserves and Investments for Life Insurance Companies and Related Entities), Insurance Code, to authorize the commissioner to adopt a standard valuation manual and provide an operative date for that manual is enacted and becomes law.

States that if no such amendments become law, this Act has no effect.

Health Benefit Plan Coverage For Enrollees Diagnosed With Autism Spectrum Disorder—S.B. 1484 *by Senator Watson et al.—House Sponsor: Representative Larry Gonzales et al.*

Section 1355.015 (Required Coverage for Certain Children), Insurance Code, currently requires that a health benefit plan, at a minimum, provide coverage to an enrollee who is diagnosed with autism spectrum disorder from the date of diagnosis until the enrollee reaches nine years of age. The section also provides that if an enrollee who is being treated for autism spectrum disorder becomes 10 years of age or older and continues to need treatment, this section does not preclude coverage of treatment and services. This bill:

Requires that a health benefit plan, at a minimum, provide coverage to an enrollee who is diagnosed with autism spectrum disorder from the date of diagnosis if the diagnosis was in place prior to the child's 10th birthday.

Provides that a health benefit plan is not required to provide coverage for benefits for an enrollee 10 years of age or older for applied behavior analysis in an amount that exceeds \$36,000 per year.

Provides that to the extent that this section would require this state to make a payment under the federal Patient Protection and Affordable Health Care Act (PPACA), a qualified health plan is not required to provide a benefit under this section that exceeds the specified essential health benefits required under PPACA.

Changes "Children" in the heading for Section 1355.015 to "Enrollees."

Coverage of Certain Persons Under an Automobile Insurance Policy—S.B. 1567
by Senator Davis—House Sponsor: Representative Eiland

Named-driver policies provide coverage only for drivers specifically named on the policy and non-household drivers with permission. An issue can arise when a member of the policyholder's household, who is not named on the policy, drives the insured vehicle. When this situation occurs, the driver is not covered by the policy, regardless of whether they have permission from the policyholder to drive the automobile. Many policyholders and drivers, however, do not understand these coverage restrictions, which can lead to situations of unknowingly uninsured drivers on Texas's roads. This bill:

Prohibits an agent or insurer, including a county mutual insurance company, from delivering or issuing for delivery in this state a personal automobile insurance policy unless the policy provides at least the minimum coverage specified by state law.

Requires an agent or insurer, including a county mutual insurance company, before accepting any premium or fee for a named driver policy, to make the following disclosure, orally and in writing, to the applicant or insured:

WARNING: A NAMED DRIVER POLICY DOES NOT PROVIDE COVERAGE FOR INDIVIDUALS RESIDING IN THE INSURED'S HOUSEHOLD THAT ARE NOT NAMED ON THE POLICY.

Requires an agent or insurer, including a county mutual insurance company, before accepting any premium or fee for a named driver policy, to receive a copy of the disclosure that is signed by the applicant or insured.

Requires an agent or insurer, including a county mutual insurance company, that delivers or issues for delivery a named driver policy in this state to specifically include in the policy and conspicuously identify on the front of any proof of insurance document issued to the insured the required disclosure.

Requires the agent or insurer to require the applicant or insured to confirm in writing the provision of oral disclosure.

Requires that a standard proof of motor vehicle liability insurance form prescribed by the Texas Department of Insurance include, for a named driver policy, the required disclosure.

Business of Travel Insurance—S.B. 1672
by Senator Taylor—House Sponsor: Representative Eiland

The United States Travel Insurance Association seeks to correct inconsistencies among the states relating to "non-insurance travel retailers" licensing and sales, while also providing greater consumer protection.

Many other states have enacted laws similar to this legislation, which is framed from the National Conference of Insurance Legislators (NCOIL) model legislation to provide consistency among the states regarding travel insurance retailers. Non-insurance travel retailers (travel agents) that distribute travel products are not in the business of insurance, nor are they considered so by consumers. The National

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Association of Insurance Commissioners and NCOIL have both taken steps to provide a workable solution to resolve the problems and to address regulatory inconsistencies across the states for travel insurance providers and travel retailers. Legislation is needed to establish a licensing framework that reflects the unique distribution system of travel insurance in the travel industry and appropriately places much of the regulatory burden, not on the retail travel agent (who is not, after all, an insurance agent), but on the insurer or managing general agent who develops and distributes the product. The licensed insurance provider is normally clearly identified in the pre-packaged ancillary insurance materials that are distributed to consumers by the non-insurance travel retailer. These materials are identical or nearly identical to the materials the consumer would get directly from the licensed insurance provider. Moreover, the insurance product is a discretionary purchase. It is first party, short-duration coverage, and is offered as an add-on to a retail product or service.

Legislation is further needed to improve consumer protection by requiring clearer accountability and notice to the consumer and regulator with respect to who is responsible for the sale; help bridge the gap between widely accepted regulatory practices in the states and the actual state rules; and more clearly distinguished licensable and non-licensable activities for limited lines products such as travel insurance; and promote uniformity to help the state more effectively govern these products. This bill:

Authorizes an insurer authorized to engage in the business of travel insurance in this state to designate a travel insurance supervising entity.

Requires the supervising entity to be a licensed managing general agent, a licensed third-party administrator, or a licensed insurance agent, including a specialty license holder and a person described by Section 4055.002(a) (relating to providing that a person who holds a certain license is not required to obtain a specialty license).

Authorizes the commissioner of insurance (commissioner) to issue to an applicant under this chapter a specialty license that authorizes the license holder to sell, solicit, or negotiate travel insurance through a licensed insurer.

Provides that, notwithstanding any other provision, a travel retailer that operates on behalf of and under the license and direction of a supervising entity does not require a license.

Authorizes a travel retailer to offer and disseminate travel insurance as a service to the retailer's customers on behalf of and under the direction of a supervising entity only in connection with the sale or arrangement of transportation, accommodations, or events for travelers, and with respect to travel insurance that includes accident and health insurance that provides coverage to a traveler for accidental death or dismemberment and for medical expenses resulting from an accident or sickness involving the traveler that occurs during the planned trip; insurance that provides coverage to a traveler for expenses incurred as a result of trip cancellation or interruption of a planned trip or event; personal effects insurance that provides coverage to a traveler for loss of or damage to personal effects during the planned trip or event; or insurance that provides coverage for damage to accommodations or rental vehicles.

Provides that travel insurance does not include major medical expense coverage for a traveler on a planned trip for six months or more, including an individual working abroad; an expatriate; and a military service member on deployment.

Requires a travel retailer, or the supervising entity, to provide to a traveler seeking to purchase travel insurance a description of the material terms or the actual terms of the coverage; a description of the claims filing process; a description of the review and cancellation process for the insurance policy; and the name and contact information for the insurer and the supervising entity.

Authorizes travel insurance coverage to be provided under an individual policy or a group or master policy.

Requires an insurer to notify the Texas Department of Insurance (TDI) in the manner prescribed by the commissioner by rule of the designation of a supervising entity.

Authorizes a supervising entity designated by an insurer that provides travel insurance to authorize a travel retailer to offer and disseminate a travel insurance policy on behalf of the supervising entity by establishing a retailer registry.

Requires that the registry established be maintained and updated on an ongoing basis in a form prescribed by the commissioner by rule.

Requires that the registry include the name, address, and contact information, and federal employer identification number, if any, of each registered travel retailer and an individual contact person at the retailer.

Requires that the registry be submitted to TDI on the request of the commissioner.

Requires the supervising entity to certify in a form prescribed by the commissioner by rule that each registered travel retailer is in compliance with 18 U.S.C. Section 1033.

Requires the supervising entity to designate an individual who is an officer of the entity and a licensed agent as the compliance officer responsible for compliance with insurance laws, rules, and regulations related to travel insurance.

Requires the compliance officer and the officers of the supervising entity that direct or control the travel insurance business of the supervising entity to submit fingerprints as required by the commissioner by rule.

Requires the supervising entity to provide travel insurance instruction and training to each employee of a registered travel retailer whose duties include offering and disseminating travel insurance.

Provides that the instruction and training material are subject to review by the commissioner and are required to include instruction relating to the insurance offered, ethical sales practices, and required disclosures to travelers.

Provides that the supervising entity is responsible for the acts of a travel retailer and is required to use reasonable means to ensure each registered retailer's compliance.

Requires a travel retailer offering and disseminating travel insurance under this subchapter to register with an insurer in a registry.

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Requires the travel retailer to make available to travelers brochures or other written materials that provide the name, address, and contact information of the authorized insurer and the supervising entity; explain that the purchase of travel insurance is not required for the purchase from the travel retailer of any other product or service; and disclose that the travel retailer is authorized to provide general information about travel insurance, including a description of coverage and the price for coverage, but is not qualified or authorized to provide answers to questions about specific policy terms or to evaluate the adequacy of the traveler's existing insurance coverage.

Prohibits a travel retailer from evaluating or interpreting technical words or phrases used in a travel insurance policy or benefits under or terms of the policy; evaluating or providing advice related to a traveler's existing insurance coverage; or advertising or otherwise holding out the travel retailer as a license holder or an insurance expert.

Authorizes a travel retailer to receive compensation for offering and disseminating travel insurance on behalf of a supervising entity on or after the date the retailer registers with the insurer under this subchapter.

Texas Windstorm Insurance Association—S.B. 1702

by Senators Taylor and Hinojosa—House Sponsor: Representative Dennis Bonnen

In order to obtain new residential coverage from the Texas Windstorm Insurance Association (TWIA), a homeowner is typically required to produce a certificate of building code compliance (known as a WPI-8) on the homeowner's structure. However, if a WPI-8 was not required by the individual's previous insurance carrier, securing a certificate after the fact is cost-prohibitive and burdensome.

Through rulemaking at the Texas Department of Insurance (TDI) and legislation, TWIA now has a patchwork waiver program to allow coverage on a residential structure without a WPI-8. Structures accepted into TWIA under the waiver program are subject to a 15 percent surcharge.

By simplifying the waiver program so that a residential structure need not have been insured by TWIA as of September 1, 2009, to obtain or continue coverage will reduce costs and be less burdensome on homeowners. While requiring any new construction, remodel, repair, et cetera, done after June 19, 2009, having a WPI-8 in order to obtain new coverage from TWIA would be necessary to prevent further possible property loss. A WPI-8 is still required for all repairs, remodels, et cetera, on homes already covered by TWIA in order to maintain coverage. This bill:

Authorizes insurance coverage for a residential structure, notwithstanding any other provision of this section, to be issued or renewed through TWIA subject to the inspection requirements imposed under Section 2210.258 (Compliance With Building Codes; Eligibility), if applicable, to continue coverage through TWIA subject to the inspection requirements, if applicable. Provides that this provision expires December 31, 2015.

Requires that all construction, alteration, remodeling, enlargement, and repair of, or addition to, any structure located in the catastrophe area that is begun on or after a certain date be eligible for insurance through TWIA, be performed in compliance with the applicable building code standards, as set forth in the plan of operation.

Prohibits TWIA from insuring a structure until the structure has been inspected for compliance with the plan of operation and a certificate of compliance has been issued for the structure.

Authorizes TWIA to insure a residential structure constructed, altered, remodeled, enlarged, repaired, or added to on or after June 19, 2009, that is not in compliance with the applicable building code standards, as set forth in the plan of operation, provided that the structure had been insured on or after June 19, 2009, by an insurer in the private market that canceled or nonrenewed the insurance coverage of the structure before December 31, 2013; the applicant provides to TWIA proof that insurance coverage that was issued to the applicant or the previous insured for the structure as canceled or nonrenewed in the private market; and no construction, alteration, remodeling, enlargement, or repair of, or addition to, the structure occurred after cancellation or nonrenewal of the coverage and before submission of an application for coverage through TWIA.

Prohibits TWIA on and after December 31, 2015, from issuing or renewing insurance coverage for a structure unless the structure complies with the applicable building code standards in effect on the date the construction, alteration, remodeling, enlargement, or repair of, or addition to, the structure begins, as set forth in the plan of operation.

Provides that an insurance policy insuring a noncompliant residential structure is subject to an annual premium surcharge in an amount equal to 15 percent of the premium for insurance coverage obtained through TWIA, that had been approved for insurability under the approval process regulations in effect on September 1, 2009, is subject to an annual premium surcharge in an amount equal to 15 percent of the premium for insurance coverage obtained through TWIA.

Requires TWIA, for a policy insuring a noncompliant residential structure eligible for coverage to charge a premium based on the rate charged in the voluntary market for the portion of the canceled or nonrenewed policy that provides windstorm and hail insurance coverage for the applicable risk, and an annual premium surcharge in an amount equal to 10 percent of that premium.

Repeals Section 2210.260 (Alternative Eligibility for Coverage), Insurance Code.

Regulating Navigators For Health Benefit Exchanges—S.B. 1795

by Senator Watson et al.—House Sponsor: Representative Guillen

The federal Patient Protection and Affordable Care Act (PPACA) provides for the creation of health benefit exchanges. Health exchanges must provide for navigators to educate and assist the public regarding enrollment in qualified health plans and in determining the appropriate health insurance options available to them. This bill:

Adds Chapter 4154 (Navigators for Health Benefit Exchanges) to the Insurance Code:

- States that the purpose of this chapter is ensure that Texans are able to find and apply for affordable health coverage under any federally run health benefit exchange.
- Defines "health benefit exchange," "health benefit plan issuer," and "navigator."
- Authorizes a navigator who satisfies the requirements of this chapter to perform any duty or

function authorized or required by this chapter or any applicable federal law or regulation without obtaining a license.

- Provides that this chapter does not apply to a licensed life, accident, and health insurance agent; life and health insurance counselor; or life and health insurance company.
- Requires the commissioner of insurance (commissioner) to adopt rules necessary to implement this chapter and to meet the minimum requirements of PPACA.
- Provides that this chapter expires September 1, 2017.
- Requires the commissioner to determine whether the standards and qualifications for navigators provided PPACA and any relevant regulations are sufficient to ensure that navigators can perform certain specified required duties.
- Requires the commissioner, if the commissioner finds such standards are insufficient, to make a good faith effort to work in cooperation with the United States Department of Health and Human Services and to propose improvements to those standards; and if the commissioner finds that the standards remain insufficient, to by rule establish standards and qualifications to ensure that navigators in this state can perform the required duties.
- Requires such rules to provide that a navigator in this state has not had a professional license suspended or revoked; been the subject of any other disciplinary action by a financial or insurance regulator of this state, another state, or the United States; or been convicted of a felony.
- Requires the commissioner at regular intervals to obtain from the health benefit exchange a list of all navigators providing assistance in Texas and their employers or organizations.
- Authorizes the commissioner by rule to establish a state registration for navigators.
- Prohibits a navigator from using certain language or making certain claims in advertising or other materials.
- Prohibits a navigator from receiving compensation for services or duties that are prohibited by federal law, including compensation from a health benefit plan issuer.
- Requires the commissioner to adopt rules authorizing additional training for navigators as the commissioner deems necessary to ensure compliance with state or federal law.
- Prohibits a navigator, unless the navigator is licensed to act as an agent under Chapter 4054 (Life, Accident, and Health Agents), from:
 - engaging in certain activities regarding health benefit plans or insurance;
 - accepting compensation based on whether a person enrolls in or purchases a health benefit plan; or
 - in the course of acting as a navigator, engaging in electioneering activities or supporting the candidacy of a person for any local, state, or federal government office.
- Provides that this section does not bar a navigator from providing information on public benefits and health coverage, or other information and services consistent with the navigator's mission.

Procedures Related to Medicaid and Other Fraud, Abuse, or Overpayment—S.B. 1803
by Senator Huffman—House Sponsors: Representatives Kolkhorst and Raymond

Physicians, physician groups, and other medical providers throughout the state have recently expressed concerns relating to certain investigations of suspected Medicaid fraud and abuse by the Health and Human Services Commission's Office of Inspector General (HHSC; OIG), including concerns regarding due

process, transparency, conflict of interest, expediency, and credible allegations of fraud and payment holds. This bill:

Defines, in Subchapter C (Medicaid and Other Health and Human Services Fraud, Abuse, or Overcharges), Chapter 531 (Health and Human Services Commission), Government Code, "abuse," "allegation of fraud," "credible allegation of fraud" (CAF), and "physician" and utilizes the term "payment hold" rather than "hold on payment."

Requires OIG, if HHSC receives a complaint or allegation of Medicaid fraud or abuse from any source, to conduct a preliminary investigation as provided by the bill and the time frame provided, rather than conduct an integrity review, to determine whether there is a sufficient basis to warrant a full investigation.

Requires OIG, if the findings of a preliminary investigation, rather than an integrity review, give OIG reason to believe that an incident of fraud or abuse involving possible criminal conduct has occurred in the Medicaid program, to take certain action, as appropriate, not later than the 30th day after the completion of the preliminary investigation, rather than of the integrity review.

Requires OIG, in addition to other instances authorized under state or federal law, to impose without prior notice a payment hold on claims for reimbursement submitted by a provider to compel production of records, when requested by the state's Medicaid fraud control unit (MFCU), or on the determination that a CAF exists, subject to certain other provisions, as applicable, rather than to impose without prior notice a payment hold on claims for reimbursement submitted by a provider to compel production of records, when requested by MFCU or on receipt of reliable evidence that the circumstances giving rise to the hold on payment involve fraud or wilful misrepresentation under the state Medicaid program in accordance with 42 C.F.R. Section 455.23, as applicable. Requires that the required notice of payment hold provided, in addition to the requirements of 42 C.F.R. Section 455.23(b), also include the specific basis for the hold, including certain information, and a description of administrative and judicial due process remedies, including certain information.

Requires the provider to request an expedited administrative hearing regarding the hold not later than the 30th day, rather than the 10th day, after the date the provider receives notice from OIG; and sets forth the responsibilities of the state and the provider regarding costs related to the hearing.

Requires the executive commissioner of HHSC (executive commissioner) and the State Office of Administrative Hearings to jointly adopt rules that require a provider, before an expedited administrative hearing, to advance security for the costs for which the provider is responsible.

Authorizes a provider subject to a payment hold, other than a hold requested by the state's MFCU, following an expedited administrative hearing, to appeal a final administrative order by filing a petition for judicial review in a district court in Travis County.

Requires the executive commissioner, rather than HHSC, to adopt rules that allow a provider subject to a payment hold, other than a hold requested by the state's MFCU, to seek an informal resolution of the issues identified by OIG in the notice provided. Requires a provider to request an initial informal resolution meeting, not later than the deadline prescribed for requesting an expedited administrative hearing, rather than requires a provider to seek an informal resolution not later than the deadline prescribed by certain statute. Sets forth deadlines for the scheduling of an initial informal resolution meeting, requests and scheduling for a second informal resolution meeting, and notice of the meetings to the provider and

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requires a provider to have an opportunity to provide additional information before the second informal resolution meeting for consideration by OIG.

Requires that an expedited administrative hearing initiated be stayed, rather than be stayed at OIG's request, until the informal resolution process is completed.

Requires OIG to employ a medical director who is a licensed physician and who preferably has significant knowledge of the Medicaid program. Requires the medical director to ensure that any investigative findings based on medical necessity or the quality of medical care have been reviewed by a qualified expert as described by the Texas Rules of Evidence before OIG imposes a payment hold or seeks recoupment of an overpayment, damages, or penalties.

Requires OIG to employ a dental director who is a licensed dentist and who preferably has significant knowledge of the Medicaid program. Requires the dental director to ensure that any investigative findings based on the necessity of dental services or the quality of dental care have been reviewed by a qualified expert as described by the Texas Rules of Evidence before OIG imposes a payment hold or seeks recoupment of an overpayment, damages, or penalties.

Requires OIG acting through HHSC, to the extent permitted under federal law, to adopt rules establishing the criteria for initiating a full-scale fraud or abuse investigation, conducting the investigation, collecting evidence, accepting and approving a provider's request to post a surety bond to secure potential recoupments in lieu of a payment hold or other asset or payment guarantee, and establishing minimum training requirements for Medicaid provider fraud or abuse investigators.

Requires HHSC to maintain a record of all allegations of fraud or abuse against a provider containing the date each allegation was received or identified and the source of the allegation, if available.

Requires OIG, if HHSC receives an allegation of fraud or abuse against a provider from any source, to conduct a preliminary investigation of the allegation to determine whether there is sufficient basis to warrant a full investigation. Requires that a preliminary investigation begin not later than the 30th day after the date HHSC receives or identifies an allegation of fraud or abuse.

Requires OIG, in conducting a preliminary investigation, to review the allegations of fraud or abuse and all facts and evidence relating to the allegation and to prepare a preliminary investigation report before the allegation of fraud or abuse is authorized to proceed to a full investigation. Sets forth content of the preliminary investigation report.

Authorizes a payment hold based on a CAF, if the state's MFCU or any other law enforcement agency accepts a fraud referral from OIG for investigation, to be continued until that investigation and any associated enforcement proceedings are complete or the state's MFCU, another law enforcement agency, or other prosecuting authorities determine that there is insufficient evidence of fraud by the provider.

Requires that a payment hold based on a CAF, if the state's MFCU or any other law enforcement agency declines to accept a fraud referral from OIG for investigation, be discontinued unless HHSC has alternative federal or state authority under which it may impose a payment hold or OIG makes a fraud referral to another law enforcement agency.

Requires OIG, on a quarterly basis, to request a certification from the state's MFCU and other law enforcement agencies as to whether each matter accepted by the unit or agency on the basis of a CAF referral continues to be under investigation and that the continuation of the payment hold is warranted.

Requires OIG to post on its publicly available website a description in plain English of, and a video explaining, the processes and procedures OIG uses to determine whether to impose a payment hold on a provider.

Requires HHSC or OIG to provide a provider with written notice of any proposed recoupment of an overpayment or debt and any damages or penalties relating to a proposed recoupment of an overpayment or debt arising out of a fraud or abuse investigation and sets forth required content to be included in the notice. Sets forth provisions regarding deadlines for a request, scheduling, and notice for an initial and second informal resolution meeting and requires a provider to have an opportunity to provide additional information before the second informal resolution meeting for consideration by OIG.

Requires a provider to request an appeal not later than the 15th day after the date the provider is notified that HHSC or OIG will seek to recover an overpayment or debt from the provider. Requires OIG, on receipt of a timely written request by a provider who is the subject of a recoupment of overpayment or recoupment of debt arising out of a fraud or abuse investigation, to file a docketing request with the State Office of Administrative Hearings (SOAH) or HHSC appeals division, as requested by the provider, for an administrative hearing regarding the proposed recoupment amount and any associated damages or penalties and provides deadlines for filing the docketing request. Sets forth the responsibilities of the state and the provider regarding costs related to the hearing.

Requires the executive commissioner and SOAH to jointly adopt rules that require a provider, before an administrative hearing before SOAH, to advance security for the costs for which the provider is responsible.

Authorizes a provider who is subject of a recoupment of overpayment or recoupment of debt arising out of a fraud or abuse investigation, following an administrative hearing, to appeal a final administrative order by filing a petition for judicial review in a district court in Travis County.

Requires HHSC, at no expense to the provider who requested the meeting, to provide for certain informal resolution meetings held to be recorded and requires the recording to be made available to the provider who requested the meeting.

Authorizes HHSC or an agency operating part of the medical assistance program (department), as appropriate, subject to certain specified law and notwithstanding any other law, to impose a payment hold on future claims submitted by a provider, rather than to impose a postpayment hold on payment of future claims submitted by a provider if the department has reliable evidence that the provider has committed fraud or wilful misrepresentation regarding a claim for reimbursement under the medical assistance program. Removes a requirement regarding notice of the postpayment hold.

Provides that a payment hold authorized by Section 32.0291 (Prepayment Reviews and Payment Holds), Human Resources Code, is governed by the requirements and procedures specified for a payment hold under Section 531.102 (Office of Inspector General), Government Code, including the notice requirements.

INSURANCE AND MEDICAID

Removes certain requirements regarding an expedited administrative hearing regarding the hold and the discontinuance of the hold.

Repeals Section 32.0291(d) (relating to adopting rules that allow a provider subject to a postpayment hold to seek an informal resolution), Human Resources Code.

Requires certain legislative committees to periodically request and review information from HHSC and OIG to monitor the enforcement of and the protections provided by the changes in law made by this Act and to recommend additional changes in law to further the purposes of this Act, and requires that, in performing the required duties, the House Committee on Public Health and the House Committee on Human Services perform the duties jointly and the Senate Committee on Health and Human Services perform the duties independently.

Contributions For Junior College Employees in Employees Group Benefits Program—S.B. 1812 *by Senator Duncan—House Sponsor: Representative Otto*

There has been a long dispute concerning state contributions regarding certain junior college employees who participate in the state's employees group benefits program. This bill:

Provides that in computing the contribution owed by the state to the Teacher Retirement System of Texas (TRS), the TRS Optional Retirement System, and under the employees group benefits program, the compensation of members who are employed by public junior colleges or public junior college districts will be included in the aggregate annual compensation as follows:

- 50 percent of the eligible creditable compensation of employees who otherwise are eligible for membership in TRS; and are instructional or administrative employees whose salaries may be fully paid from funds appropriated under the General Appropriations Act, regardless of whether such salaries are actually paid from appropriated funds; and
- none of the eligible creditable compensation of certain other specified employees.

Requires the board of trustees (board) to coordinate with the Legislative Budget Board (LBB) when certifying to the comptroller of public accounts of the State of Texas (comptroller) an estimate of the amount necessary to pay the state's contributions to the retirement system for the following biennium.

Requires the board, for qualifying employees under this Act, to include only the amount payable by the state in determining the amount to be certified.

Provides that in determining the amount, the number of qualifying employees whose compensation may be included for each public junior college or public junior college district in each biennium may not be adjusted in a proportion greater than the change in student enrollment at each college during the reporting period, except that a college that experiences a decline in student enrollment may petition LBB to maintain the number of eligible employees up to 98 percent of the level of the prior biennium.

Requires an employer that is a public junior college or a public junior college district to contribute monthly to TRS:

- an amount equal to the state contribution rate then in effect multiplied by 50 percent of the aggregate

eligible creditable compensation of members who are qualifying employees under that the employer reports to the retirement system; and

- an amount equal to the state contribution rate then in effect multiplied by 100 percent of the aggregate eligible creditable compensation of all other members that the employer reports to TRS.

Requires the designated disbursing officer of each public junior college and each public junior college district to:

- submit to TRS, at a time and in the manner prescribed by TRS, a monthly report containing a certification that includes the total amount of compensation paid; the total amount of employer contributions due for the payroll period; and any other information the retirement system determines is necessary to administer this section; and
- to maintain and retain certain specified information regarding members employed by the public junior college or public junior college district.

Requires that the monthly report be accompanied by payment of the amount of employer contributions.

Requires TRS, not later than the 90th day after the date each school year ends, to certify to the comptroller the names of any public junior colleges or public junior college districts that have failed to remit all required contributions and the amounts of the unpaid contributions.

Requires the comptroller to withhold the amount certified, plus the statutory interest, from the first state money payable to the public junior college or public junior college district.

Requires that the amount withheld be deposited to the credit of the appropriate accounts of the retirement system.

Requires TRS to deposit all money it receives in the state contribution account.

States that the legislature finds that all governmental acts and proceedings of the board of a public junior college or of an officer or employee of the college to comply with demands for payment of retirement contributions by the comptroller or TRS for fiscal years 2012 and 2013 are valid as of the dates on which they occurred. Provides that this does not apply to any matter that on the effective date of this section is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court of competent jurisdiction; or has been held invalid by a final judgment of a court of competent jurisdiction.

Justice or Judge With an Interest in a Private Correctional or Rehabilitation Facility—H.B. 62

by Representative Guillen—Senate Sponsor: Senator West

Under current law, justices and judges are not prohibited from holding a financial interest in a private correctional or rehabilitation facility. This bill:

Prohibits a justice or judge of an appellate court, a district court, a county court, a county court at law, or a statutory probate court, upon taking office and while serving as a justice or judge, from having a significant interest in a business entity that owns, manages, or operates a community residential facility or a correctional or rehabilitation facility.

Defines significant interest.

Provides that a violation by a justice or judge is a violation of the Code of Judicial Conduct.

Requires a justice or judge who has an prohibited interest in such a business entity to report the interest to the State Commission on Judicial Conduct.

Terminating Duty to Pay Interest Accrued on Child Support Arrearages—H.B. 154

by Representatives Van Taylor and Senfronia Thompson—Senate Sponsor: Senator West

Under current law a man who is not a child's genetic father can, under certain circumstances, have the parent-child relationship terminated. Upon such termination, the man is no longer required to pay child support. This bill:

Clarifies that such termination also ends the obligation to pay interest accruing after that date based on a child support arrearage existing on that date.

Extends the deadline for filing the petition to terminate the parent-child relationship from the first to the second anniversary of the date on which the petitioner becomes aware of the facts indicating that the petitioner is not the child's genetic father.

Liability of Certain Electric Utilities For Recreational Use of Utility's Premises—H.B. 200

by Representative Murphy et al.—Senate Sponsor: Senator Ellis

Acquiring real estate in an urban area that is suitable for development of hike and bike trails can be difficult and costly. Electric utility corridors can function as stand-alone projects as well as serve as connections within a system of off-street trails. Under current law, an owner of real property who opens the owner's land for recreational use is liable for property damage, injury, or death arising from gross negligence on the part of the property owner, or if the owner has acted with malicious intent or in bad faith. This bill:

Permits a person to appeal from an interlocutory order of a district court, county court at law, or county court that denies a motion for summary judgment filed by an electric utility regarding liability in a suit subject to this Act.

Defines "electric utility," "person," "premises," and "serious bodily injury."

Limits this Act to an electric utility located in a county with a population of four million or more.

Authorizes an electric utility, as the owner, easement holder, occupant, or lessee of land, to enter into a written agreement with a political subdivision to allow public access use of the utility's premises for recreation, exercise, relaxation, travel, or pleasure (recreation).

Provides that the electric utility, by entering into such an agreement, does not assure that the premises are safe for recreation; owe to a person entering the premises for recreation a greater degree of care than is owed to a trespasser on the premises; or assume responsibility or incur any liability for damages arising from or related to personal injury to or death or property damage sustained by any person who enters the premises for recreation or accompanies another person entering the premises for recreation; or an act of a third party that occurs on the premises.

Provides that the electric utility is liable for serious bodily injury or death proximately caused by the electric utility's wilful or wanton acts or gross negligence with respect to a dangerous condition.

Provides that the doctrine of attractive nuisance does not apply to a claim under this Act.

Authorizes a written agreement entered into under this Act to require the political subdivision to provide insurance coverage for any litigation costs incurred by the electric utility for damage claims.

Liability of a Municipality For Certain Space Flight Activities—H.B. 278
by Representatives Craddick and John Davis—Senate Sponsor: Senator Seliger

The Texas Tort Claims Act (TTCA), encoded in Chapter 101 of the Civil Practice and Remedies Code, sets out tort liability of governmental entities. Section 101.0215 (Liability of a Municipality) provides that a municipality is liable under Chapter 101 for damages arising from its governmental functions, including airports. Under Section 101.0211 (No Liability for a Joint Enterprise), a governmental agency is not liable under the doctrine of vicarious liability because of participation in a joint enterprise. Section 101.023 (Limitation on the Amount of Liability) places a monetary limit on the liability of a municipality under this chapter.

The City of Midland has an economic development contract with XCOR, a private space flight company. The parties plan to use the Midland International Airport for launching sub-orbital flights. This bill:

Adds airports used for space flight activities to Section 101.0215.

