



# **JOURNAL**

OF THE

# **SENATE**

---

SIXTY-FIFTH DAY  
(Continued)

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REGULAR SESSION

OF THE

EIGHTY-THIRD LEGISLATURE

FRIDAY, MAY 24, 2013



# SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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## PROCEEDINGS

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### SIXTY-FIFTH DAY

(Continued)

(Friday, May 24, 2013)

### AFTER RECESS

The Senate met at 11:10 a.m. and was called to order by Senator Eltife.

Pastor Andy Chavarrilla, Westhill Church of Christ, Corsicana, was introduced by Senator Birdwell and offered the invocation as follows:

Most high God, we are humbled in Your presence. Thank You for this nation of opportunity and freedom offered to all people. And thank You for Texas, a state lifting high the standard of liberty, opportunity, and prosperity. As our nation falters with worldliness and vice, I pray we will find stability in You. Let Texas lead this nation by example to the crossroads of faith and freedom. Enable us to stop the secularism and naturalism that threatens our youth. May we instead guide them in Your truth and teach them Your ways. Let Texans stand for godly children, godly spouses, and godly homes. The answer to our social struggles is not in rules, regulations, or even revenue, but in You, Father. Now I pray that within these hallowed walls these public servants will seek Your guidance and wisdom to meet our present challenges. You have set up governments as a minister for good to its citizens. Let those gathered here today recall the words of that great statesman, Sam Houston, "A leader is someone who helps improve the lives of other people or improve the system they live under." Help these leaders set aside their prejudices and desire for personal gain and trust themselves to Your hands for support and direction. For You revealed to us, except You build the house, we labor in vain. Thank You for Your watch care that has delivered us to this hour, may we trust You with our future as well. Most of all, I pray Your will done. In the name of Jesus, I pray. Amen.

### PHYSICIAN OF THE DAY

Senator Williams was recognized and presented Dr. John Redman of Anahuac as the Physician of the Day.

The Senate welcomed Dr. Redman and thanked him for his participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

**MESSAGE FROM THE HOUSE****HOUSE CHAMBER**

Austin, Texas

Friday, May 24, 2013 - 1

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the house to inform the senate that the house has taken the following action:

**THE HOUSE HAS PASSED THE FOLLOWING MEASURES:****HCR 209**

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Convening a joint memorial session to honor Texans killed while serving in the Global War on Terrorism, commemorating Memorial Day 2013, and paying tribute to all those who have died in the service of the United States.

**THE HOUSE HAS CONCURRED IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES:****HB 1035** (140 Yeas, 0 Nays, 2 Present, not voting)**HB 3201** (141 Yeas, 3 Nays, 2 Present, not voting)

**THE HOUSE HAS REFUSED TO CONCUR IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:**

**HB 213** (non-record vote)

House Conferees: Hilderbran - Chair/Button/Gonzalez, Naomi/King, Tracy O./Lozano

**HB 508** (non-record vote)

House Conferees: Guillen - Chair/Fletcher/Flynn/Pickett/Sheets

**HB 2982** (non-record vote)

House Conferees: Keffer - Chair/King, Tracy O./Lozano/Ritter/Wu

**HB 3106** (non-record vote)

House Conferees: Morrison - Chair/Ashby/Darby/Menéndez/Pitts

**HB 3459** (non-record vote)

House Conferees: Eiland - Chair/Deshotel/Goldman/Springer/Walle

**HB 3660** (non-record vote)

House Conferees: Simmons - Chair/Darby/Kacal/Márquez/Nevárez

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**GUESTS PRESENTED**

Senator Ellis, joined by Senators Campbell, Duncan, Rodríguez, Uresti, West, and Whitmire, was recognized and introduced to the Senate interns participating in the Texas Legislative Intern Program: Adenike Adesokan, Richard Arowolo, Glen Austin, Lauren Berryhill, Daniel Boettger, Garrett Brawley, Kristen Cade, Emily Campbell, Shaboyd Cannon, Adrian Carter, Matthew Cherry, Leonardo Coelho, Mercadi Crawford, Brenda DeRouen, Thalia Dubose, Chana Elgin, Carnell Emanuel, Kevin Engman, Karina Erickson, Megan Featherston, Antoine Floyd, Veronica Forge, Mili Gosar, Vanessa Griddine, Jedidah Guerra, Paul Hanchett, Kathryn Hendrix, Jacqueline Hernandez, James Hernandez, Arthur Huggins, Jarrett Jackson, Dara Johnson, Skyla Johnson, TaLisa Jones, Joanna Joseph, Emilio Longoria, Shannon Martin, Matthew McDougal, Lucia Mendez, Cecilee Miller, Stewanna Miskell, Sonji Moore, Dailesi Njobvu, Gaven Norris, Laura Parton, DeAndrea Petty, Rashad Roberson, Tasheedah Roberts, Tiajuana Robinson, Chase Roe, Chelsea Rountree, LaVonda Russell, Jordan Rux, Keith Salas, Ashley San Miguel, Michelle Seebachan, Elizabeth Smith, Amir Tavakkoli, Kelleen Travillion, Thea Ulrich-Lewis, Carmela Walker, Anthony Washington, Amber Weed, Christopher White, Simone Wilson, Thurman Kelley, and Alec Puente.

The Senate welcomed its guests.

**SENATE RESOLUTION 1049**

Senator West offered the following resolution:

**SR 1049**, Recognizing Joe B. Allen on the occasion of his retirement.

The resolution was read and was adopted without objection.

**GUESTS PRESENTED**

Senator West was recognized and introduced to the Senate Joe B. Allen and his wife, Helen.

The Senate welcomed its guests.

**(President in Chair)**

**SENATE RESOLUTION 989**

Senator Whitmire offered the following resolution:

**SR 989**, Recognizing Grandmaster Pyung-Soo Kim on the occasion of the 45th anniversary of his arrival in the United States.

The resolution was read and was adopted without objection.

**GUEST PRESENTED**

Senator Whitmire was recognized and introduced to the Senate Pyung-Soo Kim.

The Senate welcomed its guest.

**HOUSE CONCURRENT RESOLUTION 209**

The President laid before the Senate the following resolution:

**HCR 209**, Convening a joint memorial session to honor Texans killed while serving in the Global War on Terrorism, commemorating Memorial Day 2013, and paying tribute to all those who have died in the service of the United States.

VAN DE PUTTE

The resolution was read.

On motion of Senator Van de Putte, the resolution was considered immediately and was adopted without objection.

**SENATE RESOLUTION 1009**

Senator Eltife offered the following resolution:

WHEREAS, It is a distinct pleasure for the Texas Senate to recognize Robert Gomez on his recent retirement after nearly four decades of outstanding service to the state and to the Texas Senate; and

WHEREAS, When Bobby Gomez retired on the last day of 2012, he had been an employee of the Senate for 38 years and seven months; a highly respected staff member and department director, he was noted for his professional skill and unflagging dedication as well as for his lengthy service; and

WHEREAS, Bobby retired as the director of Publications and Printing, the department that assists Senate offices with the design, layout, and printing of all manner of documents and publications; as head of the department, Bobby worked with each office to ensure that their particular needs were met and that the Senate's high standards and august image were upheld; and

WHEREAS, Bobby came from a generation that utilized paste-ups and mat knives, yet when the Publications and Printing office started using computers and other modern printing techniques and tools, he made the transition with his usual finesse; throughout his service as director, he was known for his discerning eye and his appreciation of good design, both of which were evident in all of his productions; he was also noted for keeping his print shop in a state of impeccable order and cleanliness; and

WHEREAS, Though Bobby was the director of the department, his co-workers thought of him as a collaborator and a friend, one who inquired about their well-being and that of their loved ones and who was always ready to offer a sympathetic ear; and

WHEREAS, Bobby is known for his devotion to his large and loving family and for his generosity to them; he is an exceedingly proud father and grandfather who relishes spending time with family members and witnessing their accomplishments; and

WHEREAS, For nearly four decades, Bobby Gomez was an exemplary civil servant who excelled in his work, was kind to his colleagues, and was faithful to the institution of the Texas Senate, and his presence in the Publications and Printing office is greatly missed; it is truly fitting that he be honored for all that he has done; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 83rd Legislature, hereby honor Robert Gomez on his distinguished career of over 38 years of service to the Senate and extend to him sincerest wishes for many joyous years of retirement; and, be it further

RESOLVED, That a copy of this Resolution be prepared for him as an expression of highest esteem from the Texas Senate.

**SR 1009** was read.

### **SENATE RESOLUTION 1010**

Senator Eltife offered the following resolution:

WHEREAS, The Senate of the State of Texas is proud to pay tribute to one of its most beloved longtime employees, Susan Tyler, who is retiring after 35 and one-half years of dedicated service to the Senate and 38 years of service with the state; and

WHEREAS, Susan first joined the Texas Senate in 1974, and she became director of Senate Payroll in 1996; throughout her tenure, she has served the Senate with distinction and the utmost loyalty and dedication; and

WHEREAS, Noted for her congenial personality and generous spirit, she has consistently handled with patience and aplomb the many questions that come from staff and the various issues that confront a payroll officer; as manager of the monthly payroll and a coordinator of special Senate programs, she has carried out her duties with remarkable accuracy and attention to detail; in recognition of the significant attributes she has brought to her position, she was selected as the 2007 administrative recipient of the Betty King Public Service Award; and

WHEREAS, While known for embracing her Senate responsibilities with quintessential professionalism, she is also noted for her exemplary volunteerism outside of the workplace; Susan has served with great commitment as a volunteer with Meals on Wheels and has given generously of her time to assist patients who suffer with Alzheimer's disease; and

WHEREAS, Highly regarded for her proficiency as the director of Payroll, she is also a favorite among all who walk the Capitol halls and who know her as a witty, warm-hearted person who cultivates many interests and derives enjoyment from life's smallest gifts; she is a bird-watcher, a genealogist, and an avid traveler, and she is one who masterfully succeeds at whatever endeavor she chooses to pursue, no matter the challenges it presents; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 83rd Legislature, hereby commend Susan Tyler on her exceptional service to the Texas Senate and extend appreciation to her for her longtime loyalty and many years of outstanding work on the Senate's behalf; and, be it further

RESOLVED, That a copy of this Resolution be prepared in honor of Susan Tyler and as an expression of esteem from the Texas Senate.

**SR 1010** was read.

### **SENATE RESOLUTION 1011**

Senator Eltife offered the following resolution:

WHEREAS, The Senate of the State of Texas has the distinct pleasure of honoring longtime staff member Regina Saucier Martin, who is retiring as director of the Senate Research Center after 26 years and 11 months of distinguished service with the Senate and more than 30 years of service with the state; and

WHEREAS, Gina joined the Senate Research Center as assistant director in 2002 after having served for four years in the office of Senator Kent Caperton and for well over a decade in the office of Senator Mike Moncrief; and

WHEREAS, She became director of Senate Research in 2004; in this crucial and challenging role, Gina has embodied the notion of grace under fire; for her, no request is too formidable, no query too complex, and no deadline too daunting; she has been the Senate's resident authority on countless topics, ranging from the obscure to the commonplace, and she has deftly handled all manner of inquiries with efficiency and poise; and

WHEREAS, As director of Senate Research, Gina has managed the production of the essential analysis of every piece of legislation filed or considered in the Senate; under her consummate guidance, the department has also carried out its many other functions, which include conducting research on policy matters and producing meeting summary reports and myriad publications on legislative activity; and

WHEREAS, Along with her top-notch staff, Gina has fielded an array of requests and projects that would intimidate lesser professionals; she and her team respond promptly, accurately, and expertly to inquiries from the Senators' offices, the Lieutenant Governor's office, and various Senate committees; and

WHEREAS, Over the years, Gina has consistently led her team by example, remaining serene, cordial, and, at all times, helpful; as she embarks on the next chapter of her life, she can look forward to spending leisure time with her husband, Steve, her children, Ross and Sage, and her three grandsons; at the Senate, however, she will be dearly missed for her unique warmth and charm, and her sense of clarity and peerless attention to detail will long be appreciated by all who have had the pleasure of working with her; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 83rd Legislature, hereby commend Regina Saucier Martin on her many years of excellent service to the Senate and extend to her sincere best wishes for the retirement years ahead; and, be it further

RESOLVED, That a copy of this Resolution be prepared for Gina Martin as an expression of highest regard from the Texas Senate.

**SR 1011** was read.

**SR 1009, SR 1010, and SR 1011** were adopted without objection.

#### **GUESTS PRESENTED**

Senator Eltife was recognized and introduced to the Senate Texas Senate retirees: Bobby Gomez, Gina Martin, and Susan Tyler.

The Senate welcomed its guests.

#### **GUEST PRESENTED**

Senator Ellis was recognized and introduced to the Senate Betty King, former Secretary of the Senate.

The Senate welcomed its guest.

#### **RECESS**

On motion of Senator Eltife, the Senate at 12:21 p.m. recessed until 1:31 p.m. today.



**AFTER RECESS**

The Senate met at 1:42 p.m. and was called to order by Senator Eltife.

**SENATE BILL 219 WITH HOUSE AMENDMENTS  
(Motion In Writing)**

Senator Huffman called **SB 219** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

**Amendment**

Amend **SB 219** by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED  
AN ACT**

relating to ethics of public servants, including the functions and duties of the Texas Ethics Commission; the regulation of political contributions, political advertising, lobbying, and conduct of public servants; and the reporting of political contributions and expenditures and personal financial information; providing civil and criminal penalties.

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

**ARTICLE 1. GENERAL PROCEDURES OF TEXAS ETHICS COMMISSION**

SECTION 1.01. Subchapter B, Chapter 571, Government Code, is amended by adding Section 571.033 to read as follows:

Sec. 571.033. NOTIFICATION PROCEDURES. The commission shall adopt rules prescribing how the commission will notify any person or provide any notice required by this subtitle, Chapter 305, or Title 15, Election Code.

SECTION 1.02. Section 571.0671, Government Code, is amended by adding Subsection (d) to read as follows:

(d) Electronic report data saved in a commission temporary storage location for later retrieval and editing before the report is filed is confidential and may not be disclosed. After the report is filed, the information disclosed in the report is subject to the law requiring the filing of the report.

**ARTICLE 2. INQUIRY PROCEDURES AND HEARINGS AND ENFORCEMENT  
ACTIVITIES OF TEXAS ETHICS COMMISSION**

SECTION 2.01. Subdivision (2), Section 571.002, Government Code, is amended to read as follows:

(2) "Complainant" means an individual who files an inquiry [~~a sworn complaint~~] with the commission.

SECTION 2.02. Subsection (a), Section 571.027, Government Code, is amended to read as follows:

(a) A member of the commission may not participate in a commission proceeding relating to any of the following actions if the member is the subject of the action:

- (1) a formal investigation by the commission;
- (2) an inquiry [~~a sworn complaint~~] filed with the commission; or
- (3) a motion adopted by vote of at least six members of the commission.

SECTION 2.03. Subsection (f), Section 571.069, Government Code, is amended to read as follows:

(f) This section may not be construed as limiting or affecting the commission's authority to, on the filing of a motion or receipt of an inquiry [~~a sworn complaint~~], review or investigate the sufficiency of a statement or report.

SECTION 2.04. Section 571.073, Government Code, is amended to read as follows:

Sec. 571.073. REPORT. On or before December 31 of each even-numbered year, the commission shall report to the governor and legislature. The report must include:

(1) each advisory opinion issued by the commission under Subchapter D in the preceding two years;

(2) a summary of commission activities in the preceding two years, including:

(A) the number of inquiries [~~sworn complaints~~] filed with the commission;

(B) the number of inquiries [~~sworn complaints~~] dismissed for noncompliance with statutory form requirements;

(C) the number of inquiries [~~sworn complaints~~] dismissed for lack of jurisdiction;

(D) the number of inquiries [~~sworn complaints~~] dismissed after a finding of no credible evidence of a violation;

(E) the number of inquiries [~~sworn complaints~~] dismissed after a finding of a lack of sufficient evidence to determine whether a violation within the jurisdiction of the commission has occurred;

(F) the number of inquiries [~~sworn complaints~~] resolved by the commission through an agreed decision [~~order~~];

(G) the number of inquiries [~~sworn complaints~~] in which the commission issued a decision [~~an order~~] finding a violation and the resulting penalties, if any; and

(H) the number and amount of civil penalties imposed for failure to timely file a statement or report, the number and amount of those civil penalties fully paid, the number and amount of those civil penalties partially paid, and the number and amount of those civil penalties no part of which has been paid, for each of the following category of statements and reports, listed separately:

(i) financial statements required to be filed under Chapter 572;

(ii) political contribution and expenditure reports required to be filed under Section 254.063, 254.093, 254.123, 254.153, or 254.157, Election Code;

(iii) political contribution and expenditure reports required to be filed under Section 254.064(b), 254.124(b), or 254.154(b), Election Code;

(iv) political contribution and expenditure reports required to be filed under Section 254.064(c), 254.124(c), or 254.154(c), Election Code;

(v) political contribution and expenditure reports required to be filed under Section 254.038 or 254.039, Election Code; and

(vi) political contribution and expenditure reports required to be filed under Section 254.0391, Election Code; and

(3) recommendations for any necessary statutory changes.

SECTION 2.05. Section 571.076, Government Code, is amended to read as follows:

Sec. 571.076. CONTRACT FOR ADMINISTRATION. The commission may contract with persons to administer and carry out this chapter and rules, standards, ~~and~~ orders, and decisions adopted under this chapter, excluding any enforcement authority.

SECTION 2.06. The heading to Subchapter E, Chapter 571, Government Code, is amended to read as follows:

SUBCHAPTER E. INQUIRY ~~[COMPLAINT]~~ PROCEDURES AND HEARINGS

SECTION 2.07. Section 571.121, Government Code, is amended to read as follows:

Sec. 571.121. GENERAL POWERS. (a) The commission may:

(1) hold hearings, on its own motion adopted by an affirmative vote of at least six commission members or on an inquiry ~~[a sworn complaint]~~, and render decisions on inquiries ~~[complaints]~~ or reports of violations as provided by this chapter; and

(2) agree to the settlement of issues.

(b) The commission may not consider an inquiry ~~[a complaint]~~ or vote to investigate a matter outside the commission's jurisdiction.

SECTION 2.08. Section 571.1211, Government Code, is amended to read as follows:

Sec. 571.1211. DEFINITIONS. In this subchapter, "campaign ~~is~~

~~[(1) "Campaign] communication" and "political advertising" have the meanings assigned by Section 251.001, Election Code.~~

~~[(2) "Category One violation" means a violation of a law within jurisdiction of the commission as to which it is generally not difficult to ascertain whether the violation occurred or did not occur, including:~~

~~[(A) the failure by a person required to file a statement or report to:~~

~~[(i) file the required statement or report in a manner that complies with applicable requirements; or~~

~~[(ii) timely file the required statement or report;~~

~~[(B) a violation of Section 255.001, Election Code;~~

~~[(C) a misrepresentation in political advertising or a campaign communication relating to the office held by a person in violation of Section 255.006, Election Code;~~

~~[(D) a failure to include in any written political advertising intended to be seen from a road the right of way notice in violation of Section 255.007, Election Code; or~~

~~[(E) a failure to timely respond to a written notice under Section 571.123(b).~~

~~[(3) "Category Two violation" means a violation of a law within the jurisdiction of the commission that is not a Category One violation.]~~

SECTION 2.09. Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.1213 to read as follows:

Sec. 571.1213. CATEGORIZATION OF VIOLATIONS. (a) The commission staff shall categorize, in ascending order of seriousness, each violation of law alleged in an inquiry or on a motion of the commission as:

- (1) a technical, clerical, or de minimis violation;
- (2) an administrative or filing violation; or
- (3) a more serious violation.

(b) The commission shall adopt rules defining what violations of law are included in each category of violation.

SECTION 2.10. Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.1214 to read as follows:

Sec. 571.1214. RESOLUTION OF VIOLATIONS. (a) The commission staff and the commission shall resolve an inquiry or motion in the form corresponding to the most serious category of violation alleged in the inquiry or motion as provided in this section.

(b) An inquiry or motion alleging a technical, clerical, or de minimis violation must be resolved in a letter of acknowledgment.

(c) An inquiry or motion alleging an administrative or filing violation must be resolved in a notice of administrative or filing error.

(d) An inquiry or motion alleging a more serious violation must be resolved in a notice of violation.

SECTION 2.11. Section 571.122, Government Code, as amended by Chapters 604 (H.B. 677) and 1166 (H.B. 3218), Acts of the 81st Legislature, Regular Session, 2009, is amended to read as follows:

Sec. 571.122. FILING OF ~~INQUIRY~~ [COMPLAINT]; CONTENTS. (a) An individual may file with the commission an inquiry [~~a sworn complaint~~] alleging that a person subject to a law administered and enforced by the commission has violated a rule adopted by or a law administered and enforced by the commission. An inquiry [~~A sworn complaint~~] must be filed on a form prescribed by the commission. The commission shall make the inquiry [~~complaint~~] form available on the Internet. The form prescribed by the commission must require the complainant to provide the following information for both the complainant and the respondent:

- (1) the person's name;
- (2) the person's telephone number;
- (3) the person's electronic mail address, if known; and
- (4) the physical address of the person's home or business.

(b) An inquiry [~~A complaint~~] filed under this section must be in writing and under oath and must set forth in simple, concise, and direct statements:

- (1) the name of the complainant;
- (2) the street or mailing address of the complainant;
- (3) the name of each respondent;
- (4) the position or title of each respondent;
- (5) the nature of the alleged violation, including if possible the specific rule or provision of law alleged to have been violated;
- (6) a statement of the facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred; and

(7) all documents or other material available to the complainant that are relevant to the allegation, a list of all documents or other material within the knowledge of the complainant and available to the complainant that are relevant to the allegation but that are not in the possession of the complainant, including the location of the documents, if known, and a list of all documents or other material within the knowledge of the complainant that are unavailable to the complainant and that are relevant to the inquiry [complaint], including the location of the documents, if known.

(b-1) An individual must be a resident of this state to be eligible to file an inquiry [a sworn complaint] with the commission. A copy of one of the following documents must be attached to the inquiry [complaint]:

(1) the complainant's driver's license or personal identification certificate issued under Chapter 521, Transportation Code, or commercial driver's license issued under Chapter 522, Transportation Code; or

(2) a utility bill, bank statement, government check, paycheck, or other government document that:

(A) shows the name and address of the complainant; and

(B) is dated not more than 30 days before the date on which the inquiry [complaint] is filed.

(b-2) [(b-1)] To be eligible to file an inquiry [a sworn complaint] with the commission, an individual must be a resident of this state or must own real property in this state. A copy of one of the following documents must be attached to the inquiry [complaint]:

(1) the complainant's driver's license or personal identification certificate issued under Chapter 521, Transportation Code, or commercial driver's license issued under Chapter 522, Transportation Code;

(2) a utility bill, bank statement, government check, paycheck, or other government document that:

(A) shows the name and address of the complainant; and

(B) is dated not more than 30 days before the date on which the inquiry [complaint] is filed; or

(3) a property tax bill, notice of appraised value, or other government document that:

(A) shows the name of the complainant;

(B) shows the address of real property in this state; and

(C) identifies the complainant as the owner of the real property.

(c) The inquiry [complaint] must be accompanied by an affidavit stating that the information contained in the inquiry [complaint] is either correct or that the complainant has good reason to believe and does believe that the violation occurred. If the inquiry [complaint] is based on information and belief, the inquiry [complaint] shall state the source and basis of the information and belief. The complainant may swear to the facts by oath before a notary public or other authorized official.

(d) The inquiry [complaint] must state on its face an allegation that, if true, constitutes a violation of a rule adopted by or a law administered and enforced by the commission.

(e) It is not a valid basis of an inquiry ~~[a complaint]~~ to allege that a report required under Chapter 254, Election Code, contains the improper name or address of a person from whom a political contribution was received if the name or address in the report is the same as the name or address that appears on the check for the political contribution.

SECTION 2.12. Section 571.1221, Government Code, is amended to read as follows:

Sec. 571.1221. DISMISSAL OF INQUIRY ~~[COMPLAINT]~~ FILED AT DIRECTION OR URGING OF NONRESIDENT. At any stage of a proceeding under this subchapter, the commission shall dismiss the inquiry ~~[complaint]~~ if the commission determines that the inquiry ~~[complaint]~~ was filed at the direction or urging of a person who is not a resident of this state.

SECTION 2.13. Section 571.1222, Government Code, is amended to read as follows:

Sec. 571.1222. DISMISSAL OF INQUIRY ~~[COMPLAINT]~~ CHALLENGING CERTAIN INFORMATION IN POLITICAL REPORT. At any stage of a proceeding under this subchapter, the commission shall dismiss an inquiry ~~[a complaint]~~ to the extent the inquiry ~~[complaint]~~ alleges that a report required under Chapter 254, Election Code, contains the improper name or address of a person from whom a political contribution was received if the name or address in the report is the same as the name or address that appears on the check for the political contribution.

SECTION 2.14. Section 571.123, Government Code, is amended to read as follows:

Sec. 571.123. PROCESSING OF INQUIRY ~~[COMPLAINT]~~. (a) The commission shall determine whether an inquiry ~~[a sworn complaint]~~ filed with the commission complies with the form requirements of Section 571.122.

(a-1) ~~[(b)]~~ After an inquiry ~~[a complaint]~~ is filed, the commission shall immediately attempt to contact and notify the respondent of the inquiry ~~[complaint by telephone or electronic mail]~~.

(b) Not later than the fifth business day after the date an inquiry ~~[a complaint]~~ is filed, the commission shall notify ~~[send written notice to]~~ the complainant and the respondent as to ~~[The written notice to the complainant and the respondent must]~~:

(1) ~~[state]~~ whether the inquiry ~~[complaint]~~ complies with the form requirements of Section 571.122; and

(2) if the respondent is a candidate or officeholder, ~~[state]~~ the procedure by which the respondent may designate an agent with whom commission staff may discuss the inquiry ~~[complaint; and]~~

~~[(3) if applicable, include the information required by Section 571.124(c)].~~

(c) If the commission determines that the inquiry ~~[complaint]~~ does not comply with the form requirements, the commission shall return ~~[send]~~ the inquiry ~~[complaint]~~ to the complainant with ~~[the written notice,]~~ a statement explaining how the inquiry ~~[complaint]~~ fails to comply~~[-]~~; and a copy of the rules for filing inquiries ~~[sworn complaints]~~. The commission shall provide ~~[send]~~ a copy of the rejected inquiry ~~[complaint]~~ to the respondent with ~~[the written notice and]~~ the statement explaining how the inquiry ~~[complaint]~~ fails to comply. The complainant may resubmit the inquiry ~~[complaint]~~ not later than the 21st day after the date the

complainant is notified ~~[notice]~~ under Subsection (b) ~~[is mailed]~~. If the commission determines that the inquiry ~~[complaint]~~ is not resubmitted within the 21-day period, the commission shall:

(1) dismiss the inquiry ~~[complaint]~~; and  
(2) not later than the fifth business day after the date of the dismissal, notify ~~[send written notice to]~~ the complainant and the respondent of the dismissal and the grounds for dismissal.

(d) If the commission determines that an inquiry ~~[a complaint]~~ is resubmitted under Subsection (c) within the 21-day period but is not in proper form, the commission shall return the inquiry to the complainant as provided in ~~[send the notice required under]~~ Subsection (c), and the complainant may resubmit the inquiry ~~[complaint]~~ under that subsection.

(e) If the commission determines that an inquiry ~~[a complaint]~~ returned to the complainant under Subsection (c) or (d) is resubmitted within the 21-day period and that the inquiry ~~[complaint]~~ complies with the form requirements, the commission shall notify the complainant and respondent ~~[send the written notice]~~ under Subsection (b).

SECTION 2.15. Subsection (b), Section 571.1231, Government Code, is amended to read as follows:

(b) A respondent to an inquiry ~~[a complaint]~~ filed against the respondent may by writing submitted to the commission designate an agent with whom the commission staff may communicate regarding the inquiry ~~[complaint]~~.

SECTION 2.16. Section 571.124, Government Code, is amended to read as follows:

Sec. 571.124. PRELIMINARY REVIEW: INITIATION. (a) The commission staff shall promptly conduct a preliminary review on receipt of a written inquiry ~~[complaint]~~ that is in compliance with the form requirements of Section 571.122.

(b) On a motion adopted by an affirmative vote of at least six commission members, the commission staff, without an inquiry ~~[a sworn complaint]~~, may undertake ~~[initiate]~~ a preliminary review of the matter that is the subject of the motion.

(c) The executive director shall determine in writing whether the commission has jurisdiction over the violation of law alleged in an inquiry ~~[a sworn complaint]~~ processed under Section 571.123.

(e) If the executive director determines that the commission has jurisdiction, the notification ~~[notice]~~ under Section 571.123(b) must include:

(1) a statement that the commission has jurisdiction over the violation of law alleged in the inquiry ~~[complaint]~~;

(2) a statement of whether the inquiry ~~[complaint]~~ will be processed as a technical, clerical, or de minimis violation, an administrative or filing violation, or a more serious violation ~~[Category One violation or a Category Two violation, subject to reconsideration as provided for by Section 571.1212]~~;

(3) the date by which the respondent is required to respond to the notification ~~[notice]~~;

(4) a copy of the inquiry ~~[complaint]~~ and the rules of procedure of the commission;

(5) a statement of the rights of the respondent;

(6) a statement inviting the respondent to provide to the commission any information relevant to the inquiry [~~complaint~~]; and

(7) a statement that a failure to timely respond to the notification [~~notice~~] will be treated as a separate violation.

(f) If the executive director determines that the commission does not have jurisdiction over the violation alleged in the inquiry [~~complaint~~], the executive director shall:

(1) dismiss the inquiry [~~complaint~~]; and

(2) not later than the fifth business day after the date of the dismissal, notify [~~send to~~] the complainant and the respondent [~~written notice~~] of the dismissal and the grounds for the dismissal.

SECTION 2.17. Subsections (a) and (c), Section 571.1241, Government Code, are amended to read as follows:

(a) If the executive director determines that the commission does not have jurisdiction over the violation alleged in the inquiry [~~complaint~~], the complainant may request that the commission review the determination. A request for review under this section must be filed not later than the 30th day after the date the complainant receives the executive director's determination.

(c) Not later than the fifth business day after the date of the commission's determination under this section, the commission shall notify [~~send written notice to~~] the complainant and the respondent as to [~~stating~~] whether the commission has jurisdiction over the violation alleged in the inquiry [~~complaint~~]. If the commission determines that the commission has jurisdiction, the notification [~~notice~~] must include the items listed in Section 571.124(e).

SECTION 2.18. Section 571.1242, Government Code, is amended to read as follows:

Sec. 571.1242. PRELIMINARY REVIEW: RESPONSE BY RESPONDENT.

(a) If the alleged violation is a technical, clerical, or de minimis [~~Category One~~] violation:

(1) the respondent must respond to the notification [~~notice~~] required by Section 571.123(b) not later than the 10th business day after the date the respondent is notified [~~receives the notice~~]; and

(2) if the matter is not resolved by agreement between the commission and the respondent before the 30th business day after the date the respondent is notified [~~receives the notice~~] under Section 571.123(b), the commission shall set the matter for a preliminary review hearing [~~to be held at the next commission meeting for which notice has not yet been posted~~].

(b) If the alleged violation is an administrative or filing violation or a more serious [~~a Category Two~~] violation:

(1) the respondent must respond to the notification [~~notice~~] required by Section 571.123(b) not later than the 25th business day after the date the respondent is notified [~~receives the notice~~] under Section 571.123(b); and



(2) if the matter is not resolved by agreement between the commission and the respondent before the 75th business day after the date the respondent is notified ~~[receives the notice]~~ under Section 571.123(b), the commission shall set the matter for a preliminary review hearing ~~[to be held at the next commission meeting for which notice has not yet been posted].~~

(c) A respondent's failure to timely respond as required by Subsection (a)(1) or (b)(1) is a ~~[Category One]~~ violation.

(d) The response required to the notification under Section 571.123(b) ~~[by Subsection (a) or (b)]~~ must include any challenge the respondent seeks to raise to the commission's exercise of jurisdiction. In addition, the respondent may:

(1) acknowledge the occurrence or commission of a violation;

(2) deny the allegations contained in the inquiry ~~[complaint]~~ and provide evidence supporting the denial; or

(3) agree to enter into a letter of acknowledgment ~~[an assurance of voluntary compliance]~~ or other agreed decision ~~[order]~~, which may include an agreement to immediately cease and desist.

~~[(e) If the commission sets the matter for a preliminary review hearing, the commission shall promptly send to the complainant and the respondent written notice of the date, time, and place of the preliminary review hearing.]~~

SECTION 2.19. Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.12421 to read as follows:

Sec. 571.12421. PRELIMINARY REVIEW: PROCEDURE. (a) The commission shall adopt procedures by rule for the conduct of:

(1) a preliminary review of an inquiry or motion that alleges a technical, clerical, or de minimis violation;

(2) a preliminary review of an inquiry or motion that alleges an administrative or filing violation; and

(3) a preliminary review of an inquiry or motion that alleges a more serious violation.

(b) If an inquiry or motion alleges violations of different categories, the commission staff shall conduct a preliminary review of the inquiry or motion according to the procedure for the most serious category of violation alleged in the inquiry or motion.

(c) If, in the course of conducting a preliminary review, the commission staff determines that the violation alleged in the inquiry or motion was initially categorized incorrectly, the commission staff shall continue conducting the preliminary review according to the procedure for the correct category of violation.

(d) If an inquiry or motion alleges more than one violation, the commission staff may conduct a single preliminary review of the alleged violations or conduct a separate preliminary review for each violation.

SECTION 2.20. Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.12431 to read as follows:

Sec. 571.12431. PRELIMINARY REVIEW: RESOLUTION. (a) After conducting a preliminary review of an inquiry or motion, the commission staff shall propose a resolution of the inquiry or motion to the respondent in the form

corresponding to the category of violation alleged in the inquiry or motion or, if the inquiry or motion alleges multiple violations, in the form corresponding to the most serious category of violation.

(b) Except as provided by other law or commission rule, if the respondent accepts the resolution, the commission staff shall submit to the commission for approval the letter of acknowledgment, notice of administrative or filing error, or notice of violation in which the resolution was proposed to the respondent.

(c) If the respondent rejects the resolution, the commission shall set the inquiry or motion for a preliminary review hearing.