Expands Section 101.0211 to include a municipality with respect to the use of a municipal airport for space flight activities, unless the municipality would otherwise be liable.

Provides that Section 101.0211 does not affect a limitation on liability or damages provided under Chapter 101.

Hearing for a Towed Vehicle—H.B. 338

by Representative Guillen—Senate Sponsor: Senator Nichols

Current law stipulates that a hearing on a towed vehicle must be held in the justice court having jurisdiction in the precinct from which the vehicle was towed, but interested parties contend that it is inconvenient for the owner of a towed vehicle to attend a hearing in one precinct and then travel to another precinct where the vehicle is stored. This legislation seeks to remedy this inconvenience. This bill:

Requires a hearing to be in any justice court in the county from which the motor vehicle was towed, or for booted vehicles, the county in which the parking facility is located.

Requires that a notice include a statement of the person's right to submit a request within 14 days for a court hearing to determine whether probable cause existed to remove or install a boot on the vehicle.

Requires that a request for a hearing must contain certain information, including booting or towing company information for which booted or towed the vehicle and certain court contact information.

Electronically Filing Court Documents in a Criminal Case in Hidalgo County—H.B. 349

by Representative Canales—Senate Sponsor: Senator Hinojosa

The Supreme Court of Texas has ordered that civil cases be filed uniformly and electronically by 2016. Electronic filing for criminal cases has lagged behind e-filing of civil cases in Texas. This bill:

Authorizes a party in a criminal case in a Hidalgo County district court to electronically file any required court document.

Requires the Hidalgo County district courts to implement the statewide electronic court filing system to assist a party in electronic filing.

Enforcement of Spousal Maintenance and Property Distribution Agreements—H.B. 389

by Representative Senfronia Thompson—Senate Sponsor: Senator Rodríguez

Under current law, spousal maintenance may be ordered under certain provisions of the Family Code or as agreed to by the parties. Although court-ordered spousal maintenance may be enforced by contempt as to the amount, duration, and terms of the order, current law only addresses the period for which an agreed spousal maintenance may be enforced by contempt and is silent regarding the amount of agreed maintenance that may be enforced. In addition, current law relating to income withholding for spousal maintenance does not adequately address a court's authority to order such withholding in proceedings in which there is an agreement for periodic payments of spousal maintenance. Under current law, parties to a decree of divorce or annulment may request enforcement of the decree by filing suit in the court that rendered the decree. However, agreements to divide property, which are approved by that same court, are not necessarily included within the decree. This bill:

Changes certain references in the Family Code regarding court-ordered maintenance to spousal maintenance.

Clarifies that a court may enforce by contempt an agreement for periodic payments of spousal maintenance, except for any provision of an agreed order for maintenance that exceeds the amount of periodic support the court could have ordered under the Family Code.

Authorizes the court to order that income be withheld from the disposable earnings of the obligor regarding an agreed order for maintenance, provided that the income withheld cannot exceed the amount of periodic support or any period of maintenance the court could have ordered under the Family Code.

Provides for the enforcement of certain property division agreements, regardless of whether the agreement is included in the decree or in a separate document.

Liability of Certified Municipal Inspectors For Certain Services—H.B. 403
by Representative Sarah Davis—Senate Sponsor: Senator Ellis

Highly trained municipal inspectors may be needed to conduct structural damage surveys following hurricanes, tornadoes, floods, and other disasters. Some city administrators have expressed concern over the potential liability a municipality may incur if a city employee performs disaster damage assessments. This bill:

Defines "certified municipal inspector" and "national model code group."

Provides that this Act applies only to a certified municipal inspector who provides inspection services if:

- the services are authorized by the scope of the inspector's certification or license;
- are provided voluntarily and without compensation or the expectation of compensation;
- are in response to and provided during the duration of a proclaimed state of emergency;
- are provided at the request or with the approval of a federal, state, or local public official acting in an official capacity in response to the proclaimed state of emergency or declared disaster; and
- are related to a structure, building, premises, piping, or other system, either publicly or privately owned.

Provides that a certified municipal inspector who provides the services under this Act is not liable for civil damages related to the inspector's act, error, or omission in the performance of the services, unless the act, error, or omission constitutes gross negligence; or wanton, wilful, or intentional misconduct.

Authorizing the Second Court of Appeals District to Collect \$5 fee—H.B. 410
by Representative Phil King et al.—Senate Sponsor: Senator Estes

Under current law, 12 of the 14 appellate courts are authorized to collect a \$5 fee from all counties in their district to support each court's appellate system. Currently, Tarrant County is the only county in the Second Court of Appeals district collecting the \$5 fee. This bill:

Requires the commissioners court of each county in the Second Court of Appeals district to fund the appellate judicial system by setting a \$5 court costs fee for each civil suit filed in a county court, statutory county court, statutory probate court, or district court in the county.

Provides that this fee does not apply to a suit filed by any governmental entity.

Provides that the chief justice of the court of appeals is responsible for management of the funds.

Liability of Certain Persons Assisting in Man-Made or Natural Disasters—H.B. 487 *by Representative Bell et al.—Senate Sponsor: Senator Nichols*

Section 79.003 (Disaster Assistance), Civil Practice and Remedies Code, provides that, in a case of reckless conduct or intentional, wilful, or wanton misconduct, a volunteer is immune from civil liability for an act or omission that occurs in giving care, assistance, or advice with respect to the management of a man-made or natural disaster when that care, assistance, or advice is provided at the request of an authorized representative of a local, state, or federal agency. Although a recent court case has been interpreted to affirm that immunity, there is concern that local officials are reluctant to accept volunteer services while responding to hazardous or dangerous situations because of a fear of being exposed to liability suits based on a volunteer's actions. This bill:

Authorizes the governing body of a municipality, the chief of the fire department, an emergency management director or coordinator designated for the municipality, county commissioners court, the county judge, the county fire marshal, an incorporated volunteer fire department, a volunteer fire department, or an emergency management director or coordinator designated for the county to request or accept any care, assistance, or advice described by Section 79.003.

Grants immunity to civil liability as provided by Section 79.003 to a person as defined by Section 79.001 (Definitions), Civil Practice and Remedies Code, who provides care, assistance, or advice to a municipality or county as provided under this Act.

Provides that this Act does not authorize the acceptance of care, assistance, or advice in violation of any other law or contractual agreement.

Declares that this Act is intended to clarify existing law regarding the power of certain local officials to request or accept certain assistance in certain situations and the applicability of Section 79.003 to certain persons providing certain assistance in certain situations.

Issuance of Order For Emergency Protection—H.B. 570 *by Representative Alonzo—Senate Sponsor: Senator Rodríguez*

Current law authorizes a magistrate to issue an order for emergency protection at a defendant's appearance before the magistrate after being arrested for an offense involving family violence or certain other offenses to prevent the offender from committing further acts of violence against a victim and the victim's family members. While the law does not specify the required venue for the issuance of such an order, it requires a copy of the order to be served on the defendant in open court. This bill:

Requires that a copy of an order of emergency protection be served by the magistrate or the magistrate's designee in person or electronically.

Requires the magistrate to make a separate record of the service in written or electronic format.

Writs of Habeas Corpus and the Death Penalty—H.B. 577
by Representative Guillen—Senate Sponsor: Senator Ellis

Current Texas law authorizes the appointment of an attorney employed by a public defender's office with respect to an application for a writ of habeas corpus only if an attorney employed by the office of capital writs is not appointed in the case and the attorney employed by the public defender's office is on the list of competent counsel available for appointment maintained by the presiding judges of the administrative judicial regions. These conditions currently refer only to capital writs. This bill:

Provides that an attorney employed by the public defender's office may be appointed with respect to an application for a writ of habeas corpus filed under Article 11.071 (Procedure in Death Penalty Case), Code of Criminal Procedure.

Waiving Sovereign Immunity in Certain Employment Lawsuits by Nurses—H.B. 581
by Representative Howard et al.—Senate Sponsor: Senators Lucio and Hinojosa

Under current law, a nurse who is retaliated or discriminated against for engaging in certain patient advocacy activities has the right to file a lawsuit. There is concern that current law does not include a clear waiver of sovereign immunity for nurses working in public hospitals. Although state whistleblower laws apply to all public employees, a nurse working at a public hospital is protected by those laws only if the nurse reports a violation to a proper external authority, not if the nurse raises a patient care concern internally or if the nurse requests safe harbor nursing peer review. A publicly employed nurse is not afforded the same patient advocacy protections as a nurse working in a private hospital. This bill:

Authorizes a nurse employed by a hospital operated by or on behalf of a state or local governmental entity who alleges retaliation to sue the state or local governmental entity for relief.

Provides that the sovereign immunity of the state or local governmental entity from suit and from liability is waived for the limited purpose of allowing the nurse to maintain a lawsuit in state court to obtain relief.

Defines "local governmental entity," "public employee," "state governmental entity," and "hospital."

Provides that relief may be granted in a lawsuit brought under this Act for retaliation based on a report made by the nurse to the nurse's employer or another entity at which the nurse is authorized to practice (employer) regarding certain situations that the nurse has reasonable cause to believe exposes a patient to substantial risk of harm only if the nurse:

- made the report in writing or verbally, if authorized by the nurse's employer;
- made the report to the nurse's supervisor, a committee authorized under state or federal law to receive

- such reports, or an individual or committee authorized by the nurse's employer; and
- made the report within a set period of time.

Provides that certain provisions of Chapter 554 (Protections for Reporting Violations of Law), Government Code, apply to a lawsuit brought under this Act.

Requires that such a lawsuit against a state governmental entity be brought in a district court in Travis County or a county in which all or part of the acts or omissions giving rise to the cause of action occurred; or a local governmental entity be brought in a district court in a county in which all or part of the entity is located.

Waiving Sovereign Immunity For Claims Arising Under Certain Written Contracts—H.B. 586 *by Representative Workman et al.—Senate Sponsor: Senators Deuell and Estes*

Although the State of Texas and its agencies are generally immune from suit under the doctrine of sovereign immunity, statutory provisions allow the adjudication of certain contract claims against state governmental agencies if the claim is for less than a specified dollar amount in damages. Concerned parties assert that for a breach of contract claim that seeks a greater amount in damages, an aggrieved party's only recourse is to seek a waiver of sovereign immunity from the legislature because the law does not adequately address procedures for adjudicating such claims. This bill:

Adds Chapter 114 (Adjudication of Claims Arising Under Written Contracts with State Agencies) to the Civil Practice and Remedies Code:

- Defines "adjudication," "contract subject to this chapter," and "state agency."
- Provides that this chapter applies only to a claim for breach of a written contract for engineering, architectural, or construction services in which the amount in controversy is not less than \$250,000, excluding certain penalties, costs, and fees.
- Waives sovereign immunity for a state agency entering into a contract subject to this chapter to a suit for breach of an express provision of the contract.
- Limits the total amount of money awarded in an adjudication under this chapter to:
 - the balance due and owed by the state agency under the contract;
 - the amount owed for written change orders;
 - reasonable and necessary attorney's fees if the contract expressly provides that recovery of attorney's fees is available to all parties to the contract; and
 - interest at the rate specified by the contract or, if no rate is specified, the statutory rate for postjudgment interest, not to exceed 10 percent.
- Bars consequential damages, exemplary damages, or damages for unabsorbed home office overhead from any award under this chapter.
- Provides that adjudication procedures stated in the contract or established by the state agency and expressly incorporated into the contract are enforceable, unless they conflict with this chapter.
- Provides that this chapter does not waive:
 - a defense or a limitation on damages available to a party to a contract, other than a bar against suit based on sovereign immunity;
 - sovereign immunity to suit in federal court; and

- sovereign immunity to a claim arising from a cause of action for any tort.
- Exempts employment contracts from this chapter.
- Sets forth venue for a suit under this chapter.
- Provides that payment of any judgment under this chapter may not be paid from funds appropriated to the state agency from general revenue unless the funds are specifically appropriated for that purpose.
- Provides that state property is not subject to seizure or any other creditors' remedy to satisfy a judgment under this chapter.
- Provides that a claim to which this chapter applies may not be brought under Chapter 2260 (Resolution of Certain Contract Claims Against the State), Government Code.
- Requires each state agency, before January 1 of each even-numbered year, to report to the governor, the comptroller of accounts of the State of Texas, and each house of the legislature the cost of defense to the state agency and the office of the attorney general in an adjudication brought against the agency under a contract subject to this chapter.

Civil Jurisdiction of the County Court of Glasscock County—H.B. 616

by Representative Darby—Senate Sponsor: Senator Seliger

Section 26.187 (Glasscock County), Government Code, grants the county court of Glasscock County juvenile, probate, and criminal jurisdiction, but no other civil jurisdiction. Because Glasscock County is currently within the jurisdiction of the 118th District Court, which also includes Howard County and Martin County, residents of Glasscock County must travel to one of these other counties to participate in civil cases. This bill:

Repeals Section 26.187.

Authorizing the County Attorney of Gonzales County to Act as a District Attorney—H.B. 696

by Representative Kleinschmidt—Senate Sponsor: Senator Hegar

The 25th Judicial District includes Colorado, Gonzales, Guadalupe, and Lavaca Counties. Under current law, the voters from Gonzales, Guadalupe, and Lavaca Counties elect a district attorney for the judicial district. However, the Gonzales County commissioners court has expressed a desire to be served by an independent county attorney with felony jurisdiction.

Chapter 46 (Professional Prosecutors), Government Code, provides state prosecutors with a set salary from the state. In exchange, the state prosecutor is barred from engaging in the private practice of law. The purpose of Chapter 46 is to enhance the quality of public prosecution. This bill:

Removes Gonzales County from the counties served by the district attorney for the 25th Judicial District.

Authorizes the county attorney of Gonzales County to perform the duties of a district attorney.

Authorizes the county attorney or the Gonzales County commissioners court to accept gifts or grants to finance the office of the county attorney.

Adds the county attorney of Gonzales County to the list of state prosecutors in Chapter 46.

Authorizing the County Attorney of Lavaca County to Act as a District Attorney—H.B. 717
by Representative Kolkhorst—Senate Sponsor: Senator Hegar

The 25th Judicial District includes Colorado, Gonzales, Guadalupe, and Lavaca Counties. Under current law, the voters from Gonzales, Guadalupe, and Lavaca Counties elect a district attorney for the judicial district. Interested parties assert that it would be a better use of resources for cases in the Lavaca County district court to be prosecuted by the county attorney.

Chapter 46 (Professional Prosecutors), Government Code, provides state prosecutors with a set salary from the state. In exchange, the state prosecutor is barred from engaging in the private practice of law. The purpose of Chapter 46 is to enhance the quality of public prosecution. This bill:

Removes Lavaca County from the counties served by the district attorney for the 25th Judicial District.

Authorizes the county attorney of Lavaca County to perform the duties of a district attorney.

Authorizes the county attorney or the Lavaca County commissioners court to accept gifts or grants to finance the office of the county attorney.

Adds the county attorney of Lavaca County to the list of state prosecutors in Chapter 46.

Allowance in Lieu of Exempt Property Regarding a Decedent's Estate—H.B. 789
by Representative Phil King—Senate Sponsor: Senator Rodríguez

Under current law, if an individual dies without leaving a homestead to the surviving spouse or minor children, the survivors may pursue a claim against the decedent's estate called an allowance in lieu of homestead or an allowance in lieu of other exempt property. The maximum amount that can be claimed in lieu of a homestead is \$15,000 and the maximum amount of the allowance in lieu of other exempt property is \$5,000. This bill:

Increases the maximum allowance in lieu of a homestead to \$45,000 and the maximum allowance for other exempt property to \$30,000.

Application for a Writ of Habeas Corpus in a Noncapital Felony Case—H.B. 833
by Representative Giddings—Senate Sponsor: Senator West

Article 11.07 (Procedure After Conviction Without Death Penalty), Code of Criminal Procedure, sets forth the procedures for an application for writ of habeas corpus in which the applicant seeks relief from a felony judgment imposing a penalty other than death. Under this article, the clerk of the convicting court must, after the convicting court makes a finding of fact or approves such findings, immediately transmit the

transcript of all depositions and hearings to the Texas Court of Criminal Appeals. This article also requires the court reporter to prepare that transcript within 15 days of the conclusion of the hearing, but does not require the court reporter to deliver the transcript to the clerk of the court. This bill:

Requires the court reporter, on completion of the transcript, to immediately transmit the transcript to the clerk of the convicting court.

Notice of and Participation in Certain Hearings Regarding State Conservatorship—H.B. 843

by Representative Lucio III et al.—Senate Sponsor: Senator Lucio

The judicial system plays a critical role in protecting the best interests of youth in foster care. At hearings, a judge reviews information provided by stakeholders to make appropriate decisions regarding a child's well-being. Under current law, notice for placement review and permanency hearings must be given to certain parties on a child's case. Although the Family Code requires a youth to attend certain hearings, such notification is not extended to the youth. This bill:

Adds youth age 10 and older, or as deemed capable by the court, to those persons entitled to at least 10 days' notice of permanency hearings and placement review hearings

Provides that a youth may present evidence and be heard at such hearing.

Possession of or Access to a Child—H.B. 845

by Representative Lucio III—Senate Sponsor: Senator West

The Family Code sets forth general terms and conditions regarding a court order for possession or access to a child by a parent or other responsible person, including notice requirements and periods of possession. This bill:

Permits notice by electronic mail or facsimile related to such orders.

Expands the options for the beginning and ending times of certain periods of possession or access.

Repeals Section 153.3162 (Additional Periods of Possession or Access After Conclusion of Military Deployment), Family Code.

Enforcement of a Child Support Order—H.B. 847

by Representative Lucio III—Senate Sponsor: Senator Rodríguez

Under current law, a court is authorized to hold a child support obligor in contempt if the obligor fails to pay the amount of support ordered by a court. However, an obligor may not be held in contempt if the obligor appears at the hearing and shows proof that the obligor has become current in paying child support. Current law allows obligors to repeatedly fall behind with payments, waiting to pay the outstanding child support obligation until just before a hearing. This bill:

JURISPRUDENCE, COURTS, AND THE JUDICIARY

Provides that a finding that the respondent is not in contempt does not preclude the court from awarding the petitioner court costs and reasonable attorney's fees.

Repeals a provision of the Family Code barring a court from finding a respondent in contempt of court for failure to pay child support if the respondent appears at the hearing and shows that the respondent is current in the payment of child support.

Issuance of a Marriage License For an Absent Applicant—H.B. 869 *by Representative Ashby et al.—Senate Sponsor: Senator Paxton*

Marriage by proxy permits an individual to stand in for another person while applying for a marriage license. Under certain circumstances, if an individual is unable to appear in person for the application or the ceremony, the individual can sign an affidavit naming another person to represent that individual. Texas is one of only four states that allows for marriage by proxy. There is concern that individuals can fraudulently acquire a marriage license by proxy without the other person's knowledge, enabling them to receive entitlement benefits. This bill:

Provides that a clerk may issue a marriage license for which both applicants are absent only if the person applying on behalf of each absent applicant provides an affidavit of the applicant declaring that the applicant is a member of the armed forces of the United States stationed in another country in support of combat or another military operation and is unable to attend the ceremony.

Authorizes a person to assent to marriage by the appearance of a proxy if the person is a member of the armed forces of the United States stationed in another country in support of combat or another military operation and unable to attend the ceremony.

Requires a county clerk who issues a marriage license for an absent applicant to maintain the affidavit of the absent applicant and the application for the marriage license in the same manner as an application for a marriage license submitted by two applicants in person.

Restoring Jurisdiction of the Constitutional County Court in Brazos County—H.B. 1114 *by Representative Raney—Senate Sponsor: Senator Schwertner*

Section 26.121 (Brazos County), Government Code, provides that the County Court of Brazos County has the general jurisdiction of a probate court and juvenile jurisdiction, but has no other civil or criminal jurisdiction. This bill:

Repeals this section, so that the court has the jurisdiction generally granted to a constitutional county court.

Waiver of Extradition Proceedings—H.B. 1125 *by Representative Lavender—Senate Sponsor: Senator Eltife*

A writ of habeas corpus is a legal action that requires a person under arrest to be brought before a judge or into court. Texas counties that border other states often have defendants in custody who require

extradition. Currently defendants may go before magistrate judges for extradition; however, in rural counties a magistrate is not always a court of record. Until a magistrate can hear the matter, the county bears the cost of housing the defendant. This bill:

Provides that no person arrested shall be extradited unless he or she is first taken before a judge of a court of record in the state, or before a justice of the peace serving a precinct that is located in a county bordering another state.

Requires a justice of the peace who is not an attorney in order to perform a duty or function regarding extradition to take a training course that focuses on extradition law through the Texas Justice Court Training Center.

Requires each justice of the peace to ensure that the applicable proceeding is transcribed or videotaped and that the record of the proceeding is retained in the records of the court for at least 270 days.

Retention of Records by Certain Ad Litem or an Amicus Attorney—H.B. 1185
by Representatives Senfronia Thompson and Longoria—Senate Sponsor: Senator Hancock

A guardian ad litem, attorney ad litem, or amicus attorney (representative) appointed to represent a child in a suit affecting the parent-child relationship must review pertinent records of the child in order to fulfill the person's duties and act in the child's best interest. Under Section 107.006 (Access to Child and Information Relating to Child), Family Code, the court must issue an order authorizing the representative to have immediate access to the child and any information relating to the child. However, Subsection (f) provides that records obtained under this section must be destroyed on termination of the appointment. This means that if a child returns to the system, the child's representative must again seek out these essential records. This bill:

Repeals Subsection (f) of Section 107.006, Family Code.

Limiting the Liability of Persons Hiring Individuals With Criminal Convictions—H.B. 1188
by Representative Senfronia Thompson et al.—Senate Sponsor: Senator Whitmire

A person with a criminal record may have difficulty finding employment because many employers view an applicant with a criminal record as a potential liability in negligent hiring actions. This bill:

Adds Chapter 142 (Limitation on Liability for Hiring Certain Employees), Civil Practice and Remedies Code:

- Defines "employee" and "independent contractor."
- Bars a cause of action against an employer, general contractor, premises owner, or other third party (employer) solely for negligently hiring or failing to adequately supervise an employee, based on evidence that the employee has been convicted of an offense.
- Provides that this Act does not preclude such a cause of action if the employer knew or should have known of the conviction and the employee was convicted of:
 - an offense committed while performing duties substantially similar to those reasonably expected to be performed in the employment, or under conditions substantially similar to those reasonably

expected to be encountered in the employment, taking into consideration certain factors listed the Occupations Code, without regard to whether the occupation requires a license;

- certain specified serious offenses; or
- a sexually violent offense.
- Provides that the protections provided under this Act do not apply in a suit concerning the misuse of funds or property of a person other than the employer if, on the date the employee was hired, the employee had been convicted of a crime involving fraud or the misuse of funds or property and it was foreseeable that the employee's position would involve discharging a fiduciary responsibility in the management of funds or property.
- Provides that the Act does not create a cause of action or expand an existing cause of action.

Appointment of Bailiffs For Certain District Courts—H.B. 1193

by Representative Guillen—Senate Sponsor: Senator Zaffirini

A bailiff is a peace officer whose primary duty is to provide a secure environment during court proceedings. However, not all district judges are granted the power to appoint their own bailiffs. This bill:

Authorizes the judges of the 229th District Court and the 381st District Court to appoint bailiffs.

Expanding Venue for Certain Offenses Under the Water Safety Act—H.B. 1222

by Representative Chris Turner—Senate Sponsor: Senator West

The Water Safety Act (Act), encoded in Chapter 31 of the Parks and Wildlife Code, implements various measures to protect public safety on Texas waterways. Under current law, the venue for any alleged violation or offense under the Act is the justice court or county court with jurisdiction where the violation or offense occurred. This bill:

Adds a municipal court as an authorized venue under the Act for such violations and offenses.

Limiting Parental Rights Relating to Child Conceived From Sexual Offenses—H.B. 1228

by Representative Dukes et al.—Senate Sponsor: Senator Davis et al.

It has been reported that thousands of women in the United States become pregnant from rape each year. However, few states have enacted laws to protect women who become pregnant as a result of sexual assault and choose to carry their pregnancies to term. Without such laws, it may be possible for a man who fathers a child through sexual assault to claim custody and visitation privileges. This bill:

Amends the Family Code to require a court to consider evidence of sexual abuse in determining whether to appoint a party as a sole or joint managing conservator.

Bars a court from allowing a parent to have access to a child if the parent engaged in certain sexual offenses resulting in the victim becoming pregnant with the child, unless the court determines that

permitting access is in the child's best interest and the possession order includes provisions protecting the safety of the child and other persons.

Authorizes a court to order a person whose parental rights were terminated regarding a child conceived as the direct result of the person engaging in certain sexual offenses to support the child.

Requires a court to order the termination of the parent-child relationship if the court finds by clear and convincing evidence that parent engaged in certain sexual offenses resulting in the victim becoming pregnant with the child.

Allocation of Money in the Judicial and Court Personnel Training Fund—H.B. 1245
by Representative Sylvester Turner—Senate Sponsor: Senator Duncan

The Texas Court of Criminal Appeals administers the judicial and court personnel training fund (fund) that provides legal education courses, programs, and technical assistance projects to judges, court personnel, prosecuting attorneys and their personnel, and criminal defense attorneys who regularly represent indigent defendants in criminal matters. Under current law, prosecuting attorneys and their personnel, as well as court personnel at all court levels, may participate in training administered by the fund. However, the personnel of criminal defense attorneys are not included under the statute. This bill:

Authorizes the personnel of criminal defense attorneys who regularly represent indigent defendants to participate in training funded through the fund.

Provides that any allocation of funds to provide training to such personnel must come from a grant made by the court of criminal appeals.

Extension of the Abolishment of Small Claims Courts—H.B. 1263
by Representative Lewis—Senate Sponsor: Senator Duncan

In the first called special session of the 82nd Legislature in 2011, the legislature passed H.B. 79 to reorganize the courts. H.B. 79 abolished small claims courts as of May 1, 2013, to be replaced by new justice court rules promulgated by the Texas Supreme Court. Since the passage of H.B. 79, the Texas Supreme Court developed certain rules relating to small claims cases and civil procedure, but to provide sufficient time to transition to the new rules and train their clerks, constables, and other staff, justices of the peace have requested additional time. This bill:

Requires the Texas Supreme Court, not later than May 1, 2013, to promulgate rules regarding defining cases that constitute small claims cases, rules regarding civil procedure applicable to small claims cases as required by Section 27.060 (Small Claims), Government Code, and rules relating to eviction proceedings, to be effective August 31, 2013:

Adds Section 27.060 (Small Claims) to the Government Code and abolishes small claims courts created under Chapter 28 (Small Claims Courts), Government Code, effective August 31, 2013, rather than May 1, 2013.

Appointment of Counsel For Youth and Indigent Defendants—H.B. 1318

by Representative Sylvester Turner—Senate Sponsor: Senator Whitmire

Despite the fact that certain children are entitled to appointed counsel to represent them in juvenile justice proceedings, many children are reportedly not represented by counsel at the first detention hearing. This bill:

Requires an appointed attorney to, not later than October 15 of each year, submit to the county information for the preceding fiscal year, that describes the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in the county.

Prohibits a public defender's office from accepting an appointment if the acceptance of the appointment would violate the maximum allowable caseloads established at the public defender's office.

Requires the chief public defender to file with the court a written statement that identifies any reason for refusing an appointment.

Provides that a chief public defender may not be terminated, removed, or sanctioned for refusing in good faith to accept an appointment.

Requires the court, unless the court finds that the appointment of counsel is not feasible due to exigent circumstances, to appoint counsel within a reasonable time before the first detention hearing is held to represent a child at that hearing.

Requires each county to prepare and provide to the Texas Indigent Defense Commission (commission) not later than November 1 of each odd-numbered year any plan or proposal submitted to the commissioners court; any plan of operation submitted to the commissioners court; and any contract for indigent defense services required under rules adopted by the commission relating to a contract defender program.

Requires each county to prepare and provide to the commission information that describes for the preceding fiscal year the number of appointments made to each attorney accepting appointments in the county and information provided to the county by those attorneys.

Dismissal of Pending Claims Arising From Asbestos and Silica Exposure—H.B. 1325

by Representative Doug Miller et al.—Senate Sponsor: Senator Duncan

S.B. 15, 79th Legislature, Regular Session, 2005, set forth procedures for civil actions arising from exposure to asbestos and silica. The bill assigned all pretrial proceedings in such cases to multidistrict litigation courts (MDL) and imposed scientifically valid medical criteria. Claimants meeting that medical criteria could move their cases to trial, but other claimants were assigned to an inactive docket where their cases were left pending, because S.B. 15 prohibited the dismissal of actions. This bill:

Authorizes a defendant in an asbestos-related or silica-related action filed on or after September 1, 2005, to file a motion to dismiss the claims if a claimant fails to meet certain statutory criteria.

Bars the MDL pretrial court from remanding any action for trial that was pending on August 31, 2005, and that remains pending in that court unless certain statutory provisions are met:

Requires the MDL pretrial court beginning on September 1, 2014, to dismiss each action for an asbestos-related injury or a silica-related injury that was pending on August 31, 2005, unless certain statutory provisions are met; to provide for the dismissal of such actions in a case management order; and dismiss all such actions on or before August 31, 2015.

Provides that such dismissal is without prejudice to the claimant's right to file a subsequent action for damages arising from an asbestos-related injury or a silica-related injury.

Provides that if a claimant refiles an action for an asbestos-related injury or a silica-related injury that was dismissed under this Act, the refiled action is treated as if that claimant's action had never been dismissed, but had instead remained pending.

Authorizes a claimant whose action was dismissed under this Act to serve the petition and citation for any subsequently filed action by certified mail, return receipt requested, or other method approved by the MDL pretrial court.

Composition of the El Paso County Juvenile Board—H.B. 1334
by Representative Márquez —Senate Sponsor: Senator Rodríguez

Current law establishes the composition of the El Paso County juvenile board and specifically names the county judge of El Paso County to the board. Because the county judge has many other responsibilities, the effectiveness of the juvenile board's operations could be improved if the county judge is allowed to designate another person to serve in his or her place. This bill:

Authorizes the county judge to designate to serve in his or her place on the board a member of the commissioners court; or an individual who is not a member of the commissioners court, but has been approved by the commissioners court by majority vote.

Certain Procedures in Family or Juvenile Law Proceedings—H.B. 1366
by Representative Lucio III—Senate Sponsor: Senator Rodríguez

Under current law, an interlocutory appeal in certain types of cases stays the start of a trial pending resolution of the appeal. Interested parties assert, however, that matters involving the disposition of the marital status of spouses, division of a marital estate, and provisions relating to child custody and support necessitate moving to trial as promptly as possible.

In addition, a waiver of service of process in a suit for divorce currently must be sworn, but may not be sworn before an attorney in the suit. Because other provisions of law allow an unsworn declaration to be used in lieu of a sworn declaration, there is concern that the law should be clarified to require a waiver of service in such a suit to be sworn before a notary who is not an attorney in the suit.

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Interested parties also assert that the current timeline for requesting a de novo hearing on an associate judge's decision regarding certain family and juvenile matters can be lengthy and become burdensome on the parties involved. This bill:

Provides an exemption for suits brought under the Family Code from the provision that an interlocutory appeal stays the commencement of a trial pending resolution of the appeal.

Clarifies that the waiver of service must be sworn before a notary public who is not an attorney in the suit.

Authorizes a court in a suit for dissolution of a marriage to award reasonable attorney's fees and expenses and to order that any fees, expenses, and interest be paid directly to the attorney.

Changes the deadline by which a party may request a de novo hearing before the referring court from the seventh to the third working day after certain dates.

Notice and Reporting Requirements on Court and County Clerks—H.B. 1435

by Representative Darby—Senate Sponsor: Senator Seliger

Current law imposes various notice and reporting requirements on court and county clerks. In some cases clerks are unable to comply with such requirements because they do not have access to the necessary information. This bill:

Authorizes a victim assistance coordinator, upon request, to provide the clerk with information or other assistance necessary for the clerk to provide the requisite notice.

Removes a provision of the Family Code making it an offense for the clerk to fail to report the disposition of a juvenile offender's case.

Requires military members to provide certain information to the clerk of the court regarding notice.

Requires the Office of Court Administration to develop a form for attorneys to file along with any lawsuit identifying those suits containing a constitutional challenge to a Texas statute.

Clarifies what notice a former landfill unit must provide to the county clerk of the county or counties in which the former landfill unit is located.

Use of Money Deposited to a Justice Court Technology Fund in Certain Counties—H.B. 1448

by Representative Kuempel—Senate Sponsor: Senator Campbell

Article 102.0173 (Court Costs; Justice Court Technology Fund), Code of Criminal Procedure, establishes a justice court technology fund in each county. A defendant convicted of a misdemeanor offense in a justice court must pay a \$4 justice court technology fee. The fee is deposited into the county's justice court technology fund and is used for information technology equipment, maintenance, and training in justice courts. This bill:

Authorizes certain justice of the peace courts, with the approval of a commissioners court, to use the justice court technology fund to assist constables or another county departments with technological enhancements or related costs that are related to the operation or efficiency of a justice court.

Limits this provision to a county that has a population of 125,000 or more; is not adjacent to a county of two million or more; contains a portion of the Guadalupe River; and contains a portion of Interstate Highway 10.

Increasing Records Archive and Records Management and Preservation Fees—H.B. 1513

by Representative Lewis—Senate Sponsor: Senator West

Current law provides that a district court records archive fee collected by the district clerk or a records management and preservation fee collected by the county clerk may not exceed \$5. There is concern that the revenue from such fees is insufficient to cover the timely archiving of records. Raising the caps on such fees would permit the archiving of more old and deteriorating records and allow courts to expand the automation of records. This bill:

Increases the permissible range of the district and county courts records archive fees and the records management and preservation fees from \$5 to \$10.

Unsworn Declarations in Certain Filings, Exhibits Disposal, and Electronic Seals—H.B. 1728

by Representative Ashby—Senate Sponsor: Senator Seliger

County clerks are seeing an increase in the number of documents filed without notaries that potentially place fraudulent liens on properties. As a result, there is a need to update current law regarding the use of unsworn declarations to prevent this fraud. Additionally, in order to increase efficiency, clerks should be able to dispose of criminal exhibits more expediently under certain circumstances and to impress seals and affix signatures on documents using electronic means. This bill:

Amends the Civil Practice and Remedies Code to provide that the provision permitting unsworn declarations does not apply to a lien or an instrument concerning real or personal property required to be filed with a county clerk.

Authorizes an eligible exhibit to be disposed of on or after the first anniversary of either the date of the acquittal of a defendant or the death of a defendant.

Permits the use of electronic seals and signatures by constitutional county court clerks and county clerks.

Authorizing the Appointment of a Public Probate Administrator—H.B. 1755

by Representative Diane Patrick—Senate Sponsor: Senator Hancock

When a person dies without known kin and has not appointed a personal representative, this creates issues for the county where the person's property is located because the unclaimed property may be subject to loss, injury, waste, or misappropriation. This bill:

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Authorizes a statutory probate judge or judges, with the concurrence of the county commissioners court, to appoint a public probate administrator to serve the statutory probate courts in that county.

Authorizes the public probate administrator to be a person, a charitable organization, or any other suitable entity.

Requires the commissioners court to set the compensation for the public probate administrator.

Authorizes the public probate administrator to hire necessary staff, with the consent of the commissioners court.

Requires the public probate administrator to execute an official bond.

Requires the public probate administrator to take possession or control of the property of a decedent for whose estate a personal representative has not been appointed and who has no known or suitable next of kin, if so ordered by a court or if the property is subject to loss, injury, waste, or misappropriation.

Sets forth the duties of the public probate administrator, including determining if the decedent has any heirs or a will, making burial arrangements, and disposing of any unclaimed property.

Authorizes certain officials and other persons to notify the public probate administrator when a person dies without known kin or whose property is subject to loss, injury, waste, or misappropriation.

Sets forth the procedure for a public probate administrator to administer the estate.

Provides for the withdrawal of the public probate administrator if a person more entitled to serve as a personal representative for the deceased comes forward.

Requires that all funds coming into the possession of the public probate administrator be deposited in the county treasury.

Requires the clerk of a county court in a county that has appointed such an administrator to collect a \$10 fee to fund the public probate administrator's office.

Suspension or Denial of a License For Failure to Pay Child Support—H.B. 1846

by Representative Carter—Senate Sponsor: Senator Paxton

Under current law, the attorney general or a court can stay or halt an order suspending a driver's license under certain circumstances. One of those conditions is that the individual comply with a child support repayment schedule. This bill:

Requires an individual to make an immediate partial child support payment of at least \$200 before a stay may be ordered.

Prohibits a licensing authority from accepting an application for a license or license renewal unless the person owing child support has made an immediate payment of not less than \$200 toward the child support arrearages owed.

Continuing Legal Education For Prosecutors—H.B. 1847
by Representative Carter—Senate Sponsor: Senator Huffman

All attorneys in Texas, including prosecutors, are currently required to meet minimum continuing legal education requirements set by the State Bar of Texas. However, there is no specific requirement for prosecutors to complete training on the subject of prosecutorial misconduct. This bill:

Requires all attorneys representing the state in the prosecution of felony and misdemeanor criminal offenses, other than Class C misdemeanors, to complete a course of study relating to the duty of a prosecuting attorney to disclose exculpatory and mitigating evidence in a criminal case.

Requires the Texas Court of Criminal Appeals to adopt rules relating to this training.

Provides that such rules must:

- require that each attorney representing the state, within 180 days of assuming such duties, receive one hour of instruction relating to the duty of a prosecuting attorney to disclose exculpatory and mitigating evidence in a criminal matter;
- require additional training as determined by the Court of Criminal Appeals;
- provide that the required training specify a prosecuting attorney's duties to disclose exculpatory and mitigating evidence consistent with case law and the Texas Disciplinary Rules of Professional Conduct; and
- provide for a method of certifying the completion of the training.

Appeal From an Interlocutory Order of Statutory Probate Courts—H.B. 1874
by Representative Lewis—Senate Sponsor: Senator Rodriguez

Under current law, Section 51.014 (Appeal from Interlocutory Order), Civil Practice and Remedies Code, allows a party to appeal an interlocutory order from a district court, county court at law, or a county court, but does not permit the appeal of an interlocutory order from a statutory probate court. A probate court has exclusive jurisdiction over probate, guardianship, and mental health commitment matters. This bill:

Adds statutory probate courts to the types of courts whose interlocutory orders can be appealed.

Requiring Judge's Consent in the Transfer of a Case Between District Courts—H.B. 1875
by Representative Lewis—Senate Sponsor: Senator West

Under current law, the transfer of a case from one district court to another district court in a county does not require the consent of the judge of the court to which the case is transferred. This bill:

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Provides that, notwithstanding the local rules of administration, a district judge may not transfer any civil or criminal case or proceeding to another district court without the consent of the judge of the court to which it is transferred.

Limits the transfer of cases under Chapter 155 (Continuing Exclusive Jurisdiction; Transfer), Family Code.

Granting Municipal Courts Jurisdiction in a Concurrent Jurisdiction Agreement—H.B. 2025 *by Representatives Capriglione and Stickland—Senate Sponsor: Senator Hancock*

H.B. 984, 82nd Legislature, Regular Session, 2011, allows neighboring municipalities to enter into a concurrent jurisdiction agreement for their municipal courts in certain cases and to provide original jurisdiction in those cases to a municipal court in either municipality. The provisions of H.B. 984 apply only to an offense committed or conduct that occurs after the effective date of an agreement, meaning that an offense committed or conduct that occurred before the agreement would remain under the sole jurisdiction of the municipality in which the case was originally brought. This bill:

Grants each municipality that enters into a concurrent jurisdiction agreement original jurisdiction over offenses committed or conduct that occurs in either of the municipalities before, on, or after the date of May 19, 2011, the effective date of H.B. 984.

Updating Texas Law Regarding Guardianships—H.B. 2080 *by Representative Senfronia Thompson et al.—Senate Sponsor: Senator Rodríguez*

As part of its ongoing review of Texas probate, guardianship, and trust law, the Real Estate, Probate, and Trust Law Section of the State Bar of Texas has proposed several updates to the law regarding guardianships. Issues covered include mediation settlement guidelines, court costs and attorney's fees, electronic filing of affidavits, appointment and bond requirements, and required terms. This bill:

Exempts certain persons from filing fees in guardianship proceedings, including a guardian ad litem or a governmental entity.

Provides that once a guardianship is created, a person or entity is entitled for reimbursement of filing fees from the guardianship estate, or if that is inadequate, the county treasury.

Authorizes a court on the request to exclude certain information from any document filed in a guardianship proceeding regarding a person protected by a protective order issued under the Family Code.
Provides that certain Texas Rules of Civil Procedure do not apply to guardianship proceedings.

Authorizes a court to appoint a guardian ad litem in any guardianship proceeding to represent the interests of certain persons, such as a proposed ward or unknown or missing potential heir.

Provides that such a guardian ad litem is entitled to reasonable compensation for services provided in an amount set by the court.

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Provides for the mediation of a contested guardianship proceeding on the written agreement of the parties or on the court's own motion.

Provides that a mediated settlement agreement is binding if it meets certain specified requirements.

Authorizes a court to decline to enter judgment on a mediated settlement agreement if the court finds the agreement is not in the ward's or proposed ward's best interests.

Provides that an application for a guardianship may omit the address of a person named in the application if the person is protected by an protected order issued under the Family Code.

Requires that an order granting a guardian the right to have physical possession of the ward and to establish the ward's legal domicile contain specific notice to peace officers that they may use reasonable efforts to enforce such rights.

Requires that an information letter from an interested person to establish probable cause that a person is incapacitated include certain specified information and, in certain circumstances, be signed and sworn before a notary public or include a written declaration.

Provides that it is presumed to not be in the ward's or incapacitated person's best interests to appoint as a guardian a person who has been finally convicted of a terroristic threat or continuous violence against the family of the ward or incapacitated person.

Bars a person subject to a protective order issued under the Family Code to be appointed guardian of a proposed ward or ward protected under that order.

Grants a guardian the power to sign documents necessary to facilitate the employment of the ward if certain criteria are met.

Provides that a court creating a guardianship or management trust may authorize attorney's fees in amounts the court considers equitable and just.

Provides that the court may authorize amounts that otherwise would be paid from the ward's estate or the management trust to be paid from the county treasury.

Authorizes a court, upon finding that a party in a guardianship proceeding acted in bad faith or without just cause in prosecuting or objecting to an application, to require that party to reimburse the ward's estate for attorney's fees.

Expands court costs under Section 1155.151 (Cost of Proceeding in Guardianship Matter) to include attorneys ad litem, mental health professionals, and court interpreters and requires such costs to be set in amounts that the court finds to be equitable and just.

Authorizes a guardian who files the guardian's annual report electronically to use an unsworn declaration.

Requires certain affidavits to be filed by a guardian to include certain information regarding the guardian's status.

Clarifies under Section 1301.054 (Creation of Trust for Incapacitated Person Without Guardian) that a court is not required to appoint an attorney ad litem or guardian ad litem for a person with only a physical disability.

Requires that a management trust created for a person with only a physical disability provide a trustee with reasonable compensation for his or her services.

Authorizes a court in a proceeding to determine whether to transfer property from a management trust created for a person who has only a physical disability to a pool trust to appoint an attorney ad litem or guardian ad litem to represent that person's interest.

Electronic or Digital Court Documents, Authorizing Certain Fees—H.B. 2302 *by Representatives Hunter and Senfronia Thompson—Senate Sponsor: Senator West*

A recent order of the Supreme Court of Texas mandates electronic filing (e-filing) in civil cases by attorneys in appellate courts, district courts, statutory county courts, constitutional county courts, and statutory probate courts based on an implementation schedule that is determined by county population. Under the current system, a fee is charged each time an attorney electronically files any document related to a civil action, known as the "toll-road" model. A per-case filing fee for civil cases would offset the cost of implementing the statewide e-filing system while also providing cost savings for litigants. This bill:

Authorizes a judge or justice presiding over a court in this state to sign an electronic or digital court document electronically, digitally, or through another secure method.

Requires a clerk of:

- the Supreme Court of Texas, a court of appeals, a district court, a county court, a statutory county court, or a statutory probate court to collect a \$20 fee on the filing of any civil action or proceeding requiring a filing fee; and
- a justice court to collect a \$10 fee on the filing of any civil action or proceeding requiring a filing fee.

Imposes a \$5 court cost on conviction of any criminal offense in a district court, county court, or statutory county court.

Authorizes a court to waive payment of a court cost or fee for an individual the court determines is indigent.

Requires that these court costs and fees be remitted to the comptroller of public accounts of the State of Texas for deposit in the statewide electronic filing system fund (fund) established under this Act.

Creates the fund as an account in the general revenue fund.

Provides that this fund may only be appropriated to the Office of Court Administration of the Texas Judicial System (OCA) to support a statewide electronic filing technology project for Texas courts, provide grants to counties to implement components of the project, or support court technology projects with a statewide impact.

Defines "appellate court," "electronic filing system," "electronic filing transaction," and "local government."

Permits a local government or appellate court using the electronic filing system to charge a fee of \$2 for each electronic filing transaction if the fee is necessary to recover the actual system operating costs and certain other criteria are met.

Provides that this \$2 fee expires September 1, 2019.

Clarifies that certain governmental filers will not be assessed these costs.

Requires OCA, not later than December 1, 2018, to file a report with the lieutenant governor, the speaker of the House of Representatives, and the presiding officers of the standing committees of each house of the legislature with jurisdiction over the judiciary detailing the number of local governments and appellate courts collecting the \$2 fee as added by this Act and the necessity for such entities to continue collecting the fee.

Burden of Proof in an Action Contrary to a Forfeiture Clause in a Will or Trust—H.B. 2380
by Representative Sarah Davis—Senate Sponsor: Senator Taylor

A forfeiture clause in a will or trust provides that if a person entitled to recover under a will or trust challenges the will or trust, that person forfeits the right to recover under the will or receive benefits from the trust. Forfeiture clauses can discourage frivolous challenges to wills and trusts but, if strictly enforced, can also discourage potentially legitimate claims. Under current law, a forfeiture clause is invalid if the challenge to a will or trust is brought in good faith and with just cause, but the current law places the burden of proof on the person seeking to enforce the forfeiture clause. This bill:

Requires the person bringing the action contrary to the forfeiture clause in a will or trust to establish by a preponderance of the evidence that just cause existed for bringing the action and the action was brought and maintained in good faith.

Disclaimers of Estate Property by Child Support Obligors—H.B. 2621
by Representative Creighton et al.—Senate Sponsor: Senator Williams

Under current law, a person eligible to receive an inheritance is allowed to disclaim that inheritance. Such disclaimer this can be used to circumvent the collection child support payments, because a disclaimer technically prevents the child support obligor from receiving legal ownership of the inheritance. It is then possible for the inheritance to pass to the next closest of kin, who holds the inheritance in trust for the benefit of the obligor. This bill:

Requires that a disclaimer of property include a statement regarding whether the beneficiary is a child support obligor.

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Provides that a disclaimer made by a beneficiary who is an obligor of estate property that could be applied to satisfy a child support obligation is not effective if the beneficiary owes child support arrearages that have been either administratively determined or confirmed and reduced to judgment.

Grants the child support obligee a lien or other remedy against the estate property distributed to the beneficiary.

Updating Law Regarding Decedents' Estates—H.B. 2912 *by Representative Senfronia Thompson—Senate Sponsor: Senator Rodríguez*

As part of its ongoing revision of Texas probate, guardianship, and trust law, the Real Estate, Probate, and Trust Law Section (REPTLS) of the State Bar of Texas has proposed several updates to laws affecting decedents' estates intended to bring certain provisions up to date, make confirming changes and revisions, and provide clarity on the various requirements for heirship. The bill makes numerous changes to existing law, but few are substantial. This bill:

Provides that Chapter 132 (Unsworn Declarations), Civil Practice and Remedies Code, does not apply to Subchapter C (Self-Proved Wills), Chapter 251, Estates Code.

Authorizes a probate court judge to appoint an attorney ad litem in any probate proceeding to represent the interests of a missing heir or an unknown or missing person for whom cash is deposited into the court's registry.

Requires a court to order a personal representative to convert into money any remaining nonmonetary assets to which a person who is unknown or missing is entitled and to deposit all such money in an account in the court's registry.

Requires the court to hold money deposited in such an account until the court renders an order regarding the disposition of the money.

Requires a court to tax the compensation of an attorney ad litem as costs in the probate proceeding and to order the compensation to be paid out of the estate or by any party at any time during the proceeding. For an attorney ad litem appointed for a missing heir or an unknown or missing person for whom cash is deposited into the court's registry, compensation must be paid from the cash on deposit in the court's registry.

Provides that certain Texas Rules of Civil Procedure do not apply to probate proceedings.

Provides that the Texas Rules of Evidence apply in proceedings regarding a decedent's estate.

Provides that if the decedent was survived by a spouse or minor child, the homestead is not liable for the payment of any of the debts of the estate, other than those otherwise provided by law.

Defines a "contracting third party" regarding payment or transfer of certain assets on death.

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Provides that Texas law applies to certain nontestamentary transfer of assets or interests in certain accounts or regarding certain interests owned by one or more persons domiciled in this state.

Provides that a child born under a valid gestational agreement is the child of the intended mother and father and not the biological or gestational mother or biological father, unless the biological parent is also the intended parent.

Provides that a proceeding to declare heirship of a decedent may be brought at any time after the decedent's death.

Expands provisions regarding who may commence a proceeding to declare heirship of a decedent to include any creditor, rather than a secured creditor.

Revises Section 202.009 (Representation of Interests of Certain Persons), Estates Code, regarding the representation of certain persons to:

- strike the provision authorizing the court to appoint a guardian ad litem to represent the interest of an heir whose name or location is unknown;
- require the court to appoint an attorney ad litem in a proceeding to declare heirship to represent the interests of heirs whose names or locations are unknown; and
- authorize the court to expand the appointment of the attorney ad litem to include representation of an heir who is an incapacitated person to protect the interests of the heir.

Modifies provisions regarding the waiver of service on citation on certain minors to provide that a parent, managing conservator, guardian, attorney ad litem, or guardian ad litem of a minor distributee who is younger than 12 years of age may waive citation required to be served on the distributee.

Requires a person who files an application for a proceeding to determine heirship to file with the court a copy of any required citation, proof of delivery of service of the citation, and a sworn affidavit by the applicant or a certificate signed by the applicant's attorney stating that citation was served and to whom.

Bars a court from entering an order in the proceeding to declare heirship under until such affidavit or certificate is filed.

Requires that testimony in a proceeding to declare heirship must be taken in open court or by deposition in accordance with state law or the Texas Rules of Civil Procedure.

Provides that the presumption regarding genetic testing results under the Uniform Parentage Act in establishing a parent-child relationship also applies in determining heirship in the probate court.

Provides that a court order prohibiting a person from executing a new will or a codicil is void.

Expands the requirements of an application for the probate of a will to include the state of residence and physical address for service of the executor named in the will or other person to whom the applicant desires that letters testamentary be issued.

Changes certain references to "written will" to "will."

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Provides that a will executed in another state or a foreign country is considered self-proved if the will, or an affidavit of the testator and attesting witnesses attached to the will, includes certain specified information.

Clarifies that an attested will that is not self-proved may be proved in certain circumstances by written or oral deposition taken in accordance with statutory law or the Texas Rules of Civil Procedure.

Provides that a witness being deposed for purposes of proving the will may testify by referring to a certified copy of the will.

Sets forth authorized methods of proof of a fact contained in an application for issuance of letters testamentary or of administration or certain other facts.

Sets forth the period for filing a bond by a personal representative.

Provides that a creditor must present the claim to a personal representative before the 121st day after the date of the receipt of notice.

Clarifies that an independent executor may file an affidavit in lieu of the inventory, appraisal, and list of claims (inventory) contrary to any provision in a decedent's will that does not specifically prohibit the filing of an affidavit.

Provides that an independent executor is not liable for choosing to file either an affidavit in lieu of filing an inventory as permitted by law or an inventory.

Imposes a fine not to exceed \$1,000 on a personal representative who does not timely file an inventory or affidavit within the period prescribed by law or any extension granted by the court. Such personal representative and the representative's sureties are also liable for all damages and costs sustained by the representative's failure.

Clarifies that an interested person who considers an affidavit to be erroneous or unjust may file a written complaint setting forth the alleged erroneous or unjust item.

Provides that a family allowance may not be made for any of the decedent's adult incapacitated children if, at the time of the decedent's death, the decedent was not supporting the adult incapacitated child.

Requires a person appointed to succeed a personal representative who files an inventory to set out in the inventory the appointee's appraisal of the fair market value of each item in the inventory on the date of the appointee's qualification. Requires that, if the former personal representative did not file an inventory, the appointee must file the inventory as provided by statute.

Requires a personal representative to provide to each person entitled to citation a copy of the account for final settlement either by certified mail, return receipt requested, or electronic delivery.

Requires a personal representative to file a sworn affidavit regarding service of citation.

Requires a court to enter an order discharging a personal representative from the representative's trust and declaring the estate closed when, with respect to the portion of the estate distributable to an unknown or

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missing person, the personal representative complied with an order of the court regarding the sales of nonmonetary assets and the deposit of the proceeds into the court's registry.

Clarifies the person or class of persons entitled to receive property outright from a trust on the decedent's death.

Changes certain references to "real property" to "property" regarding the granting power of sale to a personal representative by agreement.

Clarifies that any time after the expiration of 15 months after the date that the court clerk first issues letters testamentary or of administration to any personal representative of an estate that any person interested in the estate may demand an accounting from the independent executor.

Authorizes a probate court to remove an independent executor without notice under certain circumstances, including when the independent executor's whereabouts are unknown or there are sufficient grounds to believe that the independent executor has misapplied or embezzled property committed to the independent executor's care.

Sets forth the procedure for a probate court to remove an independent executor with notice if the independent executor neglects to qualify in the manner and time required by law; or fails to return, before the 91st day after the date the independent executor qualifies, an inventory or an affidavit and list of claims, unless that deadline is extended by court order.

Provides that if a distributee under a will is a minor and has no guardian of the person, a natural guardian of the minor may sign the application for an order continuing independent administration on the minor's behalf unless a conflict of interest exists between the minor and the natural guardian.

Provides that if a distributee is an incapacitated person, the trustee or cotrustee may apply for an order continuing independent administration or sign the application on the incapacitated person's behalf if the trustee or cotrustee is not the person proposed to serve as the independent executor.

Authorizes a court, if any portion of the estate that is ordered to be distributed is incapable of distribution without prior partition or sale, to order partition and distribution, or sale; or order distribution of that portion of the estate incapable of distribution without prior partition or sale in undivided interests.

Requires a court, by written order, to require the executor or administrator of an estate to pay to the comptroller of public account of the State of Texas any portion deposited in the court's registry of a share of estate of a person entitled to that share who does not demand that share.

Updating Law Regarding Trusts—H.B. 2913

by Representative Senfronia Thompson—Senate Sponsor: Senator Rodríguez

As part of its ongoing revision of Texas probate, guardianship, and trust law, the Real Estate, Probate, and Trust Law Section of the State Bar of Texas has proposed several changes to laws affecting trusts. These revisions are intended to update and clarify the current law regarding trusts. This bill:

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Expands the definition of "property" to include property held in any digital or electronic medium.

Provides that a settlor is not considered a beneficiary of a trust solely because the settlor's interest in the trust was created by the exercise of a power of appointment by a third party.

Provides that certain property contributed to certain specified trusts is not considered to have been contributed by the settlor.

Provides that a person is a beneficiary whether named a beneficiary under the initial trust instrument or through the exercise of a limited or general power of appointment by that person's spouse or another person.

Adds Subchapter D (Distribution of Trust Principal in Further Trust), to the Property Code, which:

- Defines certain terms, including "authorized trustee," "current beneficiary," and "first trust."
- Authorizes an authorized trustee who has the full discretion to distribute the principal of a trust to distribute all or part of the principal of that trust in favor of a trustee of a second trust for the benefit of certain beneficiaries of the first trust.
- Authorizes the authorized trustee to grant a power of appointment in the second trust certain current beneficiaries of the first trust.
- Sets forth the class of permissible appointees.
- Requires the authorized trustee to exercise a power to distribute in good faith, in accordance with the terms and purposes of the trust, and in the interests of the beneficiaries.
- Provides that an authorized trustee who has limited discretion to distribute the principal of a trust may distribute all or part of the principal of that trust in favor of a trustee of a second trust under certain circumstances.
- Provides that an authorized trustee may exercise a power of distribution without the consent of the settlor or beneficiaries of the first trust and without court approval if the trustee provides certain written notice to certain beneficiaries.
- Sets forth who must be given notice, including the attorney general in certain circumstances regarding a charity.
- Requires a distribution to be made by a written instrument signed and acknowledged by the authorized trustee and filed with the records of the first trust and second trusts.
- Provides that except as otherwise provided, the settlor of a first trust is considered to be the settlor of a second trust.
- Permits an authorized trustee to petition a court to order a distribution.
- Provides that if the authorized trustee receives a written objection to a distribution from a beneficiary before the proposed effective date of the distribution, the trustee or the beneficiary may petition a court to approve, modify, or deny the exercise of the trustee's power to make a distribution.
- Bars the authorized trustee from making a distribution if the trustee receives a timely written objection from the attorney general.
- Provides that in a judicial proceeding, the authorized trustee may present the trustee's reasons for supporting or opposing a proposed distribution. The authorized trustee has the burden of proving that the proposed distribution furthers the purposes of the trust, is in accordance with the terms of the trust, and is in the interests of the beneficiaries.

- Provides that if an authorized trustee has full discretion to distribute the principal of a trust and another trustee has limited discretion to distribute principal under the trust instrument, the authorized trustee having full discretion may exercise the power to distribute the trust's principal.
- Provides that the distribution of all of the principal of a first trust to a second trust includes certain subsequently discovered assets.
- Permits an authorized trustee to exercise the power to distribute principal to a second trust regardless of whether there is a current need to distribute principal under the terms of the first trust.
- Provides that this subchapter does not create or imply a duty for an authorized trustee to exercise a power to distribute principal and that the trustee does not have a duty to inform beneficiaries about the availability of this authority.
- Bars an authorized trustee from exercising a power to distribute principal of a trust if the distribution is expressly prohibited by the terms of the governing instrument of the trust.
- Bars an authorized trustee from exercising the power to distribute principal of a trust for certain specified purposes, such as materially impairing the rights of any beneficiary of the trust.
- Bars the authorized trustee from distributing the principal of a trust in a manner that would prevent a contribution to that trust from qualifying for or that would reduce the exclusion, deduction, or other federal tax benefit that was originally claimed for that contribution, except as otherwise provided.
- Provides that generally a trustee may not exercise a power solely to change trust provisions regarding the determination of the compensation of any trustee, but may, for another valid and reasonable purpose, bring the trustee's compensation into conformance with reasonable limits authorized by state law.
- Provides that the compensation payable to an authorized trustee of the first trust may continue to be paid to the trustee of the second trust during the term of the second trust and may be determined in the same manner as the compensation would have been determined in the first trust.
- Bars an authorized trustee from receiving a commission or other compensation for the distribution of a particular asset from a first trust to a second trust.

Defines "discretionary power holder."

Provides that a trustee affiliate or discretionary power holder of a trust that confers on the trustee a power to make discretionary distributions to or for the trustee affiliate's or the discretionary power holder's personal benefit may exercise the power only in accordance with an ascertainable standard relating to the trustee affiliate's or the discretionary power holder's individual health, education, support, or maintenance within the meaning of the federal Internal Revenue Code.

Sets forth where an action may be brought if there are multiple noncorporate trustees.

Amends Section 11.13 (Residence Homestead), Tax Code:

- Includes a residence property owned through a beneficial interest in a qualifying trust by a beneficiary of the trust who qualifies for the exemption.
- Revises the definition of trustor as a person who transfers an interest in real or personal property to a qualifying trust, whether during the person's lifetime or at death.
- Expands the definition of a "qualifying trust" to include an instrument transferring property to the trust or any other agreement that is binding on the trustee.

Expands the tax imposed on the recipient of a gift of a motor vehicle to include a person receiving the motor vehicle from certain trusts.

Creating an Opt-in Form For Statutory Durable Powers of Attorney—H.B. 2918
by Representative Senfronia Thompson—Senate Sponsor: Senators Rodriguez and Schwertner.

The power of attorney form promulgated by the National Conference of Commissioners on Uniform State Laws is an "opt-in" form, meaning that if the principal wants to provide for a power to be exercised by a designated agent, the party must affirmatively grant that power. However, the power of attorney form used in Texas is an "opt-out" form, which means that a person signing the form grants the designated agent general power of attorney unless the principal specifically restricts the powers given to the agent. Texas is the only state that utilizes an opt-out form. In the past, Texas used an opt-in form, but the form was changed to an opt-out form by legislation. This bill:

Modifies the statutory durable power of attorney form to:

- Include notice that generally the agent's authority will continue until the grantor dies or revokes the power of attorney, the agent resigns or is unable to act, or a guardian is appointed for the grantor's estate.
- Require the grantor to affirmatively indicate the powers being granted to the agent by initialing the line in front of those powers being granted, rather than crossing out each power being withheld.
- Expand the grant of the power regarding the making of make gifts to include making gifts outright to or for the benefit of a person, including by the exercise of a presently exercisable general power of appointment held by the grantor.

Motions in Actions Involving the Exercise of Certain Constitutional Rights—H.B. 2935
by Representative Hunter—Senate Sponsor: Senator Ellis

Current law provides that a party to a cause of action may appeal an interlocutory order disposing of the motion to dismiss if the trial court failed to act within the time period in the statute or granted or denied the motion. There is conflict among Texas appellate courts regarding whether the existing statute provides for the right to an interlocutory appeal for the denial of a motion to dismiss under Chapter 27 (Actions Involving the Exercise of Certain Constitutional Rights), Civil Practice and Remedies Code. This bill:

Requires a hearing on a motion under Section 27.003 (Motion to Dismiss), Civil Practice and Remedies Code, to be set not later than the 60th, rather than the 30th, day after the date of service of the motion.

Provides that upon a showing of good cause or by agreement of the parties such hearing may occur not more than 90 days after service of the motion.

Authorizes a court if it cannot hold a hearing in the time required to take judicial notice that the court's docket conditions required a hearing at a later date.

Provides that in no event may the hearing occur more than 90 days after service of the motion.

Authorizes a court to extend the hearing date to allow discovery, but in no event may the hearing occur more than 120 days after the service of the motion.

Requires a court to dismiss a legal action under Chapter 27 against the moving party if the moving party establishes by a preponderance of the evidence each essential element of a valid defense to the nonmovant's claim.