SECTION 2.21. Section 571.1244, Government Code, is amended to read as follows:

Sec. 571.1244. PRELIMINARY REVIEW AND PRELIMINARY REVIEW HEARING PROCEDURES. (a) The commission shall adopt procedures for the conduct of preliminary reviews and preliminary review hearings. The procedures must include:

(1) a reasonable time for responding to questions submitted by the commission and commission staff and subpoenas issued by the commission; and

(2) the tolling or extension of otherwise applicable deadlines where:

(A) the commission issues a subpoena and the commission's meeting schedule makes it impossible both to provide a reasonable time for response and to comply with the otherwise applicable deadlines; or

(B) the commission determines that, despite commission staff's diligence and the reasonable cooperation of the respondent, a matter is too complex to resolve within the otherwise applicable deadlines without compromising either the commission staff's investigation or the rights of the respondent.

(b) The commission by rule shall adopt procedures for the commission's review of a letter of acknowledgment, a notice of administrative or filing error, or a notice of violation submitted to the commission under Section 571.12431(b) or 571.126(f).

(c) The commission by rule shall adopt procedures for the disposition of an inquiry or motion if the respondent does not respond to a resolution of the inquiry or motion proposed to the respondent under Section 571.12431 or 571.126.

SECTION 2.22. Section 571.125, Government Code, is amended to read as follows:

Sec. 571.125. PRELIMINARY REVIEW HEARING: PROCEDURE. (a) A panel of two members of the [The] commission shall conduct a preliminary review hearing if:

(1) following the preliminary review, the ~~[commission and the]~~ respondent does not ~~[cannot]~~ agree to the resolution of the inquiry or motion proposed by the commission staff ~~[disposition of the complaint or motion];~~ or

(2) the respondent in writing requests a hearing.

(b) The commission shall notify ~~[provide written notice to]~~ the complainant, if any, and the respondent of the date, time, and place the panel ~~[commission]~~ will conduct the preliminary review hearing.

(c) At or after the time the commission notifies the complainant, if any, and the respondent ~~[provides notice]~~ of a preliminary review hearing, the commission may submit to the complainant and the respondent written questions and require those questions to be answered under oath within a reasonable time.

(d) During a preliminary review hearing, the panel ~~[commission]~~:

(1) may consider all submitted evidence related to the inquiry ~~[complaint]~~ or to the subject matter of a motion under Section 571.124(b);

(2) may review any documents or material related to the inquiry ~~[complaint]~~ or to the motion; and

(3) shall determine whether there is credible evidence that provides cause for the panel ~~[commission]~~ to conclude that a violation within the jurisdiction of the commission has occurred.

(e) During a preliminary review hearing, the respondent may appear before the panel ~~[commission]~~ with the assistance of counsel, if desired by the respondent, and present any relevant evidence, including a written statement.

SECTION 2.23. Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.1251 to read as follows:

Sec. 571.1251. SELECTION OF PANEL TO CONDUCT PRELIMINARY REVIEW HEARING. The commission shall adopt rules for the selection of members of the commission to serve on panels to conduct preliminary review hearings. The rules shall ensure that:

(1) a panel is composed of two members of the commission; and

(2) each member of the panel is a member of a different political party.

SECTION 2.24. Section 571.126, Government Code, is amended to read as follows:

Sec. 571.126. PRELIMINARY REVIEW HEARING: RESOLUTION.

(a) Except as provided in Subsection (e), as [As] soon as practicable after the completion of a preliminary review hearing, the panel [commission] by vote shall issue a decision stating:

(1) whether there is credible evidence for the panel [commission] to determine that a violation within the jurisdiction of the commission has occurred and whether the violation is a technical, clerical, or de minimis violation, an administrative or filing violation, or a more serious violation; or

(2) that there is insufficient evidence for the panel [commission] to determine whether a violation within the jurisdiction of the commission has occurred.

(b) If the panel ~~[commission]~~ determines that there is credible evidence for the panel ~~[commission]~~ to determine that a violation within the jurisdiction of the commission has occurred, the panel ~~[commission]~~ shall prepare a resolution of the inquiry or motion to propose to the respondent [resolve and settle the complaint or motion] to the extent possible. If the panel ~~[commission]~~ successfully prepares a resolution ~~[resolves and settles the complaint or motion]~~, not later than the fifth business day after the date the panel prepares the resolution ~~[of the final resolution of the complaint or motion]~~, the commission shall provide [send to the complainant, if any, and] the respondent a copy of the decision stating the panel's [commission's] determination and the panel's proposed resolution of the inquiry or motion in the appropriate form [written notice of the resolution and the terms of the resolution]. If

the panel ~~[commission]~~ is unsuccessful in preparing a resolution or the respondent rejects the resolution ~~[resolving and settling the complaint or motion]~~, the panel ~~[commission]~~ shall:

(1) order a formal hearing to be held in accordance with Sections 571.127 ~~[571.129]~~ through 571.132; and

(2) not later than the fifth business day after, as applicable, the date the panel determines that there is credible evidence to determine that a violation has occurred or the date the respondent rejects a resolution prepared by the panel, provide ~~[of the decision, send to]~~ the complainant, if any, and the respondent with:

- (A) a copy of the decision;
- (B) ~~[written]~~ notice of the date, time, and place of the formal hearing;
- (C) a statement of the nature of the alleged violation;
- (D) a description of the evidence of the alleged violation;
- (E) a copy of the inquiry ~~[complaint]~~ or motion;
- (F) a copy of the commission's rules of procedure; and
- (G) a statement of the rights of the respondent.

(c) If the panel ~~[commission]~~ determines that there is credible evidence for the panel ~~[commission]~~ to determine that a violation within the jurisdiction of the commission has not occurred~~[, the commission shall]~~:

- (1) the panel shall dismiss the inquiry ~~[complaint]~~ or motion; and
- (2) the commission shall, not later than the fifth business day after the date of the dismissal, provide ~~[send to]~~ the complainant, if any, and the respondent with a copy of the decision stating the panel's ~~[commission's]~~ determination and ~~[written]~~ notice of the dismissal and the grounds for dismissal.

(d) If the panel ~~[commission]~~ determines that there is insufficient credible evidence for the panel ~~[commission]~~ to determine that a violation within the jurisdiction of the commission has occurred, the panel ~~[commission]~~ may dismiss the inquiry ~~[complaint]~~ or motion or promptly order ~~[conduct]~~ a formal hearing to be held under Sections 571.127 ~~[571.129]~~ through 571.132. Not later than the fifth business day after the date of the panel's ~~[commission's]~~ determination under this subsection, the commission shall provide ~~[send to]~~ the complainant, if any, and the respondent with a copy of the decision stating the panel's ~~[commission's]~~ determination and ~~[written]~~ notice of the grounds for the determination.

(e) If, because of a tie vote, the panel cannot issue a decision under Subsection (a), the panel shall order a formal hearing to be held under Sections 571.127 through 571.132. Not later than the fifth business day after the date of the vote, the commission shall notify the complainant, if any, and the respondent of the date, time, and place of the hearing.

(f) Except as provided by other law or commission rule, if the respondent accepts the resolution in Subsection (b), the panel shall submit to the commission for approval the letter of acknowledgment, notice of administrative or filing error, or notice of violation in which the resolution was proposed to the respondent.

SECTION 2.25. Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.127 to read as follows:

Sec. 571.127. FORMAL HEARING: CONDUCT. The commission may conduct a formal hearing under this subchapter or may delegate to the State Office of Administrative Hearings the responsibility of conducting a formal hearing under this subchapter.

SECTION 2.26. Subsections (a) and (c), Section 571.132, Government Code, are amended to read as follows:

(a) Not later than the 30th business day after the date the State Office of Administrative Hearings issues a proposal for decision, the commission shall convene a meeting and by motion shall issue:

(1) a final decision stating the resolution of the formal hearing in the form corresponding to the category of violation alleged in the inquiry or motion that was the subject of the hearing; and

(2) a written report stating in detail the commission's findings of fact, conclusions of law, and recommendation of criminal referral or imposition of a civil penalty, if any.

(c) Not later than the fifth business day after the date the commission issues the final decision and written report, the commission shall:

(1) provide ~~send~~ a copy of the decision and report to the complainant, if any, and to the respondent; and

(2) make a copy of the decision and report available to the public during reasonable business hours.

SECTION 2.27. Section 571.133, Government Code, is amended to read as follows:

Sec. 571.133. APPEAL OF FINAL DECISION. (a) A respondent who has exhausted all administrative remedies under this subchapter and who is aggrieved by a final decision of the commission may seek judicial review of the decision by pursuing an appeal.

(b) To appeal a final decision of the commission, the respondent or the respondent's agent may file a petition in a district court in Travis County or in the county in which the respondent resides.

(c) ~~(b)~~ The petition must be filed not later than the 30th business day after the date the respondent received the decision.

(d) ~~(c)~~ Not later than the 30th day after the date on which the petition is filed, the respondent may request that the appeal be transferred to a district court in Travis County or in the county in which the respondent resides, as appropriate. The court in which the appeal is originally filed shall transfer the appeal to a district court in the other county on receipt of the request.

(e) Judicial review under this section shall be conducted in the manner provided for judicial review of a contested case under Chapter 2001, Government Code, and is governed by the substantial evidence rule.

~~[(d) An appeal brought under this section is not limited to questions of law, and the substantial evidence rule does not apply. The action shall be determined by trial de novo. The reviewing court shall try all issues of fact and law in the manner applicable to other civil suits in this state but may not admit in evidence the fact of prior action by the commission or the nature of that action, except to the limited extent necessary~~

~~to show compliance with statutory provisions that vest jurisdiction in the court. A party is entitled, on demand, to a jury determination of any issue of fact on which a jury determination is available in other civil suits in this state.]~~

SECTION 2.28. Section 571.134, Government Code, is amended to read as follows:

Sec. 571.134. DELAY OF REFERRAL. If an alleged violation involves an election in which the alleged violator is a candidate, a candidate's campaign treasurer, or the campaign treasurer of a political committee supporting or opposing a candidate and the inquiry [~~complaint~~] is filed within 60 days before the date of the election, the commission shall delay referral until:

- (1) the day after election day;
- (2) the day after runoff election day if an ensuing runoff involving the alleged violator is held; or
- (3) the day after general election day if the election involved in the violation is a primary election and the alleged violator is involved in the succeeding general election.

SECTION 2.29. Subsection (b), Section 571.135, Government Code, is amended to read as follows:

(b) The materials must include:

- (1) a description of:
  - (A) the commission's responsibilities;
  - (B) the types of conduct that constitute a violation of a law within the jurisdiction of the commission;
  - (C) the types of sanctions the commission may impose;
  - (D) the commission's policies and procedures relating to inquiry [~~complaint~~] investigation and resolution; and
  - (E) the duties of a person filing an inquiry [~~a complaint~~] with the commission; and
- (2) a diagram showing the basic steps in the commission's procedures relating to inquiry [~~complaint~~] investigation and resolution.

SECTION 2.30. Section 571.1351, Government Code, is amended to read as follows:

Sec. 571.1351. STATUS OF INQUIRY [~~COMPLAINT~~]. (a) The commission shall keep an information file about each inquiry [~~sworn or other complaint~~] filed with the commission. The file must include:

- (1) the name of the person who filed the inquiry [~~complaint~~];
- (2) the date the inquiry [~~complaint~~] is received by the commission;
- (3) the subject matter of the inquiry [~~complaint~~];
- (4) the name of each person contacted in relation to the inquiry [~~complaint~~];
- (5) a summary of the results of the review or investigation of the inquiry [~~complaint~~]; and
- (6) an explanation of the reason the file was closed, if the commission closed the file without taking action other than to investigate the inquiry [~~complaint~~].

(b) The commission shall provide to the person filing the inquiry [~~complaint~~] and to each person who is a subject of the inquiry [~~complaint~~] a copy of the commission's policies and procedures relating to inquiry [~~complaint~~] investigation and resolution.

(c) In addition to the notice required by Sections 571.123 through 571.132, the commission, at least quarterly until final disposition of an inquiry [~~a complaint~~], shall notify the person who filed the inquiry [~~complaint~~] and each person who is a subject of the inquiry [~~complaint~~], if any, of the status of the inquiry [~~sworn or other complaint~~].

SECTION 2.31. Section 571.136, Government Code, is amended to read as follows:

Sec. 571.136. EXTENSION OF DEADLINE. The commission may, on its own motion or on the reasonable request of a respondent, extend any deadline for action relating to an inquiry [~~a sworn complaint~~], motion, preliminary review hearing, or formal hearing.

SECTION 2.32. Subsection (a), Section 571.137, Government Code, is amended to read as follows:

(a) In connection with a formal hearing, the commission, as authorized by this chapter, may subpoena and examine witnesses and documents that directly relate to an inquiry [~~a sworn complaint~~].

SECTION 2.33. Section 571.139, Government Code, is amended to read as follows:

Sec. 571.139. APPLICABILITY OF OTHER ACTS. (a) Except as provided by Section 571.140(b), Chapter 552 does not apply to documents or any additional evidence relating to the processing, preliminary review, preliminary review hearing, or resolution of an inquiry [~~a sworn complaint~~] or motion.

(b) Chapter 551 does not apply to the processing, preliminary review, preliminary review hearing, or resolution of an inquiry [~~a sworn complaint~~] or motion, but does apply to a formal hearing held under Sections 571.127 [~~571.129~~] through 571.131.

(c) Subchapters C through H, Chapter 2001, apply only to a formal hearing under this subchapter, the resolution of a formal hearing, and the appeal of a final decision [~~order~~] of the commission, and only to the extent consistent with this chapter.

SECTION 2.34. Subsections (a), (b), and (b-1), Section 571.140, Government Code, are amended to read as follows:

(a) Except as provided by Subsection (b) or (b-1) or by Section 571.171, proceedings at a preliminary review hearing performed by a panel of members of the commission, an inquiry [~~a sworn complaint~~], and documents and any additional evidence relating to the processing, preliminary review, preliminary review hearing, or resolution of an inquiry [~~a sworn complaint~~] or motion are confidential and may not be disclosed unless entered into the record of a formal hearing or a judicial proceeding, except that a document or statement that was previously public information remains public information.

(b) A notice of administrative or filing error or a notice of violation approved [~~An order issued~~] by the commission under Section 571.12431(b) or 571.126(f) after the completion of a preliminary review or hearing [~~determining that a violation other~~

~~than a technical or de minimis violation has occurred~~] is not confidential. A letter of acknowledgment approved by the commission under Section 571.12431(b) or 571.126(f) after the completion of a preliminary review or hearing is confidential.

(b-1) A commission employee may, for the purpose of investigating an inquiry ~~[a sworn complaint]~~ or motion, disclose to the complainant, the respondent, or a witness information that is otherwise confidential and relates to the inquiry ~~[sworn complaint]~~ if:

(1) the employee makes a good faith determination that the disclosure is necessary to conduct the investigation;

(2) the employee's determination under Subdivision (1) is objectively reasonable;

(3) the executive director authorizes the disclosure; and

(4) the employee discloses only the information necessary to conduct the investigation.

SECTION 2.35. Section 571.141, Government Code, is amended to read as follows:

Sec. 571.141. AVAILABILITY OF CERTAIN NOTICES AND DECISIONS [COMMISSION ORDERS] ON INTERNET. (a) As soon as practicable following a preliminary review, preliminary review hearing, or formal hearing at which the commission staff, a panel of members of the commission, or the commission determines that a person has committed a violation within the commission's jurisdiction, the commission shall make available on the Internet:

(1) a copy of the notice of administrative or filing error or notice of violation approved or issued by the commission ~~[commission's order stating the determination]~~; or

(2) a summary of the notice ~~[commission's order]~~.

(b) This section does not apply to a letter of acknowledgment ~~[determination of a violation that is technical or de minimis]~~.

(c) If at a preliminary review, preliminary review hearing, or formal hearing, the commission staff, a panel of members of the commission, or the commission does not find that a person has committed a violation within the commission's jurisdiction or dismisses the inquiry or motion at issue, the commission shall, on the person's request and waiver of confidentiality, make available on the Internet a copy of the decision or notice of dismissal.

SECTION 2.36. Section 571.142, Government Code, is amended to read as follows:

Sec. 571.142. LIABILITY FOR RESPONDENT'S COSTS. (a) This section applies only to an inquiry ~~[a sworn complaint]~~ if:

(1) the inquiry ~~[complaint]~~ was filed after the 30th day before the date of an election;

(2) the respondent is a candidate in the election; and

(3) the inquiry ~~[complaint]~~ alleges an administrative or filing ~~[a]~~ violation or a more serious violation ~~[other than a technical or clerical violation]~~.



(b) If, in disposing of an inquiry [~~a sworn complaint~~] to which this section applies, the commission determines that a violation within the commission's jurisdiction has not occurred, the complainant is liable for the respondent's reasonable and necessary attorney's fees and other costs incurred in defending against the inquiry [~~complaint~~].

(c) This section does not apply to an inquiry [~~a sworn complaint~~] regarding a reporting omission required by law.

SECTION 2.37. Subsection (b), Section 571.171, Government Code, is amended to read as follows:

(b) On receipt of an inquiry [~~a sworn complaint~~], if the executive director reasonably believes that the person who is the subject of the inquiry [~~complaint~~] has violated Chapter 36 or 39, Penal Code, the executive director may refer the matter to the appropriate prosecuting attorney for criminal prosecution.

SECTION 2.38. Section 571.173, Government Code, is amended to read as follows:

Sec. 571.173. CIVIL PENALTY FOR DELAY OR VIOLATION. (a) The commission and the commission staff may impose a civil penalty of not more than \$5,000 or triple the amount at issue under a law administered and enforced by the commission, whichever amount is more, for a delay in complying with a commission order or decision or for a violation of a law administered and enforced by the commission.

(b) The commission shall adopt guidelines for the commission and the commission staff to follow when imposing a civil penalty under this section. The guidelines must direct the commission or the commission staff to consider the factors described by Section 571.177.

(c) The commission or the commission staff shall impose a civil penalty on a respondent who accepts or is issued a notice of administrative or filing error or a notice of violation under this chapter.

(d) When imposing a civil penalty under Subsection (c), the commission is not required to consider any penalties previously proposed to the respondent at an earlier stage of review.

(e) The commission or the commission staff may not impose a civil penalty on a respondent who accepts or is issued a letter of acknowledgment under this chapter.

SECTION 2.39. Section 571.176, Government Code, is amended to read as follows:

Sec. 571.176. CIVIL PENALTY FOR FRIVOLOUS OR BAD-FAITH INQUIRY [~~COMPLAINT~~]. (a) The commission may impose a civil penalty of not more than \$10,000 for the filing of a frivolous or bad-faith inquiry [~~complaint~~]. In this subsection, "frivolous inquiry [~~complaint~~]" means an inquiry [~~a complaint~~] that is groundless and brought in bad faith or is groundless and brought for the purpose of harassment.

(b) In addition to other penalties, a person who files a frivolous inquiry [~~complaint~~] is civilly liable to the respondent in an amount equal to the greater of \$10,000 or the amount of actual damages incurred by the respondent, including court costs and attorney fees.

(c) A person may file an inquiry [~~a sworn complaint~~] with the commission, in accordance with Section 571.122, alleging that an inquiry [~~a complaint~~] relating to that person filed with the commission is frivolous or brought in bad faith. An inquiry [~~A complaint~~] may be filed under this subsection without regard to whether the inquiry [~~complaint~~] alleged to be frivolous or brought in bad faith is pending before the commission or has been resolved. The commission shall act on an inquiry [~~a complaint~~] made under this subsection as provided by Subchapter E.

SECTION 2.40. Section 571.177, Government Code, is amended to read as follows:

Sec. 571.177. FACTORS CONSIDERED FOR ASSESSMENT OF SANCTION. The commission or the commission staff shall consider the following factors in assessing a sanction:

- (1) the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the violation;
- (2) the history and extent of previous violations;
- (3) the demonstrated good faith of the violator, including actions taken to rectify the consequences of the violation;
- (4) the penalty necessary to deter future violations; and
- (5) any other matters that justice may require.

SECTION 2.41. (a) Not later than December 1, 2013, the Texas Ethics Commission shall adopt any rules necessary to implement the changes in law made by this article.

(b) The changes in law made by this article apply only to an inquiry filed with the Texas Ethics Commission under Section 571.122, Government Code, or a motion adopted by the commission under Subsection (b), Section 571.124, Government Code, on or after December 1, 2013. A sworn complaint filed with the Texas Ethics Commission under Section 571.122, Government Code, or a motion adopted by the commission under Subsection (b), Section 571.124, Government Code, before that date is governed by the law in effect on the date the complaint is filed or the motion is adopted, and the former law is continued in effect for that purpose.

### ARTICLE 3. PERSONAL FINANCIAL STATEMENTS

SECTION 3.01. Section 571.0671, Government Code, is amended to read as follows:

Sec. 571.0671. REQUIREMENTS FOR ELECTRONIC FILING SOFTWARE.

(a) Computer software provided or approved by the commission for use under Section 254.036(b), Election Code, or Section 302.013, [~~or~~] 305.0064, or 572.0291 must:

- (1) use a standardized format for the entry of names, addresses, and zip codes;
- (2) provide for secure and encoded transmission of data from the computer of a person filing a report to the computers used by the commission;
- (3) be capable of being used by a person with basic computing skills;
- (4) provide confirmation to a person filing a report that the report was properly received; and

(5) permit a person using a computer to prepare a report or to retrieve information from a report to import information to the report from a variety of computer software applications that meet commission specifications for a standard file format or export information from the report to a variety of computer software applications that meet commission specifications for a standard file format without the need to reenter information.

(b) Before determining the specifications for computer software developed, purchased, or licensed for use under Section 254.036, Election Code, or Section 302.013, ~~or~~ 305.0064, or 572.0291, the commission shall conduct at least one public hearing to discuss the specifications. For at least 10 days following the hearing, the commission shall accept public comments concerning the software specifications.

(c) The commission may provide software for use under Section 254.036(b), Election Code, or Section 302.013, ~~or~~ 305.0064, or 572.0291 by making the software available on the Internet. If the commission makes the software available on the Internet, the commission is not required to provide the software on computer diskettes, CD-ROMs, or other storage media without charge to persons required to file reports under that section, but may charge a fee for providing the software on storage media. A fee under this subsection may not exceed the cost to the commission of providing the software.

SECTION 3.02. Subchapter B, Chapter 572, Government Code, is amended by adding Section 572.0291 to read as follows:

Sec. 572.0291. ELECTRONIC FILING REQUIRED. A financial statement filed with the commission must be filed by computer diskette, modem, or other means of electronic transfer, using computer software provided by the commission or computer software that meets commission specifications for a standard file format.

SECTION 3.03. Subchapter B, Chapter 572, Government Code, is amended by adding Section 572.0292 to read as follows:

Sec. 572.0292. PREPARATION OF FORMS. The commission shall design forms that may be used for filing a financial statement with an authority other than the commission.

SECTION 3.04. The heading to Section 572.030, Government Code, is amended to read as follows:

Sec. 572.030. NOTIFICATION OF FILING REQUIREMENT [PREPARATION AND MAILING OF FORMS].

SECTION 3.05. Subsections (b) and (c), Section 572.030, Government Code, are amended to read as follows:

(b) The commission shall notify ~~mail to~~ each individual required to file under this subchapter of ~~a notice that~~:

(1) the requirement ~~states~~ that the individual ~~is required to~~ file a financial statement under this subchapter;

(2) ~~identifies~~ the filing dates for the financial statement as provided by Sections 572.026 and 572.027; and

(3) ~~describes~~ the manner in which the individual may electronically file the financial statement and access instructions for filing financial statements on ~~obtain the financial statement forms and instructions from~~ the commission's Internet website[;]

~~[(4) states that on request of the individual, the commission will mail to the individual a copy of the financial statement forms and instructions; and~~

~~[(5) states, if applicable, the fee for mailing the forms and instructions and the manner in which the individual may pay the fee].~~

(c) The notification ~~[notice]~~ required by Subsection (b) must be provided ~~[mailed]~~:

(1) before the 30th day before the deadline for filing the financial statement under Section 572.026(a) or (c), except as otherwise provided by this subsection;

(2) not later than the 15th day after the applicable deadline for filing an application for a place on the ballot or a declaration of write-in candidacy for candidates required to file under Section 572.027(a), (b), or (c);

(3) not later than the seventh day after the date of appointment for individuals required to file under Section 572.026(b), or if the legislature is in session, sooner if possible; and

(4) not later than the fifth day after the date the certificate of nomination is filed for candidates required to file under Section 572.027(d) ~~[574.027(d)]~~.

SECTION 3.06. Subsection (b), Section 572.031, Government Code, is amended to read as follows:

(b) If the commission determines that an individual has failed to file the statement in compliance with this subchapter, the commission shall notify ~~[send a written statement of the determination to]~~ the appropriate prosecuting attorney for ~~[attorneys of]~~ the state of the determination.

SECTION 3.07. Section 572.032, Government Code, is amended by amending Subsection (a-1) and adding Subsection (a-2) to read as follows:

(a-1) The commission shall remove the home address of a judge, ~~or~~ justice, or district attorney from a financial statement filed under this subchapter before:

- (1) permitting a member of the public to view the statement; or
- (2) providing a copy of the statement to a member of the public.

(a-2) The commission shall remove the home address of an individual from a financial statement filed by the individual under this subchapter before:

- (1) permitting a member of the public to view the statement; or
- (2) providing a copy of the statement to a member of the public.

SECTION 3.08. Subsections (a) and (b), Section 572.033, Government Code, are amended to read as follows:

(a) The commission shall determine from any available evidence whether a statement required to be filed under this subchapter is late. On making a determination that the statement is late, the commission shall notify ~~[immediately mail a notice of the determination to]~~ the individual responsible for filing the statement and ~~[to]~~ the appropriate prosecuting attorney for the state of the determination.

(b) If a statement is determined to be late, the individual responsible for filing the statement is liable to the state for a civil penalty of \$500. If a statement is more than 30 days late, the commission shall issue a warning of liability ~~[by registered mail]~~ to the individual responsible for the filing. If the penalty is not paid before the 10th day after the date on which the warning is received, the individual is liable for a civil penalty in an amount determined by commission rule, but not to exceed \$10,000.

SECTION 3.09. Section 145.003, Local Government Code, is amended by adding Subsection (c) to read as follows:

(c) The statement may be filed with the clerk or secretary by electronic mail. The clerk or secretary may prescribe guidelines for filing by electronic mail.

SECTION 3.10. Subsection (d), Section 145.004, Local Government Code, is amended to read as follows:

(d) The timeliness of the filing is governed by Section 572.029, Government Code. In addition, a financial statement that is not filed by electronic mail is timely filed if it is properly addressed and placed in the United States post office or in the hands of a common or contract carrier not later than the last day for filing the financial statement. The post office cancellation mark or the receipt mark of a common or contract carrier is prima facie evidence of the date the statement was deposited with the post office or carrier. The individual filing the statement may show by competent evidence that the actual date of posting was different from that shown by the mark.

SECTION 3.11. Section 159.003, Local Government Code, is amended by adding Subsection (c) to read as follows:

(c) The statement may be filed with the county clerk by electronic mail. The county clerk may prescribe guidelines for filing by electronic mail.

SECTION 3.12. Subsection (b), Section 159.004, Local Government Code, is amended to read as follows:

(b) The timeliness of the filing is governed by Section 572.029, Government Code. In addition, a financial statement that is not filed by electronic mail is timely filed if it is properly addressed and placed in the United States post office or in the hands of a common or contract carrier not later than the last day for filing the financial statement. The post office cancellation mark or the receipt mark of a common or contract carrier is prima facie evidence of the date the statement was deposited with the post office or carrier. The individual filing the statement may show by competent evidence that the actual date of posting was different from that shown by the mark.

SECTION 3.13. Section 159.034, Local Government Code, is amended by adding Subsection (d) to read as follows:

(d) A report filed under this subchapter may be filed by electronic mail. The authority with whom the report is filed may prescribe guidelines for filing by electronic mail.

SECTION 3.14. Section 159.052, Local Government Code, is amended by adding Subsection (c) to read as follows:

(c) A financial statement filed with the county clerk may be filed by electronic mail. The county clerk may prescribe guidelines for filing by electronic mail under this subsection.

SECTION 3.15. Subsection (b), Section 159.053, Local Government Code, is amended to read as follows:

(b) The timeliness of the filing is governed by Section 572.029, Government Code. In addition, a financial statement that is not filed by electronic mail is timely filed if it is properly addressed and placed in the United States post office or in the hands of a common or contract carrier not later than the last day for filing the financial statement. The post office cancellation mark or the receipt mark of a common or

contract carrier is prima facie evidence of the date the statement was deposited with the post office or carrier. The individual filing the statement may show by competent evidence that the actual date of posting was different from that shown by the mark.

SECTION 3.16. As soon as practicable after the effective date of this Act, the Texas Ethics Commission shall develop or approve the computer software that a person may use to electronically file a financial statement under Chapter 572, Government Code, as provided by the changes in law made by this article.

SECTION 3.17. Section 572.032(a-1), Government Code, as amended by this Act, applies to any financial statement filed under Subchapter B, Chapter 572, Government Code, that the Texas Ethics Commission maintains on file and that is accessible to the public on or after the effective date of this Act.

SECTION 3.18. Section 572.032(a-2), Government Code, as added by this Act, applies only to a financial statement filed under Subchapter B, Chapter 572, Government Code, on or after the date the Texas Ethics Commission determines that the computer software that a person is required to use to electronically file a financial statement includes features that allow the commission to easily and quickly redact information in the statement. A financial statement filed before that date is governed by the law in effect on the date of filing, and the former law is continued in effect for that purpose.

#### ARTICLE 4. CAMPAIGN FINANCE

SECTION 4.01. Section 251.003, Election Code, is amended to read as follows:

Sec. 251.003. ~~[PROHIBITION OF]~~ DOCUMENT FILING FEE. (a) A candidate, an officeholder other than the secretary of state, and a political committee shall pay an annual fee for each year in which the candidate, officeholder, or political committee files [A charge may not be made for filing] a document required to be filed under this title.

(b) This section does not apply to:

(1) a candidate, officeholder, or specific-purpose committee who files reports under this title with an authority other than the commission;

(2) a candidate who filed a petition in lieu of the filing fee with the candidate's application for a place on the ballot; or

(3) an officeholder who filed a petition in lieu of the filing fee with the application for a place on the ballot as a candidate for the office held by the officeholder.

(c) The commission shall by rule determine the amount of the annual fee under this section in an amount, not to exceed \$100, that the commission determines necessary for the administration of this title.

(d) The commission shall adopt rules to implement this section.

SECTION 4.02. The heading to Chapter 252, Election Code, is amended to read as follows:

#### CHAPTER 252. CAMPAIGN TREASURER, LEGISLATIVE CAUCUS CHAIR, AND PRINCIPAL POLITICAL COMMITTEE

SECTION 4.03. Chapter 252, Election Code, is amended by designating Sections 252.001 through 252.015 as Subchapter A and adding a subchapter heading to read as follows:

SUBCHAPTER A. CAMPAIGN TREASURER

SECTION 4.04. Section 252.001, Election Code, is amended to read as follows:

Sec. 252.001. APPOINTMENT OF CAMPAIGN TREASURER REQUIRED. Except as provided in Subchapter C, each ~~[Each]~~ candidate and each political committee shall appoint a campaign treasurer as provided by this subchapter ~~[chapter]~~.

SECTION 4.05. Chapter 252, Election Code, is amended by adding Subchapters B and C to read as follows:

SUBCHAPTER B. LEGISLATIVE CAUCUS CHAIR

Sec. 252.051. APPOINTMENT OF LEGISLATIVE CAUCUS CHAIR REQUIRED. Each legislative caucus, as defined by Section 253.0341, shall appoint a caucus chair as required by this subchapter.

Sec. 252.052. CONTENTS OF APPOINTMENT; AUTHORITY WITH WHOM FILED. (a) A legislative caucus chair appointment must be in writing and must include:

- (1) the caucus's full name;
- (2) the caucus chair's name;
- (3) the caucus's mailing address;
- (4) the caucus's telephone number; and
- (5) the name of the person making the appointment.

(b) A legislative caucus must file its caucus chair appointment with the commission.

(c) A legislative caucus must notify the commission in writing of any change in the caucus's mailing address not later than the 10th day after the date on which the change occurs.

SUBCHAPTER C. PRINCIPAL POLITICAL COMMITTEE

Sec. 252.101. DESIGNATION OF PRINCIPAL POLITICAL COMMITTEE.

(a) A candidate required to file a campaign treasurer appointment with the commission or an officeholder of an office for which a candidate is required to file a campaign treasurer appointment with the commission may designate a specific-purpose committee as the principal political committee for the candidate or officeholder with the responsibility of reporting any activity of the candidate or officeholder for which the candidate or officeholder would otherwise be required to file a report under Chapter 254.

(b) A candidate who designates a principal political committee under this subchapter is not required to appoint a campaign treasurer under Subchapter A.

(c) A designation of a principal political committee must be in writing and filed with the commission.

Sec. 252.102. LIMITATION ON DESIGNATION OF AND AS PRINCIPAL POLITICAL COMMITTEE. (a) A candidate or officeholder may designate only one specific-purpose committee as the candidate's or officeholder's principal political committee.

(b) A specific-purpose committee may be designated as the principal political committee for only one candidate or officeholder.

SECTION 4.06. Subsection (a), Section 253.158, Election Code, is amended to read as follows:

(a) For purposes of Sections 253.155 and 253.157, a contribution by the [~~spouse or~~] child of an individual is considered to be a contribution by the individual.

SECTION 4.07. Subsections (a), (c), (d), and (g), Section 254.0311, Election Code, are amended to read as follows:

(a) A legislative caucus's caucus chair shall file a report of contributions and expenditures as required by this section.

(c) If no reportable activity occurs during a reporting period, the legislative caucus chair shall indicate that fact in the report.

(d) A legislative caucus's caucus chair shall file with the commission two reports for each year.

(g) A legislative caucus's caucus chair shall maintain a record of all reportable activity under this section and shall preserve the record for at least two years beginning on the filing deadline for the report containing the information in the record.

SECTION 4.08. Section 254.036, Election Code, is amended by amending Subsections (c) and (c-1) and adding Subsections (d) and (d-1) to read as follows:

(c) A candidate, officeholder, or political committee that is required to file reports with the commission may file reports that comply with Subsection (a) if:

(1) the candidate, officeholder, or campaign treasurer of the committee files with the commission an affidavit stating that the candidate, officeholder, or committee, an agent of the candidate, officeholder, or committee, or a person with whom the candidate, officeholder, or committee contracts does not use computer equipment to keep the current records of political contributions, political expenditures, or persons making political contributions to the candidate, officeholder, or committee; and

(2) the candidate, officeholder, or committee has never [~~does not~~], in a calendar year, accepted [~~accept~~] political contributions that in the aggregate exceeded [~~exceed~~] \$20,000 or made [~~make~~] political expenditures that in the aggregate exceeded [~~exceed~~] \$20,000.

(c-1) An affidavit under Subsection (c) must be filed with each report filed under Subsection (a). The affidavit must include a statement that the candidate, officeholder, or political committee understands that the candidate, officeholder, or committee shall file reports as required by Subsection (b) if:

(1) the candidate, officeholder, or committee, a consultant of the candidate, officeholder, or committee, or a person with whom the candidate, officeholder, or committee contracts uses computer equipment for a purpose described by Subsection (c); or

(2) the candidate, officeholder, or committee ever exceeds \$20,000 in political contributions or political expenditures in a calendar year.

(d) A legislative caucus may file reports that comply with Subsection (a) if:

(1) the legislative caucus chair files with the commission an affidavit stating that the caucus, an agent of the caucus, or a person with whom the caucus contracts does not use computer equipment to keep the current records of contributions, expenditures, or persons making contributions to the caucus; and



(2) the caucus has never, in a calendar year, accepted contributions that in the aggregate exceeded \$20,000 or made expenditures that in the aggregate exceeded \$20,000.

(d-1) An affidavit under Subsection (d) must be filed with each report filed under Subsection (a). The affidavit must include a statement that the legislative caucus understands that the caucus shall file reports as required by Subsection (b) if:

(1) the caucus, a consultant of the caucus, or a person with whom the caucus contracts uses computer equipment for a purpose described by Subsection (d); or

(2) the caucus ever exceeds \$20,000 in contributions or expenditures in a calendar year.

SECTION 4.09. Subsection (c), Section 254.0405, Election Code, is amended to read as follows:

(c) A semiannual report that is amended on or after the eighth day after the original report was filed is considered to have been filed on the date on which the original report was filed if:

(1) the amendment is made before any inquiry [~~complaint~~] is filed with regard to the subject of the amendment; and

(2) the original report was made in good faith and without an intent to mislead or to misrepresent the information contained in the report.

SECTION 4.10. Subsections (a) and (b), Section 254.042, Election Code, are amended to read as follows:

(a) The commission shall determine from any available evidence whether a report required to be filed with the commission under this chapter is late. On making that determination, the commission shall immediately notify [~~mail a notice of the determination to~~] the person required to file the report of the determination.

(b) If a report other than a report under Section 254.064(c), 254.124(c), or 254.154(c) or the first report under Section 254.063 or 254.123 that is required to be filed following the primary or general election is determined to be late, the person required to file the report is liable to the state for a civil penalty of \$500. If a report under Section 254.064(c), 254.124(c), or 254.154(c) or the first report under Section 254.063 or 254.153 that is required to be filed following the primary or general election is determined to be late, the person required to file the report is liable to the state for a civil penalty of \$500 for the first day the report is late and \$100 for each day thereafter that the report is late. If a report is more than 30 days late, the commission shall issue a warning of liability [~~by registered mail~~] to the person required to file the report. If the penalty is not paid before the 10th day after the date on which the warning is received, the person is liable for a civil penalty in an amount determined by commission rule, but not to exceed \$10,000.

SECTION 4.11. Subchapter C, Chapter 254, Election Code, is amended by adding Section 254.067 to read as follows:

Sec. 254.067. REPORT NOT REQUIRED. If during any reporting period prescribed by this subchapter a candidate designates a specific-purpose committee as the candidate's principal political committee as provided by Section 252.101, the candidate is not required to file a report covering that period if the candidate's principal political committee reports all of the activity that would otherwise be required to be included in the report, including:

(1) the amount of any political contribution, including any loan, made by the candidate to the principal political committee; and

(2) the amount of any political expenditure made by the candidate from personal funds and whether the candidate intends to seek reimbursement of the expenditure from the principal political committee.

SECTION 4.12. Section 254.095, Election Code, is amended to read as follows:

Sec. 254.095. REPORT NOT REQUIRED. (a) If at the end of any reporting period prescribed by this subchapter an officeholder who is required to file a report with an authority other than the commission has not accepted political contributions that in the aggregate exceed \$500 or made political expenditures that in the aggregate exceed \$500, the officeholder is not required to file a report covering that period.

(b) If during any reporting period prescribed by this subchapter an officeholder designates a specific-purpose committee as the officeholder's principal political committee as provided by Section 252.101, the officeholder is not required to file a report covering that period if the officeholder's principal political committee reports all of the activity that would otherwise be required to be included in the report, including:

(1) the amount of any political contribution, including any loan, made by the officeholder to the principal political committee; and

(2) the amount of any political expenditure made by the officeholder from personal funds and whether the officeholder intends to seek reimbursement of the expenditure from the principal political committee.

SECTION 4.13. Section 254.157, Election Code, is amended to read as follows:

Sec. 254.157. MONTHLY REPORTING SCHEDULE. (a) The campaign treasurer of a general-purpose committee filing monthly reports shall file a report not later than the 10th ~~first~~ day of the month following the period covered by the report. A report covering the month preceding an election in which the committee is involved must be received by the commission ~~authority with whom the report is required to be filed~~ not later than the 10th ~~first~~ day of the month following the period covered by the report.

(b) A monthly report covers the period beginning the first ~~calendar~~ calendar ~~[26th]~~ day of each month and continuing through the last ~~calendar~~ calendar ~~[25th]~~ day of that ~~[the following]~~ month, ~~except that the period covered by the first report begins January 1 and continues through January 25].~~

SECTION 4.14. Section 254.158, Election Code, is amended to read as follows:

Sec. 254.158. EXCEPTION TO MONTHLY REPORTING SCHEDULE. If the campaign treasurer appointment of a general-purpose committee filing monthly reports is filed after January 1 of the year in which monthly reports are filed, the period covered by the first monthly report begins the day the appointment is filed and continues through the last ~~calendar~~ calendar ~~[25th]~~ day of the month in which the appointment is filed unless the appointment is filed the last ~~calendar~~ calendar ~~[25th or a succeeding]~~ day of the month. In that case, the period continues through the last ~~calendar~~ calendar ~~[25th]~~ day of the month following the month in which the appointment is filed.

SECTION 4.15. Section 253.158, Election Code, as amended by this Act, applies only to a political contribution accepted on or after the effective date of this Act. A contribution accepted before the effective date of this Act is governed by the law in effect on the date the contribution was accepted or the expenditure was made, and the former law is continued in effect for that purpose.

SECTION 4.16. The changes in law made by this article apply only to a report required to be filed under Chapter 254, Election Code, on or after the effective date of this Act. A report required to be filed under Chapter 254, Election Code, before the effective date of this Act is governed by the law in effect on the date the report is due, and the former law is continued in effect for that purpose.

SECTION 4.17. (a) Not later than September 15, 2013, each legislative caucus in existence on September 1, 2013, shall appoint a caucus chair and file a caucus chair appointment with the Texas Ethics Commission as required by Subchapter B, Chapter 252, Election Code, as added by this Act. Notwithstanding Section 254.0311, Election Code, as amended by this Act:

(1) not later than October 1, 2013, a legislative caucus shall file a report under Section 254.0311, Election Code, as that section existed before amendment by this Act, that covers the period beginning July 1, 2013, or the day the caucus is organized, as applicable, and continuing through September 15, 2013; and

(2) not later than January 15, 2014, a legislative caucus chair appointed under this subsection shall file a report under Section 254.0311, Election Code, as amended by this Act, that covers the period beginning September 15, 2013, and continuing through December 31, 2013.

(b) A legislative caucus chair appointed under Subsection (a) of this section is not responsible for:

- (1) reporting caucus activity that occurs before September 15, 2013; or
- (2) maintaining records of caucus activity that occurs before September 15, 2013.

#### ARTICLE 5. LOBBYING

SECTION 5.01. Section 305.002, Government Code, is amended by adding Subdivision (2-a) to read as follows:

(2-a) "Communicates directly with a member of the legislative or executive branch to influence legislation or administrative action" or any variation of the phrase includes establishing goodwill with the member for the purpose of later communicating with the member to influence legislation or administrative action.

SECTION 5.02. Subsection (b), Section 305.0021, Government Code, is amended to read as follows:

(b) For purposes of Section 36.02 or 36.10, Penal Code, a person described by Subsection (a)(2)(A) is not considered to have made an expenditure [the amount of a joint expenditure that is attributed to a person who is not a registrant is not an expenditure made and reported] in accordance with this chapter.

SECTION 5.03. Section 305.003, Government Code, is amended by adding Subsections (b-3) and (b-4) to read as follows:

(b-3) Subsection (a)(2) does not require a person to register if the person spends not more than 26 hours, or another amount of time determined by the commission, for which the person is compensated or reimbursed during the calendar quarter engaging

in activity, including preparatory activity as defined by the commission, to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action.

(b-4) If a person spends more than eight hours in a single day engaging in activity to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action, the person is considered to have engaged in the activity for only eight hours during that day for purposes of Subsection (b-3).

SECTION 5.04. Subsections (a) and (d), Section 305.0062, Government Code, are amended to read as follows:

(a) The report filed under Section 305.006 must also contain the total expenditures described by Section 305.006(b) that are directly attributable to members of the legislative or executive branch. The expenditures must be stated in only one of the following categories:

- (1) state senators;
- (2) state representatives;
- (3) elected or appointed state officers, other than those described by Subdivision (1) or (2);
- (4) legislative agency employees;
- (5) executive agency employees;
- (6) the immediate family of a member of the legislative or executive branch;
- (7) guests, when invited by an individual described by Subdivision (1), (2), (3), (4), or (5); and
- (8) events to which:
  - (A) all legislators are invited;
  - (B) a legislative committee and the staff of the legislative committee are invited;
  - (C) all state senators and the staff of state senators are invited;
  - (D) all state representatives and the staff of state representatives are invited; and
  - (E) all legislative staff are invited.

(d) If a registrant cannot reasonably determine the amount of an expenditure under Section 305.006(b) that is directly attributable to a member of the legislative or executive branch as required by Subsection (a), the registrant shall apportion the expenditure made by that registrant or by others on the registrant's behalf and with the registrant's consent or ratification according to the total number of persons in attendance. However, if an expenditure is for an event described by Subsection (a)(8) [to which all legislators are invited], the registrant shall report the expenditure under Subsection (a)(8) and not under any other subdivision of that subsection or any other provision of this chapter.

SECTION 5.05. Section 305.0064, Government Code, is amended by adding Subsection (c) to read as follows:

(c) The rules adopted by the commission under Subsection (b) may not allow a registrant to file a paper registration or report if the registrant has ever used the electronic filing system under Subsection (a).

SECTION 5.06. Subsection (c), Section 305.0065, Government Code, is amended to read as follows:

(c) An ~~The~~ amended registration filed under Subsection (b) must be written and verified and must contain the information required in Sections 305.005(f)(3), (4), and (6) [Section 305.005].

SECTION 5.07. Section 305.027, Government Code, is amended by adding Subsection (f) to read as follows:

(f) In this section, "legislative advertising" does not include material that is printed or published by a member of the legislative branch and that is only disseminated by a member of the legislature on the floor of either house of the legislature.

SECTION 5.08. Subsection (g), Section 305.028, Government Code, is amended to read as follows:

(g) The commission may receive inquiries ~~complaints~~ regarding a violation of this section. If the commission determines a violation of this section has occurred, the commission, after notice and hearing:

- (1) shall impose a civil penalty in an amount not to exceed \$2,000; and
- (2) may rescind the person's registration and may prohibit the person from registering with the commission for a period not to exceed two years from the date of the rescission of the person's registration.

SECTION 5.09. Subsections (a) and (c), Section 305.033, Government Code, are amended to read as follows:

(a) The commission shall determine from any available evidence whether a registration or report required to be filed with the commission under this chapter is late. A registration filed without the fee required by Section 305.005 is considered to be late. On making a determination that a required registration or report is late, the commission shall immediately notify ~~mail a notice of the determination to~~ the person responsible for the filing~~, to the commission,~~ and ~~to~~ the appropriate attorney for the state of the determination.

(c) If a registration or report is more than 30 days late, the commission shall issue a warning of liability ~~by registered mail~~ to the person responsible for the filing. If the penalty is not paid before the 10th day after the date on which the warning is received, the person is liable for a penalty in an amount determined by commission rule, but not to exceed \$10,000.

SECTION 5.10. Subsection (b), Section 305.034, Government Code, is amended to read as follows:

(b) Whenever the commission determines that a person has failed to file any required form, statement, or report as required by this chapter, the commission shall notify the person involved ~~send a written statement~~ of this finding ~~to the person involved. Notice to the person involved must be sent by certified mail.~~

SECTION 5.11. The amendment by this article to Subsection (b), Section 305.0021, Government Code, is intended to clarify rather than change existing law.

SECTION 5.12. Section 305.003, Government Code, as amended by this article, applies only to a registration or registration renewal required to be filed under Chapter 305, Government Code, on or after the effective date of this Act. A registration or registration renewal required to be filed under Chapter 305, Government Code, before

the effective date of this Act is governed by the law in effect on the date the registration or registration renewal is due, and the former law is continued in effect for that purpose.

SECTION 5.13. Section 305.0062, Government Code, as amended by this article, applies only to a report required to be filed under Section 305.006, Government Code, on or after the effective date of this Act. A report required to be filed under Section 305.006, Government Code, before the effective date of this Act is governed by the law in effect on the date the report is due, and the former law is continued in effect for that purpose.

#### ARTICLE 6. REPEALER

SECTION 6.01. (a) The following provisions are repealed:

- (1) Subsection (j), Section 254.036, Election Code;
- (2) Subsections (b) and (f), Section 254.0401, Election Code;
- (3) Section 571.032, Government Code;
- (4) Section 571.1212, Government Code;
- (5) Subsection (c), Section 572.029, Government Code;
- (6) Subsections (a), (d), and (e), Section 572.030, Government Code; and
- (7) Subsection (c), Section 572.034, Government Code.

(b) The repeal of Subsection (c), Section 572.034, Government Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this 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. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

#### ARTICLE 7. EFFECTIVE DATE

SECTION 7.01. This Act takes effect September 1, 2013.

#### Floor Amendment No. 1

Amend **CSSB 219** (house committee printing) as follows:

(1) On page 25, between lines 4 and 5, insert the following new subsection:

(g) If an inquiry is finally resolved under this section, the commission shall provide the complainant a copy of the decision stating the panel's determination and the resolution of the inquiry.

(2) On page 56, line 27, strike "and" and substitute "or".

#### Floor Amendment No. 2

Amend **CSSB 219** (house committee printing) by adding the following appropriately numbered SECTION to ARTICLE 4 of the bill and renumbering remaining SECTIONS of that ARTICLE accordingly:

SECTION 4.\_\_\_\_. Subchapter B, Chapter 253, Election Code, is amended by adding Section 253.044 to read as follows:

Sec. 253.044. AUTOMATIC RESIGNATION FROM CERTAIN OFFICES. (a) In this section, "railroad commissioner" means a member of the Railroad Commission of Texas.

(b) If a person who is a railroad commissioner announces the person's candidacy, or in fact becomes a candidate, in any general, special, or primary election for any elective office other than the office of railroad commissioner, that announcement or that candidacy constitutes an automatic resignation of the office of railroad commissioner.

### **Floor Amendment No. 3**

Amend **CSSB 219** (house committee printing) in ARTICLE 2 of the bill by striking SECTION 2.27 on page 26, line 5, through page 27, line 10, and renumbering subsequent SECTIONS of the ARTICLE accordingly.

### **Floor Amendment No. 4**

Amend **CSSB 219** (house committee report) by adding the following appropriately numbered SECTIONS to ARTICLE 4 of the bill and renumbering remaining SECTIONS of that ARTICLE accordingly:

SECTION 4.\_\_\_\_. Section 251.001, Election Code, is amended by adding Subdivision (21) to read as follows:

(21) "In-kind contribution" means a contribution of goods, services, or any other thing of value, except money.

SECTION 4.\_\_\_\_. Subsection (a), Section 254.031, Election Code, is amended to read as follows:

(a) Except as otherwise provided by this chapter, each report filed under this chapter must include:

(1) the amount of political contributions, not including in-kind contributions, from each person that in the aggregate exceed \$50 and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions;

(2) the amount of loans that are made during the reporting period for campaign or officeholder purposes to the person or committee required to file the report and that in the aggregate exceed \$50, the dates the loans are made, the interest rate, the maturity date, the type of collateral for the loans, if any, the full name and address of the person or financial institution making the loans, the full name and address, principal occupation, and name of the employer of each guarantor of the loans, the amount of the loans guaranteed by each guarantor, and the aggregate principal amount of all outstanding loans as of the last day of the reporting period;

(3) the amount of political expenditures that in the aggregate exceed \$100 and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures;

(4) the amount of each payment made during the reporting period from a political contribution if the payment is not a political expenditure, the full name and address of the person to whom the payment is made, and the date and purpose of the payment;

(5) the total amount or a specific listing of the political contributions, not including in-kind contributions, of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$100 or less made during the reporting period;

(6) the total amount of all political contributions, not including in-kind contributions, accepted and the total amount of all political expenditures made during the reporting period;

(7) the name of each candidate or officeholder who benefits from a direct campaign expenditure made during the reporting period by the person or committee required to file the report, and the office sought or held, excluding a direct campaign expenditure that is made by the principal political committee of a political party on behalf of a slate of two or more nominees of that party;

(8) as of the last day of a reporting period for which the person is required to file a report, the total amount of political contributions accepted, including interest or other income on those contributions, maintained in one or more accounts in which political contributions are deposited as of the last day of the reporting period;

(9) any credit, interest, rebate, refund, reimbursement, or return of a deposit fee resulting from the use of a political contribution or an asset purchased with a political contribution that is received during the reporting period and the amount of which exceeds \$100;

(10) any proceeds of the sale of an asset purchased with a political contribution that is received during the reporting period and the amount of which exceeds \$100;

(11) any investment purchased with a political contribution that is received during the reporting period and the amount of which exceeds \$100;

(12) any other gain from a political contribution that is received during the reporting period and the amount of which exceeds \$100; ~~and~~

(13) the full name and address of each person from whom an amount described by Subdivision (9), (10), (11), or (12) is received, the date the amount is received, and the purpose for which the amount is received; and

(14) on a separate schedule:

(A) the amount of in-kind political contributions from each person that in the aggregate exceed \$50 and that are used or expended during the reporting period and the date and purpose of such use or expenditure; and

(B) the total amount of all in-kind contributions accepted during the reporting period.

#### **Floor Amendment No. 5**

Amend Amendment No. 4 by J. Rodriguez to **CSSB 219** as follows:

(1) On page 1 of the amendment, line 5, between "by" and "adding", insert "amending Subdivision (16) and".

(2) On page 1 of the amendment, between lines 5 and 6, insert the following:

(16) "Political advertising" means a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that:

(A) in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; ~~or~~



(B) is transmitted by an automated dial announcing device, as defined by Section 55.121, Utilities Code; or

(C) appears:

(i) in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication; or

(ii) on an Internet website.

### Floor Amendment No. 6

Amend **CSSB 219** (house committee printing), in ARTICLE 3 of the bill, as follows:

(1) On page 39, line 27, strike "amending Subsection (a-1) and adding Subsection (a-2)" and substitute "amending Subsections (a), (a-1), and (c) and adding Subsections (a-2) and (a-3)".

(2) On page 40, between lines 1 and 2, insert the following:

(a) Financial statements filed under this subchapter are public records. The commission shall maintain the statements in separate alphabetical files and in a manner that is accessible to the public during regular office hours and make the statements available to the public on the commission's Internet website.

(3) On page 40, between lines 15 and 16, insert the following:

(a-3) The commission shall remove the home address of an individual from a financial statement filed by the individual under this subchapter before making the statement available to the public on the commission's Internet website.

(c) After the second anniversary of the date the individual ceases to be a state officer, the commission may and on notification from the former state officer shall:

(1) destroy each financial statement filed by the state officer; and

(2) remove each financial statement filed by the state officer from the commission's Internet website.

(4) Add the following appropriately numbered SECTIONS and renumber subsequent SECTIONS accordingly:

SECTION 3. \_\_\_\_\_. Section 145.007, Local Government Code, is amended by adding Subsection (d) to read as follows:

(d) If a municipality makes financial statements filed under this chapter available to the public on the municipality's Internet website, the clerk or secretary of the municipality shall remove the home address of an individual filing a statement before making the statement available on the website.

SECTION 3. \_\_\_\_\_. Section 159.007, Local Government Code, is amended by adding Subsection (d) to read as follows:

(d) If a county makes financial statements filed under this subchapter available to the public on the county's Internet website, the county clerk shall remove the home address of an individual filing a statement before making the statement available on the website.

SECTION 3. \_\_\_\_\_. Subchapter B, Chapter 159, Local Government Code, is amended by adding Section 159.0341 to read as follows:

Sec. 159.0341. REDACTION OF INFORMATION FROM REPORTS AVAILABLE TO PUBLIC ON INTERNET. If a county makes reports filed under this subchapter available to the public on the county's Internet website, the authority with whom the report is filed shall remove the home address of an individual filing a report before making the report available on the website.

SECTION 3. \_\_\_\_\_. Section 159.055, Local Government Code, is amended by adding Subsection (e) to read as follows:

(e) If a county makes financial statements filed under this subchapter available to the public on the county's Internet website, the county clerk shall remove the home address of an individual filing a statement before making the statement available on the website.

SECTION 3. \_\_\_\_\_. As soon as practicable after the effective date of this Act, the Texas Ethics Commission shall make the financial statements filed under Subchapter B, Chapter 572, Government Code, available on the commission's Internet website, as provided by the changes in law made by this article.

#### **Floor Amendment No. 7**

Amend **CSSB 219** (house committee report) by adding the following appropriately numbered SECTIONS to ARTICLE 4 of the bill and renumbering remaining SECTIONS of that ARTICLE accordingly:

SECTION 4. \_\_\_\_\_. The heading to Section 253.037, Election Code, is amended to read as follows:

Sec. 253.037. RESTRICTIONS ON CONTRIBUTION OR EXPENDITURE BY POLITICAL [GENERAL PURPOSE] COMMITTEE.

SECTION 4. \_\_\_\_\_. Section 253.037(a), Election Code, is amended to read as follows:

(a) A political [~~general purpose~~] committee may not knowingly make or authorize a political contribution or political expenditure unless the committee has:

- (1) filed its campaign treasurer appointment not later than the 60th day before the date the contribution or expenditure is made; and
- (2) accepted political contributions from at least 10 persons.

SECTION 4. \_\_\_\_\_. Subchapter E, Chapter 254, Election Code, is amended by adding Sections 254.1241 through 254.1244 to read as follows:

Sec. 254.1241. OPTION TO FILE MONTHLY; NOTICE. (a) As an alternative to filing reports under Sections 254.123 and 254.124, a specific-purpose committee may file monthly reports.

(b) To be entitled to file monthly reports, the committee must deliver written notice of the committee's intent to file monthly to the authority with whom the committee's reports are required to be filed under this subchapter not earlier than January 1 or later than January 15 of the year in which the committee intends to file monthly. The notice for a committee formed after January 15 must be delivered at the time the committee's campaign treasurer appointment is filed.

(c) A committee that files monthly reports may revert to the regular filing schedule prescribed by Sections 254.123 and 254.124 by delivering written notice of the committee's intent not earlier than January 1 or later than January 15 of the year in

which the committee intends to revert to the regular reporting schedule. The notice must include a report of all political contributions accepted and all political expenditures made that were not previously reported.

Sec. 254.1242. CONTENTS OF MONTHLY REPORTS. Each monthly report filed under this subchapter must comply with Sections 254.031 and 254.121 except that the maximum amount of a political contribution, expenditure, or loan that is not required to be individually reported is \$10 in the aggregate.

Sec. 254.1243. MONTHLY REPORTING SCHEDULE. (a) The campaign treasurer of a specific-purpose committee filing monthly reports shall file a report not later than the 10th day of the month following the period covered by the report. A report covering the month preceding an election in which the committee is involved must be received by the authority with whom the report is required to be filed not later than the 10th day of the month following the period covered by the report.

(b) A monthly report covers the period beginning the first calendar day of each month and continuing through the last calendar day of the following month.

Sec. 254.1244. EXCEPTION TO MONTHLY REPORTING SCHEDULE. If the campaign treasurer appointment of a specific-purpose committee filing monthly reports is filed after January 1 of the year in which monthly reports are filed, the period covered by the first monthly report begins the day the appointment is filed and continues through the last calendar day of the month in which the appointment is filed unless the appointment is filed the last calendar day of the month. In that case, the period continues through the last calendar day of the month following the month in which the appointment is filed.

SECTION 4. \_\_\_\_\_. Section 253.037(a), Election Code, as amended by this article, applies only to a political contribution or political expenditure made on or after September 1, 2013. A contribution or expenditure made before September 1, 2013, is governed by the law in effect on the date the contribution or expenditure was made, and the former law is continued in effect for that purpose.

SECTION 4. \_\_\_\_\_. The changes in law made by Sections 254.1241 through 254.1244, Election Code, as added by this article, apply only to a report of political contributions and expenditures that is required to be filed on or after September 1, 2013. A report of contributions and expenditures that is required to be filed before September 1, 2013, is governed by the law in effect on the date the report is required to be filed, and the former law is continued in effect for that purpose.

#### **Floor Amendment No. 8**

Amend Amendment No. 7 to **CSSB 219** by C. Turner as follows:

- (1) On page 1, line 21, through page 2, line 10, strike added Section 254.1241, Election Code.
- (2) On page 3, line 13, strike "Sections 254.1241" and substitute "Sections 254.1242".

#### **Floor Amendment No. 12**

Amend **CSSB 219** by adding a new appropriately numbered SECTION to read as follows:

SECTION \_\_\_\_\_. Amend Section 254.261, Election Code, by adding subsections (e), (f), (g) and (h) to read as follows:

(e) Except as provided by other law, subsection (a) requires a non-profit corporation subject to Chapter 22, Business Organizations Code, to disclose each contribution any part of which is used to make a direct campaign expenditure in the same manner as if the contribution was a political contribution made to a general-purpose committee that does not file monthly reports under Section 254.155.

(f) A non-profit corporation described by subsection (e) is required to itemize a contribution under Section 254.031(a)(1) only if the amount contributed by a person exceeds, in the aggregate, \$1000 during the reporting period.

(g) Subsection (e) does not apply if the direct campaign expenditures made by the non-profit corporation, combined with the direct campaign expenditures made by each other entity required to be shown to be related to the non-profit corporation on the non-profit corporation's federal Internal Revenue Service Form 990, do not, in the aggregate, exceed \$25,000 in a calendar year.

(h) A contribution is not required to be disclosed under subsection (e) if the contribution is made with the express written agreement that the contribution will not be used, in whole or in part, to make a political contribution or a political expenditure. A contribution any part of which is actually used to make a political contribution or a political expenditure shall be disclosed as provided by subsection (e) notwithstanding that the contribution was made with an express written agreement that the contribution would not be used to make a political contribution or political expenditure.

### **Floor Amendment No. 13**

Amend the Geren Amendment No. 12 to **CSSB 219** (house committee printing) as follows:

(1) On page 1, line 1, strike "by adding a" and substituting "as follows:

(1) Insert the following".

(2) On page 1, strike lines 5-11 and substitute the following:

(e) Except as provided by other law, subsection (a) applies to a non-profit corporation subject to Chapter 22, Business Organizations Code, or the applicable law of another state, that makes a campaign expenditure in connection with an election under Chapter 302, Government Code.

(e-1) A non-profit corporation described by subsection (e) is required to disclose each contribution any part of which is used to make a direct campaign expenditure in the same manner as if the contribution was a political contribution made to a general-purpose committee that does not file monthly reports under Section 254.155.

(3) On page 1, line 16, strike "(e)" and substitute "(e-1)".

(4) On page 1, line 23, strike "(e)" and substitute "(e-1)".

(5) On page 1, line 28, strike "(e)" and substitute "(e-1)".

(6) On page 2, after line 2, insert the following appropriately numbered subdivisions:

(\_\_\_\_) Insert the following appropriately numbered SECTION:

SECTION \_\_\_\_\_. Subchapter B, Chapter 302, Government Code, is amended by amending Section 302.011 and adding Section 302.0151 to read as follows:

Sec. 302.011. DEFINITIONS. In this subchapter:

(1) "Speaker candidate" means a member of or candidate for the house of representatives who has announced his candidacy for or who by his actions, words, or deeds seeks election to the office of speaker of the house of representatives.

(2) "Campaign expenditure" means the expenditure by a person, regardless of the person's status as a speaker candidate, of money, or that person's [the] use of services or any other thing of value to aid or defeat the election of a speaker candidate.

(3) "Campaign funds" means the speaker candidate's personal funds that are devoted to the campaign for speaker and any money, services, or other things of value that are contributed or loaned to a [the] speaker candidate or other person to aid or defeat the election of a [for use in the candidate's campaign for] speaker candidate.

Sec. 302.0151. FILING REQUIREMENTS FOR PERSONS OTHER THAN SPEAKER CANDIDATES. (a) Except as provided by subsection (b), Sections 302.012, 302.013, and 302.014 apply to a person, including a non-profit corporation subject to Chapter 22, Business Organizations Code, or the applicable law of another state, in the same manner as a speaker candidate if the person makes one or more expenditures, in the aggregate, exceeding \$100 during any reporting period under Section 302.013(b).

(b) This section does not apply to a non-profit corporation that is organized or operated as a church.

(c) The commission shall adopt rules to implement this section.

( ) On page 60 of the bill, between line 9 and 10, insert the following appropriately numbered subdivisions:

( ) Section 302.017, Government Code;

( ) Section 302.019, Government Code;

#### **Floor Amendment No. 14**

Amend **CSSB 219** as follows:

(1) On page 53, line 15, insert the following SECTION to read as follows:

"SECTION 4.15 Chapter 254, Election Code, is amended by adding Section 254.2611 as follows:

Sec. 254.2611. CERTAIN NONPROFIT MEMBERSHIP ASSOCIATIONS NOT ACTING IN CONCERT. A person is not considered to be acting in concert for purposes of this section if the person:

(a) is a non-profit membership association subject to Subchapter D, Chapter 253 of the Election Code,

(b) is part of a multi-tiered local, state and national non-profit membership association structure, and

(c) communicates with any entity within the multi-tiered association structure to make a direct campaign expenditure in this state.

(2) Renumber remaining SECTIONS accordingly.

#### **Floor Amendment No. 15**

Amend Floor Amendment No. 14 by Geren to **CSSB 219**, on page 1, line 7, by striking "this section" and substituting "Section 254.261".

**Floor Amendment No. 16**

Amend **CSSB 219** (house committee printing), in ARTICLE 4 of the bill, by adding the following appropriately numbered SECTION to that ARTICLE and renumbering any subsequent SECTIONS of the ARTICLE accordingly:

SECTION 4.\_\_\_\_. Subchapter J, Chapter 254, Election Code, is amended by adding Section 254.263 to read as follows:

Sec. 254.263. APPLICABILITY OF PRIVILEGE TO CERTAIN PERSONS MAKING DIRECT CAMPAIGN EXPENDITURES. The privilege established under Subchapter C, Chapter 22, Civil Practice and Remedies Code, does not apply to:

(1) a person who is required to file a report under Section 254.261, controls a political committee or makes political expenditures described by Section 253.100(a);

(2) a person who is required to be disclosed on federal Internal Revenue Service Form 990 as an entity related to a person described by Subdivision (1); or

(3) a person who is an employee or contractor of, who acts under the control of, or who acts on behalf of a person described by Subdivision (1) or (2).

**Floor Amendment No. 17**

Amend the Geren amendment No. 16 to **CSSB 219** by adding a new appropriately numbered section to read as follows:

Section \_\_\_\_\_. Notwithstanding SECTION 7.01 of this Act, the change in law made by this Act to Subchapter J, Chapter 254, Election Code, takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, the change in law made by this Act to Subchapter J, Chapter 254, Election Code, takes effect September 1, 2013.

**Floor Amendment No. 19**

Amend **CSSB 219** (introduced version) by adding the following appropriately numbered Section to Article 4 of the bill and renumbering subsequent sections of that article appropriately:

SECTION 4.\_\_\_\_. Chapter 255, Election Code, is amended by adding Section 255.009 to read as follows:

Sec. 255.009. REQUIRED DISCLOSURE ON CERTAIN ELECTIONEERING COMMUNICATIONS. (a) In this section, "electioneering communication" means a communication that if taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidates or ballot measures.

(b) An electioneering communication made by a nonprofit corporation shall disclose in the communication the source of the funds used to pay for the communication.

**Floor Amendment No. 20**

Amend Amendment No. 19 by Johnson (83R19505) to **CSSB 219** as follows:

(1) On page 1 of the amendment, line 1, strike "**SB 219** (introduced version)" and substitute "**CSSB 219** (house committee printing)".

(2) On page 1 of the amendment, strike lines 8-14 and substitute the following:  
"electioneering communication" means a direct campaign expenditure that is:

(1) a communication that is the functional equivalent of express advocacy, and that when taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate because:

(A) the electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and

(B) reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidates; or

(2) a communication that:

(A) is disseminated by a broadcast, cable, or satellite communication, a mass mailing, or a telephone bank;

(B) refers to a clearly identified candidate;

(C) is publicly distributed on or after:

(i) the 60th day before a general, special, or runoff election for the individual candidate; or

(ii) the 30th day before a primary election; and

(D) is targeted to the identified candidate's relevant electorate, which is defined as a communication that can be received over a 30 day period by at least the lesser of:

(i) 50,000 people; or

(ii) two percent of those eligible to vote for the candidate, as specified by the secretary of state as of January 1 of the year in question.

(b) An "electioneering communication" does not include a direct campaign expenditure that is:

(1) a public communication that refers to a clearly identified candidate appearing in a news story, commentary, editorial, or work intended for entertainment distributed through the facilities of a bona fide broadcasting station, newspaper, magazine, or other publication, unless those facilities are owned or controlled by a political party, political committee, or candidate;

(2) a communication to the restricted class of the corporation or labor organization making the communication as provided by Section 253.098;

(3) a communication that constitutes a bona fide candidate debate or forum, or that solely promotes a debate or forum, and is made by or on behalf of the person sponsoring the debate or forum; or

(4) any other communication exempted under regulations adopted by the commission consistent with the requirements of this definition and to ensure the appropriate implementation of this subsection.

(c) A person may not knowingly cause to be published, distributed, or broadcast an electioneering communication that does not indicate on the face of the communication the source of the

**Floor Amendment No. 21**

Amend **CSSB 219** (house committee report) by adding the following appropriately numbered SECTION to ARTICLE 4 of the bill and renumbering subsequent SECTIONS of ARTICLE 4 accordingly:

SECTION 4. \_\_\_\_\_. Section 257.003, Election Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) A political party that accepts contributions authorized by Section 253.104 shall report all contributions and expenditures made to and from the account required by Section 257.002, except as provided by Subsection (e).