Provides that Chapter 27 does not apply to a legal action brought against a person if the statement or conduct arises out of insurance services or to a legal action brought under the Insurance Code or arising out of an insurance contract.

Authorizes a person to appeal from an interlocutory order of a district court, county court at law, or county court denying a motion to dismiss under Section 27.003.

Provides that such an interlocutory appeal stays all other proceedings in the trial court pending resolution of that appeal.

Procedures in Expedited Judicial Foreclosure Proceedings—H.B. 2978
by Representative Parker—Senate Sponsor: Senator Paxton

In order to sell property under a contract lien, notice of sale is provided by certified mail to each debtor. However, if individuals who are served with such notice do not respond to certified mail or cannot be located with a physical address, the service is returned as undeliverable mail. The Supreme Court of Texas (supreme court) recently issued rules related to expedited foreclosure actions. Prior to these rules, judges were able to send homeowners to mediation prior to the foreclosure to work out a potential remedy to retain their homes. This bill:

Provides that for a power of sale exercised by the filing of an application for an expedited court order allowing the foreclosure of a contract lien, a citation to a respondent is considered complete when service is accomplished in accordance with the Texas Rules of Civil Procedure.

Authorizes a court following the filing of a response to an application for an expedited foreclosure proceeding to conduct a hearing to determine whether to order mediation.

Bars a court from ordering mediation without such a hearing.

Authorizes the petitioner or respondent to request a hearing to determine whether mediation is necessary or whether an application is defective.

Provides that such hearing may be conducted by telephone.

Sets forth notice procedures.

Requires the court, at the hearing, to consider any objections to mediation.

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Requires that any mediation ordered by the court be conducted before the expiration of any deadline imposed by the Texas Rules of Civil Procedure.

Authorizes the court to appoint a mediator if the parties are unable to agree on a mediator.

Requires that the mediator's fee be divided equally between the parties.

Authorizes the parties to agree to waive the mediation process.

Provides that if a respondent fails to attend a mediation hearing, the court may not order mediation and must consider the petitioner's motion for default.

Requires that any mediation take place before a certain specified date.

Bars the supreme court from amending or adopting rules in conflict with this Act.

Requires the supreme court to promulgate certain forms for expedited foreclosure proceedings.

Amount of Child Support Obligations—H.B. 3017

by Representatives Moody and Rick Miller—Senate Sponsor: Senator Van de Putte

A 1987 United States Supreme Court ruling, in *Rose v. Rose*, held that state courts have jurisdiction to hold a disabled veteran in contempt for failing to pay child support, even if the veteran's only means of satisfying this obligation is to utilize veterans' benefits received as compensation for a service-connected disability. The current application of child support guidelines presumptively includes a disabled veteran's compensation and pension as a net resource. The Family Code provides guidance for treatment of a disabled obligor's net resources when the obligor is receiving Social Security benefits, but does not address how to appropriately calculate and allocate a disabled veteran's United States Department of Veterans Affairs (VA) compensation and pension benefits. This bill:

Provides that resources include all other income actually being received, including severance pay, retirement benefits, pensions, trust income, annuities, capital gains, Social Security benefits other than supplemental security income, VA disability benefits other than non-service-connected disability pension benefits, unemployment benefits, disability and workers' compensation benefits, interest income from notes regardless of the source, gifts and prizes, spousal maintenance, and alimony.

Authorizes the court, in determining whether an obligor is intentionally unemployed or underemployed, to consider evidence that the obligor is a veteran, who is seeking or has been awarded VA disability benefits or non-service-connected disability pension benefits.

Requires the court, in the absence of evidence of a party's resources, to presume that the party has income equal to the federal minimum wage for a 40-hour week to which the support guidelines may be applied.

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Operation, Administration, and Practice of Courts—H.B. 3153 *by Representative Lewis et al.—Senate Sponsor: Senators West and Lucio*

The legislature reviews and approves the creation of new district and statutory county courts for counties when there is a substantial judicial need. In order to ensure that the creation of new courts and the modification of judicial jurisdictions is conducted in an orderly manner, these changes are consolidated into a single omnibus bill. This bill:

Removes Leon County from the 12th Judicial District and strikes a provision regarding the beginning of the terms of this court.

Adds Leon County to the 369th Judicial District and provides that the voters of Leon County elect a district attorney for the 369th Judicial District who represents the state in that district court only in Leon County.

Sets forth the composition of the juvenile board of Leon County.

Requires the local administrative district judge to transfer all cases from Leon County that are pending in the 12th District Court on September 1, 2013, to the 369th District Court.

Provides that the person serving as district attorney for the 12th Judicial District on September 1, 2013, continues to serve as the district attorney for the 369th Judicial District.

Removes Waller County from the 155th Judicial District and strikes a provision regarding the beginning of the terms of this court.

Requires the local administrative district judge to transfer to the 506th District Court all cases from Waller County that are pending in the 155th District Court on January 1, 2014.

Requires the local administrative district judge to transfer to the 506th District Court all cases from Waller County that are pending in the 155th District Court on January 1, 2014.

Removes Bandera County from the 216th Judicial District and strikes a provision regarding the beginning of the terms of this court.

Adds Bandera County to the 198th Judicial District and removes Edwards, Kimble, McCulloch, Mason, and Menard Counties.

Creates the 452nd Judicial District, composed of Edwards, Kimble, McCulloch, Mason, and Menard Counties, and authorizes the judge of this court to select jury commissioners, impanel grand juries in each county, and order the drawing of grand and petit juries.

Provides that the voters of the 452nd Judicial District elect a district attorney.

Transfers McCulloch and Menard Counties to the Sixth Administrative Judicial Region from the Seventh Administrative Judicial Region.

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Requires the local administrative district judge to transfer to the 198th District Court all cases from Bandera County that are pending in the 216th District Court.

Requires the local administrative district judge to transfer to the 452nd District Court all cases from Edwards, Kimble, McCulloch, Mason, and Menard Counties pending in the 198th District Court.

Creates the 442nd Judicial District composed of Denton County.

Creates the 443rd Judicial District composed of Ellis County.

Creates the 450th Judicial District composed of Travis County and requires this court to give preference to criminal matters.

Provides that the district attorneys for the 369th and 452nd judicial districts are subject to Chapter 46 (Professional Prosecutors), Government Code, and removes the district attorney for the 12th Judicial District from this chapter.

Creates a statutory county court in Atascosa County:

- Sets forth the jurisdiction of the court.
- Sets forth the qualifications and compensation of the judge, the duties of the district and county clerks, and the salary for the official court reporter.
- Permits the transfer of jurors summoned for a county court at law or a district court in the county to another court for service.

Grants a county court at law in Harrison County concurrent jurisdiction with the district court, on assignment of a district judge presiding in Harrison County:

- Sets out the duties of the district and county clerks.
- Authorizes a party in an assigned case to timely request a jury of 12 persons in lieu of a six-person jury, and sets forth the manner of transferring cases in matters of concurrent jurisdiction.

Creates a statutory county court in Jim Wells County:

- Sets forth the court's jurisdiction.
- Sets forth the qualifications and compensation of the judge and the duties of the district and county clerks.
- Permits the transfer of jurors summoned for a county court at law or a district court in the county to another court for service.
- Provides that a jury is composed of six members unless the constitution requires a 12-member jury.
- Requires that the initial vacancy in the office of judge be filled by election.

Expands the concurrent jurisdiction of a county court at law in Lamar County with the district court to juvenile cases and certain civil cases:

- Clarifies that the district clerk does not serve as clerk of a county court at law in probate matters and proceedings.
- Provides that the fees assessed in a case in which a county court at law and district court have concurrent civil jurisdiction are the same.
- Provides for the transfer of cases in matters of concurrent jurisdiction.

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- Authorizes the judge of a county court at law and a judge of a district court to sit and act for each other in any matter pending before either court.
- Provides that the laws governing the drawing, selection, service, and pay of jurors for county courts apply to a county court at law and that jurors impaneled for district court may be made available to serve in a county court at law.
- Provides that a jury in a county court at law is composed of six members unless the constitution requires a 12-member jury or if a party requests 12-member jury and the judge consents.
- Authorizes the parties in a civil case tried in a county court at law, by mutual agreement and with the judge's consent, to agree to try the case with any number of jurors and have a verdict rendered and returned by the vote of any number of those jurors that is less than the total number of jurors.

Expands the concurrent jurisdiction of a county court at law in Navarro County to disputes ancillary to probate, eminent domain, condemnation, or landlord and tenant matters relating to the adjudication and determination of land titles and trusts.

Creates County Court at Law 9 in Travis County, which must give preference to criminal cases.

Creates the 1st Multicounty Court at Law in Fisher, Mitchell, and Nolan Counties:

- Sets forth the jurisdiction of the court.
- Bars the judge from engaging in the private practice of law.
- Sets forth the compensation of the official court reporter of the county court and provides for a stenographer's fee of \$25 in certain civil and probate cases.
- Sets forth the duties of the district and county clerks.
- Requires the state to compensate Fisher, Mitchell, and Nolan Counties as required under Section 25.0015 (State Contribution), Government Code.
- Authorizes the judge of the 1st Multicounty Court at Law and the judges of the district courts in Fisher, Mitchell, and Nolan Counties in matters of concurrent jurisdiction to transfer cases and exchange benches.

Authorizes the Guadalupe County commissioners court to permit the judges of the district and statutory county courts in Guadalupe County to appoint one or more part-time or full-time magistrates:

- Sets forth the procedure for appointing magistrates.
- Sets forth the qualifications and compensation for a magistrate.
- Provides that a magistrate has the same judicial immunity as a district judge.
- Provides that a magistrate may be terminated by a majority vote of all the judges of the district and statutory county courts.
- Sets forth the jurisdiction, responsibility and powers of a magistrate.
- Requires the commissioners court to provide personnel, sufficient equipment, and office space for the magistrate.

Continuing Education Requirements For Certain Court Clerks—H.B. 3314

by Representative Kuempel—Senate Sponsor: Senator Taylor

Under current law, county and district court clerks must complete 20 hours of instruction regarding the performance of during each calendar year that begins after the clerk's election or appointment to office. This bill:

Requires a clerk to:

- complete 20 hours of instruction regarding the performance of the clerk's duties of office before the first anniversary of the date the clerk assumes those duties; and
- complete 20 hours of continuing education courses each calendar year after the first anniversary of the date a clerk assumes the duties of office.

Strikes provisions requiring certain specific continuing education courses.

Annual Term of Court For 47th District Court in Armstrong County—H.B. 3378

by Representatives Price and Ken King—Senate Sponsor: Senator Seliger

Currently, each district court in each county in the 47th Judicial District must hold terms that begin on the first Mondays in January and July of each year. However, given the sparse population and low rate of felony charges filed in Armstrong County, it would be more cost-effective to set the term of the district court in that county on an annual basis, requiring the empanelling of only one grand jury over the course of the year. This bill:

Provides that the term of the 47th District Court in Armstrong County begins on the first Monday in January.

Proceedings of Municipal Courts Held in a Contiguous Incorporated Municipality—H.B. 3561

by Representative Murphy—Senate Sponsor: Senator Patrick

Current law allows the municipal court of a municipality with a population of 700 or less to conduct its court proceedings within the corporate limits of a contiguous incorporated municipality. However, there might be a need for a larger city to conduct its court proceedings within the corporate limits of a contiguous incorporated municipality. This bill:

Authorizes the municipal court of a municipality with a population of 3,500 or less to conduct its proceedings within the corporate limits of a contiguous incorporated municipality.

Civil Liability to Victims of Compelled Prostitution or Promotion of Prostitution—S.B. 94

by Senator Van de Putte—House Sponsor: Representative Senfronia Thompson

Under current law, human trafficking victims may be able to seek civil recourse through Chapter 98 (Liability for Trafficking of Persons), Civil Practice and Remedies Code. This bill:

Adds Chapter 98A (Liability for Compelled Prostitution and Certain Promotion of Prostitution) to the Civil Practice and Remedies Code:

- Defines "advertisement," "aggravated promotion of prostitution," "compelled prostitution," "compelling prostitution," "promotion of prostitution," "prostitution," "victim of compelled prostitution," and "victim."
- Provides that a defendant is liable to a victim of compelled prostitution for damages arising from the compelled prostitution if the defendant:
 - engages in compelling prostitution with respect to the victim;
 - knowingly or intentionally engages in promotion of prostitution or aggravated promotion of prostitution that results in compelling prostitution with respect to the victim; or
 - purchases an advertisement that the defendant knows or reasonably should know constitutes promotion of prostitution or aggravated promotion of prostitution, and the publication results in compelling prostitution with respect to the victim.
- Provides that it is not a defense to liability that:
 - the defendant:
 - is related to the victim, has been in a consensual sexual relationship with the victim, or has resided with the victim; or
 - has paid or otherwise compensated the victim for prostitution; or
 - the victim:
 - voluntarily engaged in prostitution before or after the compelled prostitution occurred; or
 - did not attempt to escape, flee, or terminate contact with the defendant.
- Requires a claimant who prevails in a suit under this chapter to be awarded actual damages, court costs, and reasonable attorney's fees.
- Authorizes a claimant who prevails in a suit to recover exemplary damages.
- Provides that a cause of action under this chapter is cumulative of any other remedy, except that a person may not recover damages under this chapter in which the cause of action is based on a transaction or occurrence that is the basis for a suit under Chapter 98.
- Provides that a person who is found liable under this chapter or other law for any amount of damages is jointly and severally liable with any other defendant for the entire amount of damages.
- Requires this chapter to be liberally construed to promote its purpose to protect persons from compelled prostitution and provide adequate remedies to victims.

Venue for Filing Application For Protective Order Against Family Violence—S.B. 129
by Senator Nelson et al.—House Sponsor: Representative Lewis

Under current law, an application for a protective order can be filed in the county where either the victim or the alleged offender resides. In some cases, victims of family violence want to conceal their current county of residence from the alleged perpetrator. This bill:

Expands current law to provide that an application may be filed in any county in which the family violence is alleged to have occurred.

Representation by Prosecuting Attorneys in Certain Actions—S.B. 130

by Senators Nelson and Garcia—House Sponsor: Representative Lewis

Under current law, a prosecuting attorney who represents a party in a proceeding regarding a protective order is not precluded from representing the Department of Family and Protective Services (DFPS) in a subsequent action involving the party. This bill:

Clarifies that, subject to the Texas Disciplinary Rules of Professional Conduct, a prosecuting attorney is not precluded from representing that party and DFPS in another action involving the party, regardless of when the proceeding occurred.

Electronic Submission of a Request For an Attorney General Opinion—S.B. 246

by Senator West—House Sponsor: Representative Harper-Brown

Under current law, a request for an opinion from the Office of the Attorney General must be in writing and sent by certified or registered mail, return receipt requested. This bill:

Permits such requests to also be submitted electronically to an electronic mail address designated by the attorney general.

Unsworn Declaration Form For State Agency or Political Subdivision Employees—S.B. 251

by Senator West—House Sponsor: Representative Carter

Section 132.001, Civil Practice and Remedies Code, provides that, except as otherwise provided, an unsworn declaration may be used in lieu of a written sworn declaration, verification, certification, oath, or affidavit required by law, rule, or order. This section also sets forth the form for such unsworn declaration. There is a concern that when employees of state agencies utilize this form when acting on behalf of the state, they have to provide private information, such as a home address. This bill:

Sets forth the form of an unsworn declaration for use by an employee of a state agency or a political subdivision which includes the employee's name, employer, and a statement that the declaration is being executed as part of the employee's assigned duties and responsibilities.

District Attorney For 287th Judicial District Under Professional Prosecutors Law—S.B. 268

by Senator Seliger—House Sponsor: Representative Smithee

Chapter 46 (Professional Prosecutors), Government Code, provides state prosecutors with a salary from the state equal to the compensation that is provided for a district judge in the General Appropriations Act. In exchange, the state prosecutor is barred from engaging in the private practice of law. The purpose of Chapter 46 is to enhance the quality of public prosecution. The position of the district attorney serving both Parmer County and Bailey County was intended to be a part-time position, but, because of the increasing workload, the district attorney now functions at a full-time level. This bill:

Adds the district attorney for the 287th Judicial District to the list of professional prosecutors under Chapter 46.

Juror Information and the Jury Selection Process—S.B. 270

by Senator Seliger—House Sponsor: Representative Herrero

Under current statute, Article 35.29 (Personal Information About Jurors), Code of Criminal Procedure, juror information is confidential and may not be disclosed by the court, the prosecuting attorney, the defense counsel, or any court personnel. In post-conviction capital defense cases, post-conviction counsel must apply to the trial court for access to juror information. This bill:

Requires the court, on application by a party in the trial, or on application by a bona fide member of the news media acting in such capacity, to the court for the disclosure of information collected by the court or by a prosecuting attorney during the jury selection process about a person who serves as a juror, to, on a showing of good cause, permit disclosure of the information sought.

Authorizes the defense counsel to disclose information collected by the court or by a prosecuting attorney during the jury selection process about a person who serves as a juror to successor counsel representing the same defendant in a proceeding without application to the court or a showing of good cause.

Qualifications For Medical Examiners—S.B. 336

by Senator Rodriguez—House Sponsor: Representative Moody

Recent media reports have suggested that there is a severe shortage of qualified medical examiners available in Texas and difficulty in recruiting physicians with adequate training and experience in forensic pathology to fill vacant medical examiner positions. To be appointed as a medical examiner in Texas, one must be a physician licensed by the Texas Medical Board; however, it is unclear whether a provisional license suffices. This bill:

Requires that a person appointed by the commissioners court as the medical examiner be a physician licensed by the Texas Medical Board or a person who is licensed and in good standing as a physician in another state, has applied to the Texas Medical Board for a license to practice medicine in this state, and has been granted a provisional license.

Procedure For a Writ of Habeas Corpus Based on Scientific Evidence—S.B. 344

by Senator Whitmire—House Sponsor: Representatives Sylvester Turner and Wu

The writ of habeas corpus is the remedy to be used when any person is restrained in his or her liberty. It is an order issued by a court or judge of competent jurisdiction, directed to anyone having a person in his or her custody, or under his or her restraint, commanding him or her to produce such person, at a time and place named in the writ, and show why he or she is held in custody or under restraint.

Procedures for applying for a writ of habeas corpus are established in Chapter 11, Code of Criminal Procedure. This bill:

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Authorizes a court to grant a convicted person relief on an application for a writ of habeas corpus if the convicted person files an application containing specific facts indicating that relevant scientific evidence is currently available and was not available at the time of the convicted person's trial because the evidence was not ascertainable through the exercise of reasonable diligence by the convicted person before the date of or during the convicted person's trial; the scientific evidence would be admissible under the Texas Rules of Evidence at a trial held on the date of the application; and the court makes the findings and also finds that, had the scientific evidence been presented at trial, on the preponderance of the evidence the person would not have been convicted.

Provides that a claim or issue could not have been presented previously in an original application or in a previously considered application if the claim or issue is based on relevant scientific evidence that was not ascertainable through the exercise of reasonable diligence by the convicted person on or before the date on which the original application or a previously considered application was filed.

Requires the court, in making a finding as to whether relevant scientific evidence was not ascertainable through the exercise of reasonable diligence on or before a specific date, to consider whether the scientific knowledge or method on which the relevant scientific evidence is based has changed since the applicable trial date or dates, for a determination made with respect to an original application, or the date on which the original application or a previously considered application, as applicable, was filed, for a determination made with respect to a subsequent application.

Electronic Delivery of Certain Documents in Criminal Cases—S.B. 354

by Senator West—House Sponsor: Representative Giddings

Current law allows court documents to be transferred by fax, certified mail, or hand delivery. This bill:

Authorizes the clerk of a court to send certain court documents by certified mail, return receipt requested; by secure electronic mail; by personal service; fax; or hand delivery.

Issuance of Protective Orders For Certain Offenses—S.B. 357

by Senator Hinojosa—House Sponsor: Representative Anchia

The 82nd Legislature passed H.B. 649, which eliminated the requirement that a victim prove not only that an assault occurred, but also that a threat of further harm was made by the perpetrator in order to get a protective order. The 82nd Legislature also passed S.B. 250, which created a stalking protective order. This bill:

Renames Chapter 7A, Code of Criminal Procedures, as "Protective Order for Victims of Sexual Assault or Abuse, Stalking, or Trafficking."

Allows an application for a protective order to be filed in any county in which an element of the alleged offense occurred or any court with jurisdiction over a protective order involving the same parties named in the application.

Requires the court, at the close of a hearing on an application for a protective order, to find whether there are reasonable grounds to believe that the applicant is the victim of sexual assault or abuse, stalking, or trafficking.

Authorizes the court, in a protective order issued under this chapter, to prohibit the alleged offender from communicating in any manner with the applicant or any member of the applicant's family or household except through the applicant's attorney or a person appointed by the court, if the court finds good cause for the prohibition.

Use of Polygraph Statement as Evidence—S.B. 358

by Senator Hinojosa—House Sponsor: Representative Muñoz, Jr.

The Texas Code of Criminal Procedure allows judges to assign community supervision (colloquially known as probation) to criminal defendants in certain circumstances. As a condition of probation, these defendants are often required to submit to regular polygraph testing in which they are asked about the other conditions of the probation. This bill:

Prohibits the court from proceeding with an adjudication of guilt on the original charge if the court finds that the only evidence supporting the alleged violation of a condition of community supervision is the uncorroborated results of a polygraph examination.

Establishes that the determination to proceed with an adjudication of guilt on the original charge is reviewable in the same manner as a revocation hearing in a case in which an adjudication of guilt had not been deferred.

Prohibits the court from revoking the community supervision of a defendant if, at the community supervision revocation hearing, the court finds that the only evidence supporting the alleged violation of a condition of community supervision is the uncorroborated results of a polygraph examination.

Prohibits a parole panel or designated agent of the Board of Pardons and Paroles from revoking the parole or mandatory supervision of a release if the parole panel or designated agent finds that the only evidence supporting the alleged violation of a condition of release is the uncorroborated results of a polygraph examination.

Disposition of Property Seized at the Time of Arrest—S.B. 367

by Senator Whitmire—House Sponsor: Representatives Murphy and Wu

Class C prisoners may be booked into jail with property that is too large to be stored in the jail. These items, such as large bags, bicycles, and hard hats, must be taken to a property room for storage. These items are not held as evidence, but instead are simply stored for safekeeping until the individual is released.

Current law requires a person designated by a municipality to mail a notice to the last known address of the owner of abandoned or unclaimed property by certified mail. This notice provides a description of the

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property held and states that if the owner does not claim such property within 90 days from the date of the notice, such property will be disposed of. This bill:

Authorizes the law enforcement agency, if property, other than money, is seized by a peace officer at the time the owner of the property is arrested for an offense punishable as a Class C misdemeanor, to provide notice to the owner at the time the owner is taken into or released from custody.

Requires the owner to sign the notice and attach a thumbprint to the notice.

Requires that the notice include a description of the property being held; the address where the property is being held; and a statement that if the owner does not claim the property before the 31st day after the date the owner is released from custody, the property will be disposed of and the proceeds of the property, after deducting the reasonable expense of keeping and disposing of the property, will be placed in the treasury of the municipality or county providing the notice.

Requires the law enforcement agency, if the property for which notice is provided is not claimed by the owner before the 31st day after the date the owner is released from custody, to deliver the property for disposition to a person designated by the municipality or to the purchasing agent, or the sheriff to sell or donate the property without mailing or publishing an additional notice.

Requires that the sale proceeds, after deducting the reasonable expense of keeping and disposing of the property, be deposited in the treasury of the municipality or county disposing of the property.

Exempting Certain Counties From the County Debt Collection Program—S.B. 387 *by Senator Nichols—House Sponsor: Representative Clardy*

Under current law, all counties with a population of 50,000 or more must implement a county debt collection program for court costs, fines, and fees, hiring at least one county debt collector. Counties with a population of less than 50,000 may hire the services of a third-party collection service company. This bill:

Requires the Office of Court Administration of the Judicial System to grant a waiver from the collection program to a county that contains within its borders a correctional facility operated by or under contract with the Texas Department of Criminal Justice; and has a population of 50,000 or more only because the inmate population of such correctional facilities is included in that population.

Determining the Amount of Court Costs in Criminal Proceedings—S.B. 389 *by Senator West—House Sponsor: Representative Lewis*

Court costs are the means by which the judiciary and local governments recoup the resources expended in connection with a trial. Each time a new cost or fee is enacted, court clerks must recalculate the costs imposed on defendants. When a defendant commits a violation, but is not brought to trial for several years, the court clerk must determine whether to assess the court costs in effect at the time the violation occurred or to assess the revised costs in effect on the date of the defendant's conviction. The Texas Judicial Council, the policymaking body for the Texas judicial branch, has recommended amending current law to provide for the assessment of those court costs in effect at the time of the conviction. This bill:

Clarifies that the amount of a court cost imposed on the defendant in a criminal proceeding is the amount established under the law in effect on the date the defendant is convicted of the offense.

Clarifying the Effective Date of a New or Revised Court Cost or Fee—S.B. 390

by Senator West—House Sponsor: Representative Lewis

Currently, Section 51.607 (Implementation of New or Amended Court Costs and Fees), Subsection (c), Government Code, provides that all new criminal court costs enacted during a legislative session become effective on January 1 of the following year. However, Section 51.607(d) creates certain exceptions. These exceptions require court clerks to charge different costs based on the time of year. Texas Judicial Council, the policymaking body for the Texas judicial branch, has recommended repealing Section 51.607(d), so that all new or revised criminal costs become effective on January 1st. This bill:

Repeals Section 51.607(d), Government Code.

Obligation For Fine or Court Cost After Expiration of Community Supervision—S.B. 391

by Senator West—House Sponsor: Representative Herrero

Defendants placed on community supervision are administratively released upon the expiration of the community supervision period. However, the administrative release may occur before defendants have fully paid all court-ordered fines and court costs. Some local governments have had trouble collecting fines and court costs from defendants after the period of community supervision has ended due to Attorney General Opinion GA-0413 (2006), which held that defendants are not responsible for such fines and court costs once the community supervision period ends. The Texas Judicial Council, the policymaking body for the Texas judicial branch, has recommended amending the Code of Criminal Procedure to clarify that a defendant's obligation to pay court-ordered fines and court costs extends beyond the period of community supervision. This bill:

States that a defendant's obligation to pay a fine or court cost as ordered by a judge exists independently of any requirement to pay the fine or court cost as a condition of the defendant's community supervision.

Provides that a defendant remains obligated for any unpaid fine or court cost after the expiration of the defendant's period of community supervision.

Service of Citation Regarding the Customer of a Financial Institution—S.B. 422

by Senator Duncan—House Sponsor: Representative Darby

Section 17.028 (Service on Financial Institutions), Civil Practice and Remedies Code, provides that service on a financial institution may be served through the institution's registered agent or, if there is no such agent, the president or a branch manager at any office located in this state. However, this section applies only to actions against the financial institution. There are many other situations in which a bank or credit union may be served, including service of subpoenas and other types of service relating to a customer's

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account. Currently, service in actions not involving the financial institution may be served by handing the papers to a teller or other employee at a branch bank. This bill:

Provides that service on and delivery to a financial institution of claims against a customer of the financial institution are governed by Section 59.008 (Claims Against Customers of Financial Institutions), Finance Code.

Specialty Court Programs—S.B. 462

by Senator Huffman—House Sponsor: Representative Lewis

The use of specialty courts in Texas began in 1990 with the establishment of the first drug court. Since then, the drug court model has often been replicated in order to divert nonviolent offenders suffering from mental health and/or substance abuse issues from the criminal justice system intensive treatment programs.

Government funding was directed to drug courts in 2001, but no performance measures were established to determine the success and cost-effectiveness of the use of specialty courts in Texas. Additionally, the laws governing the various types of specialty courts are not codified in a common place in statute for ease of reference for judges and specialty court team professionals. This bill:

Authorizes the lieutenant governor and the speaker of the house of representatives to assign to appropriate legislative committees duties relating to the oversight of specialty court programs.

Authorizes the governor or a legislative committee to which duties are assigned, for the purpose of determining the eligibility of a specialty court program to receive state or federal grant funds, to request the state auditor to perform a management, operations, or financial or accounting audit of the program.

Prohibits a specialty court program from operating until the judge, magistrate, or coordinator provides to the criminal justice division of the governor's office written notice of the program; any resolution or other official declaration under which the program was established; and a copy of the applicable community justice plan that incorporates duties related to supervision that will be required under the program; and receives from the division written verification of the program's compliance.

Requires a specialty court program to comply with all programmatic best practices recommended by the Specialty Courts Advisory Council and approved by the Texas Judicial Council and report to the criminal justice division any information required by the division regarding the performance of the program.

Provides that a specialty court program that fails to comply is not eligible to receive any state or federal grant funds administered by any state agency.

Authorizes the commissioners court of a county to establish a family drug court program for persons who have had a child removed from their care by the Department of Family and Protective Services (DFPS) and are suspected by DFPS or a court of having a substance abuse problem.

Transfers Chapter 469 (Drug Court Programs), Health and Safety Code, to Subtitle K, Title 2, Government Code, and redesignates it as Chapter 123, Government Code.

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Requires the commissioners court of a county with a population of more than 200,000 to establish a drug court program and direct the judge, magistrate, or coordinator to comply.

Requires a county to establish a drug court program only if the county receives federal or state funding and the judge, magistrate, or coordinator receives the verification.

Provides that each county that elects to establish a regional veterans court program is considered to have established the program and is entitled to retain fees in the same manner as if the county had established a veterans court program without participating in a regional program.

Defines "specialty court" as a family drug court program; a drug court program; a veterans court program; and a mental health court program.

Requires the governor to establish the Specialty Courts Advisory Council (council) within the criminal justice division to make recommendations to the criminal justice division regarding best practices for specialty courts.

Provides that the council be composed of nine members appointed by the governor, including one member with family drug court experience, one member with drug court experience, one member with veterans court experience, one member with mental health court experience, and five members who represent the public.

Establishes that a member of the council may not receive compensation for service on the council, other than reimbursement from the criminal justice division for actual and necessary expenses incurred in performing council functions.

Requires the Texas Judicial Council to review and as appropriate approve recommendations made by the Specialty Courts Advisory Council.

Requires that fees and costs be paid or collected as a program fee for a drug court program, not to exceed \$1,000; as an alcohol or controlled substance testing, counseling, and treatment fee of the amount necessary to cover the costs of testing, counseling, and treatment; as a reasonable program fee for a veterans court program, not to exceed \$1,000; and as a testing, counseling, and treatment fee for testing, counseling, or treatment performed or provided under a veterans court program of the amount necessary to cover the costs of testing, counseling, or treatment.

Requires that a nonrefundable program fee for a first offender prostitution prevention program be collected in a reasonable amount not to exceed \$1,000, which includes a counseling and services fee, a victim services fee, and a law enforcement training fee.

District Attorney For 79th Judicial District Under Professional Prosecutors Law—S.B. 479
by Senator Hinojosa—House Sponsor: Representative Lozano

Chapter 46 (Professional Prosecutors), Government Code, provides state prosecutors with a salary from the state equal to the compensation that is provided for a district judge in the General Appropriations Act.

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In exchange, the state prosecutor is barred from engaging in the private practice of law. The purpose of Chapter 46 is to enhance the quality of public prosecution. This bill:

Adds the district attorney for the 79th Judicial District to the list of professional prosecutors under Section 46.002 (Prosecutors Subject to Chapter), Government Code.

Provisions in Protective Orders Regarding Pets—S.B. 555 *by Senator Davis—House Sponsor: Representative Laubenberg*

The 82nd Legislature enacted S.B. 279, which allows a judge to prohibit a person from removing a pet, companion animal, or assistance animal from the possession of a party protected by a protective order. The judge may prohibit a person from harming, threatening, or interfering with the care, custody, or control of a pet or assistance animal belonging to a person protected by a protective order. This bill:

Authorizes the court to prohibit a party from removing a pet, companion animal, or assistance animal from the possession or actual constructive care of a person named in the order.

Establishes that possession of a pet, companion animal, or assistance animal by a person means actual care, custody, control, or management of a pet, companion animal, or assistance animal by the person, or constructive possession of a pet, companion animal, or assistance animal owned by the person or for which the person has been the primary caregiver.

Biweekly Compensation For Certain Justices, Judges, and District Attorneys—S.B. 560 *by Senator Ellis—House Sponsor: Representative Coleman*

Current law requires county judges, district attorneys, district judges, county court judges, and court of appeals justices to be paid monthly instead of biweekly, necessitating a separate payroll system. Allowing such officials to be paid biweekly could allow counties to consolidate their payroll systems, increasing efficiency and providing savings. This bill:

Permits statutory county court judges, justices of appellate courts, and district court judges to be compensated in equal biweekly installments if authorized by the commissioners court.

Requires the Harris County district attorney and the county judge to be compensated in equal biweekly installments.

Relating to a Medical Power of Attorney—S.B. 651 *by Senator Rodríguez—House Sponsor: Representative Senfronia Thompson*

Under current law, a medical power of attorney document is not deemed to be valid unless it is signed in the presence of two competent adult witnesses. This bill:

Grants the principal the option of signing the document and having the signature acknowledged by a notary public.

Provides that an action seeking to revoke a medical power of attorney must be brought in the district court in a county in which there is no statutory probate court.

Grants the statutory probate court and the district court concurrent jurisdiction over such an action in a county in which there is a statutory probate court.

Electronic Recording of Statutory Probate Court Proceedings in Collin County—S.B. 677 *by Senators Paxton and Estes—House Sponsor: Representative Leach*

Currently, there is no court reporter assigned to the Collin County probate court. Many of these proceedings are short and uncontested. This bill:

Authorizes a judge of the Collin County statutory probate court, unless a party objects, to provide that a proceeding be recorded by a good quality electronic recording device.

Provides that a stenographic record of an electronically recorded proceeding is not required except on order of the judge.

Provides that if a recording device is used, the court reporter is not required to be present to certify the record.

Authorizes the judge to designate one or more persons to act as the court recorder and requires the judge to assign to a court recorder the necessary duties and responsibilities.

Evidence in Civil Action Concerning the Provision and Cost of Certain Services—S.B. 679 *by Senator Duncan—House Sponsor: Representative Hughes*

Under Section 18.001 (Affidavit Concerning Cost and Necessity of Services), Civil Practice and Remedies Code, and Rule 902, Texas Rules of Evidence, practitioners often file medical records and medical billing information with the court prior to trial. Medical records and medical billing information contain highly sensitive information and are voluminous in nature. Filing these records raises confidentiality concerns and may overwhelm the court with unnecessary paperwork and filing.

The current expense affidavit in Section 18.002 (Form of Affidavit), Civil Practice and Remedies Code, is insufficient to prove medical expenses in light of a recent Supreme Court of Texas decision in *Haywood v. Escabedo*, 356 S.W. 3d 390 (Tex. 2011), which held that damages for medical expenses are only those medical expenses that are actually paid or for which the provider has a legal right to be paid. This bill:

Provides that except as provided by the Texas Rules of Evidence, records attached to the affidavit under Section 18.001 are not required to be filed with the clerk of the court before the trial commences.

Provides that an affidavit concerning proof of medical expenses is sufficient if it substantially complies with the form set forth in the Act.

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Provides that if a medical bill or other itemized statement attached to an affidavit reflects a charge that is not recoverable, the reference to that charge is not admissible.

Requires the Texas Supreme Court to amend Rule 902(10), Texas Rules of Evidence, to provide that medical records and medical billing information otherwise attached to an affidavit made for the purposes of that rule and served with the affidavit on the other parties to the relevant action are not required to be filed with the clerk of the court before the trial commences.

Limitation on Liability For Prescribed Burning Conducted on Certain Land—S.B. 764 *by Senator Watson—House Sponsor: Representative Tracy O. King*

One way to mitigate the risk of wildfires is to use a prescribed or controlled burn. Chapter 153 (Prescribed Burning) of the Natural Resources Code regulates prescribed burning and creates the Prescribed Burning Board (PBB), which establishes guidelines, training, and insurance requirements regarding prescribed burning. Section 153.081 (Limitation of Owner Liability), limits the liability of an owner, lessee, or occupant of agricultural land for property damage or injury or death resulting from prescribed burning conducted under the supervision of a certified and insured prescribed burn manager. However, Section 153.082 (Insurance) provides that this limitation of liability does not apply unless the prescribed burn manager maintains certain liability insurance coverage. This bill:

Extends Section 153.081 and Section 153.082 to include an owner, lessee, or occupant of conservation land.

Defines conservation land as land suitable for conservation or management of an ecosystem, a forest, a habitat, a species, water, or wildlife.

Provides that the limitation on liability applies to a governmental unit that has a self-insurance program providing the amount of coverage required by statute.

Relating to Trusts—S.B. 778 *by Senator Carona—House Sponsor: Representative Clardy*

A trust is a legal arrangement created on behalf of a beneficiary, and is managed by a fiduciary known as a trustee. A trust may hold money, real property, or personal property. This bill:

Authorizes a national banking association, a state-chartered corporation, and certain other institutions, subject to its fiduciary duties, to employ an affiliate or division within the institution to provide brokerage or other account services for the trust or custodial account and charge the trust or custodial account for the services, if certain conditions are met.

Authorizes a trustee, making disbursements from income and principal to compensate the trustee or person providing services to the trustee, to disburse one-half of the regular compensation of the trustee and of any such person from principal and one-half from income, unless, consistent with the trustee's fiduciary duties, the trustee determines that a different portion, none, or all of the compensation should be allocated to income or principal.

Grievances Regarding Prosecutorial Misconduct—S.B. 825

by Senators Whitmire and West—House Sponsor: Representative Senfronia Thompson

In the 1963 case of *Brady v. Maryland*, the United States Supreme Court determined that the 5th and 14th amendments to the United States Constitution provide for the availability of all evidence in a case. This holds true even if the prosecution or police do not intend to withhold evidence. This bill:

Prohibits a grievance committee from giving a private reprimand for a violation of a disciplinary rule that requires a prosecutor to disclose to the defense all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense.

Requires the Texas Supreme Court to ensure, in establishing minimum standards and procedures for attorneys, that the statute of limitations applicable to a grievance filed against a prosecutor that alleges a violation of the disclosure rule does not begin to run until the date on which a wrongfully imprisoned person is released from a penal institution.

Defines "disclosure rule," "penal institution," and "wrongfully imprisoned person."

Conditions of Protective Orders—S.B. 893

by Senator Carona—House Sponsor: Representative Carter

While courts have the explicit authority to prevent communication of any kind between victims of family violence and an assailant, current law regarding sexual assault protective orders (Chapter 38, Penal Code) only prohibits communications of a "threatening or harassing" nature for sexual assault cases, which is considered a Class A misdemeanor. In addition, current law considers a violation of bond conditions in family violence cases at least a Class A misdemeanor (Chapter 25, Penal Code). However, there is no offense for violating bond conditions in sexual assault cases. Furthermore, current law requires information relating to protective orders to be entered into the Texas Crime Information Center while information relating to bond conditions is not required. This bill:

Adds "abuse" to the title of Chapter 7A (Protective Order for Victims of Sexual Assault or Abuse, Stalking, or Trafficking), Code of Criminal Procedure.

Authorizes the court to prohibit the alleged offender from communicating in any manner with the applicant or any member of the applicant's family or household except through the applicant's attorney or a person appointed by the court, if the court finds good cause for the prohibition.

Requires the bureau of identification and records to collect information about persons subject to conditions of bond imposed for the protection of the victim in any family violence, sexual assault or abuse, or stalking case.

Requires that the information in the law enforcement information system relating to an active protective order include the conditions of bond imposed on the person to whom the order is directed, if any, for the protection of a victim in any family violence, sexual assault or abuse, or stalking case.

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Authorizes the Department of Public Safety of the State of Texas (DPS) to adopt reasonable rules relating to active protective orders and reporting procedures that ensure that information relating to the issuance and dismissal of an active protective order is reported to the local law enforcement agency.

Authorizes DPS to adopt reasonable rules relating to active conditions of bond imposed on a defendant for the protection of a victim in any family violence, sexual assault or abuse, or stalking case, and reporting procedures that ensure that information relating to the issuance, modification, or removal of the conditions of bond is reported to the victim or, if the victim is deceased, a close relative of the victim and the local law enforcement agency.

Adds "sexual assault or abuse, or stalking case" to the title and provisions of Section 25.07 (Violation of Certain Court Orders or Conditions of Bond in a Family Violence, Sexual Assault or Abuse, or Stalking Case), Penal Code.

Defines "sexual abuse," "sexual assault," and "stalking."

Provides that a person commits an offense if, in violation of an order, the person knowingly communicates in any manner with the applicant or any member of the applicant's family or household except through the applicant's attorney or a person appointed by the court.

Permitting a Victim of Certain Sexual Offenses or Stalking to Terminate a Lease—S.B. 946 *by Senator Nelson—House Sponsor: Representative Bohac*

Under current law, victims of domestic violence or of sexual assault and parents of child victims of sexual abuse may terminate their residential leases in certain circumstances. This bill:

Expands the law permitting a tenant who is a victim of sexual assault to vacate a lease without liability to include offenses of indecency with a child, sexual performance by a child, or an attempt to commit any of certain specified sexual offenses.

Expands current law regarding documentation to require the tenant to provide to the landlord or the landlord's agent with certain documentation regarding the attempted assault or abuse.

Requires a tenant who is a stalking victim, or a parent or guardian of such a victim, that takes place during the preceding six-month period on the premises, to provide the landlord or the landlord's agent certain documentation, such as a copy of the protective order.

Requires the tenant who is a parent or guardian of a victim to reside with the victim in order to exercise the right to terminate the lease without liability.

Prohibits a person who receives the required documentation from disclosing the information to any other person except for a legitimate or customary business purpose or as otherwise required by law.

Liability of Certain Entities Providing Water For Generation of Electricity—S.B. 958

by Senator Fraser—House Sponsor: Representative Keffer

River authorities and special districts were created by the legislature for the essential purpose of managing and selling water. Even though they were created as quasi-governmental entities, river authorities and special districts engage in commercial business operations, negotiating and entering into contracts for the sale and delivery of water with public and private sector entities. Electric generators contract with such entities to purchase the water they need to supply electric generation facilities throughout Texas. Over the year, courts in Texas have provided river authorities and special districts with immunity from suit, even in contract situations. This bill:

Adds Chapter 113 (Water Supply Contract Claim Against Local District or Authority) to the Civil Practice and Remedies Code:

- Defines "adjudicating a claim" and "local district or authority."
- Waives the sovereign immunity to suit of a local district or authority (authority) that enters into a written contract under which the authority is to provide water to a purchaser for use in connection with the generation of electricity regarding a claim that the authority breached the contract by not providing water according to the contract's terms.
- Provides that remedies awarded under this chapter may include any remedy available for breach of contract that is not inconsistent with the terms of the contract.
- Bars the awarding of consequential or exemplary damages.
- Provides that this chapter does not waive any other defense or a limitation on damages.
- Provides that this chapter does not:
 - waive sovereign immunity to suit in federal court or for a cause of action for a negligent or intentional tort;
 - grant any new or additional water rights to water or priority to water rights;
 - confer any rights inconsistent with the terms of the contract; and
 - limit the authority of any state regulatory agency.
- Provides that compliance with an order of a state regulatory agency expressly curtailing water delivery to a specific electric generating facility is not a breach of contract for the purposes of this chapter.
- Provides that this chapter waives sovereign immunity only for the benefit of:
 - a party to the contract; or
 - the assignee of a party to the contract, if such assignment is permitted by the terms of the contract.
- Bars a party authorized by this chapter to sue for breach of contract to transfer or assign that cause of action to any person, except as permitted under the contract terms.

Authority Counties to Retain Certain Service Fees—S.B. 967

by Senator West—House Sponsor: Representative Herrero

Article 103.0033 (Collection Improvement Program), Code of Criminal Procedure, established the collection improvement program to assist cities and counties with collecting court costs, fees, and fines assessed against persons convicted of criminal offenses when defendants are unable to pay these costs at the time of assessment or when payment is requested. Failure to comply with the program's guidelines results in the loss of the ability to retain a service fee on court costs. A provision was subsequently added to Section

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133.058 (Portion of Fee Retained), Local Government Code, granting municipalities a 180-day grace period before the ability to retain the service fee is lost. The same grace period was not extended to counties. This bill:

Expands Section 133.058 to include counties under the grace period.

Study Regarding Additional Compensation Paid to Certain County Judges—S.B. 1080 *by Senators Lucio and Zaffirini—House Sponsor: Representative Senfronia Thompson*

Under current law, in counties with populations of less than 50,000 that do not have county courts at law, the county judges spend two weeks of each month on judicial duties pertaining to Class A and Class B misdemeanors, probate matters, guardianship matters, and mental health cases. These judicial duties are compensated by a sum of \$15,000 per year by the state. This bill:

Requires the Office of Court Administration of the Texas Judicial System (OCA) to conduct a study to determine the adequacy and appropriateness of additional compensation paid to a county judge of a constitutional county court who serves in a county that does not have a county court at law and has at least jurisdiction of:

- Class A and Class B misdemeanor cases;
- probate matters;
- guardianship matters; and
- certain matters of mental health.

Requires OCA, not later than November 1, 2014, to submit a report on the results of the study and recommendations on methods to improve compensation for county judges to the lieutenant governor, the speaker of the house of representatives, and the chairs of the appropriate committees of the legislature with jurisdiction over the judiciary.

Appeal From Interlocutory Orders of Statutory Probate Courts—S.B. 1083 *by Senator Rodríguez—House Sponsor: Representative Lewis*

Under Section 51.014 (Appeal from Interlocutory Order), Civil Practice and Remedies Code, a party may appeal an interlocutory order from a district court, county court at law, or a county court. This section does not provide for an appeal an interlocutory order from a statutory probate court. This can be problematic, as a probate court has exclusive jurisdiction over probate, guardianship, and mental health commitment matters. This bill:

Adds statutory probate courts to the types of courts whose interlocutory orders can be appealed.

Community Supervision Fees—S.B. 1096

by Senator Hinojosa—House Sponsor: Representative Muñoz, Jr.

The Code of Criminal Procedure allows judges the discretion to terminate community supervision once a defendant satisfactorily completes one-third of his or her originally assigned sentence. The statute does not preclude judges from requiring the defendant to continue to pay the fees dictated by Section 19 (Fees), Article 42.12 (Community Supervision), Code of Criminal Procedure, after the judge terminates the community supervision. This bill:

Prohibits a judge from requiring a defendant to pay the fee for any month after the period of community supervision has been terminated by the judge.

Sentencing Procedures and Community Supervision—S.B. 1173

by Senator Whitmire—House Sponsor: Representative White

Under the state jail program, the courts were provided with judicial remedies for offenders convicted of state jail felony offenses that carried shorter sentences (a maximum of two years). Persons convicted of state jail felonies served part of their time in confinement but could, at the discretion of the court, be released to complete their sentences under community supervision. That policy has changed. Presently, most defendants sentenced to state jail serve their full sentences in confinement.

Due to budget cuts in 2003, treatment at the state jail level is nearly non-existent. Now, less than 10 percent of those sentenced to state jail are enrolled in substance abuse or other treatment programs and most are released to the community without supervision or treatment. This bill:

Requires that, if a defendant is charged with a state jail felony, the report must contain recommendations for conditions of community supervision that the community supervision corrections department considers advisable or appropriate based on the circumstances of the offense and other factors addressed in the report.

Authorizes the judge, on conviction of a state jail felony, to order the sentence to be executed in whole or in part with a term of community supervision to commence immediately on release of the defendant from confinement.

Requires the judge, in any case in which the jury assesses the punishment, to follow the recommendations of the jury in suspending the imposition of a sentence or ordering a sentence to be executed.

Requires the judge, if a jury assessing punishment does not recommend community supervision, to order the sentence to be executed in whole.

Provides that a defendant is considered to be finally convicted if the judge orders the sentence to be executed, regardless of whether the judge orders the sentence to be executed in whole or only in part.

Requires the judge, before imposing a sentence in a state jail felony case in which the judge assesses the punishment, to review the presentence investigation report and determine whether the best interests of

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justice require the judge to suspend the imposition of the sentence and place the defendant on community supervision or to order the sentence to be executed in whole or part.

Requires the judge, if the judge suspends the execution of the sentence or orders the execution of the sentence only in part, to impose conditions of community supervision consistent with the recommendations contained in the presentence investigation report.

Requires the Texas Department of Criminal Justice (TDCJ) to adopt policies and procedures to determine the cost savings to TDCJ realized through the release of defendants on community supervision and provide 30 percent of that cost savings to the community justice assistance division to be allocated to individual departments and used for the same purpose that state aid is used for.

Referral of Certain Criminal Cases to Alternative Dispute Resolution—S.B. 1237 *by Senator Schwertner—House Sponsor: Representative Lewis*

There is no express statutory authorization in Texas for the referral of adult criminal cases to mediation or victim-offender conferencing. Such programs seek to resolve the perpetrator's acts against a victim without formal judicial intervention. Other jurisdictions using victim-offender conferencing claim high rates of victim satisfaction and lower recidivism rates. The diversion of cases to criminal alternative dispute resolution (ADR) can reduce costs to taxpayers. This bill:

Authorizes a county commissioners court to make rules regarding whether criminal cases may be referred to ADR.

Authorizes a judge of a district court, county court, statutory county court, probate court, or justice of the peace court in a county with an ADR system that accepts criminal cases to refer a criminal case on the request of the attorney representing the state, regardless of whether the defendant has been formally charged.

Requires an attorney representing the state to obtain the consent of the victim and the defendant before requesting a referral of a criminal case.

Bars the referral of a criminal case if the defendant is charged with or convicted of certain specified serious criminal offenses.

Amends current law to permit any entity providing services for dispute resolution to collect a reasonable fee set by the commissioners court.

Authorizes an entity providing services for the resolution of criminal disputes to collect a reasonable fee set by the commissioners court, not to exceed \$350.

Provides that a fee may not be collected from an alleged victim of the crime.

Authorizes such fees to be paid on a periodic basis or on a deferred payment schedule at the discretion of the judge, magistrate, or program director administering the pretrial victim-offender mediation program.

Provides that fees must be based on the defendant's ability to pay.

Partition of Mineral Interests of a Charitable Trust—S.B. 1240
by Senator Duncan et al.—House Sponsor: Representative Keffer

Many charitable organizations have portfolios of mineral interests. Although, many of these interests are very small, collectively, they account for significant annual revenue used to further educational and charitable missions. Under Texas law, a cotenant or co-owner may file an action seeking compulsory partition of jointly owned mineral interests. Involuntary divestiture through forced partitioning could adversely affect charitable trusts. This bill:

Defines "charitable entity," "charitable trust," and "mineral interest."

Bars an order divesting a charitable trust of ownership of a mineral interest in a judicial proceeding seeking to compel the partition of a mineral interest owned or claimed by a charitable trust, unless the trust has refused to execute a mineral lease under fair and reasonable terms to the plaintiff or petitioner in the proceeding.

Authorizing Retired Judges or Magistrates to Conduct Marriage Ceremonies—S.B. 1317
by Senator Whitmire—House Sponsor: Representative Senfronia Thompson

Under current law, a federal court judge or magistrate is authorized to conduct marriage ceremonies. This bill:

Extends the period in which a marriage ceremony must be performed before the marriage license expires from 31 days to 90 days after the date the license is issued.

Expands the list of persons authorized under statute to conduct a marriage ceremony to include a retired municipal court judge or a retired judge or magistrate of a federal court of this state.

Defines "retired judge or magistrate."

Establishing the Truancy Prevention and Diversion Fund—S.B. 1419
by Senator West—House Sponsor: Representative Lewis

Many juveniles are entering the criminal justice system charged with the offense of failure to attend school, or truancy, which is a Class C misdemeanor. Currently, juvenile case managers can be employed to assist a court with administering the juvenile docket, but such case managers could also be used for prevention and intervention measures, prior to involvement with the criminal justice system. Additional funds would be needed at the local level to adequately support this function. This bill:

Authorizes a county court, justice court, municipal court, school district, juvenile probation department, or other appropriate governmental entity, on approval of the county commissioners or other appropriate authority, to employ one or more juvenile case managers to provide services in cases involving juvenile

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offenders who are referred to a court by a school administrator for misconduct that would otherwise be within the court's statutory powers prior to a case being filed, with the consent of the juvenile and the juvenile's parents or guardians.

Provides that the juvenile case managers must assist the court in administering the court's juvenile docket and in supervising the court's orders in juvenile cases; and may provide prevention services to a child considered at risk of entering the juvenile justice system and intervention services to juveniles engaged in misconduct before cases are filed, excluding traffic offenses.

Authorizes entities to jointly employ case managers to provide services.

Creates the truancy prevention and diversion fund (fund) as a dedicated account in the general revenue fund.

Requires a person convicted in municipal or justice court of an offense, other than an offense relating to a pedestrian or the parking of a motor vehicle, to a court cost of \$2 in addition to other court costs.

Provides for the collection and reporting of such funds.

Requires the custodian of a county treasury or municipal treasury, as applicable, to send the funds collected to the comptroller of public accounts of the State of Texas (comptroller) on a quarterly basis.

Authorizes the custodian to retain 50 percent of such funds for the purpose of operating or establishing a juvenile case manager program.

Requires the comptroller to deposit the funds to the fund.

Authorizes the legislature to appropriate money from the fund to the criminal justice division (division) of the Office of the Governor for distribution to local governmental entities for truancy prevention and intervention services.

Authorizes a local governmental entity to request funds from the division for providing truancy prevention and intervention services.

Authorizes the division to award funds based on the availability of appropriated funds and subject to the application procedure and eligibility requirements specified by division rule.

Provides that collected funds are subject to audit by the comptroller.

Permitting Use of Digitalized Signature in Suits Under Family Code—S.B. 1422 *by Senator West—House Sponsor: Representative Ken King*

Currently, many courts allow for electronic filing (e-filing) of documents, and e-filing will become mandatory for most courts later this year. However, attorneys are not authorized in statute to digitally sign documents in family law cases. This leads to the practice of printing documents on paper to apply a signature, then subsequently scanning the document back into digital format for filing. This bill:

Defines "digitized signature."

Authorizes the use of a digitized signature on an original petition under the Family Code.

Provides that the digitized signature may be applied only by, and must remain under the sole control of, the person whose signature is represented.

Authorizing a Municipal Clerk to File Electronically With a County Clerk—S.B. 1437
by Senator Paxton—House Sponsor: Representatives Sanford and Goldman

Under current law, various persons and entities are authorized to file documents electronically with the county clerk, including practicing attorneys, state agencies, and title companies. This bill:

Adds a municipal clerk to the statutory list of persons permitted to file documents electronically for recording with a county clerk.

Authorizes a county with a population of 500,000 or more to permit a person to file documents electronically for recording with a county clerk if the county enters into a memorandum of understanding with the person for that purpose.

Discovery in a Criminal Case: The Michael Morton Act—S.B. 1611
by Senator Ellis et al.—House Sponsor: Representative Senfronia Thompson et al.

Criminal discovery—the exchange of relevant information between prosecutors and the defense prior to trial—is both necessary for a fair and just criminal justice system, and also required as part of a defendant's constitutional right to a full defense.

Brady v. Maryland requires prosecutors to turn over to the defense any evidence that is relevant to the defendant's case. However, *Brady* is vague and open to interpretation, resulting in different levels of discovery across different counties in Texas. This bill:

Requires that this Act be known as the Michael Morton Act.

Requires the state, after receiving a timely request from a defendant, to produce and permit the inspection and the electronic duplication, copying, and photographing, by or on behalf of the defendant, of any offense reports, any designated documents, papers, written or recorded statements of the defendant or a witness, including a witness statements of law enforcement officers but not including the work product of counsel for the state in the case and their investigators and their notes or report, or any designated books, accounts, letters, photographs, or objects or other tangible things not otherwise privileged.

Authorizes the state to provide the defendant electronic duplicates of any documents or other information.

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Provides that, if only a portion of the applicable document, item, or information is subject to discovery, the state is not required to produce or permit the inspection of the remaining portion that is not subject to discovery and may withhold or redact that portion.

Requires the state to inform the defendant that a portion of the document, item, or information has been withheld or redacted.

Requires the court, on request of the defendant, to conduct a hearing to determine whether withholding or redaction is justified.

Requires the state, in the case of a pro se defendant, if the court orders the state to produce and permit the inspection of a document, item, or information, to permit the pro se defendant to inspect and review the material but does not require the state to allow electronic duplication.

Prohibits the defendant, the attorney representing the defendant, or an investigator, expert, or consulting legal counsel from disclosing to a third party any documents, evidence, materials, or witness statements received from the state unless the court orders disclosure or the materials have already been publicly disclosed.

Authorizes the attorney representing the defendant, or an investigator, expert, consulting legal counsel, or agent for the attorney, to allow a defendant, witness, or prospective witness to view the information provided, but prohibits the attorney, investigator, expert, consulting legal counsel, or agent from allowing that person to have copies of the information.

Requires the person possessing the information to redact the address, telephone number, driver's license number, Social Security number, date of birth, and any bank account or other identifying numbers contained in the document or witness statement.

Establishes that nothing in the bill be interpreted to limit an attorney's ability to communicate regarding his or her case and that nothing shall prohibit the disclosure of identifying information to an administrative, law enforcement, regulatory, or licensing agency for the purposes of making a good faith complaint.

Requires the state to disclose to the defendant any exculpatory, impeachment, or mitigating document, item, or information in the possession, custody, or control of the state that tends to negate the guilt of the defendant or would tend to reduce the punishment for the offense charged.

Requires the state to electronically record or otherwise document any document, item, or other information provided to the defendant.

Requires each party, before accepting a plea of guilty or nolo contendere, or before trial, to acknowledge in writing or on the record in open court the disclosure, receipt, and list of all documents, items, and information provided to the defendant.

Requires the state, if at any time before, during, or after trial the state discovers any additional document, item, or information required to be disclosed, to promptly disclose the existence of the material to the defendant or the court.

Authorizes a court to order the defendant to pay costs related to discovery, within limits.

Clarifying Laws Regarding Vexatious Litigants—S.B. 1630
by Senator West—House Sponsor: Representative Lewis

Currently there is confusion regarding the application of Chapter 11 (Vexatious Litigants), Civil Practice and Remedies Code, regarding to whom the statute applies, who may declare a person a vexatious litigant, and the effects of that determination. There is also uncertainty regarding the responsibilities of court clerks and the Office of Court Administration of the Texas Judicial System (OCA) once such a determination is made. This bill:

Defines "plaintiff" under Chapter 11 to mean an individual who commences or maintains a litigation pro se.

Provides that Chapter 11 does not apply to an attorney licensed to practice law in this state unless the attorney proceeds pro se; and a municipal court.

Clarifies that a court may, on its own motion or the motion of any party, enter an order prohibiting a person from filing, pro se, new litigation in a court to which the order applies without permission to file the litigation from the appropriate local administrative judge.

Provides that a prefiling order by a justice or constitutional county court applies only to the court that entered the order; and a district or statutory county court applies to each court in this state.

Bars a vexatious litigant subject to a prefiling order from filing, pro se, new litigation in a court to which the order applies without seeking the permission of the local administrative judge of the type of court in which the vexatious litigant intends to file; or the local administrative district judge of the county in which the vexatious litigant intends to file if the litigant intends to file in a justice or constitutional county court.

Requires a vexatious litigant subject to a prefiling order who files a request seeking permission to file a litigation to provide a copy of the request to all defendants named in the proposed litigation.

Authorizes the appropriate local administrative judge to make a determination on the request with or without a hearing.

Provides that if the judge determines that a hearing is necessary, the judge may require the vexatious litigant to provide notice of the hearing to all defendants named in the proposed litigation.

Authorizes any party, if a clerk mistakenly files litigation presented, pro se, by a vexatious litigant subject to a prefiling order without an order from the appropriate local administrative judge, to file with the clerk and serve on the other parties notice stating that the plaintiff is a vexatious litigant required to obtain permission to file litigation.

Requires the clerk, not later than the next business day after the date the clerk receives such notice, to notify the court that the litigation was mistakenly filed.

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Requires the court, on receiving such notice, to immediately stay and dismiss the litigation unless the plaintiff, not later than the 10th day after the date the notice is filed, obtains an order from the appropriate local administrative judge permitting the filing of the litigation.

Provides that an order dismissing such litigation may not be appealed.

Bars OCA from removing the name of a vexatious litigant subject to a prefiling order from its Internet website unless OCA receives a written order from the court that entered the prefiling order or from an appellate court.

Provides that such order of removal affects only a prefiling order by the same court.

Provides that a court of appeals decision reversing a prefiling order affects only the validity of an order entered by the reversed court.

Attorneys Ad Litem in Suits Affecting the Parent-Child Relationship—S.B. 1759 *by Senator Uresti—House Sponsor: Representative Lewis*

Currently, an attorney ad litem is provided only for indigent parents opposing termination of the parent-child relationship. This bill:

Clarifies that an attorney ad litem appointed for a child in certain proceedings must complete at least three hours of continuing legal education relating to representing children in child protection cases.

Requires an attorney who is on the list maintained by the court as being qualified for appointment as an attorney ad litem for a child or a parent in a child protection case to complete the required continuing legal education each year before the anniversary date of the attorney's listing.

Expands existing law to require a court to appoint an attorney ad litem in a suit seeking the appointment of a conservator for a child.

Strikes the requirement that an attorney ad litem appointed to represent the interests of a parent must be trained in child protection law or have experience equivalent to that training.

Sets forth the duties of an attorney ad litem appointed to represent the interests of a parent whose identity or location is unknown or who has been served by citation by publication regarding locating such parent.

Requires an attorney ad litem who identifies and locates the parent, to provide to each party and the court the parent's locating information unless the court finds that disclosure of the address is likely to cause harassment, serious harm, or injury; or the parent has been a victim of family violence.

Authorizes a court that makes such finding to order that the information not be disclosed or render any other order the court considers necessary.

Authorizes the court, if the court determines that the parent is indigent, to appoint the attorney ad litem to continue to represent the parent.

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Requires an attorney ad litem who is unable to identify or locate the parent to submit a written summary to the court of the attorney ad litem's efforts to identify or locate the parent and include a statement that the attorney ad litem was unable to identify or locate the parent.

Requires the court, on the receipt of such summary, to discharge the attorney from the appointment.

Authorizes a court to extend a temporary restraining order issued under Section 262.102 (Emergency Order Authorizing Possession of Child), Family Code.

Requires such temporary restraining order or attachment of a child to include certain specified language stating that the party has a right to be represented by an attorney; and if the party is indigent and unable to afford an attorney, to request appointment of an attorney.