(e) A county executive committee of a political party is not required to file a report under this section if the committee:

(1) has less than \$250 in one or more accounts maintained by the committee in which contributions authorized by Section 253.104 are deposited, as of the last day of the preceding reporting period;

(2) has not accepted any contributions authorized by Section 253.104 during the reporting period to be covered by the report; and

(3) has not made an expenditure from contributions authorized by Section 253.104 during the reporting period to be covered by the report.

**Floor Amendment No. 25**

Amend **CSSB 219** as follows:

Section 571.136, Government Code, is amended to read as follows:

Sec. 571.136. **DEADLINE FOR COMPLAINT RESOLUTION; EXTENSION OF DEADLINE.** (a) The commission shall complete a preliminary review hearing regarding a complaint, including the commission's decision, within 120 days of the day the respondent is sent the information required by Section 571.123(b).

(b) Notwithstanding subsection (a), The the commission may, on its own motion or on the reasonable request of a respondent, extend any deadline for action relating to a sworn complaint, motion, preliminary review hearing, or formal hearing.

(c)(1) If a deadline under this chapter for an action related to a preliminary review hearing or a formal hearing is extended at the request of the respondent, Section 571.140(a) does not apply to any matter related to the complaint.

(2) If a deadline under this chapter for an action related to a preliminary review hearing or a formal hearing is extended by the commission due to the failure of the complainant to reasonably cooperate with the commission's processing of the complaint, the commission may dismiss the complaint.

(3) If a deadline under this chapter is extended on the commission's own motion, the extension shall be no longer than is required by the circumstances. The commission shall state the reason for the extension, including whether the extension is due to a dispute or uncertainty regarding the facts related to the alleged violation, the law applicable to the alleged violation or both the facts of and the law applicable to the alleged violation. If the reason for the extension is related to the law applicable to the alleged violation, the commission shall state the nature of the legal issues that caused the commission to extend the deadline.



(d) Section 571.140(a) does not apply to a request for an extension of a deadline, the reasons for the granting or denial of an extension of a deadline or the dismissal of a complaint.

### **Floor Amendment No. 28**

Amend **CSSB 219** (house committee report) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

#### ARTICLE \_\_\_\_ . STUDY REGARDING PUBLIC INTEGRITY UNIT

SECTION \_\_\_\_ .01. (a) The Texas Ethics Commission, in consultation with the Supreme Court of Texas and the Texas Court of Criminal Appeals, shall conduct a study to determine whether the law enforcement functions of the Public Integrity Unit of the district attorney for the 53rd Judicial District should be transferred to a law enforcement entity or agency to maintain separation of powers between the judicial and executive branches, prevent conflicts of interest, and ensure the administration of justice. The commission and courts shall also attempt to identify in the study any other organizations in this state having both prosecutorial and law enforcement functions.

(b) In conducting the study, the commission may make additional recommendations as the commission, in consultation with the courts, considers appropriate, including any recommendations for necessary changes in law to implement those recommendations.

SECTION \_\_\_\_ .02. The Texas Ethics Commission shall, not later than September 1, 2014, report the results of the study conducted under this article and any additional recommendations to 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 with jurisdiction over attorneys and the judiciary.

SECTION \_\_\_\_ .03. This article expires December 31, 2014.

### **Floor Amendment No. 30**

Amend **CSSB 219** (house committee report) by adding the following appropriately numbered SECTIONS to ARTICLE 3 of the bill and renumbering remaining SECTIONS of that ARTICLE accordingly:

SECTION 3. \_\_\_\_ . Subchapter B, Chapter 572, Government Code, is amended by adding Section 572.0231 to read as follows:

Sec. 572.0231. CONTRACTS WITH GOVERNMENTAL ENTITIES. (a) In this section, "governmental entity" means the state, a political subdivision of the state, or an agency or department of the state or a political subdivision of the state.

(b) If the aggregate cost of goods or services sold under one or more written contracts described by this subdivision exceeds \$10,000 in the year covered by the report, an elected officer or a partisan or independent candidate for an office as an elected officer shall report on the financial statement an identification of each written contract, including the name of each party to the contract:

- (1) for the sale of goods or services;
- (2) in the amount of \$2,500 or more;
- (3) with:
  - (i) a governmental entity; or

(ii) a person who contracts with a governmental entity, to fulfill one or more of the person's obligations to the governmental entity under that contract; and  
(4) to which the individual, the individual's spouse, the individual's dependent child, or any business association of which the individual, the individual's spouse, or the individual's dependent child has at least a 50 percent ownership interest is a party.

SECTION 2. The change in law made by this Act applies only to a financial statement filed under Subchapter B, Chapter 572, Government Code, as amended by this Act, on or after January 1, 2015. A financial statement filed before January 1, 2015, is governed by the law in effect on the date of filing, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2013.

### **Floor Amendment No. 32**

Amend **CSSB 219** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Subchapter A, Chapter 253, Election Code, is amended by adding Section 253.006 to read as follows:

Sec. 253.006. CERTAIN CONTRIBUTIONS AND EXPENDITURES BY LOBBYISTS RESTRICTED. (a) In this section, "administrative action," "communicates directly with," "legislation," "member of the executive branch," and "member of the legislative branch" have the meanings assigned by Section 305.002, Government Code.

(b) Notwithstanding any other provision of law and except as provided by Subsection (c), a person required to register under Chapter 305, Government Code, may not, before the second anniversary of the date the last term for which the person was elected ends, knowingly make or authorize a political contribution or political expenditure from political contributions accepted by the person as a candidate or officeholder.

(c) Subsection (b) does not apply to a person who:

(1) communicates directly with a member of the legislative or executive branch only to influence legislation or administrative action on behalf of:

(A) a nonprofit organization exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code;

(B) a group of low-income individuals; or

(C) a group of individuals with disabilities; and

(2) does not receive compensation other than reimbursement for actual expenses for engaging in communication described by Subdivision (1).

(d) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor.

SECTION \_\_\_\_\_. Subchapter B, Chapter 305, Government Code, is amended by adding Section 305.030 to read as follows:

Sec. 305.030. EXPENDITURES FROM POLITICAL CONTRIBUTIONS RESTRICTED. (a) In this section, "political contribution" has the meaning assigned by Section 251.001, Election Code.

(b) Notwithstanding any other provision of law and except as provided by Subsection (c), a person required to register under this chapter may not, before the second anniversary of the date the last term for which the person was elected ends, knowingly make or authorize an expenditure under this chapter from political contributions accepted by the person as a candidate or officeholder.

(c) Subsection (b) does not apply to a person who:

(1) communicates directly with a member of the legislative or executive branch only to influence legislation or administrative action on behalf of:

(A) a nonprofit organization exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code;

(B) a group of low-income individuals; or

(C) a group of individuals with disabilities; and

(2) does not receive compensation other than reimbursement for actual expenses for engaging in communication described by Subdivision (1).

SECTION \_\_\_\_\_. Section 253.006, Election Code, as added by this Act, and Section 305.030, Government Code, as added by this Act, apply to a political contribution, political expenditure, or lobbying expenditure made on or after September 1, 2013, from funds accepted as a political contribution, regardless of the date the funds were accepted.

### **Floor Amendment No. 33**

Amend Amendment No. 32 by Howard to **CSSB 219** (house committee printing) on page 1 of the amendment, between lines 3 and 4, by inserting the following:

SECTION \_\_\_\_\_. Chapter 252, Election Code, is amended by adding Section 252.00311 to read as follows:

Sec. 252.00311. CERTAIN USE OF CANDIDATE'S NAME BY POLITICAL COMMITTEE PROHIBITED. (a) Notwithstanding Section 252.0031(b), the name of a political committee may not include the name of any candidate that the committee supports if the candidate has not previously consented to and approved of the committee's formation.

(b) A violation of this section is a deceptive trade practice under Subchapter E, Chapter 17, Business & Commerce Code, and is actionable under that subchapter.

### **Floor Amendment No. 1 on Third Reading**

Amend **CSSB 219** on third reading by adding the appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly.

SECTION \_\_\_\_\_. Section 251.001(16), Election Code, is amended to read as follows:

(16) "Political advertising" means a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that:

(A) in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; ~~or~~

(B) appears:

(i) in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication; or

(ii) on an Internet website; or

(C) is distributed using electronic mail by a person required to file reports of political contributions or expenditures under Chapter 254.

SECTION \_\_\_\_ . Section 255.001, Election Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), (a-3), (a-4), (a-5), and (a-6) to read as follows:

(a) A person may not knowingly cause to be published, distributed, or broadcast political advertising containing express advocacy that does not include [~~indicate~~] in the advertising:

(1) an indication that it is political advertising; [~~and~~]

(2) the full name of:

(A) the person who paid for the political advertising;

(B) the political committee authorizing the political advertising; or

(C) the candidate or specific-purpose committee supporting the candidate, if the political advertising is authorized by the candidate;

(3) if the political advertising is authorized by the candidate:

(A) for advertising transmitted through radio or television, an audio statement made by the candidate that identifies the candidate and states that the candidate has approved the communication; and

(B) for advertising transmitted through television:

(i) an unobscured, full-screen view of the candidate making the audio statement or a clearly identifiable photographic or similar image of the candidate accompanying the audio statement; and

(ii) a statement in writing identifying the candidate and stating that the candidate has approved the communication that appears:

(a) at the end of the communication for not less than four seconds; and

(b) in letters that are at least four percent of the vertical screen height; and

(4) if the political advertising is not authorized by the candidate:

(A) for advertising transmitted through radio or television, an audio statement of the name of the person who paid for the advertising, made by an individual named in the statement or by a representative of a person named in the statement who is not an individual; and

(B) for advertising transmitted through television, a written statement that contains the name of the person who paid for the advertising and that appears:

(i) at the end of the communication for not less than four seconds;  
and

(ii) in letters that are at least four percent of the vertical screen height.

(a-1) A disclosure required by this section must be presented in a clear and conspicuous manner, to give the reader, observer, or listener adequate notice of the political committee or other person who authorized and, as applicable, paid for the communication. A disclosure is not clear and conspicuous if it is difficult to read, observe, or hear or if the placement is easily overlooked.

(a-2) A photographic or similar image complies with Subsection (a)(3)(B)(i) only if the image of the candidate is at least 80 percent of the vertical screen height.

(a-3) A written disclosure satisfies the requirements of Subsection (a-1) only if it:

(1) is clearly readable;

(2) is printed:

(A) in black text on a white background or is printed so that the degree of contrast between the background color and the disclosure text color is at least as great as the degree of contrast between the background color and the color of the largest text in the communication; and

(B) within a printed box set apart from the rest of the contents of the communication;

(3) appears within the advertising, and appears on the same side as all other printing on advertising that without the disclosure would be one-sided; and

(4) is of sufficient type size to be clearly readable and:

(A) if the advertising measures not more than 24 inches by 36 inches, is in at least 12-point type; and

(B) if the advertising appears on an Internet website, is at least 12 pixels.

(a-4) If political advertising appears on a social media website, a written disclosure that complies with Subsection (a-1) and this subsection must appear on the appropriate social media profile page. If political advertising on an Internet website is too small to include the written disclosure in a manner that complies with Subsection (a-1), a written disclosure appearing on political advertising on an Internet website, including a social media profile page, satisfies the requirements of Subsection (a-1) if the disclosure links to another Internet website page that displays the full disclosure statement and is operational and freely accessible during the time the advertisement is visible. Internet advertising that is too small to include a written disclosure complying with Subsection (a-1) includes an advertisement classified as a micro bar or button according to applicable advertising standards, an advertisement that has 200 or fewer characters, and a graphic or picture link in which including the disclosure is not reasonably practical because of the size of the graphic or picture link.

(a-5) Any political advertising included in a group of materials that, if distributed separately, would require a disclosure under this section must separately include the required disclosure.

(a-6) Subsection (a) does not apply to political advertising distributed by sending a text message using a mobile communications service.

SECTION \_\_\_\_\_. This Act takes effect September 1, 2013.

### **Floor Amendment No. 2 on Third Reading**

Amend **CSSB 219** on third reading in added Section 254.261(f), Election Code, as added by Floor Amendment No. 12 by Geren, by striking "\$1000" and substituting "\$2,500".

The amendments were read.

Senator Huffman submitted a Motion In Writing that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 219** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Huffman, Chair; Nichols, Nelson, Van de Putte, and Uresti.

**SENATE BILL 401 WITH HOUSE AMENDMENT**  
**(Motion In Writing)**

Senator Lucio called **SB 401** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

**Committee Amendment No. 1**

Amend **SB 401** (engrossed version) as follows:

- (1) On page 1, line 9, strike "full-time".
- (2) On page 1, line 10, strike "assigned" and substitute "available".
- (3) On page 1, line 19, strike "full-time".
- (4) On page 1, line 20, strike "assigned" and substitute "available".

The amendment was read.

Senator Lucio submitted a Motion In Writing that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 401** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Lucio, Chair; Patrick, Paxton, West, and Van de Putte.

**SENATE BILL 484 WITH HOUSE AMENDMENTS**  
**(Motion In Writing)**

Senator Whitmire called **SB 484** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

**Amendment**

Amend **SB 484** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the creation of a prostitution prevention program; authorizing a fee.

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

SECTION 1. Subtitle H, Title 2, Health and Safety Code, is amended by adding Chapter 169A to read as follows:

CHAPTER 169A. PROSTITUTION PREVENTION PROGRAM

Sec. 169A.001. PROSTITUTION PREVENTION PROGRAM; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In this chapter, "prostitution prevention program" means a program that has the following essential characteristics:

(1) the integration of services in the processing of cases in the judicial system;

(2) 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;

(3) early identification and prompt placement of eligible participants in the program;

(4) access to information, counseling, and services relating to sex addiction, sexually transmitted diseases, mental health, and substance abuse;

(5) a coordinated strategy to govern program responses to participant compliance;

(6) monitoring and evaluation of program goals and effectiveness;

(7) continuing interdisciplinary education to promote effective program planning, implementation, and operations; and

(8) development of partnerships with public agencies and community organizations.

(b) 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 and 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 under Section 411.081, Government Code, as if the defendant had received a discharge and dismissal under Section 5(c), Article 42.12, Code of Criminal Procedure, with respect to all records and files related to the defendant's arrest for the offense for which the defendant entered the program.

Sec. 169A.002. AUTHORITY TO ESTABLISH PROGRAM; ELIGIBILITY.

(a) The commissioners court of a county or governing body of a municipality may establish a prostitution prevention program for defendants charged with an offense under Section 43.02(a)(1), Penal Code, in which the defendant offered or agreed to engage in or engaged in sexual conduct for a fee.

(b) A defendant is eligible to participate in a prostitution prevention program established under this chapter only if the attorney representing the state consents to the defendant's participation in the program.

(c) The court in which the criminal case is pending shall allow an eligible defendant to choose whether to participate in the prostitution prevention program or otherwise proceed through the criminal justice system.

Sec. 169A.0025. ESTABLISHMENT OF REGIONAL PROGRAM. The commissioners courts of two or more counties, or the governing bodies of two or more municipalities, may elect to establish a regional prostitution prevention program under this chapter for the participating counties or municipalities.

Sec. 169A.003. PROGRAM POWERS AND DUTIES. (a) A prostitution prevention program established under this chapter must:

(1) 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;

(2) allow any participant to withdraw from the program at any time before a trial on the merits has been initiated;

(3) provide each participant with information, counseling, and services relating to sex addiction, sexually transmitted diseases, mental health, and substance abuse; and

(4) provide each participant with instruction related to the prevention of prostitution.

(b) To provide each program participant with information, counseling, and services described by Subsection (a)(3), a program established under this chapter may employ a person or solicit a volunteer who is:

(1) a health care professional;

(2) a psychologist;

(3) a licensed social worker or counselor;

(4) a former prostitute;

(5) a family member of a person arrested for soliciting prostitution;

(6) a member of a neighborhood association or community that is adversely affected by the commercial sex trade or trafficking of persons; or

(7) 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.

(c) A program established under this chapter shall 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.

Sec. 169A.004. OVERSIGHT. (a) The lieutenant governor and the speaker of the house of representatives may assign to appropriate legislative committees duties relating to the oversight of prostitution prevention programs established under this chapter.

(b) A legislative committee or the governor may request the state auditor to perform a management, operations, or financial or accounting audit of a prostitution prevention program established under this chapter.



(c) A legislative committee may require a county that does not establish a prostitution prevention program under this chapter due to a lack of sufficient funding, as provided by Section 169A.0055(c), to provide the committee with any documentation in the county's possession that concerns federal or state funding received by the county.

(d) A prostitution prevention program established under this chapter shall:

(1) notify the criminal justice division of the governor's office before or on implementation of the program; and

(2) provide information regarding the performance of the program to the division on request.

Sec. 169A.005. FEES. (a) A prostitution prevention program established under this chapter may collect from a participant in the program a nonrefundable program fee in a reasonable amount not to exceed \$1,000, from which the following must be paid:

(1) a counseling and services fee in an amount necessary to cover the costs of the counseling and services provided by the program;

(2) a victim services fee in an amount equal to 10 percent of the amount paid under Subdivision (1), to be deposited to the credit of the general revenue fund to be appropriated only to cover costs associated with the grant program described by Section 531.383, Government Code; and

(3) a law enforcement training fee, in an amount equal to five percent of the total amount paid under Subdivision (1), to be deposited to the credit of the treasury of the county or municipality that established the program to cover costs associated with the provision of training to law enforcement personnel on domestic violence, prostitution, and the trafficking of persons.

(b) Fees collected under this section may 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. The fees must be based on the participant's ability to pay.

Sec. 169A.0055. PROGRAM IN CERTAIN COUNTIES MANDATORY. (a) The commissioners court of a county shall establish a prostitution prevention program if:

(1) the county has a population of more than 200,000; and

(2) a municipality in the county has not established a prostitution prevention program.

(b) A county required under this section to establish a prostitution prevention program shall apply for federal and state funds available to pay the costs of the program. The criminal justice division of the governor's office may assist a county in applying for federal funds as required by this subsection.

(c) Notwithstanding Subsection (a), a county is required to establish a prostitution prevention program under this section only if the county receives sufficient federal or state funding specifically for that purpose.

(d) A county that does not establish a prostitution prevention program as required by this section and maintain the program is ineligible to receive from the state funds for a community supervision and corrections department.

Sec. 169A.006. SUSPENSION OR DISMISSAL OF COMMUNITY SERVICE REQUIREMENT. (a) To encourage participation in a prostitution prevention program established under this chapter, the judge or magistrate administering the program may 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.

(b) On a participant's successful completion of a prostitution prevention program, a judge or magistrate may excuse the participant from any condition of community supervision previously suspended under Subsection (a).

SECTION 2. Subchapter B, Chapter 103, Government Code, is amended by adding Section 103.0292 to read as follows:

Sec. 103.0292. ADDITIONAL MISCELLANEOUS FEES AND COSTS: HEALTH AND SAFETY CODE. A nonrefundable program fee for a prostitution prevention program established under Section 169A.002, Health and Safety Code, shall be collected under Section 169A.005, Health and Safety Code, in a reasonable amount based on the defendant's ability to pay and not to exceed \$1,000, which includes:

(1) a counseling and services fee in an amount necessary to cover the costs of counseling and services provided by the program;

(2) a victim services fee in an amount equal to 10 percent of the total fee;  
and

(3) a law enforcement training fee in an amount equal to five percent of the total fee.

SECTION 3. Section 772.0061(a)(2), Government Code, is amended to read as follows:

(2) "Specialty court" means:

(A) a prostitution prevention program established under Chapter 169A, Health and Safety Code;

(B) a drug court program established under Chapter 469, Health and Safety Code;

(C) [~~(B)~~] a mental health court program established under Chapter 616, Health and Safety Code; and

(D) [~~(C)~~] a veterans court program established under Chapter 617, Health and Safety Code.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

#### **Floor Amendment No. 1**

Amend **CSSB 484** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.13 to read as follows:

Art. 42.13. SETTING ASIDE CONVICTION FOR MINORS WHO ARE VICTIMS OF TRAFFICKING OF PERSONS. (a) In this article, "minor" means a person younger than 18 years of age.

(b) A court in which a defendant has been convicted of an offense under Section 43.02, Penal Code, committed when the defendant was a minor may, if the court retains jurisdiction in the case, hear a petition from the defendant to set aside the order of conviction. The petition must allege specific facts and be supported by a personal affidavit from the petitioner that, if proved, would establish that the petitioner:

(1) was a minor at the time of the offense; and  
(2) engaged in prostitution solely as the victim of an offense under Section 20A.02(a)(3) or (7), Penal Code.

(c) On the filing of the petition under Subsection (b), the clerk of the court shall promptly serve a copy of the petition and the supporting documents on the appropriate office of the attorney representing the state. Any response to the petition by the attorney representing the state must be filed not later than the 15th business day after the date of service under this subsection.

(d) If in considering the petition, the supporting documents, and any response of the attorney representing the state the court finds that there are reasonable grounds to believe the facts alleged in the petition, the court shall order a hearing on the petition. The court shall dismiss the petition and shall promptly notify the petitioner of the court's decision if the court finds that the petitioner was not a minor at the time of the offense, there are not any reasonable grounds to believe the petitioner engaged in prostitution solely as the victim of an offense under Section 20A.02(a)(3) or (7), Penal Code, or the petitioner has filed a previous petition under this article based solely on the same evidence.

(e) After the court orders a hearing under this article, the court, as the court considers necessary to ensure a fair hearing on the petition, may order any discovery from the attorney representing the state or from the petitioner. An order of discovery may include any order for probative evidence relevant to the petitioner's age or to proving or disproving the petitioner's claim of having engaged in the conduct for which the petitioner was convicted under Section 43.02, Penal Code, solely as the victim of an offense under Section 20A.02(a)(3) or (7), Penal Code.

(f) If after the court orders a hearing under this article the court finds that, based on the sworn statements of the petitioner or based on submitted evidence or affidavits, the petitioner is not represented by an attorney and is indigent, the court shall appoint an attorney to represent the petitioner at the hearing and, if appropriate, before the court of appeals and the court of criminal appeals.

(g) At the conclusion of the hearing, the court shall make a finding as to whether the petitioner has shown by clear and convincing evidence that the petitioner engaged in prostitution when the petitioner was a minor and solely as the victim of trafficking of persons.

(h) The court may set aside the order of conviction for the offense under Section 43.02, Penal Code, if the court finds that the petitioner engaged in prostitution when the petitioner was a minor and solely as the victim of trafficking of persons and that setting aside the order is in the best interest of justice.

(i) The court reporter shall record a hearing under this article. If the court makes a finding that the petitioner engaged in prostitution when the petitioner was a minor and solely as the victim of trafficking of persons, and if the petitioner is indigent, the court reporter shall transcribe the hearing, including the finding, at the county's expense. The entire record must be included with an application for appeal filed as described by this article.

(j) The petitioner and the attorney representing the state may appeal the findings of the court in the same manner as an appeal of a conviction in a criminal case.

(k) A petition for a finding that the petitioner engaged in prostitution when the petitioner was a minor and solely as the victim of trafficking of persons filed under this article and a proceeding conducted under this article do not constitute an application for a writ of habeas corpus or a proceeding based on an application for a writ of habeas corpus. A restriction on filing a subsequent application for a writ of habeas corpus imposed by Article 11.07 does not apply to a petition or proceeding under this article.

(l) This article is not intended to preclude a petitioner from receiving a reduction or termination of community supervision and a set-aside of verdict under Section 20, Article 42.12, if the petitioner is otherwise qualified to receive a dismissal under that section.

SECTION \_\_\_\_ Chapter 48, Code of Criminal Procedure, is amended by adding Article 48.06 to read as follows:

Art. 48.06. PETITION FOR PARDON FOR CERTAIN MINORS WHO ARE TRAFFICKING-VICTIM OFFENDERS; JUDICIAL PROCEEDINGS. (a) In this article, "minor" means a person younger than 18 years of age.

(b) In this article, a person is considered to have been convicted in a case if:

(1) a judgment, a sentence, or both a judgment and a sentence are imposed on the person;

(2) the person receives community supervision, deferred adjudication, or deferred disposition; or

(3) the court defers final disposition of the case or imposition of the judgment and sentence.

(c) This article applies only to a person described by Subsection (d) who is unable to obtain relief under Section 20, Article 42.12, or Article 42.13 because the convicting court no longer retains jurisdiction over the case.

(d) A person convicted of an offense under Section 43.02, Penal Code, may file in the court of conviction a petition alleging specific facts and supported by a personal affidavit from the petitioner that, if proved, would establish that the petitioner:

(1) was a minor at the time of the offense; and

(2) engaged in prostitution solely as the victim of an offense under Section 20A.02(a)(3) or (7), Penal Code.

(e) On the filing of the petition under Subsection (d), the clerk of the court shall promptly serve a copy of the petition and the supporting documents on the appropriate office of the attorney representing the state. Any response to the petition by the attorney representing the state must be filed not later than the 15th business day after the date of service under this subsection.

(f) If in considering the petition, the supporting documents, and any response of the attorney representing the state the court finds that there are reasonable grounds to believe the facts alleged in the petition, the court shall order a hearing on the petition. The court shall dismiss the petition and shall promptly notify the petitioner of the court's decision if the court finds that the petitioner was not a minor at the time of the offense, there are not any reasonable grounds to believe the petitioner engaged in prostitution solely as the victim of an offense under Section 20A.02(a)(3) or (7), Penal Code, or the petitioner has filed a previous petition under this article based solely on the same evidence.

(g) After the court orders a hearing under this article, the court, as the court considers necessary to ensure a fair hearing on the petition, may order any discovery from the attorney representing the state or from the petitioner. An order of discovery may include any order for probative evidence relevant to the petitioner's age or to proving or disproving the petitioner's claim of having engaged in the conduct for which the petitioner was convicted under Section 43.02, Penal Code, solely as the victim of an offense under Section 20A.02(a)(3) or (7), Penal Code.

(h) If after the court orders a hearing under this article the court finds that, based on the sworn statements of the petitioner or based on submitted evidence or affidavits, the petitioner is not represented by an attorney and is indigent, the court shall appoint an attorney to represent the petitioner at the hearing and, if appropriate, before the court of appeals and the court of criminal appeals.

(i) At the conclusion of the hearing, the court shall make a finding as to whether the petitioner has shown by clear and convincing evidence that the petitioner engaged in prostitution when the petitioner was a minor and solely as the victim of trafficking of persons. A finding that the petitioner engaged in prostitution when the petitioner was a minor and solely as the victim of trafficking of persons does not authorize the court to set aside a conviction of the offense if the court is not authorized to set aside that sentence under other law.

(j) If the court finds that the petitioner engaged in prostitution when the petitioner was a minor and solely as the victim of trafficking of persons, the petitioner may file an application for a pardon, but the application may not be filed later than the 90th day after the date the court makes the finding.

(k) The court reporter shall record a hearing under this article. If the court makes a finding that the petitioner engaged in prostitution when the petitioner was a minor and solely as the victim of trafficking of persons, and if the petitioner is indigent, the court reporter shall transcribe the hearing, including the finding, at the county's expense. The entire record must be included with an application for a pardon filed as described by this article.

(l) The petitioner and the attorney representing the state may appeal the findings of the court in the same manner as an appeal of a conviction in a criminal case.

(m) A petition for a finding that the petitioner engaged in prostitution when the petitioner was a minor and solely as the victim of trafficking of persons filed under this article and a proceeding conducted under this article do not constitute an application for a writ of habeas corpus or a proceeding based on an application for a

writ of habeas corpus. A restriction on filing a subsequent application for a writ of habeas corpus imposed by Article 11.07 does not apply to a petition or proceeding under this article.

SECTION \_\_\_\_\_. Section 5, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (k) to read as follows:

(k) If a judge dismisses proceedings against a defendant charged with an offense under Section 43.02, Penal Code, alleged to have been committed when the defendant was younger than 18 years of age and discharges the defendant, the judge may attach to the papers in the case a statement that the defendant was a minor and a victim of trafficking of persons.

SECTION \_\_\_\_\_. Article 55.01, Code of Criminal Procedure, is amended by adding Subsection (a-3) to read as follows:

(a-3) A person who has been placed under a custodial or noncustodial arrest for commission of an offense under Section 43.02, Penal Code, is entitled to have all records and files relating to the arrest expunged in the same manner provided for a person described by Subsection (a), if a court determines under Article 42.13(g) or 48.06(i) that the person engaged in prostitution when the person was a minor and solely as the victim of trafficking of persons.

The amendments were read.

Senator Whitmire submitted a Motion In Writing that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 484** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Whitmire, Chair; Rodríguez, Carona, Deuell, and Hegar.

### **SENATE BILL 1173 WITH HOUSE AMENDMENTS (Motion In Writing)**

Senator West called **SB 1173** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

#### **Amendment**

Amend **SB 1173** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to procedures for the sentencing and placement on community supervision of defendants charged with the commission of a state jail felony.

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

SECTION 1. Section 9(a), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(a) Except as provided by Subsection (g) [~~of this section~~], before the imposition of sentence by a judge in a felony case, and except as provided by Subsection (b) [~~of this section~~], before the imposition of sentence by a judge in a misdemeanor case the judge shall direct a supervision officer to report to the judge in writing on the circumstances of the offense with which the defendant is charged, the amount of restitution necessary to adequately compensate a victim of the offense, the criminal and social history of the defendant, and any other information relating to the defendant or the offense requested by the judge. It is not necessary that the report contain a sentencing recommendation, but the report must contain a proposed client supervision plan describing programs and sanctions that the community supervision and corrections department would provide the defendant if the judge suspended the imposition of the sentence or granted deferred adjudication. If the defendant is charged with a state jail felony, the report must contain recommendations for conditions of community supervision that the community supervision and corrections department considers advisable or appropriate based on the circumstances of the offense and other factors addressed in the report.

SECTION 2. Section 15(a), Article 42.12, Code of Criminal Procedure, is amended by amending Subdivision (2) and adding Subdivision (2-a) to read as follows:

(2) On conviction of a state jail felony punished under Section 12.35(a), Penal Code, other than a state jail felony listed in Subdivision (1), subject to Subdivision (2-a), the judge may:

(A) suspend the imposition of the sentence and place the defendant on community supervision; or

(B) [~~may~~] order the sentence to be executed:

(i) in whole; or

(ii) in part, with a term of community supervision to commence immediately on release of the defendant from confinement.

(2-a) In any case in which the jury assesses the punishment, the judge must follow the recommendations of the jury in suspending the imposition of a sentence or ordering a sentence to be executed. If a jury assessing punishment does not recommend community supervision, the judge must order the sentence to be executed in whole.

SECTION 3. Section 15(c)(1), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(1) Before imposing a sentence in a state jail felony case in which the judge assesses the punishment, the judge shall review the presentence investigation report prepared for the defendant under Section 9 and shall determine whether the best interests of 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 in part as provided by Subsection (a)(2). A judge may impose any condition of community supervision on a defendant that the judge could impose on a defendant placed on supervision for an offense other than a state jail felony and, if the judge suspends the execution of the sentence or orders the execution of the sentence

only in part, shall impose conditions of community supervision consistent with the recommendations contained in the presentence investigation report prepared for the defendant.

SECTION 4. The changes in law made by this Act apply only to the sentencing and placement on community supervision of a defendant for an offense that is committed on or after the effective date of this Act. The sentencing and placement on community supervision of a defendant for an offense that is committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and that law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 5. This Act takes effect September 1, 2013.

### Floor Amendment No. 1

Amend **CSSB 1173** (house committee printing) as follows:

(1) On page 2, strike line 7 and substitute "Subdivisions (2-a) and (2-b) to read as follows:"

(2) On page 2, between lines 24 and 25, insert the following:

(2-b) A defendant is considered to be finally convicted if the judge orders the sentence to be executed under Subdivision (2)(B), regardless of whether the judge orders the sentence to be executed in whole or only in part.

### Floor Amendment No. 2

Amend **CSSB 1173** (house committee printing) on page 2 as follows:

(1) On line 7, strike "Subdivision (2-a)" and substitute "Subdivisions (2-a) and (2-b)".

(2) On lines 9 and 10, strike "other than a state jail felony listed in Subdivision (1), subject to Subdivision (2-a)," and substitute "subject to Subdivisions (2-a) and (2-b) [other than a state jail felony listed in Subdivision (1)]."

(3) Between lines 18 and 19, insert the following:

(2-a) Subdivision (2)(B)(ii) does not apply on conviction of:

(A) a state jail felony listed in Subdivision (1);

(B) a state jail felony under Section 39.04(a)(2), Section 49.045, or Title 5, Penal Code;

(C) an offense punishable as a state jail felony under Section 43.23(h), Penal Code;

(D) a state jail felony under Article 62.102; or

(E) a state jail felony involving family violence, as defined by Section 71.004, Family Code.

(4) On line 19, strike "(2-a)" and substitute "(2-b)".

### Floor Amendment No. 3

Amend **CSSB 1173** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Chapter 509, Government Code, is amended by adding Section 509.017 to read as follows:



Sec. 509.017. SPECIAL ALLOCATION FOR CERTAIN DEFENDANTS PLACED ON STATE JAIL FELONY COMMUNITY SUPERVISION. Notwithstanding any other provision of this chapter, the Texas Department of Criminal Justice shall adopt policies and procedures to:

(1) determine the cost savings to the Texas Department of Criminal Justice realized through the release of defendants on community supervision under Section 15(a)(2)(B)(ii), Article 42.12, Code of Criminal Procedure; and

(2) provide 30 percent of that cost savings to the division to be allocated to individual departments and used for the same purpose that state aid is used under Section 509.011.

The amendments were read.

Senator West submitted a Motion In Writing that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1173** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators West, Chair; Whitmire, Carona, Huffman, and Patrick.

### MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Friday, May 24, 2013 - 2

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the house to inform the senate that the house has taken the following action:

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

**SB 910** (non-record vote)

House Conferees: Morrison - Chair/Johnson/Klick/Miles/Simmons

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**SB 200** (145 Yeas, 0 Nays, 2 Present, not voting)

THE HOUSE HAS RECOMMITTED THE FOLLOWING MEASURES TO CONFERENCE COMMITTEE:

**SB 901** (non-record vote)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**SENATE BILL 1681 WITH HOUSE AMENDMENT**

Senator Zaffirini called **SB 1681** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

**Amendment**

Amend **SB 1681** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to oversight and management of state contracts.

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

SECTION 1. Subchapter A, Chapter 2262, Government Code, is amended by adding Sections 2262.0015 and 2262.005 to read as follows:

Sec. 2262.0015. APPLICABILITY TO CERTAIN CONTRACTS. (a) The comptroller by rule shall establish threshold requirements that exclude small or routine contracts, including purchase orders, from the application of this chapter.

(b) This chapter does not apply to an enrollment contract described by I.T.A.C. Section 391.183 as that section existed on November 1, 2013.

Sec. 2262.005. CONSULTATION WITH STATE AGENCIES. The comptroller shall consult with state agencies in developing forms, contract terms, and criteria required under this chapter.

SECTION 2. The heading to Section 2262.053, Government Code, is amended to read as follows:

Sec. 2262.053. TRAINING FOR CONTRACT MANAGERS.

SECTION 3. Section 2262.053, Government Code, is amended by amending Subsections (a) and (d) and adding Subsections (e) and (f) to read as follows:

(a) In coordination with the ~~[comptroller]~~ Department of Information Resources, ~~[and]~~ state auditor, and Health and Human Services Commission, the ~~comptroller~~ ~~[commission]~~ shall develop ~~[or administer]~~ a training program for contract managers.

(d) The ~~comptroller~~ ~~[Texas Building and Procurement Commission]~~ shall administer ~~[the]~~ training ~~[program]~~ under this section.

(e) The comptroller shall certify contract managers who have completed the contract management training required under this section.

(f) A state agency may develop qualified contract manager training to supplement the training required under this section. The comptroller may incorporate the training developed by the agency into the training program under this section.

SECTION 4. Subchapter B, Chapter 2262, Government Code, is amended by adding Sections 2262.0535 and 2262.055 to read as follows:

Sec. 2262.0535. TRAINING FOR GOVERNING BODIES. (a) The comptroller shall adapt the program developed under Section 2262.053 to provide an abbreviated program for training the members of the governing bodies of state agencies. The training may be provided together with other required training for members of state agency governing bodies.

(b) All members of the governing body of a state agency shall complete at least one course of the training provided under this section. This subsection does not apply to a state agency that does not enter into any contracts.

Sec. 2262.055. VENDOR PERFORMANCE TRACKING SYSTEM. (a) The comptroller shall evaluate the vendor's performance based on information reported by state agencies and criteria established by the comptroller.

(b) The comptroller shall establish an evaluation process that allows vendors who receive an unfavorable performance review to protest any classification given by the comptroller.

(c) The comptroller shall include the performance reviews in a vendor performance tracking system.

SECTION 5. Section 2262.101, Government Code, is amended to read as follows:

Sec. 2262.101. CREATION; DUTIES. (a) The Contract Advisory Team is created to assist state agencies in improving contract management practices by:

(1) reviewing and making recommendations on the solicitation documents and contract documents for ~~of major~~ contracts of ~~by~~ state agencies that have a value of at least \$10 million;

(2) reviewing any findings or recommendations made by the state auditor, including those made under Section 2262.052(b), regarding a state agency's compliance with the contract management guide; ~~and~~

(3) providing recommendations to the comptroller ~~commission~~ regarding:

(A) the development of the contract management guide; and

(B) the training under Section 2262.053;

(4) providing recommendations and assistance to state agency personnel throughout the contract management process;

(5) coordinating and consulting with the quality assurance team established under Section 2054.158 on all contracts relating to a major information resources project; and

(6) creating and periodically performing a risk assessment to determine the appropriate level of management and oversight of contracts by state agencies.

(b) The risk assessment created and performed under Subsection (a)(6) must include the following criteria:

(1) the amount of appropriations to the agency;

(2) total contract value as a percentage of appropriations to the agency; and

(3) the impact of the functions and duties of the state agency on the health, safety, and well-being of residents.

(c) The comptroller shall oversee the activities of the team, including ensuring that the team carries out its duties under Subsection (a)(5).

(d) A state agency shall:

(1) comply with a recommendation made under Subsection (a)(1); or  
(2) submit a written explanation regarding why the recommendation is not applicable to the contract under review.

(e) The team may review documents under Subsection (a)(1) only for compliance with contract management and best practices principles and may not make a recommendation regarding the purpose or subject of the contract.

(f) The team may develop an expedited process for reviewing solicitations under Subsection (a)(1) for contracts:

(1) that the team identifies as posing a low risk of loss to the state; or  
(2) for which templates will be used more than once by a state agency.

SECTION 6. Section 2262.102, Government Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) The team consists of the following six [~~five~~] members:

(1) one member from the Health and Human Services Commission [~~attorney general's office~~];

(2) one member from the comptroller's office;

(3) one member from the Department of Information Resources;

(4) one member from the Texas Facilities [~~Building and Procurement~~] Commission; [~~and~~]

(5) one member from the governor's office; and

(6) one member from a small state agency.

(c) The attorney general's office shall provide legal assistance to the team.

(d) In this section, "small state agency" means a state agency with fewer than 100 employees.

SECTION 7. Chapter 2262, Government Code, is amended by adding Subchapter D to read as follows:

#### SUBCHAPTER D. CONTRACT FORMS AND PROVISIONS

##### Sec. 2262.151. CONTRACT TERMS RELATING TO NONCOMPLIANCE.

(a) The comptroller shall develop recommendations for contract terms regarding remedies for noncompliance by contractors, including remedies for noncompliance with any required disclosure of conflicts of interest by contractors. The comptroller may develop recommended contract terms that are generally applicable to state contracts and terms that are applicable to important types of state contracts.

(b) A state agency may include applicable recommended terms in a contract entered into by the agency.

Sec. 2262.152. UNIFORM FORMS. The comptroller shall develop and make available a uniform and automated set of forms that a state agency may use in the different stages of the contracting process.

Sec. 2262.153. FORMS FOR REPORTING CONTRACTOR PERFORMANCE. As part of the uniform forms published under Section 2262.152, the comptroller shall develop forms for use by state agencies in reporting a contractor's performance for use in the vendor performance tracking system under Section 2262.055.

SECTION 8. Section 2262.003, Government Code, is transferred to Subchapter D, Chapter 2262, Government Code, as added by this Act, redesignated as Section 2262.154, Government Code, and amended to read as follows:

Sec. 2262.154 [~~2262.003~~]. **REQUIRED [~~CONTRACT~~] PROVISION RELATING TO AUDITING.** (a) Each state agency shall include in each of its contracts a term that provides that:

(1) the state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract;

(2) acceptance of funds directly under the contract or indirectly through a subcontract under the contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds; and

(3) under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

(b) The state auditor shall provide assistance to a state agency in developing the contract provisions.

SECTION 9. Subsection (f), Section 2262.051, Government Code, is repealed.

SECTION 10. Not later than May 1, 2014, the comptroller of public accounts shall develop the training program required by Section 2262.053, Government Code, as amended by this Act, and Section 2262.0535, Government Code, as added by this Act.

SECTION 11. A member of a governing body of a state agency is not required to complete the training provided under Section 2262.0535, Government Code, as added by this Act, until September 1, 2015.

SECTION 12. The comptroller of public accounts shall use the vendor performance tracking system established by the comptroller before the effective date of this Act in carrying out the comptroller's duties under Section 2262.055, Government Code, as added by this Act.

SECTION 13. A contract manager is not required to be certified under Chapter 2262, Government Code, as amended by this Act, until September 1, 2015.

SECTION 14. As soon as practicable, and not later than May 1, 2014, the comptroller of public accounts and Contract Advisory Team shall develop the forms and recommendations required by this Act, including Sections 2262.151, 2262.152, and 2262.153, Government Code, as added by this Act.

SECTION 15. This Act takes effect November 1, 2013.

The amendment was read.

Senator Zaffirini moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1681** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Zaffirini, Chair; Schwertner, Birdwell, Carona, and Rodriguez.

### SENATE BILL 1915 WITH HOUSE AMENDMENT

Senator Campbell called **SB 1915** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

#### Floor Amendment No. 1

Amend **SB 1915** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3926 to read as follows:

#### CHAPTER 3926. RIVERWALK MUNICIPAL MANAGEMENT DISTRICT NO. 1

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3926.001. DEFINITIONS. In this chapter:

- (1) "Board" means the district's board of directors.
- (2) "City" means the Town of Flower Mound.
- (3) "County" means Denton County.
- (4) "Director" means a board member.
- (5) "District" means the Riverwalk Municipal Management District No. 1.

Sec. 3926.002. NATURE OF DISTRICT. The Riverwalk Municipal Management District No. 1 is a special district created under Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 3926.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The initial directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

Sec. 3926.004. CITY CONSENT AND DEVELOPMENT AGREEMENT EXECUTION REQUIRED. (a) The initial directors may not hold an election under Section 3926.003 until the city has:

- (1) consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district; and
- (2) entered into a development agreement with the owners of the real property in the district.

(b) The district is dissolved and this chapter expires September 1, 2017, if:

- (1) the city has not consented to the creation of the district and to the inclusion of land in the district under Subsection (a)(1) before that date; or
- (2) the development agreement described by Subsection (a)(2) is not entered into before that date.

Sec. 3926.005. PURPOSE; DECLARATION OF INTENT. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in

this chapter. By creating the district, and in authorizing the city and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

(c) This chapter and the creation of the district may not be interpreted to relieve the city or county from providing the level of services provided as of the effective date of the Act enacting this chapter to the area in the district. The district is created to supplement and not to supplant city and county services provided in the district.

Sec. 3926.006. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The district is created to accomplish the purposes of a municipal management district as provided by general law and Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution.

(d) The creation of the district is in the public interest and is essential to further the public purposes of:

- (1) developing and diversifying the economy of the state;
- (2) eliminating unemployment and underemployment; and
- (3) developing or expanding transportation and commerce.

(e) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center; and

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas, which are necessary for the restoration, preservation, and enhancement of scenic beauty.

(f) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, parking, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(g) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3926.007. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Subsection (b) of the section of the Act enacting this chapter.

(b) The boundaries and field notes of the district contained in Subsection (b) of the section of the Act enacting this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the district's:

- (1) organization, existence, or validity;
- (2) right to borrow money or issue any type of bonds or other obligations described by Section 3926.203 for a purpose for which the district is created or to pay the principal of and interest on the bonds or other obligations;
- (3) right to impose or collect an assessment or collect other revenue;
- (4) legality or operation; or
- (5) right to contract.

Sec. 3926.008. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. (a) All or any part of the area of the district that is not in the city's corporate limits is eligible to be included in:

- (1) a tax increment reinvestment zone created under Chapter 311, Tax Code;
- (2) a tax abatement reinvestment zone created under Chapter 312, Tax Code;
- (3) an enterprise zone created under Chapter 2303, Government Code; or
- (4) an industrial district created under Chapter 42, Local Government Code.

(b) If the city creates a tax increment reinvestment zone described by Subsection (a), the city and the board of directors of the zone, by contract with the district, may grant money deposited in the tax increment fund to the district to be used by the district for:

- (1) the purposes permitted for money granted to a corporation under Section 380.002(b), Local Government Code; and
- (2) any other district purpose, including the right to pledge the money as security for any bonds or other obligations issued by the district under Section 3926.203.

(c) All or any part of the area of the district that is within the city's corporate limits is eligible to be included in:

- (1) a tax increment reinvestment zone created under Chapter 311, Tax Code;
- or
- (2) a tax abatement reinvestment zone created under Chapter 312, Tax Code.

(d) If the city creates a tax increment reinvestment zone described by Subsection (c)(1), the city and the board of directors of the zone, by contract, may allocate money deposited in the tax increment fund between the city and the district to be used by the city and the district for:

- (1) the purposes permitted for money granted to a corporation under Section 380.002(b), Local Government Code;
- (2) any other district purpose, including the right to pledge the money as security for any bonds or other obligations issued by the district under Section 3926.203; and
- (3) funding services provided by the city to the area in the district.

(e) A tax increment reinvestment zone created by the city in the district is not subject to the limitations provided by Section 311.006, Tax Code.



Sec. 3926.009. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. 3926.010. CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

#### SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3926.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 3926.052, directors serve staggered four-year terms, with two or three directors' terms expiring June 1 of each odd-numbered year.

Sec. 3926.052. INITIAL DIRECTORS. (a) On or after the effective date of the Act enacting this chapter, the owner or owners of a majority of the assessed value of the real property in the district according to the most recent certified tax appraisal rolls for the county may submit a petition to the city requesting that the city appoint as initial directors the five persons named in the petition. The city may appoint as initial directors the five persons named in the petition.

(b) Initial directors serve until the earlier of:

(1) the date permanent directors are elected under Section 3926.003; or

(2) the fourth anniversary of the effective date of the Act enacting this

chapter.

(c) If permanent directors have not been elected under Section 3926.003 and the terms of the initial directors have expired, successor initial directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 3926.003; or

(2) the fourth anniversary of the date of the appointment or reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district according to the most recent certified tax appraisal rolls for the county may submit a petition to the city requesting that the city appoint as successor initial directors the five persons named in the petition. The city may appoint as successor initial directors the five persons named in the petition.

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 3926.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 3926.102. IMPROVEMENT PROJECTS. The district may provide, or it may enter into contracts with a governmental or private entity to provide, the improvement projects described by Subchapter C-1 or activities in support of or incidental to those projects.

Sec. 3926.103. WATER DISTRICT POWERS. The district has the powers provided by the general laws relating to conservation and reclamation districts created under Section 59, Article XVI, Texas Constitution, including Chapters 49 and 54, Water Code.

Sec. 3926.104. ROAD DISTRICT POWERS. The district has the powers provided by the general laws relating to road districts and road utility districts created under Section 52(b), Article III, Texas Constitution, including Chapter 441, Transportation Code.

Sec. 3926.105. MUNICIPAL MANAGEMENT DISTRICT POWERS. The district has the powers provided by Chapter 375, Local Government Code.

Sec. 3926.106. CONTRACT POWERS. The district may contract with a governmental or private entity, on terms determined by the board, to carry out a power or duty authorized by this chapter or to accomplish a purpose for which the district is created.

Sec. 3926.107. EMERGENCY SERVICES. (a) This section applies only to territory in the district:

- (1) that is in the extraterritorial jurisdiction of the city;
- (2) for which a plat has been filed; and
- (3) that includes 100 or more residents.

(b) To protect the public interest, the district shall provide or contract with a qualified party to provide emergency services, including law enforcement, fire, and ambulance services, in the territory described by Subsection (a).

Sec. 3926.108. NO TOLL ROADS. The district may not construct, acquire, maintain, or operate a toll road.

Sec. 3926.109. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

#### SUBCHAPTER C-1. IMPROVEMENT PROJECTS AND SERVICES

Sec. 3926.151. IMPROVEMENT PROJECTS AND SERVICES. The district may provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service using any money available to the district, or contract with a governmental or private entity to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service authorized under this chapter or Chapter 375, Local Government Code.

Sec. 3926.152. BOARD DETERMINATION REQUIRED. The district may not undertake an improvement project unless the board determines the project:

- (1) is necessary to accomplish a public purpose of the district; and
- (2) complies with the development agreement entered into under Section 3926.004(a)(2) or the parties to that development agreement agree to the project, in writing.

Sec. 3926.153. LOCATION OF IMPROVEMENT PROJECT. An improvement project may be inside or outside the district.

Sec. 3926.154. CITY REQUIREMENTS. (a) An improvement project in the corporate limits of the city must comply with any applicable requirements of the city, including codes and ordinances, that are consistent with the development agreement entered into under Section 3926.004(a)(2).

(b) The district may not provide, conduct, or authorize any improvement project on the city's streets, highways, rights-of-way, or easements without the consent of the governing body of the city by ordinance or resolution.

Sec. 3926.155. IMPROVEMENT PROJECT AND SERVICE IN DEFINABLE AREA. The district may undertake an improvement project or service that confers a special benefit on a definable area in the district and levy and collect a special assessment on benefited property in the district in accordance with Chapter 375, Local Government Code.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

Sec. 3926.201. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3926.202. MONEY USED FOR IMPROVEMENTS OR SERVICES. The district may undertake and provide an improvement project or service authorized by this chapter using any money available to the district.

Sec. 3926.203. BORROWING MONEY; OBLIGATIONS. (a) The district may borrow money for any district purpose, including refunding district obligations or paying authorized district costs, without holding an election by issuing bonds, notes, time warrants, or other obligations, or by entering into a contract, reimbursement agreement, or other agreement payable wholly or partly from an assessment, a contract payment, a grant, revenue from a zone created under Chapter 311 or 312, Tax Code, other district revenue, or a combination of these sources.

(b) An obligation or agreement described by Subsection (a):

(1) may bear interest at a rate determined by the board; and

(2) may include a term or condition as determined by the board.

Sec. 3926.204. ASSESSMENTS. (a) Except as provided by Subsection (b), the district may impose an assessment on property in the district to pay for an obligation described by Section 3926.203 or to pay the costs of acquiring, maintaining, operating, improving, or constructing district improvements in the manner provided for a district under Subchapters A, E, and F, Chapter 375, Local Government Code.

(b) The district may not impose an assessment on a municipality, county, or other political subdivision.

Sec. 3926.205. NOTICE OF ASSESSMENTS. (a) The board shall annually file written notice with the secretary of the city that specifies the assessments the district will impose in the district's next fiscal year in sufficient clarity to describe the assessments for the operation and maintenance of the district and the assessments for the payment of debt service of obligations issued or incurred by the district.

(b) The board shall annually record in the deed records of the county a current assessment roll approved by the governing body of the city.

(c) The assessment roll must clearly state that the assessments in the assessment roll are in addition to the ad valorem taxes imposed by other taxing units that tax real property in the district.

(d) The district shall generate and implement a program to provide notification to a prospective purchaser of property in the district of the assessments that have been approved and are imposed by the district.

Sec. 3926.206. RESIDENTIAL PROPERTY NOT EXEMPT. Section 375.161, Local Government Code, does not apply to the district.

Sec. 3926.207. NO IMPACT FEES. The district may not impose an impact fee.

Sec. 3926.208. NO AD VALOREM TAX. The district may not impose an ad valorem tax.

#### SUBCHAPTER E. DISSOLUTION

Sec. 3926.251. DISSOLUTION BY-CITY. (a) The city may dissolve the district by ordinance.

(b) Notwithstanding Subsection (a), the city may not dissolve the district until:

(1) the district's outstanding debt or contractual obligations have been repaid or discharged; and

(2) the city agrees to succeed to the rights and obligations of the district.

Sec. 3926.252. COLLECTION OF ASSESSMENTS AND OTHER REVENUE. (a) If the dissolved district has obligations outstanding secured by and payable from assessments or other revenue, the city succeeds to the rights and obligations of the district regarding enforcement and collection of the assessments or other revenue.

(b) The city shall have and exercise all district powers to enforce and collect the assessments or other revenue to pay:

(1) any obligations when due and payable according to their terms; or

(2) other obligations issued by the city to refund obligations of the district.

Sec. 3926.253. ASSUMPTION OF ASSETS AND LIABILITIES. (a) After the city dissolves the district, the city assumes the obligations of the district, including any debt payable from assessments or other district revenue.

(b) If the city dissolves the district, the board shall transfer ownership of all district property to the city.

(b) The Riverwalk Municipal Management District No. 1 initially includes all the territory contained in the following area:

Lot 2R1, Block A, The River Walk at Central Park

87.678 Acres

Being all that certain lot, tract or parcel of land situated in the Carlos Chacon Survey, Abstract Number 299 and the J. T. Stewart Survey, Abstract Number 1161, Town of Flower Mound, Denton County, Texas, being part of that certain called 80 acre tract of land described in deed to Manco Investments, Incorporated recorded in Volume 439, Page 352 of the Deed Records of Denton County, Texas, and being part of that certain called 252.86 acre tract described as Part Two in deed to Edward S. Marcus recorded in Volume 470, Page 131 of the Deed Records of Denton County, Texas, and being part of that certain called 28.061 acre tract of land described in deed to Edward S. Marcus recorded in Volume 614, Page 150 of the Deed Records of Denton County, Texas, and being part of that certain called 229.56 acre tract of land described in deed to Flower Mound Development Venture recorded in Volume 1361, Pages 874 and 879 of the Real Property Records of Denton County, Texas, being part of that certain tract of land described as Tract 1 in deed to Flower Mound CBD, LTD., recorded in Document Number 07-145337 of the Real Property Records of Denton County, Texas, being all of Lot 2R1, Block A, The River Walk at Central Park 11/2010, an addition to the Town of Flower Mound according to the plat thereof recorded in Document Number 2011-23 of the Plat Records of Denton County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2" capped rebar (G & A) found at the most easterly northeast corner of said Lot 2R1, Block A, The River Walk at Central Park 11/2010, being on the south line of that certain called 13.948 acre tract of land described in deed to the Town of Flower Mound recorded in Volume 723, Page 858 of the Deed Records of Denton County, Texas, and being on the west line of Morriss Road, a public roadway having a 122 foot right-of-way at this point;

THENCE along the east line of said Lot 2R1 and the west line of Morriss Road the following:

S 00°14'40" E, 146.45 feet, to a 1/2" capped rebar (G&A) found;

N 89°41'20" E, 12.00 feet, to a 1/2" capped rebar (G&A) found;

S 06°35'55" W, 113.59 feet, to a 1/2" capped rebar (G&A) found;

S 00°14'40" E, 194.59 feet, to a 1/2" capped rebar (G&A) found;

N 89°41'20" E, 13.52 feet, to a 1/2" capped rebar (G&A) found;

S 00°14'40" E, 79.16 feet, to a 1/2" capped rebar (G&A) found;

S 06°35'55" W, 110.01 feet, to a 1/2" capped rebar (G&A) found;

S 00°14'40" E, 197.13 feet, to a 1/2" capped rebar (G&A) found;

N 89°41'20" E, 13.11 feet, to a 1/2" capped rebar (G&A) found;

S 00°14'40" E, 149.77 feet, to a 1/2" capped rebar (G&A) found;

S 06°35'55" W, 100.71 feet, to a 1/2" capped rebar (G&A) found;

S 00°14'40" E, 156.50 feet, to a 1/2" capped rebar (G&A) found on the north line of 5TH Avenue (called 37 foot right-of-way);

THENCE S 89°41'20" W, 501.61 feet, along the north line of 5TH Avenue to a 1/2" capped rebar (G&A) found on the west line of Broadway Avenue;

THENCE S 00°18'40" E, 944.75 feet, along the west line of Broadway Avenue to a 1/2" capped rebar (G&A) found on the south line of 3RD Avenue;

THENCE N 89°41'20" E, 512.51 feet, along the south line of 3RD Avenue, to a 1/2" capped rebar (G&A) found on the west right-of-way line of Morriss Road and the east line of said Lot 2R1;

THENCE along the east line of said Lot 2R1 and the west line of Morriss Road the following:

S 00°14'40" E, 20.82 feet, to a 1/2" capped rebar (G&A) found;

S 06°35'55" W, 94.74 feet, to a 1/2" capped rebar (G&A) found;

S 00°14'40" E, 195.13 feet, to a 1/2" capped rebar (G&A) found;

N 89°41'20" E, 11.29 feet, to a 1/2" capped rebar (G&A) found;

S 00°14'40" E, 23.65 feet, to a 1/2" capped rebar (G&A) found;

S 06°35'55" W, 75.54 feet, to a 1/2" capped rebar (G&A) found;

S 00°14'40" E, 165.62 feet, to a 1/2" capped rebar (G&A) found on the north right-of-way line of Buckeye Drive, a public roadway having a variable width right-of-way, as shown on the Record Plat of The Forums Phase III, an addition to the Town of Flower Mound, Denton County, Texas, according to the plat thereof recorded in Cabinet O, Page 19 of the Plat Records of Denton County, Texas;

THENCE along the north right-of-way line of Buckeye Drive the following:

S 44°58'45" W, 8.57 feet, to a 1/2" G&A capped rebar found;

S 89°30'10" W, 65.00 feet, to a 1/2" G&A capped rebar found;

S 82°17'25" W, 112.84 feet, to a 1/2" G&A capped rebar found at the beginning of a curve to the left;

THENCE along the arc of said curve having a radius of 530.00 feet, a central angle of  $19^{\circ}23'37''$ , whose chord bears  $S 72^{\circ}35'37'' W$ , 178.54 feet, an arc length of 179.40 feet to a 1/2" G&A capped rebar found on the west line of Olympia Drive, a public roadway having a right-of-way of 60 feet;

THENCE  $S 00^{\circ}17'15'' E$ , 490.97 feet, along the west line of Olympia Drive to a 1/2" rebar found at the northeast corner of Lot 1, Block A of The Forums Phase III;

THENCE  $S 89^{\circ}42'45'' W$ , 233.98 feet, along the north line of said Lot 1 to a 1/2" rebar found at an angle point;

THENCE  $N 83^{\circ}05'40'' W$ , along the north line of said Lot 1, passing at 10 feet the northwest corner thereof and the northeast corner of Forums Drive, a public roadway having a right-of-way of 60 feet at this point, continuing along the north line of Forums Drive a total distance of 70.00 feet to a 1/2" rebar found at the northwest corner of Forums Drive;

THENCE in a southwesterly direction along the west line of Forums Drive with the arc of a curve to the right having a radius of 520.00 feet, a central angle of  $11^{\circ}39'42''$ , whose chord bears  $S 12^{\circ}44'11'' W$ , 105.66 feet, an arc length of 105.84 feet to a 1/2" rebar found at a point of compound curvature;

THENCE in a southwesterly direction along the west line of Forums Drive with the arc of a curve to the right having a radius of 400.00 feet, a central angle of  $23^{\circ}33'43''$ , whose chord bears  $S 30^{\circ}28'28'' W$ , 163.34 feet, an arc length of 164.49 feet to a 1/2" rebar found at a point of tangency;

THENCE  $S 42^{\circ}15'20'' W$ , 182.38 feet, along the west line of Forums Drive to a 1/2" rebar found at a point of curvature of a curve to the left, being the southwesterly corner of Forums Drive as shown on the aforementioned plat of The Forums Phase III and being the northwesterly corner of Forums Drive, having a right-of-way of 80 feet at this point, as shown on the revised final plat of The Forums Residential, an addition to the Town of Flower Mound, Denton County, Texas, according to the plat thereof recorded in Cabinet F, Page 136 of the Plat Records of Denton County, Texas;

THENCE along the west line of Forums Drive with the arc of said curve to the left having a radius of 690.00 feet, a central angle of  $05^{\circ}00'26''$ , whose chord bears  $S 39^{\circ}45'08'' W$ , 60.28 feet, an arc length of 60.30 feet to a 1/2" rebar found on the north line of Euclid Avenue, a public roadway having a right-of-way of 60 feet, at its intersection with the west line of Forums Drive;

THENCE  $N 57^{\circ}47'20'' W$ , 29.46 feet, along the north line of Euclid Avenue to a 1/2" rebar found at point of curvature of a curve to the left;

THENCE along the north line of Euclid Avenue with the arc of said curve to the left having a radius of 1030.00 feet, a central angle of  $12^{\circ}36'55''$ , whose chord bears  $N 64^{\circ}06'30'' W$ , 226.33 feet, an arc length of 226.78 feet to a 1/2" rebar found at the southeast corner of Lot 40, Block 1 of The Forums Residential;

THENCE  $N 05^{\circ}10'05'' E$ , 279.16 feet, along the east line of Lots 40, 39, 38 and 37, Block 1 of The Forums Residential to a point on a non-tangent curve to the left (this point falls in a pond);

THENCE continuing along the east line of Lots 37, 36, 35, 34, 33, 32, 31 and 30, Block 1 with the arc of said non-tangent curve having a radius of 1180.00 feet, a central angle of  $23^{\circ}11'00''$ , whose chord bears  $N 11^{\circ}44'54'' W$ , 474.21 feet, an arc length of 477.46 to the end of said non-tangent curve (this point falls in a pond);

THENCE N 23°32'15" W, 162.40 feet, continuing along the east line of Lots 30, 29 and 28, Block 1 to a 1/2" rebar found at the northeast corner Lot 28, Block 1, and being on the south line of Lot 27, Block 1;

THENCE N 62°37'50" E, 132.45 feet, along the south line of said Lot 27, Block 1 to a 1/2" rebar found at the southeast corner thereof;

N

THENCE N 61°46'50" W, 191.93 feet along the east line of Lot 27, Block 1 to a 1/2" rebar found at a point of curvature of a curve to the right;

THENCE continuing along the east line of said Lots 27, 26, 25, 24, 23 and 22, Block 1 with the arc of said curve to the right having a radius of 600.00 feet, a central angle of 42°30'10", whose chord bears N 40°31'45" W, 434.95 feet, an arc length of 445.09 feet to a 1/2" rebar found at a point of tangency;

THENCE N 19°16'40" W, 94.67 feet, continuing along the east line of said Lot 22, Block 1 to a 1/2" rebar found at the northeast corner thereof;

THENCE S 89°29'00" W, 516.32 feet, along the north line of Lots 22, 21, 20, 19 and 18, Block 1, passing the northwest corner of said Lot 18 and the northeast corner of a 150 foot right-of-way dedication shown on the plat of The Forums Residential, same being the northeast corner of that certain right-of way abandonment to Formosa Plastics Development recorded in Document Number 01-3781 of the Real Property Records of Denton County, Texas, continuing along the north line thereof to a 1/2" capped rebar (G&A) found on the east line of a variable width right-of-way dedication according to said plat recorded in Cabinet Y, Pages 700-703, Denton County Plat Records, from which point, a Texas Department of Transportation aluminum disc found (TXDOT monument found) on the east line of F.M. 2499 (Long Prairie Road), a public roadway having a variable width right-of-way, being the northwest corner of said right-of-way abandonment, and being the southeast corner of that certain called 4.0797 acre tract of land described in deed to the Town of Flower Mound, Texas, recorded in Document Number 96-53454 of the Real Property Records of Denton County, Texas, being in a curve to the right;

THENCE Northeasterly, along the west line of said Lot 2R1, the east right-of-way line of F. M. Highway 2499-Long Prairie Road, with the arc of said curve having a radius of 225.00 feet, a central angle of 11°56'28", whose chord bears N 07°22'01" E, 46.81 feet, an arc length of 46.89 feet, to a 1/2" capped rebar (G&A) found at a point of reverse curvature;

THENCE Northeasterly, continuing along said line and with the arc of said curve having a radius of 225.00 feet, a central angle of 13°48'15", whose chord bears N 06°26'07" E, 54.08 feet, an arc length of 54.21 feet, to a 1/2" capped rebar (G&A) found;

THENCE N 00°28'00" W, 218.30 feet, continuing along said line, to a 1/2" capped rebar (G&A) found;

THENCE N 44°32'00" E, 14.14 feet, continuing along said line, to a 1/2" capped rebar (G&A) found;

THENCE N 00°28'00" W, 30.00 feet, continuing along said line, to a 1/2" capped rebar (G&A) found;

THENCE N 45°28'00" W, 21.84 feet, continuing along said line, to a 1/2" capped rebar (G&A) found;

THENCE N 00°29'00" W, 252.59 feet, continuing along said line, to a 1/2" capped rebar (G&A) found on the south line of Central Park Avenue;

THENCE N 89°41'20" E, 470.19 feet, along the south line of Central Park Drive to a 1/2" capped rebar (G&A) found;

THENCE N 00°18'40" W, 46.00 feet, to a 1/2" capped rebar (G&A);

THENCE N 89°41'20" E, 578.91 feet, to a 1/2" capped rebar (G&A) found at the southerly southeast corner of Lot 11X;

THENCE Northeasterly, continuing along the east line of Lot 11X with the arc of a curve to the right having a radius of 293.50 feet, a central angle of 36°52'02", whose chord bears N 18°07'31" E, 185.61 feet, an arc length of 188.85 feet, to a 1/2" capped rebar (G&A) found at a point of compound curvature;

THENCE Northeasterly, continuing along the east line of Lot 11X with the arc of a curve to the right having a radius of 143.50 feet, a central angle of 53°07'48", whose chord bears N 63°07'26" E, 128.35 feet, an arc length of 133.07 feet, to a 1/2" capped rebar (G&A) set at a point of tangency;

THENCE N 89°41'20" E, 82.10 feet, along the south line of Lot 11X to a 1/2" capped rebar (G&A) found at the easterly southeast corner thereof;

THENCE N 00°18'40" E, passing the northeast corner of said Lot 11X and the southeast corner of Lot 10, continuing along the common line between Lot 2R1 and Lot 10 a distance of 916.39 feet, to a 1/2" capped rebar (G&A) set at the most easterly northeast corner of Lot 10 and being on the south line of said 13.948 acre tract;

THENCE along the common line between said Lot 2R1, said 229.56 acre tract and said 13.948 acre tract the following:

N 89°30'00" E, 366.96 feet, to a 1/2" G&A capped rebar found;

N 00°30'00" W, 230.00 feet, to a 1/2" G&A capped rebar found;

N 89°30'00" E, 483.26 feet to the POINT OF BEGINNING and containing approximately 87.678 acres of land.

#### 5.581 ACRES

Being all that certain lot, tract or parcel of land situated in the J. T. Stewart Survey, Abstract Number 1161, Town of Flower Mound, Denton County, Texas, being part of that certain called 252.86 acre tract of land described as Part Two in deed to Edward S. Marcus recorded in Volume 470, Page 131 of the Deed Records of Denton County, Texas, and being part of that certain called 229.56 acre tract of land described in deed to Flower Mound Development Venture recorded in Volume 1361, Pages 874 and 879 of the Real Property Records of Denton County, Texas, and being all of Lot 2, Block A, Riverwalk Market Addition, an addition to the Town of Flower Mound, Denton County, Texas, according to the plat thereof recorded in Document Number 2013-38 of the Plat Records of Denton County, Texas, and being more particularly described as follows:

BEGINNING the northwest corner of said Lot 2, and being the northeast corner of Lot 1, Block A of said addition, and being on the south line of the Revised Final Plat of The Forums Residential, an addition to the Town of Flower Mound, Denton County, Texas, according to the plat thereof recorded in Cabinet F, Page 136 of the Plat Records of Denton County, Texas, and being on the south line of Euclid Avenue (called 60 foot right-of-way);



THENCE along the south line of said Forums Residential and the south line of said Euclid Avenue with the arc of a curve to the right having a central angle of  $28^{\circ}27'07''$ , a radius of 970.00 feet and an arc length of 481.68 feet whose chord bears  $S 72^{\circ}36'43'' E$ , 476.75 feet to the northwest corner of a called 0.054 acre right-of-way dedication for Forums Drive shown on said plat;

THENCE  $S 12^{\circ}11'30'' W$ , 154.04 feet along the west line of said 0.054 acre right-of-way dedication and the west line of said Forums Drive to a point on the arc of a curve to the left on the west line of Forums Drive, (called 80 foot right-of way at this point);

THENCE along the west line of said Forums Drive with the arc of a curve to the left having a central angle of  $12^{\circ}53'05''$  a radius of 690.00 feet and an arc length of 155.17 feet whose chord bears  $S 13^{\circ}42'23'' W$ , 154.84 feet to a 1/2" rebar found at the most southerly southwest corner of said Forums Residential, same being the northwest corner of Phase I of The Forums, an addition to the Town of Flower Mound, Denton County, Texas, according to the plat thereof recorded in Cabinet F, Page 146 of the Plat Records of Denton County, Texas;

THENCE along the west line of said Forums Drive and the west line of said Phase I of The Forums with the arc of a curve to the left having a central angle of  $07^{\circ}31'31''$ , a radius of 1240.00 feet and an arc length of 162.86 feet whose chord bears  $S 03^{\circ}20'43'' W$ , 162.74 feet to a 1/2" G&A capped rebar found;

THENCE  $S 00^{\circ}17'00'' E$ , 53.69 feet along the west line of said Forums Drive and the west line of said Phase I of The Forums to a 1/2" G&A capped rebar found;

THENCE along the west line of said Forums Drive and the west line of said Phase I of The Forums with the arc of a curve to the right having a central angle of  $02^{\circ}36'53''$ , a radius of 1000.00 feet and an arc length of 45.63 feet whose chord bears  $S 01^{\circ}01'26'' W$ , 45.63 feet to a 1/2" G&A capped rebar found at the northeast corner of Lot 1, Block 5, The Forums, an addition to the Town of Flower Mound, Denton County, Texas, according to the plat thereof recorded in Cabinet H, Page 38 of the Plat Records of Denton County, Texas;

THENCE  $N 77^{\circ}22'40'' W$ , along the north line of said Lot 1, Block 5, passing at 174.66 feet a 1/2" rebar found at the northwest corner thereof, continuing along the common line between said Lots 1 and 2 a total distance of 180.60 feet;

THENCE along the common line between said Lots 1 and 2 the following:

$N 12^{\circ}37'20'' E$ , 49.83 feet;

$N 77^{\circ}22'40'' W$ , 79.08 feet;

$N 32^{\circ}22'40'' W$ , 5.90 feet;

$N 77^{\circ}22'40'' W$ , 77.49 feet;

$S 00^{\circ}29'12'' W$ , 4.06 feet;

$N 77^{\circ}22'40'' W$ , 15.23 feet;

$N 00^{\circ}29'12'' E$ , 4.06 feet;

$N 77^{\circ}22'40'' W$ , 74.53 feet;

$N 12^{\circ}37'20'' E$ , 151.63 feet;

$N 00^{\circ}00'25'' E$ , 410.38 feet to the POINT OF BEGINNING and containing approximately 5.581 acres of land.