Requires the court, prior to the commencement of the full adversary hearing, to inform each parent not represented by an attorney of such rights.

Sets forth the procedure for requesting an attorney and determining whether the parent is indigent.

Authorizes the court to postpone the full adversary hearing for not more than seven days from the date of the attorney's appointment to provide the attorney time to respond to the petition and prepare for the hearing; and shorten or lengthen the extension if the parent and the appointed attorney agree in writing.

Requires the court, if it postpones the full adversary hearing, to extend a temporary restraining order issued by the court for the protection of the child until the date of the rescheduled hearing.

Requires a court, at each status hearing and at each permanency hearing held after the date the court renders a temporary order appointing the Department of Family and Protective services as temporary managing conservator of a child, to inform each parent not represented by an attorney of the right to be represented by an attorney and the right to a court-appointed attorney if the parent is indigent.

Jurisdiction of Harrison County Court at Law and 71st Judicial District Court—S.B. 1806

by Senator Eltife—House Sponsor: Representative Paddie

The Harrison County Court at Law and the 71st Judicial District have asked that these courts have concurrent jurisdiction to more adequately serve Harrison County citizens and address a backlog of cases. This bill:

Grants a Harrison County county court at law concurrent jurisdiction with the district court, on assignment of a district judge presiding in Harrison County, in family law cases and proceedings.

Provides for the assignment and transfer of cases.

Provides that the district clerk serves as clerk of a county court at law in assigned cases and that the county clerk serves as clerk of the court in all other cases.

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Authorizes a party in an assigned case to request a jury of 12 persons, or otherwise the case will proceed with a six-person jury.

Authorizing a Filing Fee in Certain Rockwall County Courts For Court Facilities—S.B. 1827

by Senator Deuell—House Sponsor: Representative Gooden

During the past decade, several Texas counties have been given statutory authority to charge a filing fee in civil cases to be used for the construction, renovation, or improvement of the facilities that house their courts. This bill:

Requires the clerk of a court in district courts, statutory probate courts, county courts at law, and justice courts in Rockwall County to collect a filing fee of not more than \$15 in each civil case filed to be used for the construction, renovation, or improvement of the facilities that house the courts collecting the fee.

Sets forth the procedures for the collection and deposit of such fees.

Authorizes the Rockwall County commissioners court to adopt a resolution authorizing a fee of not more than \$15 and to file the resolution with the county treasurer by a certain date.

Provides that the resolution continues from year to year until July 1, 2025.

Authorizes the commissioners court to rescind the resolution.

Provides that a fee established under a particular resolution is abolished on the earlier of the date a resolution is rescinded or July 1, 2025.

Edwards County Juvenile Board to Operate With Other Juvenile Boards—S.B. 1832

by Senator Uresti—House Sponsor: Representative Hilderbran

Edwards County's juvenile board is made up of the county judge and the district judge in the county. In order to share costs and deliver services in an efficient manner, many rural counties operate a joint juvenile probation board with other nearby counties in their judicial district. The current statute does not allow Edwards County to operate a joint juvenile probation board. This bill:

Authorizes the Edwards County juvenile board and the juvenile boards of one or more counties that are adjacent to or in close proximity to Edwards County to operate together.

Authorizes juvenile boards operating together to appoint one fiscal officer to receive and disburse funds for the boards.

Filing Fee in Certain Travis County Courts For Court Facilities—S.B. 1891

by Senator Watson—House Sponsor: Representative Howard

During the past decade, several Texas counties have been given statutory authority to charge a filing fee in civil cases to be used for the construction, renovation, or improvement of the facilities that house their courts. This bill:

Requires the clerk of a court in district courts, probate courts, and county courts at law in Travis County to collect a filing fee of not more than \$15 in each civil case filed to be used for the construction, renovation, or improvement of the facilities that house the Travis County civil courts.

Sets forth the procedures for the collection and deposit of such fees.

Authorizes the Travis County commissioners court to adopt a resolution authorizing a fee of not more than \$15 and to file the resolution with the county treasurer by a certain date.

Provides that the resolution continues from year to year until October 1, 2028.

Authorizes the commissioners court to rescind the resolution and to adopt an additional resolution after rescinding a previous resolution.

Abolishes a fee established under a particular resolution on the earlier of the date a resolution is rescinded or October 1, 2028.

Office of Court Administration to Conduct Study of Court Fees and Costs—S.B. 1908

by Senators West and Paxton—House Sponsor: Representative Lewis

Over the past few decades, numerous filing fees have been imposed across judicial jurisdictions, many to provide the necessary resources to manage and archive paper documents filed with the clerk of the court. With the advent of the electronic age, existing filing fees related to paper documents need to be reexamined to determine whether they are still necessary. This bill:

Requires the Office of Court Administration of the Texas Judicial System (OCA), not later than September 1, 2014, to:

- conduct a study identifying each statute imposing a court fee or cost in this state;
- determine whether each identified fee or cost is necessary to accomplish the stated statutory purpose;
- compile a list of the identified fees and costs and of each fee or cost OCA determines is necessary;
- publish the list on OCA's Internet website and in the *Texas Register*; and
- provide a copy of the list and determinations to the governor, lieutenant governor, and speaker of the House of Representatives.

Requires OCA to consult with local government representatives as OCA determines is appropriate.

Requires the Texas Legislative Council to prepare for the 84th Legislature, Regular Session, 2015, a revision of the statutes to reflect the court fees and costs identified by OCA as unnecessary.

Provides that this Act expires January 1, 2016.

Authorizing PSF to Seek a Court Order in a Boundary Dispute With The UT System—S.C.R. 30
by Senator Uresti—House Sponsor: Representative Nevárez

There is a boundary dispute between the State of Texas, on behalf of the Permanent School Fund (PSF), and The University of Texas System regarding adjoining land located in Pecos County, Texas. This joint concurrent resolution:

States that the Texas Legislature takes no position on this issue.

Grants General Land Office Commissioner Jerry Patterson permission to sue the State of Texas and the board of regents of The University of Texas System.

Authorizes the PSF to seek a determination regarding the boundary of its property and its rights, but bars recovery of monetary damages.

Provides that suit may be brought in Travis County.

Limits any relief awarded in the suit to that authorized under Chapter 37 (Declaratory Judgments), Civil Practice and Remedies Code.

Provides that the secretary of the board of regents of The University of Texas System be served with process as provided under the Civil Practice and Remedies Code.

Expanding Sanctions the State Commission on Judicial Conduct May Assess—S.J.R. 42
by Senators Huffman and Nichols—House Sponsor: Representative Dutton

The State Commission on Judicial Conduct (SCJC) protects the public from judicial misconduct, promotes public confidence in the integrity and impartiality of the judiciary, and encourages judges to maintain high standards of conduct. The Sunset Advisory Commission (SAC) found that the Texas Constitution limits the ability of SCJC to hear major cases in open, formal proceedings and recommends authorizing SCJC to use its full range of disciplinary actions following a formal proceeding. SCJC is governed by Chapter 33 (State Commission on Judicial Conduct) of the Government Code and Article V, Section 1-a of the Texas Constitution. S.B. 209 is the enacting legislation. This resolution proposes a constitutional amendment to:

Expand the authority of SCJC to institute formal proceedings.

Authorize SCJC, after formal hearing, to issue an order of public admonition, warning, reprimand, censure, or requirement that the person obtain additional training or education.

Proposing Creation of a Fire Control, Prevention, or Emergency Medical Services District—H.B. 339
by Representative Laubenberg—Senate Sponsor: Senator Paxton

Under current law, only certain municipalities are authorized to create districts for fire control, prevention, and emergency services. This bill:

Authorizes the governing body of a municipality to propose the creation of a fire control, prevention, and emergency medical services district if the municipality has a population of more than 5,000 and less than 25,000, and is located in a county with a population of 750,000 or more in which all or part of a municipality with a population of one million or more is located, and that is adjacent to a county with a population of two million or more.

Authority of the Corn Hill Regional Water Authority—H.B. 701
by Representative Farney—Senate Sponsor: Senator Schwertner

The Corn Hill Regional Water Authority of Bell and Williamson Counties currently encompasses land within its member entities, the Sonterra Municipal Utility District (MUD) and the CLL MUD No. 1, that is planned for residential and commercial development. A recent regional water planning study identified the need for construction and financing of extensive water development infrastructure in order to serve the needs of the member entities and political subdivisions in the planning area. The authority's original enabling legislation empowered the authority to provide regional water supplies but in order to facilitate a plan for long-term development for its member entities the authority requires additional powers. This bill:

Provides that the Corn Hill Regional Water Authority (authority) is created to accomplish certain purposes, including the reclamation and drainage of the district's overflowed lands and other lands needing drainage; the control, abatement, and change of any shortage or harmful excess of water; and the protection, preservation, and restoration of the purity and sanitary condition of water within the state.

Authorizes the authority's board of directors to by resolution appoint and remove a nonvoting ex officio director who is entitled to all notices and information given to and accessible to a director and who may attend and participate in board meetings.

Authorizes a municipality, county, or other political subdivision to petition the board to add that municipality, county, or other political subdivision as a member entity.

Removes language providing that the authority may not provide wastewater and drainage and that the authority does not have any power that the member entities do not have.

Authorizes the authority, for any authorized authority purpose, to issue bonds or other obligations payable wholly or partly from revenue of the authority's water system, sanitary sewer system, or drainage system, including revenue from contracts with member entities or customers, or any combination of those sources of revenue.

Authorizes a member entity, under a contract with the authority, to make payments from any of the member entity's sources of revenue, including ad valorem taxes, impact fees, grants, sales and use taxes, and any other source to provide money for the administrative and operating expenses of the authority.

Review of Creation of MUDs by County Commissioners Courts—H.B. 738

by Representative Crownover—Senate Sponsor: Senator Nelson

The Texas Commission on Environmental Quality (TCEQ) is currently required to consider recommendations by a commissioners court of the county in which a proposed municipal utility district (MUD) is to be located, but only if the MUD is outside a city's extraterritorial jurisdiction (ETJ). This bill:

Requires TCEQ, promptly after a petition is filed with TCEQ to create a district, all of which is to be located outside the corporate limits of a municipality, to notify the commissioners court of any county in which the proposed district is to be located.

Requires the commissioners court, in the event the county commissioners court votes to submit information to TCEQ or to make a recommendation regarding the creation of the proposed district, to submit to TCEQ, at least 10 days before the date set for action on the petition, a written opinion stating whether the commissioners court recommends creation of the district and certain information that the commissioners court thinks would assist TCEQ in making a final determination on the petition.

Requires TCEQ, in passing on a petition, to consider the written opinion submitted by the county commissioners court.

Powers, Duties, and Compensation of the Board of the Duval County GCD—H.B. 839

by Representative Guillen—Senate Sponsor: Senator Zaffirini

The mission of the Duval County Groundwater Conservation District's (GCD) is to conserve and protect water and to prevent the waste and pollution of groundwater resources. This bill:

Authorizes Duval County GCD to change its name. Requires the board of directors (board) to give written notice of the change to Duval County.

Authorizes the board to appoint one or more advisory committees to assist with any matter affecting the Duval County GCD. Provides that a person who serves on an advisory committee is not entitled to compensation.

Fees of Office For Directors of GCDs—H.B. 1563

by Representative Tracy O. King—Senate Sponsor: Senator Hegar

Currently, the director of a groundwater conservation district (GCD) is entitled to receive \$150 a day for each day the director spends performing the duties of the director. This bill:

Increases the fees of office to not more than \$250 a day for each day the director actually spends performing the duties of a director.

Fees or Assessments Imposed by the Rio Grande Regional Water Authority—H.B. 3137

by Representative Lucio III—Senate Sponsor: Senator Lucio

Currently, the Rio Grande Regional Water Authority's (authority) assessments are capped the first year. Irrigation districts and municipalities are generally the only entities against which the authority levies an assessment. This bill:

Prohibits a fee or assessment based on the water rights held by the affected entity from exceeding five cents per acre-foot.

Prohibits an initial fee or assessment from exceeding five cents per acre-foot for each water right held by the affected entity.

Homestead Preservation Districts and Reinvestment Zones—H.B. 3350

by Representative Eddie Rodriguez—Senate Sponsor: Senator Watson

Homestead preservation district laws were adopted by the Texas Legislature in 2005 to promote the ability of municipalities to increase homeownership, prevent the involuntary loss of homesteads by low-income and moderate-income homeowners living in disadvantaged neighborhoods, and protect a municipality's interest in improving economic and social conditions within disadvantaged communities by enhancing the viability of home ownership among low-income and moderate-income residents in areas experiencing economic pressures.

Several requirements have limited the effectiveness of the state's homestead preservation district laws, including the requirement that a municipality can enact a homestead preservation reinvestment zone only if the county decides to also participate. The homestead preservation reinvestment zone is a form of tax increment financing that municipalities and counties can choose to utilize for the purpose of preserving affordable housing opportunities in a homestead preservation district. However, under the current law, a municipality is barred from adopting this tool unless the county decides to participate, which has resulted in this tool never being utilized. This bill:

Authorizes the governing body of a municipality by ordinance to promote and expand the ownership and rental of affordable housing and to prevent the involuntary loss of homesteads by existing homeowners and renters living in the area, to designate as a homestead preservation district an area in the municipality that is eligible under Section 373A.052 (Eligibility for Designation), Local Government Code.

Requires that an area, to be designated as a district within a municipality described by Section 373A.003(a) (relating to providing that this chapter applies to a municipality with a population of more than 750,000 that is located in a uniform state service region with fewer than 550,000 occupied housing units) under this subchapter, be composed of census tracts forming a spatially compact area with fewer than 75,000 residents, an overall poverty rate that is at least two times the poverty rate for the entire municipality and, in each census tract within the area, a median family income that is less than 80 percent of the median family income for the entire municipality.

Authorizes a county to participate in a homestead preservation reinvestment zone established by a municipality under 373A.152(a) (relating to authorizing a municipality by ordinance to designate a

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continuous geographical area contained entirely within the boundaries of the district as a homestead preservation reinvestment zone), Local Government Code, by adopting a final order agreeing to the creation of the zone, the zone boundaries, and the zone termination date specified by the municipality under Section 373A.1521(1) (relating to requiring the ordinance designating the homestead preservation zone to contain certain information), Local Government Code, and specifying an amount of tax increment to be deposited by the county into the tax increment fund that is equal to the amount of the tax increment specified by the municipality under Section 373A.1521(3) (relating to requiring the ordinance designating the homestead preservation zone to specify the amount of tax increment to be deposited by the municipality into the tax increment fund), Local Government Code.

Provides that the zone designated by the ordinance adopted takes effect on the date designated by the municipality in the ordinance adopted.

Requires a county, if the county elects to participate in a homestead preservation reinvestment zone, to pay into the tax increment fund for the zone an amount equal to the tax increment paid by the municipality as specified in the order adopted.

Provides that, if a county elects to participate in a homestead preservation reinvestment zone, the county is the only taxing unit entitled to receive the annual report prepared under Section 311.016(a) (relating to requiring the governing body of a municipality or county to submit to the chief executive officer of each taxing unit that levies property taxes on real property in certain reinvestment zones a report on the status of the zone), Tax Code.

Audit Requirements of Certain Emergency Services Districts—H.B. 3764 *by Representative Coleman—Senate Sponsor: Senator Hinojosa*

Currently, all Emergency Service Districts (ESDs) are required to have formal audits conducted annually. This formal audit can be a costly expense for smaller ESDs. This bill:

Authorizes a district that did not have any outstanding bonds or any outstanding liabilities having a term of more than one year during the previous fiscal year; did not receive more than a total of \$250,000 in gross receipts from operations, loans, taxes, or contributions during the previous fiscal year; and did not have a total of more than \$250,000 in cash and temporary investments during the previous fiscal year to file compiled financial statements with the commissioners court of each county in which any part of the district is located instead of filing an audit report under Section 775.082 (Audit of District in Less Populous Counties), Health and Safety Code.

Requires these districts to file with the compiled financial statements an affidavit signed by an authorized district representative attesting to the accuracy and authenticity of the statements.

Provides that the provisions of Section 775.082, Health and Safety Code, relating to deadlines for filing an audit and the procedures and penalties relating to the failure of a district to file an audit apply to the filing of compiled financial statements under this bill.

Creation of a County Assistance District—H.B. 3795

by Representatives Coleman and Reynolds—Senate Sponsor: Senator Hegar

Currently, there is ambiguity regarding whether a county may create more than one county assistance district per commissioners precinct. This bill:

Authorizes more than one county assistance district to be created in a county.

Expenditures Made by Emergency Services Districts—H.B. 3798

by Representative Coleman—Senate Sponsor: Senator Hinojosa

Currently, the statutory procedure for emergency services districts (ESDs) to disburse funds does not recognize current banking and technology practices. This bill:

Provides that, except as otherwise stated, the funds of an ESD may be disbursed only by check, draft, order, or other instrument that is signed by at least a majority of the board of emergency services commissioners (board) or is signed by the treasurer and countersigned by the president. Deletes existing text authorizing the assistant treasurer, if the treasurer is absent or unavailable, to sign for the treasurer.

Authorizes the board by resolution to allow a district employee who has executed a bond in an amount equal to the amount required for the district treasurer to sign an instrument to disburse district funds. Prohibits the payment of an expenditure of more than \$2,000 unless the expenditure is presented to the board and the board approves the expenditure.

Authorizes the board to authorize the disbursement of district funds transferred by federal reserve wire system. Authorizes the board by resolution to authorize wire transfers to accounts in the district's name or accounts not in the district's name.

Requires that any property, including an interest in property, purchased or leased using district funds, wholly or partly, remain the property of the district, regardless of whether the property is used by a third party under a contract for services or otherwise, until the property is sold to a third party following the procedures authorized under Section 263.003 (School Lands), 263.007 (Sale or Lease of Real Property Through Sealed-Bid Procedure), or 263.008 (Broker Agreements and Fees for the Sale of Real Property), Local Government Code, or the property is disposed of in accordance with Subchapter J (Surplus and Salvage Property), Chapter 775 (Emergency Service Districts), Health and Safety Code.

Board of Directors of the Tarrant Regional Water District—H.B. 3900

by Representative Geren—Senate Sponsor: Senator Hancock

In 1924, the Tarrant Regional Water District (district) created the board of directors and has since elected members to four-year terms at elections in May of each even-numbered year. This bill:

Requires that the district be governed by a board of five elected directors.

Provides that directors serve staggered four-year terms and until their successors have qualified.

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Requires the appropriate number of directors, on the uniform election date in May of each odd-numbered year, to be elected.

Provides that the legal notice and intention to introduce this Act, setting forth its general substance, has been published as provided by law and the notice and a copy have been furnished to certain persons, officials, or entities as required.

Provides that the governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality (TCEQ).

Provides that TCEQ has filed its recommendations relating to this Act with certain persons within the required time.

Provides that all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

Providing the Hays Trinity GCD Authority to Increase Certain Fees—H.B. 3903 *by Representative Isaac—Senate Sponsor: Senator Campbell*

Currently, the Hays Trinity Groundwater Conservation District (district) directors serve staggered two-year terms and are elected on the uniform election date in May of each year. This bill:

Provides that directors serve staggered four-year, rather than staggered two-year, terms.

Requires the appropriate number of directors to be elected on the uniform election date in November of each even-numbered year, rather than in May of each year.

Amends Section 8843.103, Special District Local Laws Code, to read Well Construction Notification, rather than Well Construction Permit.

Requires a landowner, notwithstanding Section 8843.104 (Exempt Wells), Special District Local Laws Code, to notify the district before the construction of a new well that is to be completed after September 1, 2013. Deletes existing text authorizing a district, except as provided by Sections 8843.104(b) (relating to prohibiting a district from requiring a permit to construct a well used for conventional farming and ranching activities, including such intensive operations as aquaculture, livestock feedlots, or poultry operations) and (c) (relating to a well used for dewatering and monitoring in the production of coal or lignite being exempt from permit requirements, regulations, and fees imposed by the district), to require a permit for the construction of a new well completed after September 1, 2001.

Prohibits groundwater withdrawals from certain wells from being regulated, permitted, or metered by the district. Deletes existing text prohibiting certain wells from being exempt from the requirements of Chapter 36 (Groundwater Conservation Districts), Water Code, and from being regulated, permitted, or metered by the district.

Prohibits the district from charging or collecting a well construction fee for a certain well used for conventional farming and ranching activities, including such intensive operations as aquaculture, livestock feedlots, or poultry operations. Deletes existing text prohibiting a district from requiring a permit to construct a certain well used for conventional farming and ranching activities, including such intensive operations as aquaculture, livestock feedlots, or poultry operations.

Requires a well owner to obtain a permit to pay any required fees, including a well construction fee, before using any groundwater withdrawn from a well for purposes that are not exempted in Section 8843.104, Special District Local Laws Code.

Amends Section 8843.151, Special District Local Laws Code, to read Well Construction Fee, rather than Well Construction Permit Fee.

Authorizes the district to charge and collect a new well construction fee not to exceed \$1,000 for a new well. Deletes existing text authorizing the district to charge and collect a construction permit fee not to exceed \$300 for a well for which the district requires a permit under Section 8843.103, Special District Local Laws Code.

Authorizes the district to charge and collect a permit renewal application fee not to exceed \$400.

Authorizes the district to levy and collect a water utility service connection fee not to exceed \$1,000, rather than \$300, for each new water service connection made after September 1, 2013, rather than after September 1, 2001.

Repeals Sections 8843.102 (Election on Board Decision) and 8843.155 (Audit), Special District Local Laws Code.

Provides that a change in law made by Section 8843.1515, Special District Local Laws Code, as added by this Act, applies only to an application for the renewal of a permit submitted to the district after September 1, 2013. Provides that an application submitted before that date is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

Provides that to establish staggered four-year terms of office, a director elected in November 2012 is required to serve a term expiring December 1, 2014, and a director elected in November 2013 is required to serve a term expiring December 1, 2016.

Angleton-Danbury Hospital District—H.B. 3905

by Representative Dennis Bonnen—Senate Sponsor: Senator Taylor

The Angleton-Danbury Hospital District (district) was created by the 60th Legislature in 1967 and later codified as Chapter 1002, Special District Local Laws Code. Because of its rural location, the district has experienced challenges recruiting and retaining physicians, consequently limiting community access to health care. This bill:

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Requires the Angleton-Danbury Hospital District (district) to hold an election each odd-numbered year to elect the appropriate number of directors to the board of directors of the district (board), who serve staggered four-year terms.

Defines "licensed health care professional."

Requires the board to determine the type, number, and location of buildings necessary to establish and maintain office facilities for staff physicians, physicians employed under Section 1002.061, Special District Local Laws Code, and other licensed health care professionals to provide adequate health care services for the district within the licensed health care professionals' scope of license.

Authorizes the board to acquire property and equipment and construct facilities for the district for use by certain physicians and other licensed health care professionals and mortgage or pledge the property, equipment, or facilities as security for the payment of the purchase price or construction cost.

Authorizes the board to lease the office facilities and equipment to certain physicians and other licensed health care professionals or to sell or otherwise dispose of the property, facilities, and equipment.

Authorizes the board to employ a physician and retain all or part of the professional income generated by the physician for medical services provided at a hospital or other health care facility owned or operated by the district if the board satisfies certain requirements.

Requires the board to appoint a chief medical officer for the district who has been recommended by the medical staff of the district and adopt, maintain, and enforce policies to ensure that a physician employed by the district exercises the physician's independent medical judgment in providing care to patients.

Requires that the policies adopted under Section 1002.061, Special District Local Laws Code, include policies relating to credentialing and privileges, quality assurance, utilization review, peer review and due process, and medical decision-making and the implementation of a complaint mechanism to process and resolve complaints regarding interference or attempted interference with a physician's independent medical judgment.

Requires that the policies be approved by the medical staff of the hospital and in the event of a conflict between a policy adopted by the board and approved by the medical staff and a policy of the hospital, requires that a conflict management process be jointly developed by the medical staff of the hospital and the board and implemented to resolve that conflict.

Requires each physician employed by the district, for all matters relating to the practice of medicine, to ultimately report to the chief medical officer of the district.

Requires the chief medical officer to notify the Texas Medical Board (TMB) that the board is employing physicians and that the chief medical officer is the board's designated contact with TMB.

Requires the chief medical officer to immediately report to TMB any action or event that the chief medical officer reasonably and in good faith believes constitutes a compromise of the independent medical judgment of a physician in caring for a patient.

Requires the board to give equal consideration regarding the issuance of medical staff membership and privileges to physicians employed by the district and physicians not employed by the district.

Requires a physician employed by the district to retain independent medical judgment in providing care to patients and prohibits the physician from being disciplined for reasonably advocating for patient care.

Provides that a physician employed by the district, if the district provides professional liability coverage for physicians employed by the district, is authorized to participate in the selection of the professional liability coverage, has the right to an independent defense at the physician's own cost, and retains the right to consent to the settlement of any action or proceeding brought against the physician.

Provides that if a physician employed by the district enters into an employment agreement that includes a covenant not to compete, the agreement is subject to Section 15.50 (Criteria for Enforceability of Covenants Not to Compete), Business & Commerce Code, and any other applicable provision.

Prohibits the board from delegating to the chief executive officer of the district the authority to hire, terminate, or make any other personnel decisions relating to a physician.

Provides that this section applies to medical services provided by a physician at a hospital or other health care facility owned or operated by the district.

Requires that a bank designated as the district's depository serve for a period of five years, rather than two years, and until a successor has been selected.

Authorizes the board, to secure a loan or line of credit, to pledge revenue of the district that is not pledged to pay the district's bonded indebtedness, taxes to be imposed by the district in the next 12-month period that are not pledged to pay the principal of or interest on district bonds, or district bonds that have been authorized but not sold.

Transfer of Cuadrilla Improvement Corporation to the Lower Valley Water District—H.B. 3933
by Representative Mary González—Senate Sponsor: Senator Rodríguez

For the past 14 years, the El Paso Water Control and Improvement District #4 (district) has provided water to the Cuadrilla Improvement Corporation (corporation). The facilities of the corporation are still in use, but are deteriorating. The district does not have the resources to continue providing services, so it is working with the Lower Valley Water District to provide water and wastewater services to the corporation. This bill:

Provides that on July 8, 1992, the County of El Paso, Texas, by and through the county judge of El Paso County, quitclaimed the county's right, title, and interest in and to the property and any improvements to certain territory described by this Act, to the corporation by executing a certain quitclaim deed, as recorded in the county records.

Provides that the district assumed the responsibilities as temporary manager of the corporation, including the provision of water and wastewater services to customers of the corporation by emergency order issued by the Texas Commission on Environmental Quality (TCEQ) on September 30, 1999, and confirmed by TCEQ on October 27, 1999.

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Provides that the corporation was involuntarily dissolved by order of the secretary of state on July 18, 2007.

Provides that the district no longer wishes to continue to provide service to the former corporation's customers, and the Lower Valley Water District (authority) is willing to provide and capable of providing that service and of assuming any other duties of the corporation, provided that the authority is granted any remaining assets of the former corporation, including the real property and any improvements to certain property described by this Act.

Provides that the transfer of any remaining assets of the former corporation, including the real property and any improvements to the property described by this Act, serves a public purpose and benefits the land included in the transfer.

Sets forth the boundaries of the authority.

Requires the authority to assume certain assets and responsibilities.

Provides that the findings related to procedural requirements have been met.

Powers of the North Harris County Regional Water Authority—H.B. 3934 *by Representative Riddle—Senate Sponsor: Senator Patrick*

The City of Houston is highly susceptible to subsidence caused by groundwater withdrawal. Withdrawals of groundwater are regulated by the Harris Galveston Subsidence District and the Fort Bend Subsidence District. Current regulations require certain users to convert from groundwater to surface water. The North Harris County Regional Water Authority (authority) was created to facilitate conversion from groundwater to surface water for certain users. To accomplish the conversion, the authority has built and financed water infrastructure for the delivery of non-groundwater sources and has issued millions of dollars in bonds to finance the infrastructure. This bill:

Authorizes the authority, notwithstanding any other law, to impose a charge on a well or class of wells located within the boundaries of the authority that, on or after June 30, 2013, ceases to be subject to a groundwater reduction requirement imposed by the subsidence district or is no longer subject to the regulatory provisions, permitting requirements, or jurisdiction of the subsidence district.

Provides that the authority retains all rights, powers, privileges, authorities, duties, and functions that it had before this Act went into effect.

Provides that the legislature validates and confirms all governmental acts and proceedings of the authority that were taken before the date this Act went into effect.

Provides that Section 4.03, Chapter 1029, Acts of the 76th Legislature, Regular Session, 1999, does not apply to any matter that on the date the Act goes into effect is involved in litigation if the litigation ultimately results in the matter being held invalid by a final court judgment or has been held invalid by a final court judgment.

Provides that all requirements of the constitution and the laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

Creation of the Comal County WCID No. 3—H.B. 3941
by Representative Doug Miller—Senate Sponsor: Senator Campbell

Certain interested parties contend that a water control and improvement district (WCID) is necessary in the City of New Braunfels in order to facilitate the development of property in the city. This bill:

Sets forth standard language for the creation of the Comal County WCID No. 3 in Comal County. Sets forth certain standards, procedures, and requirements for the creation of Comal County WCID No. 3.

Sets forth the initial boundaries of the district.

Provides that all requirements of the constitution and the laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

Provides that if this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C (Powers and Duties), Chapter 8489 (Comal County Water Improvement District No. 3), Special District Local Laws Code, as added by this Act, is amended to prohibit the district from exercising the power of eminent domain.

Provides that this is not intended to be an expression of a legislative interpretation of the requirements of 17(c) (relating to authorizing eminent domain only on a two-thirds vote of all members elected to each house), Article I, Texas Constitution.

Creation of the Kendleton Improvement District—H.B. 3954
by Representative Stephenson—Senate Sponsor: Senator Hegar

The creation of an improvement district will facilitate and support the development of a 274-acre parcel of land with district-generated revenues through tax assessments and/or an ad valorem tax on commercial property that will reimburse certain infrastructure development costs for both underground and surface infrastructure related to the development. The parcel of land in Fort Bend County is currently undeveloped and is located in an area in the northern portion of the City of Kendleton's extraterritorial jurisdiction. The improvement district will finance marketing and promotion of the commercial project, and security and safety services for the area once developed. The project is currently contemplating the development of an industrial complex to serve Kansas City Southern Railroad (KCS), and a myriad of mixed uses that may include residential, multi-family, office, retail, and other industrial usages. All the property is currently owned by several individuals and incorporated entities under the control of KCS. This bill:

Provides standard language for the creation of the Kendleton Improvement District (district) in Fort Bend County. Sets forth standards, procedures, requirements, and criteria for the creation, purpose, and approval of the district; the size, composition, election, and terms of the board of directors, including the

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appointment of temporary directors; the powers and duties of the district; the general financial provisions and the authority to impose a tax and to issue bonds and obligations for the district; the defined areas of the district; and the dissolution and municipal annexation of the district.

Prohibits the district from exercising the power of eminent domain.

Repealing Provision Authorizing Creation of Hospital District in Hidalgo County—H.J.R. 147 *by Representative Guerra et al.—Senate Sponsor: Senator Hinojosa*

Under current law, for the purposes of forming a hospital tax district in Hidalgo County, there is a maximum tax rate of 10 cents per \$100. This resolution proposes a constitutional amendment to:

Repeal Section 7 (Hidalgo County Hospital District; Creation; Tax Rate), Article IX, Texas Constitution.