Part of Lot 2R, Block A, The River Walk at Central Park 03/2010  
6.894 Acres

Being all that certain lot, tract or parcel of land situated in the Carlos Chacon Survey, Abstract Number 299, Town of Flower Mound, Denton County, Texas, being part of Lot 2R, Block A, The River Walk at Central Park 03/2010, an addition to the Town of Flower Mound according to the plat thereof recorded in Document Number 2010-70 of the Plat Records of Denton County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2" capped rebar (G & A) found at the most northerly northwest corner of said Lot 2R, Block A, The River Walk at Central Park 03/2010, being the most westerly southwest corner of that certain called 13.948 acre tract of land described in deed to the Town of Flower Mound recorded in Volume 723, Page 858 of the Deed Records of Denton County, Texas, and being on the east line of that certain called 2.631 acre tract of land described as Tract III in deed to Hawks Ramsey, LLC recorded in Document Number 2006-35586 of the Real Property Records of Denton County, Texas;

THENCE along the common line between said Lot 2R and said 13.948 acre tract, the following:

N 89°30'00" E, 280.00 feet, to a 1/2" capped rebar (G & A) found;

S 00°30'00" E, 400.00 feet, to a 1/2" capped rebar (G & A) found;

N 89°30'00" E, 170.00 feet, to a 1/2" capped rebar (G & A) found;

S 00°30'00" E, 230.00 feet, to a 1/2" capped rebar (G & A) found;

and N 89°30'00" E, 93.04 feet, to a 1/2" capped rebar (G & A) set;

THENCE S 00°18'40" E, 101.45 feet, to a 1/2" capped rebar (G & A) set;

THENCE S 89°41'20" W, 230.48 feet, to a 1/2" capped rebar (G & A) set;

THENCE S 00°18'40" E, 98.79 feet, to a 1/2" capped rebar (G & A) set;

THENCE S 88°04'50" W, passing at 43.03 feet, a 1/2" capped rebar (G & A) found at an inner ell corner of said Lot 2R, being the northeast corner of Lot 1R, Block A, The River Walk at Central Park 03/2010, and continuing a total distance of 307.41 feet, to a 5/8" rebar found at an outer ell corner of said Lot 2R, being the southeast corner of that certain called 6.314 acre tract of land described in deed to Prairie Road Partners, Ltd. recorded in Document Number 2005-123316 of the Real Property Records of Denton County, Texas;

THENCE N 00°47'30" W, 350.03 feet, along the most northerly west line of said Lot 2R and the east line of said 6.314 acre tract, to a 1/2" rebar found at the northeast corner thereof, being the southeast corner of said Hawks Ramsey called 2.631 acre tract;

THENCE N 00°49'50" W, 487.07 feet, continuing along said line, to the POINT OF BEGINNING and containing approximately 6.894 acres of land.

Tract II

4.860 Acres

Being all that certain lot, tract or parcel of land situated in the J. T. Stewart Survey, Abstract Number 1161, Town of Flower Mound, Denton County, Texas, being part of that certain called 252.86 acre tract of land described as Part Two in deed to Edward S. Marcus recorded in Volume 470, Page 131 of the Deed Records of Denton County, Texas, and being part of that certain called 229.56 acre tract of land described in deed

to Flower Mound Development Venture recorded in Volume 1361, Pages 874 and 879 of the Real Property Records of Denton County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2" capped rebar found stamped DC&A at the southeast corner of Lot 1, Block A, Primrose School at The Forums, an addition to the Town of Flower Mound according to the plat thereof recorded in Cabinet P, Page 258 of the Plat Records of Denton County, Texas, and being on the west right-of-way line of Morriss Road, having a called 110 foot right-of-way at this point, according to deed to the Town of Flower Mound recorded in Volume 2091, Page 418 of the Real Property Records of Denton County, Texas;

THENCE S 00°06'30" E, 703.50 feet, along the west right-of-way line of Morriss Road, to an "X" in concrete found at the northeast corner of Lot 1, Block A, Kids R Kids Addition, an addition to the Town of Flower Mound according to the plat thereof recorded in Cabinet M, Page 47 of the Plat Records of Denton County, Texas;

THENCE S 89°45'15" W, 299.93 feet, along the north line of said Kids R Kids Addition, to a 1/2" capped rebar found stamped Arthur Surveying at the northwest corner thereof, being on the east right-of-way line of Olympia Drive;

THENCE N 00°17'15" W, 703.12 feet, along the east line of Olympia Drive, to a 1/2" capped rebar found stamped DC&A at the southwest corner of said Lot 1, Block A, Primrose School at The Forums;

THENCE N 89°41'00" E, 302.13 feet, along the south line of said Lot 1, Block A, Primrose School at The Forums, to the POINT OF BEGINNING and containing approximately 4.860 acres of land.

#### Tract III

2.095 Acres

Being all that certain lot, tract or parcel of land situated in the J. T. Stewart Survey, Abstract Number 1161, Town of Flower Mound, Denton County, Texas, being part of that certain called 252.86 acre tract of land described as Part Two in deed to Edward S. Marcus recorded in Volume 470, Page 131 of the Deed Records of Denton County, Texas, and being part of that certain called 229.56 acre tract of land described in deed to Flower Mound Development Venture recorded in Volume 1361, Pages 874 and 879 of the Real Property Records of Denton County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2" rebar found at the southwest corner of Lot 1, Block A, Flower Mound Post Office Addition, an addition to the Town of Flower Mound according to the plat thereof recorded in Cabinet L, Page 285 of the Plat Records of Denton County, Texas, and being on the north right-of-way line of Olympia Drive;

THENCE S 89°44'40" W, 291.16 feet, along the north right-of-way line of Olympia Drive, to a 1/2" rebar found on the east right-of-way line of Forums Drive, being in a curve to the right;

THENCE Northeasterly, along the east right-of-way line of Forums Drive and with the arc of said curve having a radius of 1160.00 feet, a central angle of 00°47'01", whose chord bears N 06°52'20" E, 15.86 feet, an arc length of 15.86 feet, to 1/2" rebar found at a point of compound curvature;

THENCE Northeasterly, continuing along the east right-of-way line of Forums Drive and with the arc of said curve having a radius of 610.00 feet, a central angle of 34°59'30", whose chord bears N 24°45'36" E, 366.78 feet, an arc length of 372.54 feet, to a 1/2" rebar found;

THENCE N 42°15'20" E, 86.55 feet, continuing along the east right-of-way line of Forums Drive, to a 1/2" rebar found at the point of curvature of a curve to the left;

THENCE Northeasterly, continuing along said right-of-way line and with the arc of said curve having a radius of 698.38 feet, a central angle of 06°17'17", whose chord bears N 39°06'42" E, 76.61 feet, an arc length of 76.65 feet, to 1/2" rebar found at the westerly southwest corner of Lot 1, Block A, The Forums, Phase III, an addition to the Town of Flower Mound according to the plat thereof recorded in Cabinet O, Page 19 of the Plat Records of Denton County, Texas;

THENCE S 53°58'50" E, 33.52 feet, along the southwesterly line of said Lot 1, to a 1/2" rebar found at the most south southwest corner thereof and the northwest corner of Lot 1, Block A, Flower Mound Post Office Addition;

THENCE S 00°15'20" E, 451.31 feet, along the west line of same, to the POINT OF BEGINNING and containing approximately 2.095 acres of land.

SECTION \_\_\_\_\_. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) 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 have been fulfilled and accomplished.

The amendment was read.

Senator Campbell moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1915** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Campbell, Chair; Hinojosa, Huffman, Van de Putte, and Fraser.

**CONFERENCE COMMITTEE ON  
SENATE BILL 1093 DISCHARGED**

On motion of Senator Watson and by unanimous consent, the Senate conferees on **SB 1093** were discharged.

Question—Shall the Senate concur in the House amendment to **SB 1093**?

Senator Watson moved to concur in the House amendment to **SB 1093**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**SENATE BILL 149 WITH HOUSE AMENDMENTS**

Senator Nelson called **SB 149** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

**Amendment**

Amend **SB 149** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the Cancer Prevention and Research Institute of Texas.

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

SECTION 1. Section 102.001, Health and Safety Code, is amended by adding Subdivision (2-a) and amending Subdivision (3) to read as follows:

(2-a) "Program integration committee" means the Cancer Prevention and Research Institute of Texas Program Integration Committee.

(3) "Research and prevention programs committee" means a ~~the~~ Cancer Prevention and Research Institute of Texas Scientific Research and Prevention Programs committee ~~committees~~ appointed by the chief executive officer ~~director~~.

SECTION 2. Subchapter A, Chapter 102, Health and Safety Code, is amended by adding Section 102.004 to read as follows:

Sec. 102.004. STATE AUDITOR. Nothing in this chapter limits the authority of the state auditor under Chapter 321, Government Code, or other law.

SECTION 3. Section 102.051, Health and Safety Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) The institute ~~may~~:

(1) may make grants to provide funds to public or private persons to implement the Texas Cancer Plan, and may make grants to institutions of learning and to advanced medical research facilities and collaborations in this state for:

(A) research into the causes of and cures for all types of cancer in humans;

(B) facilities for use in research into the causes of and cures for cancer;

(C) research, including translational research, to develop therapies, protocols, medical pharmaceuticals, or procedures for the cure or substantial mitigation of all types of cancer in humans; and

(D) cancer prevention and control programs in this state to mitigate the incidence of all types of cancer in humans;

(2) may support institutions of learning and advanced medical research facilities and collaborations in this state in all stages in the process of finding the causes of all types of cancer in humans and developing cures, from laboratory research to clinical trials and including programs to address the problem of access to advanced cancer treatment;

(3) may establish the appropriate standards and oversight bodies to ensure the proper use of funds authorized under this chapter for cancer research and facilities development;

(4) may [employ an executive director as determined by the oversight committee;

~~[(5)] employ necessary staff to provide administrative support; [and]~~

(5) shall continuously [(6)] monitor contracts and agreements authorized by this chapter and ensure that each grant recipient complies with the terms and conditions of the grant contract;

(6) shall ensure that all grant proposals comply with this chapter and rules adopted under this chapter before the proposals are submitted to the oversight committee for approval; and

(7) shall establish procedures to document that the institute, its employees, and its committee members appointed under this chapter comply with all laws and rules governing the peer review process and conflicts of interest.

(c) The institute shall employ a chief compliance officer to monitor and report to the oversight committee regarding compliance with this chapter and rules adopted under this chapter.

(d) The chief compliance officer shall:

(1) ensure that all grant proposals comply with this chapter and rules adopted under this chapter before the proposals are submitted to the oversight committee for approval; and

(2) attend and observe the meetings of the program integration committee to ensure compliance with this chapter and rules adopted under this chapter.

SECTION 4. Subchapter B, Chapter 102, Health and Safety Code, is amended by adding Section 102.0511 to read as follows:

Sec. 102.0511. CHIEF EXECUTIVE OFFICER; OTHER OFFICERS. (a) The oversight committee shall hire a chief executive officer. The chief executive officer shall perform the duties required by this chapter or designated by the oversight committee.

(b) The chief executive officer must have a demonstrated ability to lead and develop academic, commercial, and governmental partnerships and coalitions.

(c) The chief executive officer shall hire:

(1) one chief scientific officer;

(2) one chief operating officer;

(3) one chief product development officer; and

(4) one chief prevention officer.

(d) The officers described by Subsections (c)(1)-(4) shall report directly to the chief executive officer and assist the chief executive officer in collaborative outreach to further cancer research and prevention.

SECTION 5. Section 102.052(a), Health and Safety Code, is amended to read as follows:

(a) Not later than January 31 of each year, the institute shall submit to the lieutenant governor, the speaker of the house of representatives, the governor, and the standing committee of each house of the legislature with primary jurisdiction over institute matters and post on the institute's Internet website a report outlining ~~The institute shall issue an annual public report outlining~~ the institute's activities, grants awarded, grants in progress, research accomplishments, and future program directions. The report must include:

- (1) the number and dollar amounts of research and facilities grants;
- (2) identification of the grant recipients for the reported year;
- (3) the institute's administrative expenses;
- (4) an assessment of the availability of funding for cancer research from sources other than the institute;
- (5) a summary of findings of research funded by the institute, including promising new research areas;
- (6) an assessment of the relationship between the institute's grants and the overall strategy of its research program;
- (7) a statement of the institute's strategic research and financial plans; ~~and~~
- (8) an estimate of how much cancer has cost the state during the year, including the amounts spent by the state relating to cancer by the child health program, the Medicaid program, the Teacher Retirement System of Texas, and the Employees Retirement System of Texas;
- (9) a statement of the institute's compliance program activities, including any proposed legislation or other recommendations identified through the activities; and
- (10) a list of the waivers granted in the previous 12 months through the process established in Section 102.1062.

SECTION 6. Subchapter B, Chapter 102, Health and Safety Code, is amended by adding Section 102.0535 to read as follows:

Sec. 102.0535. GRANT RECORDS. (a) The institute shall maintain complete records of:

- (1) the review of each grant application submitted to the institute, including the score assigned to each grant application reviewed by a research and prevention programs committee in accordance with rules adopted under Section 102.251(a)(1), even if the grant application is not funded by the institute or is withdrawn after submission to the institute;
- (2) each grant recipient's financial reports, including the amount of matching funds dedicated to the research specified for the grant award;
- (3) each grant recipient's progress reports; and
- (4) the institute's review of the grant recipient's financial reports and progress reports.

(b) The institute shall have periodic audits made of any electronic grant management system used to maintain records of grant applications and grant awards under this section. The institute shall address in a timely manner each weakness identified in an audit of the system.

SECTION 7. Section 102.056, Health and Safety Code, is amended to read as follows:

Sec. 102.056. SALARY. (a) The institute may not supplement the salary of any institute employee with a gift or grant received by the institute.

(b) The institute may supplement the salary of the chief scientific officer [executive director and other senior institute staff members]. Funding for a salary supplement for the chief scientific officer may only come from legislative [gifts, grants, donations, or] appropriations or bond proceeds.

(c) The institute may not supplement the salary of the chief executive officer. The salary of the chief executive officer may only be paid from legislative appropriations.

SECTION 8. Subchapter B, Chapter 102, Health and Safety Code, is amended by adding Section 102.057 to read as follows:

Sec. 102.057. PROHIBITED OFFICE LOCATION. An institute employee may not have an office in a facility owned by an entity receiving or applying to receive money from the institute.

SECTION 9. Sections 102.101(b), (d), and (e), Health and Safety Code, are amended to read as follows:

(b) The oversight committee is composed of the following nine ~~[11]~~ members:

- (1) three members appointed by the governor;
- (2) three members appointed by the lieutenant governor; and
- (3) three members appointed by the speaker of the house of representatives ~~;~~  
~~[(4) the comptroller or the comptroller's designee; and~~  
~~[(5) the attorney general or the attorney general's designee].~~

(d) In making appointments to the oversight committee, the governor, lieutenant governor, and speaker of the house of representatives:

(1) must each appoint at least one person who is a physician or a scientist with extensive experience in the field of oncology or public health; and

(2) should attempt to include cancer survivors and family members of cancer patients if possible.

(e) A person may not be a member of the oversight committee if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving money from the institute;

(2) owns or controls, directly or indirectly, an ~~[more than a five percent]~~ interest in a business entity or other organization receiving money from the institute; or

(3) uses or receives a substantial amount of tangible goods, services, or money from the institute, other than reimbursement authorized by this chapter for oversight committee membership, attendance, or expenses.

SECTION 10. Section 102.102(c), Health and Safety Code, is amended to read as follows:

(c) If the chief executive officer ~~[director]~~ has knowledge that a potential ground for removal exists, the chief executive officer ~~[director]~~ shall notify the presiding officer of the oversight committee of the potential ground. The presiding officer shall then notify the appointing authority and the attorney general that a potential ground



for removal exists. If the potential ground for removal involves the presiding officer, the chief executive officer [director] shall notify the next highest ranking officer of the oversight committee, who shall then notify the appointing authority and the attorney general that a potential ground for removal exists.

SECTION 11. Section 102.103(a), Health and Safety Code, is amended to read as follows:

(a) Oversight committee members appointed by the governor, lieutenant governor, and speaker of the house serve at the pleasure of the appointing office for staggered six-year terms, with the terms of three members expiring on January 31 of each odd-numbered year.

SECTION 12. Section 102.104, Health and Safety Code, is amended to read as follows:

Sec. 102.104. OFFICERS. (a) The oversight committee shall elect [select] a presiding officer and assistant presiding officer from among its members every two years. The oversight committee may elect additional officers from among its members.

(b) The presiding officer and assistant presiding officer may not serve in the position to which the officer was elected for two consecutive terms.

(c) The oversight committee shall:

(1) establish and approve duties and responsibilities for officers of the committee; and

(2) develop and implement policies that distinguish the responsibilities of the oversight committee and the committee's officers from the responsibilities of the chief executive officer and the employees of the institute.

SECTION 13. Section 102.106, Health and Safety Code, is amended to read as follows:

Sec. 102.106. CONFLICT OF INTEREST. (a) The oversight committee shall adopt conflict-of-interest rules, based on standards applicable to members of scientific review committees of the National Institutes of Health, to govern members of the oversight committee, the program integration committee, the research and prevention programs committees, and institute employees.

(b) An institute employee, oversight committee member, program integration committee member, or research and prevention programs committee member shall recuse himself or herself, as provided by Section 102.1061(a), (b), or (c) 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 the institute.

(c) A person has a professional interest in an entity receiving or applying to receive money from the institute if the person:

(1) is a member of the board of directors, another governing board, or any committee of the entity, or of a foundation or similar organization affiliated with the entity, during the same grant cycle;

(2) serves as an elected or appointed officer of the entity or of a foundation or similar organization affiliated with the entity;

(3) is an employee of or is negotiating future employment with the entity or with a foundation or similar organization affiliated with the entity;

(4) represents the entity or a foundation or similar organization affiliated with the entity;

(5) is a professional associate of a primary member of the entity's research or prevention program team;

(6) is, or within the preceding six years has been, a student, postdoctoral associate, or part of a laboratory research group for a primary member of the entity's research or prevention program team;

(7) is engaged or is actively planning to be engaged in collaboration with a primary member of the entity's research or prevention program team; or

(8) has long-standing scientific differences or disagreements with a primary member of the entity's research or prevention program team, and those differences:

(A) are known to the professional community; and

(B) could be perceived as affecting objectivity.

(d) A person has a financial interest in an entity receiving or applying to receive money from the institute if the person:

(1) owns or controls, directly or indirectly, an ownership interest, including sharing in profits, proceeds, or capital gains, in an entity receiving or applying to receive money from the institute or in a foundation or similar organization affiliated with the entity; or

(2) could reasonably foresee that an action taken by the institute, a research and prevention programs committee, the program integration committee, or the oversight committee could result in a financial benefit to the person.

(e) Nothing in this chapter limits the authority of the oversight committee to adopt additional conflict-of-interest standards.

SECTION 14. Subchapter C, Chapter 102, Health and Safety Code, is amended by adding Sections 102.1061 through 102.1064 to read as follows:

Sec. 102.1061. DISCLOSURE OF CONFLICT OF INTEREST; RECUSAL. (a) If an oversight committee member or program integration committee member has a conflict of interest as described by Section 102.106 regarding an application that comes before the member for review or other action, the member shall:

(1) provide written notice to the chief executive officer and the presiding officer of the oversight committee or the next ranking member of the committee if the presiding officer has the conflict of interest;

(2) disclose the conflict of interest in an open meeting of the oversight committee; and

(3) recuse himself or herself from participating in the review, discussion, deliberation, and vote on the application and from accessing information regarding the matter to be decided.

(b) If an institute employee has a conflict of interest described by Section 102.106 regarding an application that comes before the employee for review or other action, the employee shall:

(1) provide written notice to the chief executive officer of the conflict of interest; and

(2) recuse himself or herself from participating in the review of the application and be prevented from accessing information regarding the matter to be decided.

(c) If a research and prevention programs committee member has a conflict of interest described by Section 102.106 regarding an application that comes before the member's committee for review or other action, the member shall:

(1) provide written notice to the chief executive officer of the conflict of interest; and

(2) recuse himself or herself from participating in the review, discussion, deliberation, and vote on the application and from accessing information regarding the matter to be decided.

(d) An oversight committee member, program integration committee member, research and prevention programs committee member, or institute employee with a conflict of interest may seek a waiver as provided by Section 102.1062.

(e) An oversight committee member, program integration committee member, research and prevention programs committee member, or institute employee who reports a potential conflict of interest 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 conflict-of-interest provisions of this chapter. The member or employee is subject to other applicable laws, rules, requirements, and prohibitions.

(f) An oversight committee member, program integration committee member, research and prevention programs committee member, or institute employee who intentionally violates this section is subject to removal from further participation in the institute's grant review process.

Sec. 102.1062. EXCEPTIONAL CIRCUMSTANCES REQUIRING PARTICIPATION. The oversight committee shall adopt rules governing the waiver of the conflict-of-interest requirements of this chapter under exceptional circumstances for an oversight committee member, program integration committee member, research and prevention programs committee member, or institute employee. The rules must:

(1) authorize the chief executive officer or an oversight committee member to propose the granting of a waiver by submitting to the presiding officer of the oversight committee a written statement about the conflict of interest, the exceptional circumstance requiring the waiver, and any proposed limitations to the waiver;

(2) require a proposed waiver to be publicly reported at a meeting of the oversight committee;

(3) require a majority vote of the oversight committee members present and voting to grant a waiver;

(4) require any waiver granted to be reported annually to the lieutenant governor, the speaker of the house of representatives, the governor, and the standing committee of each house of the legislature with primary jurisdiction over institute matters; and

(5) require the institute to retain documentation of each waiver granted.

Sec. 102.1063. INVESTIGATION OF UNREPORTED CONFLICTS OF INTEREST. (a) An oversight committee member, a program integration committee member, a research and prevention programs committee member, or an institute employee who becomes aware of a potential conflict of interest described by Section 102.106 that has not been reported shall immediately notify the chief executive officer

of the potential conflict of interest. On notification, the chief executive officer shall notify the presiding officer of the oversight committee and the general counsel, who shall determine the nature and extent of any unreported conflict.

(b) A grant applicant seeking an investigation regarding whether a prohibited conflict of interest was not reported shall file a written request with the institute's chief executive officer. The applicant must:

(1) include in the request all facts regarding the alleged conflict of interest;  
and

(2) submit the request not later than the 30th day after the date the chief executive officer presents final funding recommendations for the affected grant cycle to the oversight committee.

(c) On notification of an alleged conflict of interest under Subsection (a) or (b), the institute's general counsel shall:

(1) investigate the matter; and

(2) provide to the chief executive officer and presiding officer of the oversight committee an opinion that includes:

(A) a statement of facts;

(B) a determination of whether a conflict of interest or another impropriety or self-dealing exists; and

(C) if the opinion provides that a conflict of interest or another impropriety or self-dealing exists, recommendations for an appropriate course of action.

(d) If the conflict of interest, impropriety, or self-dealing involves the presiding officer of the oversight committee, the institute's general counsel shall provide the opinion to the next ranking oversight committee member who is not involved with the conflict of interest, impropriety, or self-dealing.

(e) After receiving the opinion and consulting with the presiding officer of the oversight committee, the chief executive officer shall take action regarding the recusal of the individual from any discussion of or access to information related to the conflict of interest or other recommended action related to the impropriety or self-dealing. If the alleged conflict of interest, impropriety, or self-dealing is held by, or is an act of, the chief executive officer, the presiding officer of the oversight committee shall take actions regarding the recusal or other action.

Sec. 102.1064. FINAL DETERMINATION OF UNREPORTED CONFLICT OF INTEREST. (a) The chief executive officer or, if applicable, the presiding officer of the oversight committee shall make a determination regarding the existence of an unreported conflict of interest described by Section 102.1063 or other impropriety or self-dealing. The determination must specify any actions to be taken to address the conflict of interest, impropriety, or self-dealing, including:

(1) reconsideration of the application; or

(2) referral of the application to another research and prevention programs committee for review.

(b) The determination made under Subsection (a) is considered final unless three or more oversight committee members request that the issue be added to the agenda of the oversight committee.

(c) The chief executive officer or, if applicable, the presiding officer of the oversight committee, shall provide written notice of the final determination, including any further actions to be taken, to the grant applicant requesting the investigation.

(d) Unless specifically determined by the chief executive officer or, if applicable, the presiding officer of the oversight committee, or the oversight committee, the validity of an action taken on a grant application is not affected by the fact that an individual who failed to report a conflict of interest participated in the action.

SECTION 15. Section 102.107, Health and Safety Code, is amended to read as follows:

Sec. 102.107. POWERS AND DUTIES. The oversight committee shall:

- (1) hire a chief [am] executive officer;
- (2) annually set priorities as prescribed by the legislature for each grant program that receives money under this chapter; and
- (3) consider the priorities set under Subdivision (2) in awarding grants under this chapter [director].

SECTION 16. Subchapter C, Chapter 102, Health and Safety Code, is amended by adding Sections 102.109 and 102.110 to read as follows:

Sec. 102.109. CODE OF CONDUCT. (a) The oversight committee shall adopt a code of conduct applicable to each oversight committee member, program integration committee member, and institute employee.

(b) The code of conduct at a minimum must include provisions prohibiting the member, the employee, or the member's or employee's spouse from:

(1) accepting or soliciting any gift, favor, or service that could reasonably influence the member or employee in the discharge of official duties or that the member, employee, or spouse of the member or employee knows or should know is being offered with the intent to influence the member's or employee's official conduct;

(2) accepting employment or engaging in any business or professional activity that would reasonably require or induce the member or employee to disclose confidential information acquired in the member's or employee's official position;

(3) accepting other employment or compensation that could reasonably impair the member's or employee's independent judgment in the performance of official duties;

(4) making personal investments or having a financial interest that could reasonably create a substantial conflict between the member's or employee's private interest and the member's or employee's official duties;

(5) intentionally or knowingly soliciting, accepting, or agreeing to accept any benefit for exercising the member's official powers or performing the member's or employee's official duties in favor of another;

(6) leasing, directly or indirectly, any property, capital equipment, employee, or service to any entity that receives a grant from the institute;

(7) submitting a grant application for funding by the institute;

(8) serving on the board of directors of an organization established with a grant from the institute; or

(9) serving on the board of directors of a grant recipient.

Sec. 102.110. FINANCIAL STATEMENT REQUIRED. Each member of the oversight committee shall file with the chief compliance officer a verified financial statement complying with Sections 572.022 through 572.0252, Government Code, as required of a state officer by Section 572.021, Government Code.

SECTION 17. Section 102.151, Health and Safety Code, is amended by amending Subsections (a-1) and (b) and adding Subsections (c) and (e) to read as follows:

(a-1) The oversight committee shall establish research and prevention programs committees. The chief executive officer [director], with approval by simple majority of the members of the oversight committee, shall appoint as members of [scientific] research and prevention programs committees experts in the field of cancer research and prevention, including qualified trained cancer patient advocates who meet the qualifications developed by rule as provided by Subsection (c).

(b) The institute shall adopt a written policy on in-state or out-of-state residency requirements for members of the research and prevention programs committees. [Individuals appointed to the research and prevention programs committee may be residents of another state.]

(c) The oversight committee shall 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. The rules must require a trained cancer patient advocate to receive science-based training.

(e) The chief executive officer, in consultation with the oversight committee, shall adopt a policy and document any change in the amount of honorarium paid to a member of a research and prevention programs committee, including information explaining the basis for changing the amount.

SECTION 18. Section 102.152, Health and Safety Code, is amended to read as follows:

Sec. 102.152. TERMS OF RESEARCH AND PREVENTION PROGRAMS COMMITTEE MEMBERS. Members of a research and prevention programs committee serve for terms as determined by the chief executive officer [director].

SECTION 19. Sections 102.156(a), (b), and (c), Health and Safety Code, are amended to read as follows:

(a) A member of a research and prevention programs committee[~~the university advisory committee, or any ad hoc committee~~] appointed under this subchapter shall disclose in writing to the chief executive officer [director] if the member has a professional [an interest in a matter that comes before the member's committee] or [has a substantial] financial interest, as defined by Section 102.106, in an entity that has a direct interest in a [the] matter that comes before the member's committee.

(b) The member shall recuse himself or herself in the manner described by Section 102.1061 from the committee's deliberations and actions on the matter in Subsection (a) and may not participate in the committee's decision on the matter.

(c) A member of a research and prevention programs committee appointed under this chapter may not serve on the board of directors or other governing board of an entity receiving a grant from the institute or of a foundation or similar organization affiliated with the entity [A person has a substantial financial interest in an entity if the person:

~~[(1) is an employee, member, director, or officer of the entity; or  
 (2) owns or controls, directly or indirectly, more than a five percent interest in the entity].~~

SECTION 20. Sections 102.201(b) and (c), Health and Safety Code, are amended to read as follows:

(b) The cancer prevention and research fund consists of:

~~(1) [patent, royalty, and license fees and other income received under a contract entered into as provided by Section 102.255;~~

~~[(2)] appropriations of money to the fund by the legislature, except that the appropriated money may not include the proceeds from the issuance of bonds authorized by Section 67, Article III, Texas Constitution;~~

~~(2) [(3)] gifts, grants, including grants from the federal government, and other donations received for the fund; and~~

~~(3) [(4)] interest earned on the investment of money in the fund.~~

(c) The fund may be used only to pay for:

(1) grants for cancer research and for cancer research facilities in this state to realize therapies, protocols, and medical procedures for the cure or substantial mitigation of all types of cancer in humans;

(2) the purchase, subject to approval by the institute, of laboratory facilities by or on behalf of a state agency or grant recipient;

(3) grants to public or private persons to implement the Texas Cancer Plan;

(4) the operation of the institute; ~~[and]~~

(5) grants for cancer prevention and control programs in this state to mitigate the incidence of all types of cancer in humans; and

~~(6) debt service on bonds issued as authorized by Section 67, Article III, Texas Constitution.~~

SECTION 21. Section 102.251, Health and Safety Code, is amended by amending Subsection (a) and adding Subsections (c), (d), and (e) to read as follows:

(a) The oversight committee shall issue rules regarding the procedure for awarding grants to an applicant under this chapter. The rules must include the following procedures:

(1) a research and prevention programs committee shall score [review] grant applications and make recommendations to the program integration committee, established under Section 102.264, and the oversight committee [executive director] regarding the award of cancer research and prevention grants, including a prioritized list that:

(A) ranks the grant applications in the order the committee determines applications should be funded; and

(B) includes information explaining how each grant application on the list meets the research and prevention programs committee's standards for recommendation;

(2) the program integration committee ~~[executive director]~~ shall submit to the oversight committee a list of grant applications the program integration committee by majority vote approved for recommendation that:

(A) includes documentation on the factors the program integration committee considered in making the grant recommendations;

(B) [~~that~~] is substantially based on the list submitted by the research and prevention programs committee under Subdivision (1); and

(C) [~~r~~] to the extent possible, gives priority to proposals that:

(i) [~~A~~] could lead to immediate or long-term medical and scientific breakthroughs in the area of cancer prevention or cures for cancer;

(ii) [~~B~~] strengthen and enhance fundamental science in cancer research;

(iii) [~~C~~] ensure a comprehensive coordinated approach to cancer research;

(iv) [~~D~~] are interdisciplinary or interinstitutional;

(v) [~~E~~] address federal or other major research sponsors' priorities in emerging scientific or technology fields in the area of cancer prevention or cures for cancer;

(vi) [~~F~~] are matched with funds available by a private or nonprofit entity and institution or institutions of higher education;

(vii) [~~G~~] are collaborative between any combination of private and nonprofit entities, public or private agencies or institutions in this state, and public or private institutions outside this state;

(viii) [~~H~~] have a demonstrable economic development benefit to this state;

(ix) [~~I~~] enhance research superiority at institutions of higher education in this state by creating new research superiority, attracting existing research superiority from institutions not located in this state and other research entities, or enhancing existing research superiority by attracting from outside this state additional researchers and resources; ~~and~~

(x) [~~J~~] expedite innovation and product development [commercialization], attract, create, or expand private sector entities that will drive a substantial increase in high-quality jobs, and increase higher education applied science or technology research capabilities; and

(xi) address the goals of the Texas Cancer Plan; and

(3) the institute's chief compliance officer shall compare each grant application submitted to the institute to a list of donors from any nonprofit organization established to provide support to the institute compiled from information made available under Section 102.262(c) before the application is submitted to a research and prevention programs committee for review and again before any grant is awarded to the applicant.

(c) The chief executive officer shall submit a written affidavit for each grant application recommendation included on the list submitted to the oversight committee under Subsection (a)(2). The affidavit must contain all relevant information on:

(1) the peer review process for the grant application;

(2) the application's peer review score assigned by the research and prevention programs committee; and

(3) if applicable, the intellectual property and other due diligence reviews of the application.



(d) A member of the program integration committee may not discuss a grant applicant recommendation with a member of the oversight committee unless the chief executive officer and the program integration committee have fulfilled the requirements of Subsections (a)(2) and (c), as applicable.

(e) The institute may not award a grant to an applicant who has made a gift or grant to the institute or a nonprofit organization established to provide support to the institute.

SECTION 22. Section 102.252, Health and Safety Code, is amended to read as follows:

Sec. 102.252. FUNDING ~~[OVERRIDING]~~ RECOMMENDATIONS. Two-thirds of the members of the [The] oversight committee present and voting must vote to approve each [follow the] funding recommendation [recommendations] of the program integration committee. If the oversight committee does not approve a funding recommendation of the program integration committee, a statement explaining the reasons a funding recommendation was not followed must be included in the minutes of the meeting [executive director in the 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].

SECTION 23. Section 102.255, Health and Safety Code, is amended by amending Subsections (b), (c), and (d) and adding Subsection (e) to read as follows:

(b) Before awarding a grant under Subchapter E, the committee shall enter into a written contract with the grant recipient. The contract may specify that:

(1) if all or any portion of the amount of the grant is used to build a capital improvement:

(A) the state retains a lien or other interest in the capital improvement in proportion to the percentage of the grant amount used to pay for the capital improvement; and

(B) the grant recipient shall, if the capital improvement is sold:

(i) repay to the state the grant money used to pay for the capital improvement, with interest at the rate and according to the other terms provided by the contract; and

(ii) share with the state a proportionate amount of any profit realized from the sale; ~~[and]~~

(2) ~~if, as of a date specified in the contract,~~ the grant recipient has not used grant money awarded under Subchapter E for the purposes for which the grant was intended, the recipient shall repay that amount and any related interest applicable under the contract to the state at the agreed rate and on the agreed terms; and

(3) if the grant recipient fails to meet the terms and conditions of the contract, the institute may terminate the contract using the written process prescribed in the contract and require the recipient to repay the grant money awarded under Subchapter E and any related interest applicable under the contract to this state at the agreed rate and on the agreed terms.

(c) The contract must:

(1) include terms relating to intellectual property rights consistent with the standards developed by the oversight committee under Section 102.256;

(2) require, in accordance with Subsection (d), the grant recipient to dedicate an amount of matching funds equal to one-half of the amount of the research grant awarded; and

(3) specify:

- (A) the amount of matching funds to be dedicated under Subdivision (2);
- (B) the period in which the grant award must be spent;
- (C) the name of the research project to which matching funds are to be dedicated; and
- (D) the specific deliverables of the project that is the subject of the grant proposal.

(d) Before the oversight committee may make for cancer research any grant of any proceeds of the bonds issued under Subchapter E, the recipient of the grant must certify that the recipient has ~~have~~ an amount of funds equal to one-half of the grant and dedicate those funds ~~dedicated~~ to the research that is the subject of the grant request. The institute shall adopt rules specifying how a grant recipient fulfills obligations under this subchapter. At a minimum, the rules must:

(1) allow a grant recipient that is a public or private institution of higher education, as defined by Section 61.003, Education Code, to credit toward the recipient's matching funds the dollar amount equivalent to the difference between the indirect cost rate authorized by the federal government for research grants awarded to the recipient and the indirect cost rate authorized by Section 102.203(c);

(2) require that a grant recipient certify before the distribution of any money awarded under a grant for cancer research:

(A) that encumbered funds equal to one-half of the amount of the total grant award are available and not yet expended for research that is the subject of the grant; or

(B) if the grant recipient is a public or private institution of higher education, the indirect cost rate authorized by the federal research grants awarded to the recipient;

(3) specify that:

(A) a grant recipient receiving more than one grant award may provide matching funds certification at an institutional level;

(B) the recipient of a multiyear grant award may certify matching funds on a yearly basis; and

(C) grant funds may not be distributed to the grant recipient until the annual certification of the matching funds has been approved;

(4) specify that money used for purposes of certification may include:

(A) federal funds, including funds provided under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) and the fair market value of drug development support provided to the recipient by the National Cancer Institute or other similar programs;

(B) funds of this state;

(C) funds of other states; and

(D) nongovernmental funds, including private funds, foundation grants, gifts, and donations;

(5) specify that the following items do not qualify for purposes of the certification required by this subsection:

(A) in-kind costs;  
(B) volunteer services furnished to a grant recipient;  
(C) noncash contributions;  
(D) income earned by the grant recipient that is not available at the time of the award;

(E) preexisting real estate of the grant recipient, including buildings, facilities, and land;

(F) deferred giving, including a charitable remainder annuity trust, a charitable remainder unitrust, or a pooled income fund; or

(G) other items as may be determined by the oversight committee;

(6) require a grant recipient and the institute to include the certification in the grant award contract;

(7) specify that a grant recipient's failure to provide certification shall serve as grounds for terminating the grant award contract;

(8) require a grant recipient to maintain adequate documentation supporting the source and use of the funds required by this subsection and to provide documentation to the institute upon request; and

(9) require that the institute establish a procedure to conduct an annual review of the documentation supporting the source and use of funds reported in the required certification.

(e) The institute shall adopt a policy on advance payments to grant recipients.

SECTION 24. Section 102.260, Health and Safety Code, is amended by amending Subsections (b) and (c) and adding Subsections (d), (e), and (f) to read as follows:

(b) The chief executive officer [~~director~~] shall determine the grant review process under this section. The chief executive officer [~~director~~] may terminate grants that do not meet contractual obligations.

(c) The chief executive officer [~~director~~] shall report at least annually to the oversight committee on the progress and continued merit of each research program funded by the institute.

(d) The institute shall establish and implement reporting requirements to ensure that each grant recipient complies with the terms and conditions in the grant contract, including verification of the amounts of matching funds dedicated to the research that is the subject of the grant award to the grant recipient.

(e) The institute shall implement a system to:

(1) track the dates on which grant recipient reports are due and are received by the institute; and

(2) monitor the status of any required report that is not timely submitted to the institute by a grant recipient.

(f) The chief compliance officer shall monitor compliance with this section and at least annually shall inquire into and monitor the status of any required report that is not timely submitted to the institute by a grant recipient. The chief compliance officer shall notify the general counsel and the oversight committee of a grant recipient that has not maintained compliance with the reporting requirements or matching funds

provisions of the grant contract to allow the institute to begin suspension or termination of the grant contract under Subsection (b). This subsection does not limit other remedies available under the grant contract.

SECTION 25. Section 102.262, Health and Safety Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) The records of a nonprofit organization established to provide support to the institute are public information subject to Chapter 552, Government Code.

(d) The institute shall post on the institute's Internet website records that pertain specifically to any gift, grant, or other consideration provided to the institute, an institute employee, or a member of an institute committee. The posted information must include each donor's name and the amount and date of the donor's donation.

SECTION 26. Subchapter F, Chapter 102, Health and Safety Code, is amended by adding Sections 102.263, 102.2631, and 102.264 to read as follows:

Sec. 102.263. COMPLIANCE PROGRAM. (a) In this section, "compliance program" means a process to assess and ensure compliance by the institute's committee members and employees with applicable laws, rules, and policies, including matters of:

- (1) ethics and standards of conduct;
- (2) financial reporting;
- (3) internal accounting controls; and
- (4) auditing.

(b) The institute shall establish a compliance program that operates under the direction of the institute's chief compliance officer. The institute may establish procedures, such as a telephone hotline, 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.

(c) The following are confidential and are not subject to disclosure under Chapter 552, Government Code:

(1) information that directly or indirectly reveals the identity of an individual who made a report to the institute's compliance program office, sought guidance from the office, or participated in an investigation conducted under the compliance program;

(2) information that directly or indirectly reveals the identity of an individual who is alleged to have or may have planned, initiated, or participated in activities that are the subject of a report made to the office if, after completing an investigation, the office determines the report to be unsubstantiated or without merit; and

(3) other information that is collected or produced in a compliance program investigation if releasing the information would interfere with an ongoing compliance investigation.

(d) Subsection (c) does not apply to information related to an individual who consents to disclosure of the information.

(e) Information made confidential or excepted from public disclosure by this section may be made available to the following on request in compliance with applicable laws and procedures:

(1) a law enforcement agency or prosecutor;  
(2) a governmental agency responsible for investigating the matter that is the subject of a compliance report, including the Texas Workforce Commission civil rights division or the federal Equal Employment Opportunity Commission; or  
(3) a committee member or institute employee who is responsible under institutional policy for a compliance program investigation or for a review of a compliance program investigation.

(f) A disclosure under Subsection (e) is not a voluntary disclosure for purposes of Section 552.007, Government Code.

Sec. 102.2631. COMPLIANCE MATTERS; CLOSED MEETING. The oversight committee may conduct a closed meeting under Chapter 551, Government Code, to discuss an ongoing compliance investigation into issues related to fraud, waste, or abuse of state resources.

Sec. 102.264. PROGRAM INTEGRATION COMMITTEE. (a) The institute shall establish a program integration committee. The committee is composed of the following five members:

- (1) the chief executive officer;
- (2) the chief scientific officer;
- (3) the chief product development officer;
- (4) the commissioner of state health services; and
- (5) the chief prevention officer.

(b) The committee has the duties assigned under this chapter.

(c) The chief executive officer shall serve as the presiding officer of the program integration committee.

SECTION 27. Chapter 102, Health and Safety Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. CANCER PREVENTION AND RESEARCH INTEREST AND SINKING FUND

Sec. 102.270. ESTABLISHMENT OF FUND. (a) The cancer prevention and research interest and sinking fund is a dedicated account in the general revenue fund.

(b) The fund consists of:

- (1) patent, royalty, and license fees and other income received under a contract entered into as provided by Section 102.255; and
- (2) interest earned on the investment of money in the fund.

(c) The fund may 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.

SECTION 28. (a) The terms of the members of the Cancer Prevention and Research Institute of Texas Oversight Committee serving immediately before the effective date of this Act expire on the effective date of this Act.

(b) As soon as practicable after the effective date of this Act, the governor, lieutenant governor, and speaker of the house of representatives shall each appoint members to the Cancer Prevention and Research Institute of Texas Oversight Committee as required by Section 102.101, Health and Safety Code, as amended by this Act. In making the initial appointments under that section, each appointing office

shall designate one member for a term expiring January 31, 2015, one member for a term expiring January 31, 2017, and one member for a term expiring January 31, 2019.

SECTION 29. (a) As soon as practicable after the effective date of this Act, the Cancer Prevention and Research Institute of Texas Oversight Committee shall adopt the rules necessary to implement the changes in law made by this Act.

(b) The changes in law made by this Act apply only to a grant application submitted to the Cancer Prevention and Research Institute of Texas on or after the effective date of this Act. A grant application submitted before the effective date of this Act is governed by the law in effect on the date the application was submitted, and that law is continued in effect for that purpose.

(c) Not later than January 1, 2014, employees, oversight committee members, and members of other committees of the Cancer Prevention and Research Institute of Texas must comply with the changes in law made by this Act regarding the qualifications of the employees and members.

(d) Not later than December 1, 2013, the Cancer Prevention and Research Institute of Texas Oversight Committee shall employ a chief compliance officer and a chief executive officer as required by Sections 102.051(c) and 102.0511, Health and Safety Code, as added by this Act.

(e) As soon as practicable after the effective date of this Act, the Cancer Prevention and Research Institute of Texas Oversight Committee shall establish a compliance program as required by Section 102.263, Health and Safety Code, as added by this Act.

SECTION 30. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

#### **Floor Amendment No. 1**

Amend **CSSB 149** (house committee report) as follows:

(1) On page 7, strike lines 6 through 7 and substitute the following:

SECTION 9. Sections 102.101, Health and Safety Code, is amended by amending Subsections (b), (d), and (e) and adding Subsection (f) to read as follows:

(2) On page 8, between lines 11 and 12, insert the following new subsection:

(f) A person appointed to the oversight committee shall disclose to the institute each political contribution made by the person in the ten years preceding the person's appointment and each year after the person's appointment until the person's term expires. The institute annually shall post a report of the political contributions made by oversight committee members on the institute's publicly accessible Internet website and post a link to the report on the oversight committee's main Internet web page.

#### **Floor Amendment No. 2**

Amend **CSSB 149** (house committee printing) as follows:

(1) On page 4, strike lines 13-14 and substitute the following:

SECTION 5. Section 102.052, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(2) On page 5, strike lines 19-20, and substitute the following:

(10) for the previous 12 months, a list of any conflicts of interest under this chapter or rules adopted under this chapter, any conflicts of interest that require recusal under Section 102.1061, any unreported conflicts of interest confirmed by an investigation conducted under Section 102.1063, including any actions taken by the institute regarding an unreported conflict of interest and subsequent investigation, and any waivers granted through the process established under Section 102.1062.

(c) The institute shall post on the institute's Internet website the list described by Subsection (a)(10).

(3) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. The heading to Section 102.052, Health and Safety Code, is amended to read as follows:

Sec. 102.052. ANNUAL PUBLIC REPORT; INTERNET POSTING.

### Floor Amendment No. 3

Amend **CSSB 149** (house committee report) as follows:

(1) On page 6, line 7, strike "and".

(2) On page 6, between lines 7 and 8, insert the following:

(4) for the purpose of determining any conflict of interest, the identity of each principal investor and owner of each grant recipient as provided by institute rules; and

(3) On page 6, line 8, strike "(4)" and substitute "(5)".

### Floor Amendment No. 1 on Third Reading

Amend **CSSB 149** (house committee report) as follows:

(1) On page 7, strikes lines 6 through 7 and substitute the following:

SECTION 9. Sections 102.101, Health and Safety Code, is amended by amending Subsections (b), (d), and (e) and adding Subsection (f) to read as follows:

(2) On page 8, between lines 11 and 12, insert the following new subsection:

(f) A person appointed to the oversight committee shall disclose to the institute 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. The institute annually shall post a report of the political contributions made by oversight committee members on the institute's publicly accessible Internet website and post a link to the report on the oversight committee's main Internet web page.

The amendments were read.

Senator Nelson moved to concur in the House amendments to **SB 149**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

### CONFERENCE COMMITTEE ON HOUSE BILL 3093

Senator Zaffirini called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3093** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3093** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Zaffirini, Chair; Schwertner, Birdwell, Van de Putte, and Carona.

### SENATE BILL 656 WITH HOUSE AMENDMENT

Senator Paxton called **SB 656** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

#### Floor Amendment No. 1

Amend **SB 656** (house committee printing) as follows:

(1) On page 1, line 6, strike "Subsection (d)" and substitute "Subsections (d) and (e)".

(2) On page 2, lines 21-22, strike "bonds and other debt obligations owed by the municipality" and substitute "municipal debt obligations".

(3) On page 2, between lines 22 and 23, insert the following:

(e) In this section, "debt obligation" means an issued public security as defined by Section 1201.002, Government Code, secured by property taxes.

(4) On page 3, line 18, strike "Subsection (d)" and substitute "Subsections (d) and (e)".

(5) On page 5, lines 3-4, strike "bonds and other debt obligations owed by the county" and substitute "county debt obligations".

(6) On page 5, between lines 4 and 5, insert the following:

(e) In this section, "debt obligation" means an issued public security as defined by Section 1201.002, Government Code, secured by property taxes.

(7) On page 5, line 26, strike "Subsection (d)" and substitute "Subsections (d) and (e)".

(8) On page 7, lines 11-12, strike "bonds and other debt obligations owed by the county" and substitute "county debt obligations".

(9) On page 7, between lines 12 and 13, insert the following:

(e) In this section, "debt obligation" means an issued public security as defined by Section 1201.002, Government Code, secured by property taxes.

(10) On page 8, line 8, strike "Subsection (c)" and substitute "Subsections (c) and (d)".

(11) On page 9, lines 20-21, strike "bonds and other debt obligations owed by the county" and substitute "county debt obligations".

(12) On page 9, between lines 21 and 22, insert the following:

(d) In this section, "debt obligation" means an issued public security as defined by Section 1201.002, Government Code, secured by property taxes.

The amendment was read.

Senator Paxton moved to concur in the House amendment to **SB 656**.

The motion prevailed by the following vote: Yeas 31, Nays 0.



**SENATE BILL 1226 WITH HOUSE AMENDMENT**

Senator Zaffirini called **SB 1226** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

**Floor Amendment No. 1**

Amend **SB 1226** (house committee report) as follows:

(1) On page 3, line 22, strike "and".

(2) On page 3, line 24, between "services" and the period, insert the following:

; and

(12) an employer or a representative of an employer in an industry in which individuals with disabilities might be employed

(3) On page 5, line 21, strike "(b)(10) or (11)" and substitute "(b)(10), (11), or (12)".

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to **SB 1226**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**SENATE BILL 163 WITH HOUSE AMENDMENT**

Senator Van de Putte called **SB 163** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

**Floor Amendment No. 1**

Amend **SB 163** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill, and renumbering the SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subsection (c), Section 11.42, Tax Code, is amended to read as follows:

(c) An exemption authorized by Section 11.13(c) or (d) or 11.132 is effective as of January 1 of the tax year in which the person qualifies for the exemption and applies to the entire tax year.

SECTION \_\_\_\_\_. Subsection (b), Section 26.10, Tax Code, is amended to read as follows:

(b) If the appraisal roll shows that a residence homestead exemption under Section 11.13(c) or (d) or 11.132 ~~[for an individual 65 years of age or older or a residence homestead exemption for a disabled individual]~~ applicable to a property on January 1 of a year terminated during the year and if the owner of the property qualifies a different property for one of those residence homestead exemptions during the same year, the tax due against the former residence homestead is calculated by:

(1) subtracting:

(A) the amount of the taxes that otherwise would be imposed on the former residence homestead for the entire year had the owner ~~[individual]~~ qualified for the residence homestead exemption for the entire year; from

(B) the amount of the taxes that otherwise would be imposed on the former residence homestead for the entire year had the owner ~~[individual]~~ not qualified for the residence homestead exemption during the year;

(2) multiplying the remainder determined under Subdivision (1) by a fraction, the denominator of which is 365 and the numerator of which is the number of days that elapsed after the date the exemption terminated; and

(3) adding the product determined under Subdivision (2) and the amount described by Subdivision (1)(A).

SECTION \_\_\_\_\_. Section 26.112, Tax Code, is amended to read as follows:

Sec. 26.112. CALCULATION OF TAXES ON RESIDENCE HOMESTEAD OF CERTAIN PERSONS ~~[ELDERLY OR DISABLED PERSON]~~. (a) Except as provided by Section 26.10(b), if at any time during a tax year property is owned by an individual who qualifies for an exemption under Section 11.13(c) or (d) or 11.132, the amount of the tax due on the property for the tax year is calculated as if the individual ~~[person]~~ qualified for the exemption on January 1 and continued to qualify for the exemption for the remainder of the tax year.

(b) If an individual ~~[a person]~~ qualifies for an exemption under Section 11.13(c) or (d) or 11.132 with respect to the property after the amount of the tax due on the property is calculated and the effect of the qualification is to reduce the amount of the tax due on the property, the assessor for each taxing unit shall recalculate the amount of the tax due on the property and correct the tax roll. If the tax bill has been mailed and the tax on the property has not been paid, the assessor shall mail a corrected tax bill to the person in whose name the property is listed on the tax roll or to the person's authorized agent. If the tax on the property has been paid, the tax collector for the taxing unit shall refund to the person who paid the tax the amount by which the payment exceeded the tax due.

The amendment was read.

Senator Van de Putte moved to concur in the House amendment to **SB 163**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

### SENATE BILL 644 WITH HOUSE AMENDMENTS

Senator Huffman called **SB 644** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

#### Committee Amendment No. 1

Amend **SB 644** (senate engrossed version) as follows:

(1) On page 2, strike lines 13 through 16.

(2) On page 2, line 17, strike "(d)" and substitute "(c)".

(3) On page 2, line 24, strike "(e)" and substitute "(d)".

(4) On page 3, line 27, strike "or".

(5) On page 4, strike line 1 and substitute the following:

(5) health and accident coverage provided by a risk pool created under Chapter 172, Local Government Code; or

(6) a workers' compensation insurance policy.

**Floor Amendment No. 2**

Amend **SB 644** (house committee printing) as follows:

(1) On page 6, lines 16-17, strike "and determine if" and substitute ", examine the form's effectiveness and impact on patient safety, and determine whether".

(2) On page 6, strike lines 18 through 21 and substitute the following:

(e) The advisory committee shall be composed of the commissioner of insurance or the commissioner's designee, the executive commissioner of the Health and Human Services Commission or the executive commissioner's designee, and an equal number of members from each of the following groups:

**Floor Amendment No. 3**

Amend **SB 644** (house committee printing) on page 7 by striking lines 1 through 4 and substituting the following:

(7) specialty drug distributors;

(8) health benefit plan issuers for the Texas Health Insurance Pool established under Chapter 1506;

(9) health benefit plan issuers; and

(10) health benefit plan networks of providers.

**Floor Amendment No. 1 on Third Reading**

Amend **SB 644** as follows:

On page 6, line 24, of the committee printing insert a new Subsection (e)(3) to read "consumer experienced with prior authorizations" and renumber subsequent subsections accordingly.

The amendments were read.

Senator Huffman moved to concur in the House amendments to **SB 644**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**SENATE BILL 1871 WITH HOUSE AMENDMENTS**

Senator Estes called **SB 1871** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

**Amendment**

Amend **SB 1871** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the state cemetery.

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

SECTION 1. Section 2165.256, Government Code, is amended by adding Subsection (b-1) and amending Subsection (d) to read as follows:

(b-1) Notwithstanding Subsection (b), the property other than the property described as Lot No. 5, Division B, City of Austin, Travis County, Texas, is no longer dedicated for cemetery purposes as part of the State Cemetery as provided by that subsection if, not later than December 31, 2013:

(1) the State Cemetery Committee makes an affirmative finding that the property is no longer needed for cemetery purposes and expressly consents by a majority vote of the committee to remove the dedication; and

(2) the chair of the State Cemetery Committee files in the deed records of Travis County and submits for publication in the Texas Register a document indicating that the dedication is removed.

(d) Persons eligible for burial in the State Cemetery are:

(1) a former member of the legislature or a member who dies in office;

(2) a former elective state official or an elective state official who dies in office;

(3) a former state official or a state official who dies in office who has been appointed by the governor and confirmed by the senate and who served at least 10 [~~12~~] years in the office to which appointed;

(4) a person specified by a governor's proclamation, subject to review and approval by the committee under Subsection (e);

(5) a person specified by a concurrent resolution adopted by the legislature, subject to review and approval by the committee under Subsection (e); and

(6) a person specified by order of the committee under Subsection (e).

SECTION 2. This Act takes effect September 1, 2013.

### **Floor Amendment No. 1**

Amend **CSSB 1871** (house committee report) as follows:

(1) On page 1, line 11, strike "December 31, 2013" and substitute "December 31, 2014".

(2) Strike page 1, lines 12 through 15, and substitute the following:

(1) the State Cemetery Committee:

(A) makes affirmative findings that:

(i) the property is no longer needed for cemetery purposes; and

(ii) proceeds from a real property transaction involving the property described by this subsection will be used to further the goals of the State Cemetery Committee, including capital improvements or major repairs or renovations to the State Cemetery, or for a purpose described by Subsection (p); and

(B) expressly consents by a majority vote of the committee to remove the dedication; and

### **Floor Amendment No. 1 on Third Reading**

Amend **CSSB 1871** on third reading as follows:

(1) In added Section 2165.256(b-1)(1)(A)(i), Government Code (as added by Floor Amendment No. 1 by Kuempel), following the semicolon, strike "and".

(2) Immediately following added Section 2165.256(b-1)(1)(A)(ii), Government Code (as added by Floor Amendment No. 1 by Kuempel), insert the following:

(iii) concerns expressed by residents of neighborhoods in the vicinity of the property have been considered and that efforts have been made to address those concerns; and

The amendments were read.

Senator Estes moved to concur in the House amendments to **SB 1871**.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Birdwell, Campbell, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Garcia, Hancock, Hegar, Hinojosa, Huffman, Lucio, Nelson, Nichols, Paxton, Rodríguez, Schwertner, Seliger, Taylor, Uresti, Van de Putte, West, Whitmire, Williams, Zaffirini.

Nays: Patrick, Watson.

### REASON FOR VOTE

Senator Watson submitted the following reason for vote on **SB 1871**:

Senate Bill 1871 contains a provision affecting land in my district owned by the Texas State Cemetery Committee. This provision was amended onto the bill on the House floor. While the land belongs to the state, I strongly believe the nearby neighborhoods deserve to have a say in the future of this state property. It is clear that this legislation has the votes to pass the Senate. That being the case, I intend to work closely with the Cemetery Committee, the Department of Transportation, and any other agency regarding the future of this property. I have worked throughout this session to ensure that local communities, including those near this cemetery property, have a voice in the development of state land around them. I will do all I can to ensure that any development of this property will not harm or negatively impact the people and community surrounding it.

WATSON

### SENATE BILL 1150 WITH HOUSE AMENDMENTS

Senator Hinojosa called **SB 1150** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

#### Floor Amendment No. 1

Amend **SB 1150** (house committee report) as follows:

(1) On page 2 of the bill, line 6, between "contract" and the underlined semicolon, insert "and this section".

(2) On page 3 of the bill, between lines 20 and 21, insert the following:

(c) To aid in determining proper reimbursement for claims as provided by Subsection (b), a provider, including a pharmacy provider, is entitled to a hearing before the State Office of Administrative Hearings to appeal a confiscatory reimbursement rate of a managed care organization or the organization's pharmacy benefit manager. A reimbursement rate is considered confiscatory for purposes of this subsection if the rate does not reimburse the provider for reasonable operating expenses, does not provide a reasonable return on the provider's investments, or places in jeopardy the provider's financial integrity. Under this subsection:

(1) if the provider's contract contains a reimbursement dispute resolution process, the parties must spend at least 45 days attempting to resolve the dispute under that process before requesting a hearing under this subsection;

(2) a hearing must be conducted by a hearing officer in the same manner as is provided for contested case hearings under Chapter 2001;

(3) the decision of the hearing officer is final;

(4) the hearing officer may:

(A) assess all or part of the costs of the hearing, not including attorney's fees, against the party or parties that do not substantially prevail, as determined by the hearing officer; and

(B) with the consent of the providers, partially or wholly combine cases that involve the same type of Medicaid provider license and specialty and the same or substantially similar reimbursement issues; and

(5) the hearing officer may not award an amount against a managed care organization to one or more providers that, in the aggregate, exceeds the amount required to be maintained by the managed care organization as adequate reserves to reasonably accommodate such awards as specified by Medicaid program statutes, rules, and contracts in effect on May 1, 2013.

### **Floor Amendment No. 1 on Third Reading**

Amend **SB 1150** on third reading as follows:

(1) In SECTION 1 of the bill, in added Section 533.0055(b)(2)(C), Government Code, after "contract", strike "and this section".

(2) In SECTION 1 of the bill, strike added Section 533.0055(c), Government Code.

The amendments were read.

Senator Hinojosa moved to concur in the House amendments to **SB 1150**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

### **SENATE BILL 1430 WITH HOUSE AMENDMENT**

Senator Hinojosa called **SB 1430** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

### **Amendment**

Amend **SB 1430** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the applicability of certain public works contracting requirements.

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

SECTION 1. Section 2267.354, Government Code, as added by Chapter 1129 (H.B. 628), Acts of the 82nd Legislature, Regular Session, 2011, is amended to read as follows:

Sec. 2267.354. LIMITATION ON NUMBER OF PROJECTS. (a) ~~Before September 1, 2013:~~

~~[(1) a governmental entity with a population of 500,000 or more within the entity's geographic boundary or service area may, under this subchapter, enter into contracts for not more than three projects in any fiscal year; and~~

~~[(2) a municipally owned water utility with a separate governing board appointed by the governing body of a municipality with a population of 500,000 or more may:~~

~~[(A) independently enter into a contract for not more than one civil works project in any fiscal year; and~~

~~[(B) enter into contracts for additional civil works projects in any fiscal year, but not more than the number of civil works projects prescribed by the limit in Subdivision (1) for the municipality, provided that:~~

~~[(i) the additional contracts for the civil works projects entered into by the utility under this paragraph are allocated to the number of contracts the municipality that appoints the utility's governing board may enter under Subdivision (1); and~~

~~[(ii) the governing body of the municipality must approve the contracts.~~

~~[(b) Before September 1, 2015, a governmental entity that has a population of 100,000 or more but less than 500,000 or is a board of trustees governed by Chapter 54, Transportation Code, may enter into contracts under this subchapter for not more than two projects in any fiscal year.~~

~~[(e)] After August 31, 2013 [the period described by Subsection (a) or (b)]:~~

~~(1) a governmental entity with a population of 500,000 or more within the entity's geographic boundary or service area may, under this subchapter, enter into contracts for not more than six projects in any fiscal year;~~

~~(2) a municipally owned water utility with a separate governing board appointed by the governing body of a municipality with a population of 500,000 or more may:~~

~~(A) independently enter into contracts for not more than two civil works projects in any fiscal year; and~~

~~(B) enter into contracts for additional civil works projects in any fiscal year, but not more than the number of civil works projects prescribed by the limit in Subdivision (1) for the municipality, provided that:~~

~~(i) the additional contracts for the civil works projects entered into by the utility under this paragraph are allocated to the number of contracts the municipality that appoints the utility's governing board may enter under Subdivision (1); and~~

~~(ii) the governing body of the municipality must approve the contracts; and~~

~~(3) a governmental entity that has a population of 100,000 or more but less than 500,000 or is a board of trustees governed by Chapter 54, Transportation Code, may enter into contracts under this subchapter for not more than four projects in any fiscal year.~~

~~(b) [(d)] For purposes of determining the number of eligible projects under this section, a municipally owned water utility with a separate governing board appointed by the governing body of the municipality is considered part of the municipality.~~

SECTION 2. Section 252.048(c-1), Local Government Code, is amended to read as follows:

(c-1) If a change order for a public works contract in a municipality with a population of 300,000 [~~500,000~~] or more involves a decrease or an increase of \$100,000 or less, or a lesser amount as provided by ordinance, the governing body of the municipality may grant general authority to an administrative official of the municipality to approve the change order.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

The amendment was read.

Senator Hinojosa moved to concur in the House amendment to **SB 1430**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

### SENATE BILL 1623 WITH HOUSE AMENDMENTS

Senator Hinojosa called **SB 1623** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

#### Amendment

Amend **SB 1623** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the creation and operations of health care funding districts in certain counties located on the Texas-Mexico border.

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

SECTION 1. The heading to Chapter 288, Health and Safety Code, is amended to read as follows:

CHAPTER 288. HEALTH CARE FUNDING DISTRICTS IN CERTAIN COUNTIES LOCATED ON TEXAS-MEXICO BORDER [~~THAT ARE ADJACENT TO COUNTIES WITH POPULATION OF 50,000 OR MORE~~]

SECTION 2. Sections 288.001(2) and (3), Health and Safety Code, are amended to read as follows:

(2) "District" means a county health care funding district created under [~~by~~] this chapter.

(3) "Paying hospital [~~District taxpayer~~]" means an institutional health care provider required to make a mandatory payment [~~a person or entity who has paid a tax imposed~~] under this chapter.

SECTION 3. Section 288.002, Health and Safety Code, is amended to read as follows:

Sec. 288.002. CREATION OF DISTRICT. A district may be [~~is~~] created by order of the commissioners court of [~~in~~] each county located on the Texas-Mexico border that has a population of:

(1) 500,000 or more and is adjacent to two or more counties each of which has a population of 50,000 or more;



(2) 350,000 or more and is adjacent to a county described by Subdivision (1); or

(3) less than 300,000 and contains one or more municipalities with a population of 200,000 or more.

SECTION 4. Subchapter A, Chapter 288, Health and Safety Code, is amended by adding Sections 288.0031 and 288.0032 to read as follows:

Sec. 288.0031. DISSOLUTION. A district created under this chapter may be dissolved in the manner provided for the dissolution of a hospital district under Subchapter E, Chapter 286.

Sec. 288.0032. EXPIRATION OF CHAPTER; DISTRIBUTION OF FUNDS ON EXPIRATION. (a) A district created under this chapter is abolished and this chapter expires on December 31, 2016.

(b) The commissioners court of a county in which a district is created shall refund to each paying hospital the proportionate share of any money remaining in the local provider participation fund created by the district under Section 288.155 at the time the district is abolished.

SECTION 5. The heading to Section 288.051, Health and Safety Code, is amended to read as follows:

Sec. 288.051. COMMISSION; DISTRICT GOVERNANCE [APPOINTMENT].

SECTION 6. Section 288.051, Health and Safety Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) Each district created under Section 288.002 is governed by a commission consisting of the commissioners court of the county in which the district is created ~~[of five members appointed as provided by this section].~~

(c) Service on the commission by a county commissioner or county judge is an additional duty of that person's office.

(d) A district is a component of county government and is not a separate political subdivision of this state.

SECTION 7. Section 288.101, Health and Safety Code, is amended to read as follows:

Sec. 288.101. LIMITATION ON ~~[TAXING]~~ AUTHORITY TO REQUIRE MANDATORY PAYMENT. Each district may require a mandatory payment ~~[impose taxes]~~ only in the manner provided by this chapter.

SECTION 8. Section 288.102, Health and Safety Code, is amended to read as follows:

Sec. 288.102. MAJORITY VOTE REQUIRED. (a) A district may not require ~~[impose]~~ any mandatory payment ~~[tax]~~ authorized by this chapter, spend any money, including for the administrative expenses of the district, or conduct any other business of the commission without an affirmative vote of a majority of the members of the commission.

(b) Before requiring a mandatory payment ~~[imposing a tax]~~ under this chapter in any one year, the commission must obtain the affirmative vote required by Subsection (a).

SECTION 9. Section 288.104(a), Health and Safety Code, is amended to read as follows:

(a) The commission may adopt rules governing the operation of the district, including rules relating to the administration of a mandatory payment [tax] authorized by this chapter.

SECTION 10. Section 288.151, Health and Safety Code, is amended to read as follows:

Sec. 288.151. HEARING [BUDGET]. (a) Each year, the commission of a district shall hold a public hearing on [prepare a budget for the following fiscal year that includes:

[1] proposed expenditures and disbursements;

[2] estimated receipts and collections; and

[3] the [rates and] amounts of any mandatory payments [taxes] that the commission intends to require [impose] during the year and how the revenue derived from those payments is to be spent.

(b) [The commission shall hold a public hearing on the proposed budget.] Not later than the 10th day before the date of the hearing, the commission shall publish at least once notice of the hearing in a newspaper of general circulation in the county in which the district is located.