Election of Board of Directors of the Central Texas GCD—S.B. 168 *by Senate Sponsor: Senator Fraser—House Sponsor: Representative Farney*

Current law states that the terms for the board of directors (board) of the Central Texas Groundwater Conservation District (Central Texas GCD) expire on June 1 of each even-numbered year. Elections for the Central Texas GCD take place in May of even-numbered years. This bill:

Provides that directors serve staggered four-year terms, with two or three directors' terms expiring at the first meeting of the board after the November election in even-numbered years and after the board has canvassed the votes and the newly elected directors have qualified for office and taken the constitutional oath. Deletes existing text providing that directors serve staggered four-year terms, with two or three directors' terms expiring June 1 of each even-numbered year.

Changes the election date of the district to November, rather than May, of each even-numbered year.

Requires a director of the board who is serving on the day before the effective date of this Act to serve until the director's term expires. Requires a director whose term expires in May 2014 to continue to serve until the director's successor has qualified for office and taken the constitutional oath following the director's election held on November 4, 2014, in accordance with certain sections as amended by this Act. Requires a director whose term expires in May 2016 to continue to serve until the director's successor has qualified for office and taken the constitutional oath following the election held on November 8, 2016.

Provides that all requirements of the constitution and the laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

Administrative Powers of the Red River Authority of Texas—S.B. 281*by Senator Estes—House Sponsor: Representative Frank*

The Red River Authority (authority) was created in 1959 with the mission of conservation, reclamation, protection, and development of water resources throughout the Red River Basin for the benefit of the public. The authority provides potable drinking water for about 10,000 people, but there is no surface water left to develop within the rural areas of the authority. For this reason, the authority would like to develop groundwater resources. The authority's territorial jurisdiction encompasses all or part of 43 counties. This bill:

Authorizes the authority's board of directors (board) or a board committee to hold a meeting by telephone conference call, video conference call, or through communications over the Internet, in accordance with Open Meetings procedures, if holding the meeting in that way is determined to be necessary or convenient by the board president or any three board members.

Requires the authority to have and authorizes it to exercise such functions, powers, authority, rights, and duties as may permit the accomplishment for the purposes for which it is created, including investigating and planning, acquiring, constructing, maintaining, and operating of all necessary properties, lands, rights, tenements, easements, improvements, reservoirs, dams, canals, laterals, plants, works, and facilities which it may deem necessary or proper for the accomplishment of said purposes, including the acquisition within and/or without said authority of lands, rights-of-way, surface water rights, groundwater rights, if purchased in a certain manner, and all other properties, tenements, easements, and all other rights incident, helpful to, or in aid of carrying out the purposes of said authority as herein defined; provided, however, that said authority is prohibited from engaging in the generation or distribution of electric power, except as provided by this Act.

Prohibits the right of eminent domain from being exercised or extended beyond the boundaries of the district.

Authorizes the authority to purchase groundwater rights in a county in its territory only if there is a groundwater conservation district (GCD) that has jurisdiction over water wells located in the county or, in the case where a county is not in the jurisdiction of a GCD, the commissioners court of the county approves the purchase of the groundwater rights by the authority in the county.

Requires that nothing in this act be construed as authorizing the authority to acquire or regulate underground water or underground water rights by condemnation or regulate the use of groundwater resources in any manner. Deletes existing text requiring that nothing in the Act be construed as authorizing the authority to acquire, regulate, or control in any way underground water or underground water rights by condemnation or purchase or otherwise or to develop, regulate, or control the use of underground water resources in any manner. Deletes existing text providing that this Act is intended to govern and is required to be construed to govern and apply to surface water only.

Commissioners Court Oversight of Certain Emergency Services Districts—S.B. 332

by Senator Rodríguez—House Sponsor: Representative Márquez

Under current law, the El Paso County Commissioners Court appoints a five-member board of emergency services commissioners to serve as the county's emergency service district's governing body. Additionally, the El Paso County Commissioners Court can remove one or more board members for failing to give a statutorily required report to the commissioners court. Recently, a need has been discovered to provide county oversight similar to its guidance of other health and safety providers in the county.

Defines "commissioners court." Provides that this applies only to a district that is located wholly in a county that borders the United Mexican States, that has a population of more than 800,000, and for which the commissioners court appoints a board of emergency services commissioners (board) under Section 775.034 (Appointment of Board in District Located Wholly in One County), Health and Safety Code.

Authorizes the commissioners court to adopt a resolution to delegate to the board of a district a duty assigned to the commissioners court under this subchapter that relates to that district, or waive a requirement in this subchapter that the commissioners court approve an action of a district. Authorizes a resolution adopted under this section to apply to more than one board or district. Authorizes the commissioners court to by resolution terminate the delegation of a duty or the waiver of an approval requirement.

Authorizes the commissioners court to establish policies and procedures the board is required to comply with when constructing, purchasing, acquiring, contracting for, leasing, adding to, maintaining, operating, developing, regulating, selling, exchanging, or conveying real or personal property, a property right, equipment, goods, services, a facility, or a system to maintain a building or other facility or to provide a service to or required by the district, or providing services through and using public funds for a volunteer fire department or emergency service department or emergency service provider.

Provides that the policies and procedures are authorized to include requiring the board to submit to the commissioners court periodic reports on the district's compliance with the policies and procedures; required to establish the types of transactions, including maximum dollar amounts the board is authorized to make when conducting an activity described by Subsection (a) without the approval of the commissioners court, if any; required to designate by name, title, or position a person in the county as the primary point of contact between the commissioners court and the board; and prohibited from being established until the commissioners court consults with the board.

Provides that this does not authorize the commissioners court or the board to use real or personal property, a property right, equipment, a facility, or a system to provide a telecommunications service, advanced communications service, or information service as defined by 47 U.S.C. Section 153, or a video service as defined by Section 66.002 (Definitions), Utilities Code.

Requires the commissioners court to establish a schedule for a district to prepare an annual budget, tax rate calculations and notices, and a recommended tax rate and to submit the budget, calculations, notices, and recommendation to the commissioners court for final approval. Requires that the schedule take into account requirements of this chapter, Chapter 26 (Assessment), Tax Code, and Section 21 (Increase In Total Property Taxes; Notice and Hearing; Calculation), Article VIII, Texas Constitution, applicable to adopting a district tax rate and provide the commissioners court with a reasonable amount of time to review

the submissions required. Requires the board to prepare and submit to the commissioners court an annual budget for final approval, and submit to the commissioners court and the county tax auditor tax rate calculations and notices as well as a recommended tax rate, according to the schedule established under this section. Provides that the commissioners court is considered to have approved the budget if the commissioners court does not approve or deny a budget submitted to the commissioners court under this section before the 31st day after the date the budget is submitted. Provides that the commissioners court is considered to have approved the recommended tax rate and the recommended tax rate is the rate for the year in which the rate is recommended if the commissioners court does not approve or deny a tax rate recommended to the commissioners court under this section before the 31st day after the date the recommended tax rate is submitted.

Requires the board to encourage and promote participation by all sectors of the business community, including small businesses and businesses owned by members of a minority group or by women, in the process by which the district enters into contracts. Requires the board to develop a plan for the district to identify and remove barriers that do not have a definite or objective relationship to quality or competence and that unfairly discriminate against small businesses and businesses owned by members of a minority group or by women. Provides that these barriers may include contracting procedures and contract specifications or procedures.

Authority of Jackson County Navigation District to File Certain Information with TCEQ—S.B. 454
by Senator Hegar—House Sponsor: Representative Stephenson

Under current law, water control and improvement districts and other similar districts are required to have all fiscal accounts and records annually audited by a certified public accountant. Certain smaller districts are exempt from the audit requirements. This bill:

Authorizes the Jackson County Navigation District, notwithstanding any provisions of Subchapter G (Audit of Districts), Chapter 49 (Provisions Applicable to all Districts), Water Code, to submit to the executive director of the Texas Commission on Environmental Quality a compilation report or a review report instead of an audited financial statement.

Creation of Regional Emergency Communications Districts; Bonds, Fee—S.B. 628
by Senators Watson and Zaffirini—House Sponsor: Representative Workman et al.

There is a need for the creation of regional emergency communication districts in regions with a population of more than 1.5 million where the 9-1-1 system is solely operated by the regional planning commission. The regional emergency communication district will be a hybrid of emergency communications districts and council of government run programs, providing the flexibility needed to serve a more populous area as an independent district managed by the local governments which it serves. This bill:

Authorizes Chapter 772, added Subchapter G (Regional Emergency Communications Districts: State Planning Region with Population Over 1.5 Million), Health and Safety Code, to be cited as the Regional Emergency Communications District Act.

Defines "board," "district," "participating jurisdiction," "principal municipality," "region," and "regional planning commission."

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Provides that this bill applies to a region with a population of more than 1.5 million; composed of counties and municipalities that operate a 9-1-1 system solely through a regional planning commission; and in which the governing bodies of each county and the principal municipality in the region adopt a resolution to participate in the district.

Creates a regional emergency communications district (district) when the governing bodies of each county and the principal municipality in a region adopt a resolution approving the district's creation and the county's or municipality's participation in the district. Provides that the district's creation is effective on the date the last county or municipal governing body in the region adopts the resolution. Requires the district to file with the county clerk of each county in which the district is located a certificate declaring the creation of the district.

Provides that a district is a political subdivision of this state created to carry out essential governmental functions. Authorizes a district to exercise all powers necessary or convenient to carry out the purposes and provisions of Subchapter G.

Provides that the territory of a district consists of the territory of the region in which the district is established and for each municipality partially located in the region, the territory of that municipality located in another region. Provides that, if a municipality in the district annexes territory that is outside the boundaries of the district, the annexed territory becomes part of the district.

Provides that a district is governed by a board of managers (board) composed of the members of the governing body of the regional planning commission for the region in which the district is established. Provides that service on the board by a member of the governing body is an additional duty of the member's office or employment. Provides that a board member serves without compensation. Requires the district to pay all reasonable expenses necessarily incurred by the board member in performing the board's functions. Provides that a majority of the voting members of the board constitutes a quorum.

Requires the board to name, control, and manage the district. Authorizes the board to adopt orders, rules, and policies governing the operations of the board and the district. Authorizes the board to contract with any person to carry out the purposes of Subchapter G. Requires the board to determine the nature and sources of funding for the district. Authorizes the board to accept grants or other funding from the federal or state government, a county, a municipality, or a private person. Authorizes the board to sue in the district's name.

Requires the board to appoint an advisory committee consisting of representatives of the participating jurisdictions. Requires the advisory committee to review, advise, and provide recommendations to the board on district issues, including equipment, training, budget, and general operational issues. Requires an advisory committee member to have the training and experience necessary to perform the duties assigned by the board. Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the advisory committee.

Provides that the executive director of the regional planning commission in the district's region (director) serves as director of the district. Requires the director to perform all duties required by the board; ensure board policies and procedures are implemented for the purposes of this subchapter; and assign employees of the regional planning commission to perform duties under this subchapter as necessary to carry out the district's operations. Authorizes the director to use district money to compensate an employee assigned

duties and the director. Provides that the director and an employee assigned duties under this subchapter are employees of the regional planning commission for all purposes.

Requires the director to prepare, under the direction of the board, an annual budget for the district. Requires that the budget and any revision of the budget be approved by the board. Requires the director, as soon as practicable after the end of each district fiscal year, to prepare and present to the board a written report of all money received by the district and how the money was spent during the preceding fiscal year. Requires that the report show, in detail, the operations of the district for the period covered by the report. Requires the board to annually have an independent financial audit made of the district.

Requires a district to provide 9-1-1 service to each participating jurisdiction through one or a combination of the certain methods and features or equivalent state-of-the-art technology. Provides the required methods and features. Requires the district to recommend minimum standards for a 9-1-1 system. Requires that the 9-1-1 system be computerized. Provides that, for each individual telephone subscriber in the district, 9-1-1 service is mandatory and is not an optional service under any definition of terms relating to telephone service.

Prohibits a service supplier involved in providing 9-1-1 service, a manufacturer of equipment used in providing 9-1-1 service, or an officer or employee of a service supplier involved in providing 9-1-1 service from being held liable for any claim, damage, or loss arising from the provision of 9-1-1 service unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct.

Provides that the digits 9-1-1 are the primary emergency telephone number in a district. Provides that a public safety agency whose services are available through a 9-1-1 system is authorized to maintain a separate number for an emergency telephone call and is required to maintain a separate number for a nonemergency telephone call.

Requires that a 9-1-1 system established be capable of transmitting requests for firefighting, law enforcement, ambulance, and medical services to a public safety agency that provides the requested service at the location from which the call originates. Authorizes a 9-1-1 system to provide for transmitting requests for other emergency services, including poison control, suicide prevention, and civil defense. Authorizes a public safety answering point to transmit emergency response requests to private safety entities. Authorizes a privately owned automatic intrusion alarm or other privately owned automatic alerting device, with the consent of a participating jurisdiction, to be installed to cause the number 9-1-1 to be dialed to gain access to emergency services.

Authorizes the board to impose a 9-1-1 emergency service fee on service users in the district.

Authorizes the fee to be imposed only on the base rate charge or the charge's equivalent, excluding charges for coin-operated telephone equipment. Prohibits the fee from being imposed on more than 100 local exchange access lines or the lines' equivalent for a single business entity at a single location, unless the lines are used by residents of the location or any line that the Commission on State Emergency Communications has excluded from the definition of a local exchange access line or equivalent local exchange access line. Requires that each line that terminates at a residential unit and is a communication link equivalent to a residential local exchange access line, if a business service user provides residential facilities, be charged the 9-1-1 emergency service fee. Requires that the fee have uniform application

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throughout the district and be imposed in each participating jurisdiction in the district. Prohibits the rate of the fee from exceeding six percent of the monthly base rate the principal service supplier in the participating jurisdiction charges a service user. Requires the board to set the amount of the fee each year as part of the annual budget. Requires the board to notify each service supplier of a change in the amount of the fee not later than the 91st day before the date the change takes effect. Requires the board, in imposing the fee, to attempt to match the district's revenues to the district's operating expenditures and to provide reasonable reserves for contingencies and for the purchase and installation of 9-1-1 emergency service equipment. Requires the board, if the revenue received from the fee exceeds the amount of money needed to fund the district, by resolution to reduce the rate of the fee to an amount adequate to fund the district as required by this subsection or suspend the imposition of the fee. Authorizes the board, if the board suspends the imposition of the fee, by resolution to reinstitute the fee if money received by the district is not adequate to fund the district.

Provides that, for a county or municipality whose governing body at a later date votes to receive 9-1-1 service from the district, the fee is imposed beginning on the date specified by the board. Authorizes the board to charge the incoming county or municipality an additional amount of money to cover the initial cost of providing 9-1-1 service to that county or municipality. Provides that the fee authorized to be charged in a district applies to new territory added to the district when the territory becomes part of the district.

Provides that each billed service user is liable for the fee imposed under Section 772.516 until the fee is paid to the service supplier. Requires that the fee be added to and stated separately in the service user's bill from the service supplier. Requires the service supplier to collect the fee at the same time as the service charge to the service user in accordance with the service supplier's regular billing practice. Requires a business service user that provides residential facilities and owns or leases a publicly or privately owned telephone switch used to provide telephone service to facility residents to collect the 9-1-1 emergency service fee and transmit the fees monthly to the district. Provides that the amount collected by a service supplier from the fee is due quarterly. Requires the service supplier to remit the amount collected in a calendar quarter to the district not later than the 60th day after the last day of the calendar quarter. Requires the service supplier, with each payment, to file a return in a form prescribed by the board. Requires both a service supplier and a business service user to maintain records of the amount of fees the service supplier or business service user collects until at least the second anniversary of the date of collection. Authorizes the board to require, at the board's expense, an annual audit of the service supplier's or business service user's books and records with respect to the collection and remittance of the fees. Provides that a business service user that does not collect and remit the 9-1-1 emergency service fee as required is subject to a civil cause of action. Provides that a sworn affidavit by the district specifying the unremitted fees is prima facie evidence that the fees were not remitted and of the amount of the unremitted fees. Authorizes a service supplier to retain an administrative fee of two percent of the amount of fees the service supplier collects. Provides that a service supplier is not required to take any legal action to enforce the collection of the 9-1-1 emergency service fee. Requires the service supplier to provide the district with an annual certificate of delinquency that includes the amount of all delinquent fees and the name and address of each nonpaying service user. Provides that the certificate of delinquency is prima facie evidence that a fee included in the certificate is delinquent and of the amount of the delinquent fee. Provides that a service user account is considered delinquent if the fee is not paid to the service supplier before the 31st day after the payment due date stated on the user's bill from the service supplier. Authorizes the district to file legal proceedings against a service user to collect fees not paid by the service user and to establish internal collection procedures and recover the cost of collection from the nonpaying service user. Authorizes the court, if legal proceedings are filed by the district, to award costs, attorney's

fees, and interest to be paid by the nonpaying service user. Provides that a delinquent fee accrues interest at the legal rate beginning on the date the payment becomes due.

Requires the board to select a depository for the district in the manner provided by law for the selection of a county depository. Provides that a depository selected by the board is the district's depository until the second anniversary of the date of selection and until a successor depository is selected and qualified.

Provides that a district's allowable operating expenses include all costs attributable to designing a 9-1-1 system and all equipment and personnel necessary to establish and operate a public safety answering point and other related operations that the board considers necessary.

Requires a service supplier, as part of computerized 9-1-1 service, to furnish, for each call, the telephone number of the subscriber and the address associated with the number. Requires a business service user that provides residential facilities and owns or leases a publicly or privately owned telephone switch used to provide telephone service to facility residents to provide to those residential end users the same level of 9-1-1 service that a service supplier is required to provide to other residential end users in the district. Provides that information furnished under this section is confidential and is not available for public inspection. Prohibits a service supplier or business service user from being held liable to a person who uses a 9-1-1 system created under this subchapter for the release to the district of the information specified.

Requires the board, periodically, to solicit public comments and hold a public review hearing on the continuation of the district and the 9-1-1 emergency service fee. Requires that the first hearing be held on or before the third anniversary of the date of the district's creation. Requires that subsequent hearings be held on or before the third anniversary of the date each resolution required is adopted. Requires the board to publish notice of the time and place of a hearing once a week for two consecutive weeks in a daily newspaper of general circulation published in the district. Requires that the first notice be published not later than the 16th day before the date set for the hearing. Requires the board, after the hearing, to adopt a resolution on the continuation or dissolution of the district and the 9-1-1 emergency service fee.

Requires that 9-1-1 service be discontinued if a district is dissolved. Requires the regional planning commission for the district's region to assume the district's assets, to provide 9-1-1 service, and to pay the district's debts. Requires the regional planning commission, if the district's assets are insufficient to retire all existing debts of the district on the date of dissolution, to continue to impose the 9-1-1 emergency service fee, and requires each service supplier to continue to collect the fee for the regional planning commission. Authorizes proceeds from the imposition of the fee by the regional planning commission after dissolution of the district to be used only to retire the outstanding debts of the district. Requires the regional planning commission to retire the district's debts to the extent practicable according to the terms of the instruments creating the debts and the terms of the resolutions authorizing creation of the debts. Authorizes the governing body of the regional planning commission for the district's region to adopt rules necessary to administer this provision.

Authorizes the board to issue bonds in the name of the district to finance the acquisition by any method of facilities, equipment, or supplies necessary for the district to provide 9-1-1 service to each participating jurisdiction, or the installation of equipment necessary for the district to provide 9-1-1 service to each participating jurisdiction.

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Authorizes the board to provide for the payment of principal of and interest on district bonds by pledging all or part of the district's revenues from the 9-1-1 emergency service fee or from other sources.

Authorizes district bonds to be additionally secured by a deed of trust or mortgage lien on all or part of the district's physical properties and rights appurtenant to the properties, vesting in the trustee power to sell the properties for payment of the indebtedness, power to operate the properties, and any other power necessary for the further security of the bonds. Authorizes the bond trust indenture, regardless of the existence of a deed of trust or mortgage lien on the properties, to contain provisions prescribed by the board for the security of the bonds and the preservation of the trust estate and make provisions for amendment or modification, and investment of district funds. Provides that a purchaser under a sale under the deed of trust or mortgage lien is the absolute owner of the properties and rights purchased and is authorized to maintain and operate the properties.

Authorizes a district to issue bonds in various series or issues. Authorizes bonds to mature serially or otherwise not more than 25 years after the bonds' date of issuance. Requires that bonds bear interest at any rate permitted by state law. Provides that a district's bonds and interest coupons are investment securities under Chapter 8 (Investment Securities), Business & Commerce Code, are authorized to be issued registrable as to principal or to both principal and interest, and are authorized to be made redeemable before maturity or contain a mandatory redemption provision at the option of the district. Authorizes a district to issue bonds in the form, denomination, and manner and under the terms and conditions provided by the board in the resolution authorizing the bonds' issuance. Requires that the bonds be signed and executed as provided by the board in the resolution.

Defines "resolution" and authorizes the board, in a resolution, to provide for the flow of funds and the establishment and maintenance of an interest and sinking fund, reserve fund, or other fund and make additional covenants with respect to the bonds, the pledged revenues, and the operation and maintenance of any facilities the revenue of which is pledged. Authorizes a resolution to prohibit the further issuance of bonds or other obligations payable from the pledged revenue or reserve the right to issue additional bonds to be secured by a pledge of and payable from the revenue on a parity with or subordinate to the lien and pledge in support of the bonds being issued. Authorizes a resolution to contain other provisions and covenants determined by the board. Authorizes the board to adopt and have executed any other proceedings or instruments necessary or convenient for issuance of bonds.

Requires that bonds issued by a district be submitted to the attorney general for examination. Requires the attorney general, if the attorney general finds that the bonds have been authorized in accordance with law, to approve the bonds. Requires the comptroller of public accounts of the State of Texas (comptroller), on approval by the attorney general, to register the bonds. Provides that, after approval and registration, the bonds are incontestable in any court or other forum for any reason and are valid and binding obligations in accordance with the bonds' terms for all purposes.

Authorizes a district to issue bonds to refund all or any part of the district's outstanding bonds, including matured and unpaid interest coupons. Requires that refunding bonds mature serially or otherwise, as determined by the board, not more than 25 years after the bonds' date of issuance. Requires that bonds bear interest at any rate permitted by state law. Authorizes refunding bonds to be payable from the same source as the bonds being refunded or from other sources. Requires that refunding bonds be approved by the attorney general in the same manner as the district's other bonds. Requires the comptroller to register the refunding bonds on the surrender and cancellation of the bonds being refunded. Authorizes a resolution

authorizing the issuance of refunding bonds to provide that the bonds be sold and the proceeds deposited in a place at which the bonds being refunded are payable, in which case the refunding bonds are authorized to be issued before the cancellation of the bonds being refunded. Requires that an amount sufficient to pay the principal of the bonds being refunded and interest on those bonds accruing to the bonds' maturity dates or option dates, if refunding bonds are issued before cancellation of the other bonds, if the bonds have been duly called for payment before maturity according to the bonds' terms, be deposited in the place at which the bonds being refunded are payable. Requires the comptroller to register the refunding bonds without the surrender and cancellation of the bonds being refunded. Authorizes a refunding to be accomplished in one or more installment deliveries. Provides that refunding bonds and the bonds' interest coupons are investment securities under Chapter 8 (Investment Securities), Business & Commerce Code. Authorizes a district, instead of the method set forth, to refund bonds, notes, or other obligations as provided by the general laws of this state.

Provides that district bonds are legal and authorized investments for a bank; a savings bank; a credit union; a trust company; a savings and loan association; an insurance company; a fiduciary; a trustee; a guardian; and a sinking fund of a municipality, county, school district, special district, and other political subdivision of this state and other public funds of this state and state agencies, including the permanent school fund. Authorizes district bonds to secure deposits of public funds of the state or a municipality, county, school district, or other political subdivision of this state. Provides that the bonds are lawful and sufficient security for deposits to the extent of the bonds' value if accompanied by all unmatured coupons. Provides that district bonds are authorized investments under Chapter 2256 (Public Funds Investment), Government Code.

Provides that a bond issued by the district, any transaction relating to the bond, and profits made in the sale or redemption of the bond are exempt from taxation by the state or by any municipality, county, special district, or other political subdivision of this state.

Authorizes the regional planning commission for the region in which the district is established, if a regional emergency communications district is established under this subchapter, to transfer to the district any land, buildings, improvements, equipment, and other assets acquired by the regional planning commission in relation to the provision of 9-1-1 service.

Redefines "emergency communication district" as used in Section 771 (State Administration of Emergency Communications), Health and Safety Code.

Elections and Public Information of the El Paso Water Improvement District No. 1—S.B. 856

by Senator Rodríguez—House Sponsor: Representative Márquez

In 2011, the 82nd Legislature passed S.B. 832 (relating to voter eligibility and registration in El Paso County Water Improvement District No. 1), which brought the El Paso County Water Improvement District No. 1 (district) in line with the majority of other irrigation districts in Texas. S.B. 832 required the district to publish notice of the voter eligibility and registration requirements between 90 and 60 days before an election and provide a list of certified voters to the El Paso County elections office 25 days prior to any election. This bill:

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Requires the district to contract with the elections administrator of El Paso County to conduct an election held by the district.

Requires the district to pay the cost of an election.

Requires the district to maintain an Internet website.

Requires the board to make campaign finance reports for each director, the meeting agenda, and minutes for each open meeting held by the board, archived video and audio for each open meeting held by the board, the district's budget for the current year, and any audits of the district available on the district's website.

Creation of the Reeves County Groundwater Conservation District—S.B. 890 *by Senator Uresti—House Sponsor: Representative Nevárez*

Reeves County officials have voiced concern that the lack of a groundwater conservation district in Reeves County hinders efforts to keep a sustainable approach to managing the Pecos Alluvium aquifer. This bill:

Creates the Reeves County Groundwater Conservation District (district) in Reeves county. Sets forth standards, procedures, requirements, and criteria for creation, purpose, approval of the district; size, composition, election, and terms of the board of directors, including the appointment of temporary directors; powers and duties of the district; and general financial provisions and authority to impose a tax and to issue bonds and obligations for the district.

Prohibits the district from exercising the power of eminent domain.

Provides that all requirements of the constitution and the laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

Creation of a County Assistance District—S.B. 1167 *by Senator Hegar—House Sponsor: Representatives Coleman and Reynolds*

Under current law, there is a limitation of one county assistance district per precinct. This bill:

Authorizes more than one county assistance district to be created in a county without limitations to the number of districts in a commissioners precinct.

Election of Board Members For Emergency Services Districts in Certain Counties—S.B. 1265 *by Senator Nichols—House Sponsor: Representative Ritter*

Current law requires the commissioners courts of certain counties in which a single-county emergency services district is located to appoint a five-member board of emergency services commissioners to serve as the district's governing body. This bill:

Provides that Section 775.034 (Appointment of Board in District Located Wholly in a County), Health and Safety Code, does not apply to a district located wholly in a county with a population of more than 200,000 that borders Lake Palestine or with a population of less than 200,000 that borders another state and the Gulf Intracoastal Waterway.

Provides that Section 775.034 (Election of Board in Certain Counties), Health and Safety Code, applies only to a district located wholly in a county with a population of more than 200,000 that borders Lake Palestine or with a population of less than 200,000 that borders another state and the Gulf Intracoastal Waterway. Establishes that, except where otherwise stated, these districts are governed by a five-member board of emergency services commissioners elected from single-member districts. Provides that one director is elected from each single-member district. Requires the commissioners court of the county in which the district is located to, as soon as possible after the district is created, divide the district into five numbered single-member districts. Requires a commissioner candidate of a single-member district to be at least 18 years of age and a resident of the single-member district. Requires the five initial emergency services commissioners elected from single-member districts in such an emergency services district to draw lots to determine which two commissioners serve terms that expire on December 31 of the second year following the year in which the election was held and which three commissioners serve terms that expire on December 31 of the fourth year following the year in which the election was held. Requires that notice of a candidate's intention to run for emergency services commissioner on an initial board of such an emergency services district in a single-member district specify the single-member district the person seeks to represent.

Transfers from the county clerk to the county voter registrar certain duties relating to the election of a board of emergency services commissioners of these emergency services district.

Provides that the bill does not prohibit a person who is a commissioner on the bill's effective date and who was appointed under provisions governing the appointment of the board in an emergency services district located wholly in one county with a population of not more than three million from running for election to the board if the person has the qualifications required for a member set out in provisions governing the election of the board in certain counties as amended by the bill.

Requires the county judge of a county that wholly contains an emergency services district and that has a population of more than 200,000 and that borders Lake Palestine, or that has a population of less than 200,000 and that borders another state and the Gulf Intracoastal Waterway, and to which provisions governing the appointment of the board in a district located wholly in one county with a population of not more than three million previously applied, to establish an election to elect the initial emergency services commissioners of that district in a statutorily prescribed manner, as amended by the bill, for election of the initial commissioners as if the district had been created on the bill's effective date.

Establishes that the terms of the members of a board serving on the bill's effective date who were appointed under provisions governing the appointment of the board in a district located wholly in one county with a population of not more than three million before the bill's effective date expire on the date a majority of the initial board members elected under these provisions qualify to serve.

Fire Prevention or Fire-fighting Services by Certain Emergency Services Districts—S.B. 1425
by Senator Hinojosa—House Sponsor: Representative Longoria

Previous legislation converted rural fire prevention districts to emergency services districts, which assumed all obligations and outstanding indebtedness of the predecessor rural fire prevention districts. There remains ambiguity regarding district powers and duties in relation to the provision of fire prevention or fire-fighting services by certain emergency services districts. This bill:

Authorizes an emergency services district that was formerly a rural fire prevention district and that is not otherwise prohibited by statute from providing fire prevention or fire-fighting services to provide those services.

Creation of the Presidio Municipal Development District—S.B. 1584
by Senator Rodríguez—House Sponsor: Representative Nevárez

On November 6, 2012, the voters of the City of Presidio, Texas, approved both the dissolution of the Development Corporation of Presidio, a Type B economic development corporation, and the creation of the Presidio Municipal Development District. This would replace the dedicated sales and use tax for the benefit of the economic development corporation with a dedicated sales and use tax for the benefit of the district for the purpose of financing development projects that are beneficial to the district. This bill:

Provides that the legislature validates and confirms the dissolution of the Development Corporation of Presidio, a Type B economic development corporation, and the creation of the Presidio Municipal Development District as of the date of the election held on November 6, 2012, at which the voters of the City of Presidio and its extraterritorial jurisdiction approved both the dissolution of the economic development corporation and the creation of the district and replaced the dedicated sales and use tax for the benefit of the economic development corporation with a dedicated sales and use tax for the benefit of the district, and the levy of a sales and use tax of one-half of one percent within the boundaries of the Presidio Municipal Development District, for the purpose of financing development projects beneficial to the district that occurred before the effective date.

Emergency Services Districts—S.B. 1596
by Senator Zaffirini—House Sponsor: Representative Eddie Rodriguez

Required property tax rate notices can be difficult for the public to understand. This bill:

Requires a municipality, if the municipality completes all other procedures necessary to annex territory in an emergency services district created under this chapter (district) and if the municipality intends to remove the territory from the district and be the sole provider of emergency services to the territory by the use of municipal personnel or by some method other than by use of the district, to send written notice of those facts to the board of emergency services commissioners. Provides that this does not require a municipality to remove from a district territory the municipality has annexed. Requires a municipality, if the municipality removes territory from a district that the municipality has annexed, to compensate the district immediately after disannexation of the territory in a certain amount.

Provides that, except as otherwise provided, Section 1301.551(i) (relating to authorizing a municipality to enact an ordinance, bylaw, order, building code, or rule requiring the installation of a multipurpose residential fire protection sprinkler system or any other fire sprinkler protection system in a new or existing one- or two-family dwelling), Occupations Code, applies to a district as if the district were a municipality, and Section 233.062 (Application and Content of Fire Code), Local Government Code, applies to a district as if the district were in an unincorporated area of a county. Provides that this does not apply to a district that before February 1, 2013, has adopted a fire code, fire code amendments, or other requirements in conflict with this. Provides that this also does not apply to a district whose territory is located in or adjacent to a general law municipality with a population of less than 4,000 that is served by a water control and improvement district governed by Chapter 51 (Water Control and Improvement Districts), Water Code, or in a county that has a population of more than one million and is adjacent to a county with a population of more than 420,000.

Prohibits a service plan from taking certain actions, including providing services in the area in a manner that would have the effect of reducing by more than a negligible amount the level of fire and police protection and emergency medical services provided within the area before annexation or causing a reduction in fire and police protection and emergency medical services within the area to be annexed below that of areas within the corporate boundaries of the municipality with similar topography, land use, and population density. Provides that this applies only to a municipality in a county with a population of more than one million and less than 1.5 million. Provides that for a municipality that has adopted Chapter 143 (Municipal Civil Service for Firefighters and Police Officers), Local Government Code, and directly employs firefighters, a service plan that includes the provision of services to an area that, at the time the service plan is adopted, is located in the territory of an emergency services district must require the municipality's fire department to provide initial response to the annexed territory that is equivalent to that provided to other areas within the corporate boundaries of the municipality with similar topography, land use, and population density; may not provide for municipal fire services to the annexed area solely or primarily by means of an automatic aid or mutual aid agreement with the affected emergency services district or other third-party provider of services; and may authorize the emergency services district to provide supplemental fire and emergency medical services to the annexed area by means of an automatic aid or mutual aid agreement. Provides that this does not affect the obligation of a municipality that has adopted Chapter 143 (Municipal Civil Service for Firefighters and Police Officers), Local Government Code, to provide police, fire, or emergency medical services within the municipality's corporate boundaries by means of personnel classified in accordance with that chapter.

Health Care Funding Districts in Certain Counties Located on the Texas-Mexico Border—S.B. 1623
by Senator Hinojosa—House Sponsor: Representative Guerra

Previous legislation authorized the creation of health care funding districts. However, there is a need to allow local control over funding for health care services by these districts. This bill:

Defines "paying hospital." Authorizes the creation of a health care funding district by order of the commissioners court of each county located on the Texas-Mexico border that has a population of 500,000 or more and is adjacent to two or more counties each of which has a population of 50,000 or more; 350,000 or more and is adjacent to the county previously described; or less than 300,000 and contains one or more municipalities with a population of 200,000 or more.

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Authorizes a district to be dissolved in the manner provided for the dissolution of a hospital district.

Abolishes all districts on December 31, 2016. Requires the commissioners court of a county in which a district is created to refund to each paying hospital the proportionate share of any money remaining in the local provider participation fund created by the district at the time the district is abolished.

Provides that each district created is governed by a commission of a district consisting of the commissioners court of the county in which the district is created. Provides that service on the commission by a county commissioner or county judge is an additional duty of that person's office. Provides that a district is a component of county government and is not a separate political subdivision of this state.

Authorizes each district to require a mandatory payment, rather than impose taxes, only in the manner provided for.

Prohibits a district from requiring any mandatory payment, spending any money, including for the administrative expenses of the district, or conducting any other business of the commission without an affirmative vote of a majority of the members of the commission. Requires a district to obtain an affirmative vote before requiring a mandatory payment. Authorizes the district to adopt rules governing the operation of the district, including rules relating to the administration of a mandatory payment.

Requires the district to hold a public hearing regarding the amounts of any mandatory payments that the commission intends to require during the year and how the revenue derived from those payments is to be spent each year. Entitles a representative of a paying hospital to appear at the time and place designated in the public notice and to be heard regarding any matter related to the mandatory payments required by the district.

Requires that all income received by a district be deposited with the district depository and authorizes it to be withdrawn only as provided for in statute.

Requires each district to create a local provider participation fund that consists of all revenue from the mandatory payment; money received from the Health and Human Services Commission as a refund of an intergovernmental transfer from the district to the state for the purpose of providing the nonfederal share of Medicaid supplemental payment program payments, provided that the intergovernmental transfer does not receive a federal matching payment; and the earnings of the fund. Authorizes the money deposited to the local provider participation fund to be used only to fund intergovernmental transfers from the district to the state to provide the nonfederal share of a Medicaid supplemental payment program authorized under the state Medicaid plan, the Texas Healthcare Transformation and Quality Improvement Program waiver issued under Section 1115 of the federal Social Security Act (42 U.S.C. Section 1315), or a successor waiver program authorizing similar Medicaid supplemental payment programs; subsidize indigent programs; pay the administrative expenses of the district; refund a portion of a mandatory payment collected in error from a paying hospital; and refund to paying hospitals the proportionate share of the money received by the district from the Health and Human Services Commission that is not used to fund the nonfederal share of Medicaid supplemental payment program payments. Prohibits money in the local provider participation fund from being commingled with other county funds. Prohibits the use of an intergovernmental transfer of funds described by and any funds received by the district as a result of an intergovernmental transfer described by that subdivision by the district, the county in which the district is located, or any other entity to expand Medicaid eligibility under the Patient Protection and Affordable Care

Act (Pub. L. No. 111-148) as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152).

Requires the district to transfer to each paying hospital an amount equal to the proportionate share of those funds to which the hospital is entitled no later than the 15th day after the date the district receives a payment.

Authorizes the commission to require an annual mandatory payment to be assessed quarterly on the net patient revenue of an institutional health care provider located in the district. Provides that in the first year in which the mandatory payment is required, the mandatory payment is assessed on the net patient revenue of an institutional health care provider as determined by the data reported to the Department of State Health Services in the fiscal year ending in 2010. Requires the district to update the amount of the mandatory payment on a biennial basis. Requires that the amount of a mandatory payment be uniformly proportionate with the amount of net patient revenue generated by each paying hospital in the district. Prohibits this mandatory payment from holding harmless any institutional health care provider as required under 42 U.S.C. Section 1396b(w).

Requires the commission of a district to set the amount of the mandatory payment required. Prohibits the amount of the mandatory payment required of each paying hospital from exceeding an amount that, when added to the amount of the mandatory payments required from all other paying hospitals in the district, equals an amount of revenue that exceeds six percent of the aggregate net patient revenue of all paying hospitals in the district.

Requires the commission to set the mandatory payments in amounts that in the aggregate will generate sufficient revenue to cover the administrative expenses of the district, to fund the nonfederal share of a Medicaid supplemental payment program, and to pay for indigent programs, except that the amount of revenue from mandatory payments used for administrative expenses of the district in a year is prohibited from exceeding the lesser of four percent of the total revenue generated from the mandatory payment or \$20,000.

Prohibits an institutional health care provider from adding a mandatory payment as a surcharge to a patient.

Except where provided, requires the county tax assessor-collector to collect a mandatory payment required. Requires the county tax assessor-collector to charge and deduct from mandatory payments collected for the district a fee for collecting the mandatory payment in an amount determined by the commission, not to exceed the county tax assessor-collector's usual and customary charges. Authorizes the commission to contract for the assessment and collection of mandatory payments in the manner provided by Title 1 (Property Tax Code), Tax Code, for the assessment and collection of ad valorem taxes, if determined by the commission to be appropriate. Requires that revenue from a fee charged by a county tax assessor-collector for collecting the mandatory payment be deposited in the county general fund and, if appropriate, be reported as fees of the county tax assessor-collector. Requires that revenue from the mandatory payment be deposited in the district's local provider participation fund.

Provides that the purpose of this bill is to generate revenue from a mandatory payment required by the district to provide the nonfederal share of a Medicaid supplemental payment program. Authorizes the district to provide by rule for an alternative provision or procedure that conforms to the requirements of the

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federal Centers for Medicare and Medicaid Services, to the extent any provision or procedure of the bill causes a mandatory payment under this chapter to be ineligible for federal matching funds.

Authorizing Strategic Partnership Agreements in Montgomery County—S.B. 1913 *by Senators Nichols and Williams—House Sponsor: Representative Creighton*

Under current law, certain special districts cannot enter into strategic partnership agreements with a municipality to define each entity's duties and responsibilities after full-purpose annexation. This bill:

Authorizes the continuation of the Montgomery County Utility District No. 3 and the Montgomery County Utility District No. 4 as limited districts after the full-purpose annexation by a municipality of the applicable district if the district and the annexing municipality state the terms of the limited district's existence in a strategic partnership agreement. Provides the authorized components of a strategic partnership agreement between one of the districts and an annexing municipality.

Requires such a strategic partnership agreement to be valid, binding, and enforceable in accordance with its terms and establishes that to achieve this purpose, the bill's provisions control over any other laws, rules, regulations, charter provisions, or ordinances and, if the districts and an annexing municipality enter into such an agreement, sovereign immunity is waived for each party for the purpose of adjudicating claims based on the agreement, subject to the terms and conditions provided by the bill's provisions. Provides that the total amount of money awarded in the adjudication of such claims is limited and establishes that this limit does not waive a defense or a limitation on damages available to a party to such an agreement other than a bar against suit based on sovereign immunity.

Establishes that such a strategic partnership agreement is not a joint enterprise for liability purposes and that the bill's provisions do not waive sovereign immunity to suit for a cause of action for a negligent or intentional tort or for a cause of action brought by any person or entity that is not a party to the agreement. Authorizes an applicable district and an annexing municipality to enter into a strategic partnership agreement and establishes that such authority is in addition to, and separate from, any authority provided by Local Government Code provisions relating to strategic partnerships for continuation of certain districts, and any other laws, rules, regulations, charter provisions, and ordinances.

Creation of the Kendleton Improvement District—S.B. 1921 *by Senator Hegar—House Sponsor: Representative Stephenson*

Within the extraterritorial jurisdiction of the City of Kendleton, currently undeveloped land has been proposed for use as an industrial complex, which may also include residential, multi-family, office, and retail development. The creation of an improvement district (district) would provide the means of financing certain capital improvements as well as generating an ongoing stream of revenue for surface infrastructure maintenance. This bill:

Sets forth the initial boundaries of the district and the standards, procedures, requirements, and criteria for the creation, purpose, and approval of the district; the size, composition, election, and terms of the board of directors, including the appointment of temporary directors; the powers and duties of the district; the

general financial provision and authority to impose a tax and to issue bonds and obligations for the district; and dissolution and municipal annexation.

Prohibits the district from exercising the power of eminent domain.

Repealing the Constitutional Provision Authorizing the Hidalgo County Hospital District—S.J.R 54
by Senator Hinojosa—House Sponsor: Representative Guerra

Under current law, for the purposes of forming a hospital tax district in Hidalgo County, there is a maximum tax rate of 10 cents per \$100. This resolution proposes a constitutional amendment to:

Repeals Section 7 (Hidalgo County Hospital District; Creation; Tax Rate), Article IX, Texas Constitution.

Development, Improvement, and Management Districts

Legislation enacted by the 83rd Legislature, Regular Session, affected the following development, improvement, and management districts:

- Burnet County Improvement District No. 1 (S.B. 1009 by Senator Fraser; House Sponsor: Representative Farney)
- Canyon Falls Water Control and Improvement District No. 2 of Denton County (H.B. 3913 by Representative Parker; Senate Sponsor: Senator Nelson)
- Central Laredo Municipal Management District (S.B. 1601 by Senator Zaffirini; House Sponsor: Representative Raymond)
- Collin County Water Control and Improvement District No. 3 (S.B. 1852 by Senator Paxton; House Sponsor: Representative Laubenberg)
- Comanche Municipal Management District No. 1 (H.B. 3914 by Representative Sanford; Senate Sponsor: Senator Estes)
- Dallas County Water Control and Improvement District No. 6 (S.B. 1635 by Senator Deuell; House Sponsor: Representatives Burkett and Rose)
- East Aldine Management District (H.B. 3935 by Representative Senfronia Thompson; Senate Sponsor: Senator Garcia)
- Fort Bend County Improvement District No. 24 (S.B. 605 by Senator Hegar; House Sponsor: Representative Zerwas)
- Fort Bend County Levee Improvement District No. 7 (S.B. 1854 by Senator Hegar; House Sponsor: Representative Rick Miller)
- Fort Bend County Municipal Management District No. 1 (S.B. 1906 by Senator Hegar; House Sponsor: Representative Zerwas)
- Fulshear Parkway Improvement District (S.B. 1864 by Senator Hegar; House Sponsor: Representative Zerwas)
- Generation Park Management District (H.B. 3860 by Representative Dutton; Senate Sponsor: Senator Whitmire)

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- Harris County Improvement District No. 23 (S.B. 690 by Senator Ellis; House Sponsor: Representative Dutton)
- Harris County Water Control and Improvement District No. 161 (S.B. 1841 by Senator Taylor; House Sponsor: Representative John Davis)
- Hidalgo County Water Control and Improvement District No. 19 (H.B. 995 by Representative Muñoz, Jr.; Senate Sponsor: Senator Hinojosa)
- Highway 380 Municipal Management District No. 1 (S.B. 1878 by Senator Estes; House Sponsor: Representative Fallon)
- Mesquite Medical Center Management District (S.B. 1828 by Senator Deuell; House Sponsor: Representative Sheets)
- Montgomery County Water Control and Improvement District No. 2 (S.B. 321 by Senator Williams; House Sponsor: Representative Toth)
- Montgomery County Water Control and Improvement District No. 3 (S.B. 320 by Senator Williams; House Sponsor: Representative Toth)
- Near Northside Management District (H.B. 2138 by Representative Dutton; Senate Sponsor: Senator Ellis [VETOED])
- Near Northside Management District (H.B. 2139 by Representative Dutton; Senate Sponsor: Senator Ellis)
- Old Celina Municipal Management District No. 1 (H.B. 3914 by Representative Sanford; Senate Sponsor: Senator Estes)
- Padre Isles Management District (S.B. 1098 by Senator Hinojosa; House Sponsor: Representative Hunter)
- Pearland Municipal Management District No. 2 (S.B. 863 by Senators Taylor and Ellis; House Sponsor: Representatives Ed Thompson and Allen)
- Rock Prairie Management District No. 1 (H.B. 3875 by Representatives Raney and Kacal; Senate Sponsor: Senator Schwertner)
- Rock Prairie Management District No. 2 (H.B. 3874 by Representatives Raney and Kacal; Senate Sponsor: Senator Schwertner)
- Waller County Improvement District No. 1 (S.B. 1820 by Senator Hegar; House Sponsor: Representative Bell)
- Waller County Improvement District No. 2 (S.B. 1821 by Senator Hegar; House Sponsor: Representative Bell)
- Westwood Management District (S.B. 1884 by Senator Taylor; House Sponsor: Representative Greg Bonnen)
- Williamson-Travis Counties Water Control and Improvement District No. 1F (S.B. 1479 by Senators Watson and Schwertner; House Sponsor: Representative Dale)
- Williamson-Travis Counties Water Control and Improvement District No. 1G (S.B. 1480 by Senators Watson and Schwertner; House Sponsor: Representative Dale)
- Windsor Hills Municipal Management District No. 1 (H.B. 518 by Representative Pitts; Senate Sponsor: Senator Birdwell)

Hospital Districts

Legislation enacted by the 83rd Legislature, Regular Session, affected the following hospital districts:

- Angleton-Danbury Hospital District (S.B. 1861 by Senator Taylor; House Sponsor: Representative Dennis Bonnen)
- Cisco Hospital District (H.B. 1259 by Representative Keffer; Senate Sponsor: Senator Duncan)
- Dallam-Hartley Counties Hospital District (H.B. 2688 by Representative Perry; Senate Sponsor: Senator Seliger)
- Dallas County Hospital District (S.B. 1916 by Senator West; House Sponsor: Representative Johnson)
- Eastland Memorial Hospital District (H.B. 1237 by Representative Keffer; Senate Sponsor: Senator Duncan)
- Ector County Hospital District (H.B. 2688 by Representative Perry; Senate Sponsor: Senator Seliger)
- Ector County Hospital District (H.B. 3097 by Representative Lewis; Senate Sponsor: Senator Seliger)
- Hamlin Hospital District (H.B. 2117 by Representative Susan King; Senate Sponsor: Senator Duncan)
- Hamlin Hospital District (H.B. 2118 by Representative Susan King; Senate Sponsor: Senator Duncan)
- Hopkins County Hospital District (S.B. 1473 by Senator Deuell; House Sponsor: Representative Flynn)
- Jack County Hospital District (H.B. 3896 by Representative Springer; Senate Sponsor: Senator Estes)
- Knox County Hospital District (H.B. 2907 by Representative Frank; Senate Sponsor: Senator Duncan)
- McCamey County Hospital District (H.B. 1969 by Representative Craddick; Senate Sponsor: Senator Duncan)
- McCulloch County Hospital District (H.B. 1920 by Representative J. D. Sheffield; Senate Sponsor: Senator Duncan)
- Nueces County Hospital District (S.B. 1863 by Senator Hinojosa; House Sponsor: Representative Herrero)
- Seminole Hospital District (H.B. 2688 by Representative Perry; Senate Sponsor: Senator Seliger)

Authority of Certain Hospital Districts to Employ Physicians

The 83rd Legislature, Regular Session, authorized the following hospital district to employ physicians:

- Nacogdoches County Hospital District (H.B. 1247 by Representative Clardy; Senate Sponsor: Senator Nichols)

Authority of Certain Hospital Districts to Employ Peace Officers

The 83rd Legislature, Regular Session, authorized the following hospital district to employ peace officers:

- Midland County Hospital District (S.B. 543 by Senator Seliger; House Sponsor: Representative Craddick)

Municipal and Special Utility Districts and Groundwater Conservation Districts

Legislation enacted by the 83rd Legislature, Regular Session, affected the following MUDs, SUDs, and groundwater conservation districts:

- Bella Vista Municipal Utility District (S.B. 1481 by Senators Watson and Schwertner; House Sponsor: Representative Dale)
- Brazoria County Municipal Utility District No. 48 (S.B. 1845 by Senator Taylor; House Sponsor: Representative Ed Thompson)
- Brazoria County Municipal Utility District No. 49 (S.B. 1846 by Senator Taylor; House Sponsor: Representative Ed Thompson)
- Brazoria County Municipal Utility District No. 50 (S.B. 1847 by Senator Taylor; House Sponsor: Representative Ed Thompson)
- Brazoria County Municipal Utility District No. 35 (S.B. 704 by Senator Taylor; House Sponsor: Representative Ed Thompson)
- Brazoria County Municipal Utility District No. 39 (S.B. 703 by Senator Taylor; House Sponsor: Representative Ed Thompson)
- Brazoria County Municipal Utility District No. 40 (S.B. 705 by Senator Taylor; House Sponsor: Representative Ed Thompson)
- Brazoria County Municipal Utility District No. 47 (S.B. 706 by Senator Taylor; House Sponsor: Representative Ed Thompson)
- Cascades Municipal Utility District No. 1 (S.B. 1867 by Senator Campbell; House Sponsor: Representative Workman)
- Chisholm Trails Municipal Utility District No. 1 (S.B. 1893 by Senator Birdwell; House Sponsor: Representative Orr)
- Cotton Center Municipal Utility District No. 2 (S.B. 1838 by Senator Zaffirini; House Sponsor: Representative Dennis Bonnen)
- Crosswinds Municipal Utility District (S.B. 1862 by Senator Zaffirini; House Sponsor: Representative Isaac)
- Crystal Clear Special Utility District (S.B. 1116 by Senator Zaffirini; House Sponsor: Representative Kuempel)
- East Montgomery County Municipal Utility District No. 6 (H.B. 3910 by Representative Creighton; Senate Sponsor: Senator Williams)
- East Montgomery County Municipal Utility District No. 7 (H.B. 3910 by Representative Creighton; Senate Sponsor: Senator Williams)
- Ellis County Municipal Utility District No. 1 (H.B. 3877 by Representative Pitts; Senate Sponsor: Senator Birdwell)
- Fort Bend County Municipal Utility District No. 134 (S.B. 1823 by Senator Hegar; House Sponsor: Representative Zerwas)
- Fort Bend County Municipal Utility District No. 184 (S.B. 1910 by Senator Hegar; House Sponsor: Representative Zerwas)
- Fort Bend County Municipal Utility District No. 188 (S.B. 1824 by Senator Hegar; House Sponsor: Representative Zerwas)

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- Fort Bend County Municipal Utility District No. 194 (S.B. 1830 by Senator Hegar; House Sponsor: Representative Zerwas)
- Fort Bend County Municipal Utility District No. 206 (S.B. 273 by Senator Hegar; House Sponsor: Representative Rick Miller)
- Fort Bend County Municipal Utility District No. 208 (S.B. 1064 by Senator Hegar; House Sponsor: Representative Zerwas)
- Fort Bend County Municipal Utility District No. 209 (S.B. 1065 by Senator Hegar; House Sponsor: Representative Zerwas)
- Fort Bend County Municipal Utility District No. 210 (S.B. 1066 by Senator Hegar; House Sponsor: Representative Zerwas)
- Fort Bend County Municipal Utility District No. 211 (S.B. 1067 by Senator Hegar; House Sponsor: Representative Zerwas)
- Fort Bend County Municipal Utility District No. 212 (S.B. 1068 by Senator Hegar; House Sponsor: Representative Zerwas)
- Fort Bend County Municipal Utility District No. 213 (S.B. 1069 by Senator Hegar; House Sponsor: Representative Zerwas)
- Fulshear Municipal Utility District No. 1 (S.B. 1831 by Senator Hegar; House Sponsor: Representative Zerwas)
- Fulshear Municipal Utility District No. 2 (S.B. 1843 by Senator Hegar; House Sponsor: Representative Zerwas)
- Fulshear Municipal Utility District No. 3 (S.B. 1910 by Senator Hegar; House Sponsor: Representative Zerwas)
- Harris County Municipal Utility District No. 529 (H.B. 964 by Representative Murphy; Senate Sponsor: Senator Huffman)
- Harris County Municipal Utility District No. 171 (S.B. 836 by Senator Hegar; House Sponsor: Representative Bohac)
- Harris County Municipal Utility District No. 213 (H.B. 3925 by Representative Smith; Senate Sponsor: Senator Garcia)
- Harris County Municipal Utility District No. 257 (S.B. 757 by Senator Patrick; House Sponsor: Representative Elkins)
- Harris County Municipal Utility District No. 402 (H.B. 3947 by Representative Dutton; Senate Sponsor: Senator Garcia)
- Harris County Municipal Utility District No. 422 (H.B. 1800 by Representative Huberty; Senate Sponsor: Senator Whitmire)
- Harris County Municipal Utility District No. 423 (H.B. 1801 by Representative Huberty; Senate Sponsor: Senator Whitmire)
- Harris County Municipal Utility District No. 457 (S.B. 606 by Senator Hegar; House Sponsor: Representative Fletcher)
- Harris County Municipal Utility District No. 458 (S.B. 604 by Senator Hegar; House Sponsor: Representative Fletcher)
- Harris County Municipal Utility District No. 477 (S.B. 610 by Senator Hegar; House Sponsor: Representative Fletcher)

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- Harris County Municipal Utility District No. 504 (H.B. 1594 by Representative Huberty; Senate Sponsor: Senator Whitmire)
- Harris County Municipal Utility District No. 505 (H.B. 1593 by Representative Huberty; Senate Sponsor: Senator Whitmire)
- Harris County Municipal Utility District No. 530 (S.B. 752 by Senator Patrick; House Sponsor: Representative Riddle)
- Harris County Municipal Utility District No. 531 (S.B. 751 by Senator Patrick; House Sponsor: Representative Fletcher)
- Harris County Municipal Utility District No. 532 (S.B. 1071 by Senator Hegar; House Sponsor: Representative Murphy)
- Harris County Municipal Utility District No. 533 (S.B. 1072 by Senator Hegar; House Sponsor: Representative Murphy)
- Harris County Municipal Utility District No. 534 (S.B. 1073 by Senator Hegar; House Sponsor: Representative Murphy)
- Harris County Municipal Utility District No. 536 (S.B. 564 by Senator Hegar; House Sponsor: Representative Murphy)
- Harris County Municipal Utility District No. 537 (H.B. 3943 by Representative Sarah Davis; Senate Sponsor: Senator Whitmire)
- Harris-Waller Counties Municipal Utility District No. 3 (S.B. 608 by Senator Hegar; House Sponsor: Representative Bell)
- Kendall County Municipal Utility District No. 1 (S.B. 1869 by Senator Campbell; House Sponsor: Representative Doug Miller)
- LaSalle Municipal Utility District No. 1 (S.B. 1899 by Senators Zaffirini and Campbell; House Sponsor: Representative Isaac)
- LaSalle Municipal Utility District No. 2 (S.B. 1900 by Senators Zaffirini and Campbell; House Sponsor: Representative Isaac)
- LaSalle Municipal Utility District No. 3 (S.B. 1901 by Senators Zaffirini and Campbell; House Sponsor: Representative Isaac)
- LaSalle Municipal Utility District No. 4 (S.B. 1902 by Senators Zaffirini and Campbell; House Sponsor: Representative Isaac)
- LaSalle Municipal Utility District No. 5 (S.B. 1903 by Senators Zaffirini and Campbell; House Sponsor: Representative Isaac)
- Leander Hills Municipal Hills Utility District of Williamson County (H.B. 1354 by Representative Farney; Senate Sponsor: Senator Schwertner)
- Llano County Municipal Utility District No. 1 (S.B. 1853 by Senator Fraser; House Sponsor: Representative Hilderbran)
- Marilee Special Utility District (H.B. 2055 by Representative Phillips; Senate Sponsor: Senator Estes)
- Montgomery County Municipal Utility District No. 105 (S.B. 1829 by Senator Williams; House Sponsor: Representative Toth)
- Montgomery County Municipal Utility District No. 106 (H.B. 1506 by Representative Bell; Senate Sponsor: Senator Williams)
- Montgomery County Municipal Utility District No. 126 (H.B. 1586 by Representative Creighton; Senate Sponsor: Senator Williams)

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- Montgomery County Municipal Utility District No. 133 (S.B. 724 by Senator Williams; House Sponsor: Representative Creighton)
- Montgomery County Municipal Utility District No. 133 (H.B. 1588 by Representative Creighton; Senate Sponsor: Senator Williams);
- Montgomery County Municipal Utility District No. 132 (H.B. 1260 by Representative Creighton; Senate Sponsor: Senator Williams);
- Montgomery County Municipal Utility District No. 134 (S.B. 725 by Senator Williams; House Sponsor: Representative Creighton)
- Montgomery County Municipal Utility District No. 134 (H.B. 1587 by Representative Creighton; Senate Sponsor: Senator Williams);
- Montgomery County Municipal Utility District No. 137 (S.B. 624 by Senator Williams; House Sponsor: Representative Toth)
- Montgomery County Municipal Utility District No. 138 (S.B. 623 by Senator Williams; House Sponsor: Representative Toth)
- Montgomery County Municipal Utility District No. 139 (H.B. 1385 by Representative Bell; Senate Sponsor: Senator Williams)
- Montgomery County Municipal Utility District No. 140 (H.B. 1492 by Representative Bell; Senate Sponsor: Senator Williams)
- Montgomery County Utility District No. 135 (S.B. 1266 by Senator Nichols; House Sponsor: Representative Creighton)
- Montgomery County Municipal Utility District No. 102 (S.B. 322 by Senator Williams; House Sponsor: Representative Toth)
- Montgomery County Municipal Utility District No. 104 (S.B. 323 by Senator Williams; House Sponsor: Representative Toth)
- Montgomery County Municipal Utility District No. 117 (S.B. 324 by Senator Williams; House Sponsor: Representative Toth)
- Montgomery County Municipal Utility District No. 136 (S.B. 482 by Senator Williams; House Sponsor: Representative Bell)
- Mustang Special Utility District (S.B. 1873 by Senator Estes; House Sponsor: Representative Fallon)
- Needmore Ranch Municipal Utility District No. 1 (S.B. 1868 by Senator Campbell; House Sponsor: Representative Isaac)
- North San Gabriel Municipal Utility District of Williamson County (H.B. 1355 by Representative Farney; Senate Sponsor: Senator Schwertner)
- Port O'Connor Municipal Utility District (S.B. 1822 by Senator Hegar; House Sponsor: Representative Morrison)
- Ranch at Clear Creek Municipal Utility District No. 1 (S.B. 1075 by Senator Hegar; House Sponsor: Representative Isaac)
- Rockett Special Utility District (H.B. 436 by Representative Pitts; Senate Sponsor: Senator Birdwell)
- Venable Ranch Municipal Utility District No. 1 (S.B. 1877 by Senator Estes; House Sponsor: Representative)
- Venable Ranch Municipal Utility District No. 1 (H.B. 3914 by Representative Sanford; Senate Sponsor: Senator Estes)

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- Waller County Municipal Utility District No. 17 (S.B. 609 by Senator Hegar; House Sponsor: Representative Bell)
- Waller County Municipal Utility District No. 18 (S.B. 607 by Senator Hegar; House Sponsor: Representative Bell)
- Williamson County Municipal Utility District No. 21 (H.B. 3932 by Representative Farney; Senate Sponsor: Senator Schwertner)
- Willow Point Municipal Utility District of Fort Bend and Waller Counties (S.B. 351 by Senator Hegar; House Sponsor: Representative Zerwas)

Miscellaneous Districts

- H.B. 64 (Representative Craddick; Senate Sponsor: Senator Seliger) Relating to the liability of and the validation of certain acts of the Midland County Fresh Water Supply District No. 1.
- H.B. 1357 (Representative Hunter; Senate Sponsor: Senator Hinojosa) Relating to the power of the Nueces County Road District No. 4 to lease or sell land..
- H.B. 2213 (Representative Guillen; Senate Sponsor: Senator Lucio) Relating to the creation of the Willacy County Drainage District No. 3; providing authority to issue bonds; providing authority to impose assessments, fees, or taxes.
- H.B. 3871 (Representative Smith; Senate Sponsor: Senator Ellis) Relating to the powers and duties of the Gulf Coast Waste Disposal Authority.
- H.B. 3889 (Representative Darby; Senate Sponsor: Senator Duncan) Relating to the dissolution of the Lipan Creek Flood Control District.
- H.B. 3895 (Representative Toth; Sponsor: Senate Senator Williams) Relating to the name of The Woodlands Road Utility District No. 1 of Montgomery County, Texas, and to the administration, powers, and duties of the district.
- S.B. 696 (Senator Duncan; House Sponsor: Representative Frullo) Relating to the board of the Lubbock Reese Redevelopment Authority.
- S.B. 1031 (Senator Taylor; House Sponsor: Representative Callegari) Relating to the Harris-Galveston Subsidence District, and providing authority to impose a fee.
- S.B. 1825 (Senator Hegar; House Sponsor: Representative Zerwas) Relating to the composition of the board of directors of the Fort Bend Subsidence District.
- S.B. 1872 (Senators Zaffirini and Watson.; House Sponsor: Representative Eddie Rodriguez) Relating to the creation of the Onion Creek Metro Park District, and providing authority to impose assessments, fees, or taxes.

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