(c) A representative of a paying hospital [Any district taxpayer] is entitled 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 under this chapter [item shown in the proposed budget].

SECTION 11. Section 288.154(b), Health and Safety Code, is amended to read as follows:

(b) All income received by a district, including the [tax] revenue from mandatory payments remaining after [deducting] discounts and fees for assessing and collecting the payments are deducted [taxes], shall be deposited with the district depository as provided by Section 288.203 and may be withdrawn only as provided by this chapter.

SECTION 12. Subchapter D, Chapter 288, Health and Safety Code, is amended by adding Sections 288.155 and 288.156 to read as follows:

Sec. 288.155. LOCAL PROVIDER PARTICIPATION FUND; AUTHORIZED USES OF MONEY. (a) Each district shall create a local provider participation fund.

(b) The local provider participation fund consists of:

(1) all revenue from the mandatory payment required by this chapter, including any penalties and interest attributable to delinquent payments;

(2) 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

(3) the earnings of the fund.

(c) Money deposited to the local provider participation fund may be used only to:

(1) 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;

(2) subsidize indigent programs;

(3) pay the administrative expenses of the district;

(4) refund a portion of a mandatory payment collected in error from a paying hospital; and

(5) 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.

(d) Money in the local provider participation fund may not be commingled with other county funds.

(e) An intergovernmental transfer of funds described by Subsection (c)(1) and any funds received by the district as a result of an intergovernmental transfer described by that subdivision may not be used 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).

Sec. 288.156. ALLOCATION OF CERTAIN FUNDS. Not later than the 15th day after the date the district receives a payment described by Section 288.155(c)(5), the district shall transfer to each paying hospital an amount equal to the proportionate share of those funds to which the hospital is entitled.

SECTION 13. The heading to Subchapter E, Chapter 288, Health and Safety Code, is amended to read as follows:

SUBCHAPTER E. MANDATORY PAYMENTS ~~[TAXES]~~

SECTION 14. Section 288.201, Health and Safety Code, is amended to read as follows:

Sec. 288.201. MANDATORY PAYMENT BASED ~~[TAX]~~ ON ~~[OUTPATIENT]~~ HOSPITAL NET PATIENT REVENUE ~~[SERVICES]~~. (a) Except as provided by Subsection (e), the ~~[The]~~ commission of a district may require ~~[impose]~~ an annual mandatory payment ~~[tax]~~ to be assessed quarterly on the net patient revenue of ~~[all outpatient hospital visits to]~~ an institutional health care provider located in the district. In the first year in which the mandatory payment ~~[tax]~~ is required ~~[imposed]~~, the mandatory payment ~~[tax]~~ is assessed on the net patient revenue ~~[total number of outpatient hospital visits]~~ of an institutional health care provider as determined by the data reported to the Department of State Health Services under Sections 311.032 and 311.033 in the fiscal year ending in 2010 ~~[2003]~~. The district shall update the amount of the mandatory payment ~~[this tax basis with the number of outpatient hospital visits reported]~~ on a biennial basis.

(b) The amount of a mandatory payment required under this chapter must be proportionate with the amount of net patient revenue generated by a paying hospital. ~~[A tax imposed under this section must be imposed uniformly on each institutional health care provider of outpatient hospital services located in the district.]~~ A mandatory payment required ~~[tax imposed]~~ under this section ~~[also]~~ may not hold harmless any institutional health care provider ~~[of outpatient hospital services]~~, as required under 42 U.S.C. Section 1396b(w).

(c) The commission of a district shall set the amount [rate] of the mandatory payment required [tax imposed] under this section. The amount of the mandatory payment required of each paying hospital [rate] may not exceed 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 [ \$100 for each outpatient hospital visit].

(d) Subject to the maximum amount [tax rate] prescribed by Subsection (c), the commission shall set the mandatory payments in amounts [rate of the tax at a rate] 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 [tax] revenue from mandatory payments used for administrative expenses of the district in a year may not exceed the lesser of four percent of the total revenue generated from the mandatory payment [tax] or \$20,000.

(e) An institutional health care provider may not add a mandatory payment required [tax imposed] under this section as a surcharge to a patient.

SECTION 15. Section 288.202, Health and Safety Code, is amended to read as follows:

Sec. 288.202. ASSESSMENT AND COLLECTION OF MANDATORY PAYMENTS [TAXES]. (a) Except as provided by Subsection (b), the county tax assessor-collector shall collect a mandatory payment required [tax imposed] under this subchapter [unless the commission employs a tax assessor and collector for the district]. The county tax assessor-collector shall charge and deduct from mandatory payments [taxes] collected for the district a fee for collecting the mandatory payment [tax] in an amount determined by the commission, not to exceed the county tax assessor-collector's usual and customary charges [for the collection of similar taxes].

(b) If determined by the commission to be appropriate, the commission may contract for the assessment and collection of mandatory payments [taxes] in the manner provided by Title 1, Tax Code, for the assessment and collection of ad valorem taxes.

(c) Revenue from a fee charged by a county tax assessor-collector for collecting the mandatory payment [tax] shall be deposited in the county general fund and, if appropriate, shall be reported as fees of the county tax assessor-collector.

SECTION 16. Section 288.203, Health and Safety Code, is amended to read as follows:

Sec. 288.203. DEPOSIT [USE] OF [TAX] REVENUE FROM MANDATORY PAYMENTS. Revenue [generated by a district] from the mandatory payment required by [a tax imposed under] this chapter shall be deposited in the district's local provider participation fund [subchapter may be used only to:

(1) provide the nonfederal share of a Medicaid supplemental payment program;

(2) subsidize indigent programs; and

(3) pay administrative expenses of the district].

SECTION 17. Section 288.204, Health and Safety Code, is amended to read as follows:

Sec. 288.204. INTEREST, PENALTIES, AND DISCOUNTS. Interest, penalties, and discounts on mandatory payments required [~~taxes imposed~~] under this subchapter are governed by the law applicable to county ad valorem taxes.

SECTION 18. Section 288.205, Health and Safety Code, is amended to read as follows:

Sec. 288.205. PURPOSE; CORRECTION OF INVALID PROVISION OR PROCEDURE. (a) The purpose of this chapter is to generate revenue from a mandatory payment required [~~tax imposed~~] by the district to provide the nonfederal share of a Medicaid supplemental payment program.

(b) To the extent any provision or procedure under this chapter causes a mandatory payment [~~tax~~] under this chapter to be ineligible for federal matching funds, the district may provide by rule for an alternative provision or procedure that conforms to the requirements of the federal Centers for Medicare and Medicaid Services.

SECTION 19. Sections 288.003, 288.004, 288.051(b), 288.052, 288.053, 288.054, 288.055, 288.056, 288.057, 288.058, 288.103, 288.104(b), 288.105, 288.107, 288.153, and 288.206, Health and Safety Code, are repealed.

SECTION 20. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 21. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

### Floor Amendment No. 1

Amend **CSSB 1623** (house committee printing) as follows:

- (1) On page 7, line 20, between "be" and "proportionate", insert "uniformly".
- (2) On page 7, line 21, strike "a" and substitute "each".
- (3) On page 7, line 21, between "hospital" and the period, insert "in the district".

The amendments were read.

Senator Hinojosa moved to concur in the House amendments to **SB 1623**.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Campbell, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Fraser, Garcia, Hancock, Hegar, Hinojosa, Huffman, Lucio, Nelson, Nichols, Patrick, Rodríguez, Schwertner, Seliger, Taylor, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Birdwell, Estes, Paxton.

### SENATE BILL 1773 WITH HOUSE AMENDMENT

Senator Huffman called **SB 1773** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

**Amendment**

Amend **SB 1773** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the creation of a select interim committee to review and make recommendations for substantive changes to ethics laws.

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

SECTION 1. INTERIM STUDY REGARDING ETHICS LAWS. (a) A select interim committee is created to study and review the statutes and regulations related to ethics, including campaign finance laws, lobby laws, and personal financial disclosure laws.

(b) The study must consider:

(1) the purposes of the current laws and whether the laws accomplish those purposes;

(2) the effectiveness of the current laws; and

(3) what changes, if any, should be made to more effectively accomplish the purposes of the laws.

(c) The committee is composed of:

(1) four members appointed by the lieutenant governor as follows:

(A) three senators, one of whom the lieutenant governor shall designate as co-chair of the committee; and

(B) one member of the public;

(2) four members appointed by the speaker of the house of representatives as follows:

(A) three state representatives, one of whom the speaker shall designate as co-chair of the committee; and

(B) one member of the public; and

(3) the presiding officer of the Texas Ethics Commission on the effective date of this Act.

(d) The committee shall convene at the call of the co-chairs.

(e) The committee has all other powers and duties provided to a special or select committee by the rules of the senate and the house of representatives, by Subchapter B, Chapter 301, Government Code, and by policies of the senate and house committees on administration.

(f) Not later than December 20, 2014, the committee shall report the committee's findings and recommendations to the lieutenant governor, the speaker of the house of representatives, and the governor. The committee shall include in its recommendations specific statutory and rule changes that appear necessary from the results of the committee's study under Subsection (a) of this section.

(g) Not later than the 60th day after the effective date of this Act, the lieutenant governor and the speaker of the house of representatives shall appoint the members of the committee created under this section.

(h) The Texas Legislative Council and the Texas Ethics Commission shall provide any necessary staff and resources to the committee created under this section.

SECTION 2. ABOLITION OF COMMITTEE. The committee is abolished and this Act expires December 21, 2014.

SECTION 3. EFFECTIVE DATE. This Act takes effect September 1, 2013.

The amendment was read.

Senator Huffman moved to concur in the House amendment to **SB 1773**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

### **SENATE BILL 511 WITH HOUSE AMENDMENT**

Senator Whitmire called **SB 511** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

#### **Amendment**

Amend **SB 511** by substituting in lieu thereof the following:

#### **A BILL TO BE ENTITLED AN ACT**

relating to the commitment of certain juveniles to local post-adjudication secure correctional facilities in certain counties and to the release under supervision of those juveniles.

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

SECTION 1. Subsection (d), Section 51.13, Family Code, is amended to read as follows:

(d) An adjudication under Section 54.03 that a child engaged in conduct that occurred on or after January 1, 1996, and that constitutes a felony offense resulting in commitment to the Texas Juvenile Justice Department [~~Youth Commission~~] under Section 54.04(d)(2), (d)(3), or (m) or 54.05(f) or commitment to a post-adjudication secure correctional facility under Section 54.04011 is a final felony conviction only for the purposes of Sections 12.42(a), (b), and (c)(1) or Section 12.425[~~, and (e)~~], Penal Code.

SECTION 2. Section 54.04, Family Code, is amended by amending Subsections (d) and (q) and adding Subsection (z) to read as follows:

(d) If the court or jury makes the finding specified in Subsection (c) allowing the court to make a disposition in the case:

(1) the court or jury may, in addition to any order required or authorized under Section 54.041 or 54.042, place the child on probation on such reasonable and lawful terms as the court may determine:

(A) in the child's own home or in the custody of a relative or other fit person; or

(B) subject to the finding under Subsection (c) on the placement of the child outside the child's home, in:

(i) a suitable foster home;

(ii) a suitable public or private residential treatment facility licensed by a state governmental entity or exempted from licensure by state law, except a facility operated by the Texas Juvenile Justice Department [~~Youth Commission~~]; or

(iii) a suitable public or private post-adjudication secure correctional facility that meets the requirements of Section 51.125, except a facility operated by the Texas Juvenile Justice Department [~~Youth Commission~~];

(2) if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct that violates a penal law of this state or the United States of the grade of felony and if the petition was not approved by the grand jury under Section 53.045, the court may commit the child to the Texas Juvenile Justice Department or a post-adjudication secure correctional facility under Section 54.04011(c)(1) [~~Youth Commission~~] without a determinate sentence;

(3) if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct that included a violation of a penal law listed in Section 53.045(a) and if the petition was approved by the grand jury under Section 53.045, the court or jury may sentence the child to commitment in the Texas Juvenile Justice Department or a post-adjudication secure correctional facility under Section 54.04011(c)(2) [~~Youth Commission~~] with a possible transfer to the Texas Department of Criminal Justice for a term of:

(A) not more than 40 years if the conduct constitutes:

- (i) a capital felony;
- (ii) a felony of the first degree; or
- (iii) an aggravated controlled substance felony;

(B) not more than 20 years if the conduct constitutes a felony of the second degree; or

(C) not more than 10 years if the conduct constitutes a felony of the third degree;

(4) the court may assign the child an appropriate sanction level and sanctions as provided by the assignment guidelines in Section 59.003; or

(5) if applicable, the court or jury may make a disposition under Subsection (m) or Section 54.04011(c)(2)(A).

(q) If a court or jury sentences a child to commitment in the Texas Juvenile Justice Department or a post-adjudication secure correctional facility [~~Youth Commission~~] under Subsection (d)(3) for a term of not more than 10 years, the court or jury may place the child on probation under Subsection (d)(1) as an alternative to making the disposition under Subsection (d)(3). The court shall prescribe the period of probation ordered under this subsection for a term of not more than 10 years. The court may, before the sentence of probation expires, extend the probationary period under Section 54.05, except that the sentence of probation and any extension may not exceed 10 years. The court may, before the child's 19th birthday, discharge the child from the sentence of probation. If a sentence of probation ordered under this subsection and any extension of probation ordered under Section 54.05 will continue after the child's 19th birthday, the court shall discharge the child from the sentence of probation on the child's 19th birthday unless the court transfers the child to an appropriate district court under Section 54.051.

(z) Nothing in this section may be construed to prohibit a juvenile court or jury in a county to which Section 54.04011 applies from committing a child to a post-adjudication secure correctional facility in accordance with that section after a disposition hearing held in accordance with this section.

SECTION 3. Chapter 54, Family Code, is amended by adding Section 54.04011 to read as follows:



Sec. 54.04011. COMMITMENT TO POST-ADJUDICATION SECURE CORRECTIONAL FACILITY. (a) In this section, "post-adjudication secure correctional facility" means a facility operated by or under contract with a juvenile board or local juvenile probation department under Section 152.0016, Human Resources Code.

(b) This section 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.

(c) After a disposition hearing held in accordance with Section 54.04, the juvenile court of a county to which this section applies may commit a child who is found to have engaged in delinquent conduct that constitutes a felony to a post-adjudication secure correctional facility:

(1) without a determinate sentence, if:

(A) 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 under Section 53.045;

(B) 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 under Section 53.045 but the court or jury does not make the finding described by Section 54.04(m)(2); or

(C) the disposition is modified under Section 54.05(f); or

(2) with a determinate sentence, if:

(A) the child is found to have engaged in conduct that included a violation of a penal law listed in Section 53.045 or that is considered habitual felony conduct as described by Section 51.031, the petition was approved by the grand jury under Section 53.045, and, if applicable, the court or jury makes the finding described by Section 54.04(m)(2); or

(B) the disposition is modified under Section 54.05(f).

(d) Nothing in this section may be construed to prohibit:

(1) a juvenile court or jury from making a disposition under Section 54.04, including:

(A) placing 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 under Section 54.04(d)(1)(B)(iii); or

(B) placing a child adjudicated under Section 54.04(d)(3) or (m) on probation for a term of not more than 10 years, as provided in Section 54.04(q); or

(2) the attorney representing the state from filing a motion concerning a child who has been placed on probation under Section 54.04(q) or the juvenile court from holding a hearing under Section 54.051(a).

(e) The provisions of 37 T.A.C. Section 343.610 do not apply to this section.

(f) This section expires on December 31, 2018.

SECTION 4. Subsections (b), (f), (j), and (m), Section 54.05, Family Code, are amended to read as follows:

(b) Except for a commitment to the Texas Juvenile Justice Department or to a post-adjudication secure correctional facility under Section 54.04011, [Youth Commission or] a disposition under Section 54.0402, or a placement on determinate sentence probation under Section 54.04(q), all dispositions automatically terminate when the child reaches the child's 18th birthday.

(f) Except as provided by Subsection (j), a disposition based on a finding that the child engaged in delinquent conduct that violates a penal law of this state or the United States of the grade of felony may be modified so as to commit the child to the Texas Juvenile Justice Department or, if applicable, a post-adjudication secure correctional facility operated under Section 152.0016, Human Resources Code, [Youth Commission] if the court after a hearing to modify disposition finds by a preponderance of the evidence that the child violated a reasonable and lawful order of the court. A disposition based on a finding that the child engaged in habitual felony conduct as described by Section 51.031 or in delinquent conduct that included a violation of a penal law listed in Section 53.045(a) may be modified to commit the child to the Texas Juvenile Justice Department or, if applicable, a post-adjudication secure correctional facility operated under Section 152.0016, Human Resources Code, [Youth Commission] with a possible transfer to the Texas Department of Criminal Justice for a definite term prescribed by, as applicable, Section 54.04(d)(3) or Section 152.0016(g), Human Resources Code, if the original petition was approved by the grand jury under Section 53.045 and if after a hearing to modify the disposition the court finds that the child violated a reasonable and lawful order of the court.

(j) If, after conducting a hearing to modify disposition without a jury, the court finds by a preponderance of the evidence that a child violated a reasonable and lawful condition of probation ordered under Section 54.04(q), the court may modify the disposition to commit the child to the Texas Juvenile Justice Department [Youth Commission] under Section 54.04(d)(3) or, if applicable, a post-adjudication secure correctional facility operated under Section 152.0016, Human Resources Code, for a term that does not exceed the original sentence assessed by the court or jury.

(m) If the court places the child on probation outside the child's home or commits the child to the Texas Juvenile Justice Department or to a post-adjudication secure correctional facility operated under Section 152.0016, Human Resources Code [Youth Commission], the court:

(1) shall include in the court's order a determination that:

(A) it is in the child's best interests to be placed outside the child's home;

(B) reasonable efforts were made to prevent or eliminate the need for the child's removal from the child's home and to make it possible for the child to return home; and

(C) the child, in the child's home, cannot be provided the quality of care and level of support and supervision that the child needs to meet the conditions of probation; and

(2) may approve an administrative body to conduct a permanency hearing pursuant to 42 U.S.C. Section 675 if required during the placement or commitment of the child.

SECTION 5. Subsections (a), (b), and (d), Section 54.052, Family Code, are amended to read as follows:

(a) This section applies only to a child who is committed to:

(1) the Texas Juvenile Justice Department [Youth Commission] under a determinate sentence under Section 54.04(d)(3) or (m) or Section 54.05(f); or

(2) a post-adjudication secure correctional facility under a determinate sentence under Section 54.04011(c)(2).

(b) The judge of the court in which a child is adjudicated shall give the child credit on the child's sentence for the time spent by the child, in connection with the conduct for which the child was adjudicated, in a secure detention facility before the child's transfer to a Texas Juvenile Justice Department [Youth Commission] facility or a post-adjudication secure correctional facility, as applicable.

(d) The Texas Juvenile Justice Department or the juvenile board or local juvenile probation department operating or contracting for the operation of the post-adjudication secure correctional facility under Section 152.0016, Human Resources Code, as applicable, [Youth Commission] shall grant any credit under this section in computing the child's eligibility for parole and discharge.

SECTION 6. Subsections (a), (h), (i), (j), and (k), Section 54.11, Family Code, are amended to read as follows:

(a) On receipt of a referral under Section 244.014(a), Human Resources Code, for the transfer to the Texas Department of Criminal Justice of a person committed to the Texas Juvenile Justice Department under Section 54.04(d)(3), 54.04(m), or 54.05(f), ~~or~~ on receipt of a request by the Texas Juvenile Justice Department under Section 245.051(d), Human Resources Code, for approval of the release under supervision of a person committed to the Texas Juvenile Justice Department under Section 54.04(d)(3), 54.04(m), or 54.05(f), or on receipt of a referral under Section 152.0016(g), Human Resources Code, the court shall set a time and place for a hearing on the release of the person.

(h) The hearing on a person who is referred for transfer under Section 152.0016(j) or 244.014(a), Human Resources Code, shall be held not later than the 60th day after the date the court receives the referral.

(i) On conclusion of the hearing on a person who is referred for transfer under Section 152.0016(j) or 244.014(a), Human Resources Code, the court may, as applicable, order:

(1) the return of the person to the Texas Juvenile Justice Department or post-adjudication secure correctional facility; or

(2) the transfer of the person to the custody of the Texas Department of Criminal Justice for the completion of the person's sentence.

(j) On conclusion of the hearing on a person who is referred for release under supervision under Section 152.0016(g) or 245.051(c), Human Resources Code, the court may, as applicable, order the return of the person to the Texas Juvenile Justice Department or post-adjudication secure correctional facility:

(1) with approval for the release of the person under supervision; or

(2) without approval for the release of the person under supervision.

(k) In making a determination under this section, the court may consider the experiences and character of the person before and after commitment to the Texas Juvenile Justice Department or post-adjudication secure correctional facility [~~youth commission~~], the nature of the penal offense that the person was found to have committed and the manner in which the offense was committed, the abilities of the person to contribute to society, the protection of the victim of the offense or any member of the victim's family, the recommendations of the Texas Juvenile Justice Department, county juvenile board, local juvenile probation department, [~~youth commission~~] and prosecuting attorney, the best interests of the person, and any other factor relevant to the issue to be decided.

SECTION 7. Section 59.009, Family Code, is amended to read as follows:

Sec. 59.009. SANCTION LEVEL SIX. (a) For a child at sanction level six, the juvenile court may commit the child to the custody of the Texas Juvenile Justice Department or a post-adjudication secure correctional facility under Section 54.04011(c)(1) [~~Youth Commission~~]. The department, juvenile board, or local juvenile probation department, as applicable, [~~commission~~] may:

(1) require the child to participate in a highly structured residential program that emphasizes discipline, accountability, fitness, training, and productive work for not less than nine months or more than 24 months unless the department, board, or probation department [~~commission~~] extends the period and the reason for an extension is documented;

(2) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of the harm caused and according to the child's ability, if there is a victim of the child's conduct;

(3) require the child and the child's parents or guardians to participate in programs and services for their particular needs and circumstances; and

(4) if appropriate, impose additional sanctions.

(b) On release of the child under supervision, the Texas Juvenile Justice Department [~~Youth Commission~~] parole programs or the juvenile board or local juvenile probation department operating parole programs under Section 152.0016(c)(2), Human Resources Code, may:

(1) impose highly structured restrictions on the child's activities and requirements for behavior of the child as conditions of release under supervision;

(2) require a parole officer to closely monitor the child for not less than six months; and

(3) if appropriate, impose any other conditions of supervision.

(c) The Texas Juvenile Justice Department, juvenile board, or local juvenile probation department [~~Youth Commission~~] may discharge the child from the [~~commission's~~] custody of the department, board, or probation department, as applicable, on the date the provisions of this section are met or on the child's 19th birthday, whichever is earlier.

SECTION 8. Section 59.010, Family Code, is amended to read as follows:

Sec. 59.010. SANCTION LEVEL SEVEN. (a) For a child at sanction level seven, the juvenile court may certify and transfer the child under Section 54.02 or sentence the child to commitment to the Texas Juvenile Justice Department [~~Youth~~

Commission] under Section 54.04(d)(3), 54.04(m), or 54.05(f) or to a post-adjudication secure correctional facility under Section 54.04011(c)(2). The department, juvenile board, or local juvenile probation department, as applicable, commission] may:

(1) require the child to participate in a highly structured residential program that emphasizes discipline, accountability, fitness, training, and productive work for not less than 12 months or more than 10 years unless the department, board, or probation department commission] extends the period and the reason for the extension is documented;

(2) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of harm caused and according to the child's ability, if there is a victim of the child's conduct;

(3) require the child and the child's parents or guardians to participate in programs and services for their particular needs and circumstances; and

(4) impose any other appropriate sanction.

(b) On release of the child under supervision, the Texas Juvenile Justice Department Youth Commission] parole programs or the juvenile board or local juvenile probation department parole programs under Section 152.0016(c)(2), Human Resources Code, may:

(1) impose highly structured restrictions on the child's activities and requirements for behavior of the child as conditions of release under supervision;

(2) require a parole officer to monitor the child closely for not less than 12 months; and

(3) impose any other appropriate condition of supervision.

SECTION 9. Subsection (b), Section 841.003, Health and Safety Code, is amended to read as follows:

(b) A person is a repeat sexually violent offender for the purposes of this chapter if the person is convicted of more than one sexually violent offense and a sentence is imposed for at least one of the offenses or if:

(1) the person:

(A) is convicted of a sexually violent offense, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the person was subsequently discharged from community supervision;

(B) enters a plea of guilty or nolo contendere for a sexually violent offense in return for a grant of deferred adjudication;

(C) is adjudged not guilty by reason of insanity of a sexually violent offense; or

(D) is adjudicated by a juvenile court as having engaged in delinquent conduct constituting a sexually violent offense and is committed to the Texas Juvenile Justice Department Youth Commission] under Section 54.04(d)(3) or (m), Family Code; and

(2) after the date on which under Subdivision (1) the person is convicted, receives a grant of deferred adjudication, is adjudged not guilty by reason of insanity, or is adjudicated by a juvenile court as having engaged in delinquent conduct, the person commits a sexually violent offense for which the person:

(A) is convicted, but only if the sentence for the offense is imposed; or

(B) is adjudged not guilty by reason of insanity.

SECTION 10. Subchapter A, Chapter 152, Human Resources Code, is amended by adding Section 152.0016 to read as follows:

Sec. 152.0016. POST-ADJUDICATION SECURE CORRECTIONAL FACILITIES; RELEASE UNDER SUPERVISION. (a) This section applies only to a county that has a population of more than one million and less than 1.5 million.

(b) In this section, "post-adjudication secure correctional facility" means a facility operated by or under contract with a juvenile board or local juvenile probation department in accordance with Section 51.125, Family Code.

(c) A juvenile board shall establish a policy that specifies whether the juvenile board or a local juvenile probation department that serves a county to which this section applies may:

(1) operate or contract for the operation of a post-adjudication secure correctional facility to confine children committed to the facility under Section 54.04011, Family Code; and

(2) operate a program through which a child committed to a post-adjudication secure correctional facility under Section 54.04011, Family Code, 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.

(d) Before placing a child in the child's home under Subsection (c)(2), the juvenile board or local juvenile probation department shall evaluate the home setting to determine the level of supervision and quality of care that is available in the home.

(e) A juvenile board or a local juvenile probation department shall accept a person properly committed to it by a juvenile court under Section 54.04011, Family Code, in the same manner in which the Texas Juvenile Justice Department accepts a person under Section 54.04(e), Family Code, even though the person may be 17 years of age or older at the time of the commitment.

(f) A juvenile board or a local juvenile probation department shall establish a minimum length of stay for each child committed without a determinate sentence under Section 54.04011(c)(1), Family Code, in the same manner that the Texas Juvenile Justice Department determines a minimum length of stay for a child committed to the department under Section 243.002.

(g) Except as provided by Subsection (h), if a child is committed to a post-adjudication secure correctional facility under Section 54.04011(c)(2), Family Code, the local juvenile probation department may not release the child under supervision without approval by the juvenile court that entered the order of commitment under Section 54.04011, Family Code, unless the child has been confined not less than:

(1) 10 years for capital murder;

(2) three years for an aggravated controlled substance felony or a felony of the first degree;

(3) two years for a felony of the second degree; and

(4) one year for a felony of the third degree.

(h) The juvenile board or local juvenile probation department may release a child who has been committed to a post-adjudication secure correctional facility with a determinate sentence under Section 54.04011(c)(2), Family Code, 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 as provided by Section 245.051(g).

(i) The juvenile board or local juvenile probation department may 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 the Texas Juvenile Justice Department regarding resumption of care.

(j) After a child committed to a post-adjudication secure correctional facility with a determinate sentence under Section 54.04011(c)(2), Family Code, becomes 16 years of age but before the child becomes 19 years of age, the juvenile board or local juvenile probation department operating or contracting for the operation of the facility may refer the child to the juvenile court that entered the order of commitment for approval of the child's transfer to the Texas Department of Criminal Justice for confinement if the child has not completed the sentence and:

(1) the child's conduct, regardless of whether the child was released under supervision through a program established by the board or department, indicates that the welfare of the community requires the transfer; or

(2) while the child was released under supervision:

(A) a juvenile court adjudicated the child as having engaged in delinquent conduct constituting a felony offense;

(B) a criminal court convicted the child of a felony offense; or

(C) the child's release under supervision was revoked.

(k) A juvenile board or local juvenile probation department operating or contracting for the operation of a post-adjudication secure correctional facility under this section shall develop a comprehensive plan for each child committed to the facility under Section 54.04011, Family Code, 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 or final discharge from the facility, as applicable.

(l) This section expires on December 31, 2018.

SECTION 11. Subsection (f), Section 12.42, Penal Code, is amended to read as follows:

(f) For the purposes of Subsections (a), (b), and (c)(1), ~~and (e),~~ an adjudication by a juvenile court under Section 54.03, Family Code, that a child engaged in delinquent conduct on or after January 1, 1996, constituting a felony offense for which the child is committed to the Texas Juvenile Justice Department [~~Youth Commission~~] under Section 54.04(d)(2), (d)(3), or (m), Family Code, or Section 54.05(f), Family Code, or to a post-adjudication secure correctional facility under Section 54.04011, Family Code, is a final felony conviction.

SECTION 12. The changes in law made by this Act apply only to conduct that occurs on or after the effective date of this Act. Conduct that occurs before the effective date of this Act is covered by the law in effect at the time the conduct

occurred, and the former law is continued in effect for that purpose. For the purposes of this section, conduct occurs before the effective date of this Act if any element of the conduct occurred before that date.

SECTION 13. This Act takes effect December 1, 2013.

The amendment was read.

Senator Whitmire moved to concur in the House amendment to **SB 511**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

### **SENATE BILL 268 WITH HOUSE AMENDMENT**

Senator Seliger called **SB 268** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

#### **Amendment**

Amend **SB 268** by substituting in lieu thereof the following:

#### **A BILL TO BE ENTITLED AN ACT**

relating to the application of the professional prosecutors law to the district attorney for the 287th Judicial District and the county attorney of Oldham County.

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

SECTION 1. Section 46.002, Government Code, is amended to read as follows:

Sec. 46.002. **PROSECUTORS SUBJECT TO CHAPTER.** This chapter applies to the state prosecuting attorney, all county prosecutors, and the following state prosecutors:

(1) the district attorneys for Kenedy and Kleberg Counties and for the 1st, 2nd, 8th, 9th, 12th, 18th, 21st, 23rd, 25th, 26th, 27th, 29th, 31st, 32nd, 33rd, 34th, 35th, 36th, 38th, 39th, 42nd, 43rd, 46th, 47th, 49th, 50th, 51st, 52nd, 53rd, 63rd, 64th, 66th, 69th, 70th, 76th, 81st, 83rd, 84th, 85th, 88th, 90th, 97th, 100th, 105th, 106th, 109th, 110th, 112th, 118th, 119th, 123rd, 142nd, 143rd, 145th, 156th, 159th, 173rd, 196th, 198th, 216th, 220th, 229th, 235th, 253rd, 258th, 259th, 266th, 268th, 271st, 286th, 287th, 329th, 344th, 349th, 355th, and 506th judicial districts;

(2) the criminal district attorneys for the counties of Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Collin, Comal, Dallas, Deaf Smith, Denton, Eastland, Fannin, Galveston, Grayson, Gregg, Harrison, Hays, Hidalgo, Jasper, Jefferson, Kaufman, Lubbock, McLennan, Madison, Navarro, Newton, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wichita, Wood, and Yoakum; and

(3) the county attorneys performing the duties of district attorneys in the counties of Andrews, Callahan, Cameron, Castro, Colorado, Crosby, Ellis, Falls, Freestone, Lamar, Lamb, Lampasas, Lee, Limestone, Marion, Milam, Morris, Ochiltree, Oldham, Orange, Rains, Red River, Robertson, Rusk, Swisher, Terry, Webb, and Willacy.

SECTION 2. This Act takes effect September 1, 2013.

The amendment was read.



Senator Seliger moved to concur in the House amendment to **SB 268**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

### RECESS

On motion of Senator Whitmire, the Senate at 2:30 p.m. recessed until 3:00 p.m. today.

### AFTER RECESS

The Senate met at 4:38 p.m. and was called to order by Senator Eltife.

### MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Friday, May 24, 2013 - 3

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the house to inform the senate that the house has taken the following action:

THE HOUSE HAS CONCURRED IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

- HB 31** (146 Yeas, 0 Nays, 2 Present, not voting)
- HB 97** (146 Yeas, 0 Nays, 1 Present, not voting)
- HB 195** (144 Yeas, 0 Nays, 3 Present, not voting)
- HB 232** (140 Yeas, 4 Nays, 3 Present, not voting)
- HB 315** (146 Yeas, 0 Nays, 1 Present, not voting)
- HB 437** (143 Yeas, 0 Nays, 3 Present, not voting)
- HB 697** (146 Yeas, 0 Nays, 2 Present, not voting)
- HB 796** (124 Yeas, 21 Nays, 2 Present, not voting)
- HB 1023** (142 Yeas, 2 Nays, 2 Present, not voting)
- HB 1223** (143 Yeas, 1 Nay, 1 Present, not voting)
- HB 1324** (145 Yeas, 0 Nays, 2 Present, not voting)
- HB 1366** (110 Yeas, 29 Nays, 1 Present, not voting)
- HB 1435** (144 Yeas, 0 Nays, 2 Present, not voting)
- HB 1726** (141 Yeas, 3 Nays, 1 Present, not voting)
- HB 1751** (140 Yeas, 3 Nays, 2 Present, not voting)
- HB 1803** (144 Yeas, 0 Nays, 2 Present, not voting)
- HB 1847** (142 Yeas, 1 Nay, 1 Present, not voting)

**HB 1864** (144 Yeas, 0 Nays, 2 Present, not voting)

**HB 2080** (142 Yeas, 1 Nay, 2 Present, not voting)

**HB 2268** (142 Yeas, 0 Nays, 2 Present, not voting)

**HB 2422** (146 Yeas, 0 Nays, 2 Present, not voting)

**HB 2612** (143 Yeas, 0 Nays, 2 Present, not voting)

**HB 2859** (109 Yeas, 35 Nays, 2 Present, not voting)

**HB 2862** (146 Yeas, 0 Nays, 1 Present, not voting)

**HB 2912** (145 Yeas, 0 Nays, 1 Present, not voting)

**HB 2978** (143 Yeas, 0 Nays, 1 Present, not voting)

**HB 3433** (131 Yeas, 13 Nays, 1 Present, not voting)

**HB 3509** (134 Yeas, 10 Nays, 2 Present, not voting)

**HB 3954** (144 Yeas, 0 Nays, 1 Present, not voting)

THE HOUSE HAS REFUSED TO CONCUR IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

**HB 6** (non-record vote)

House Conferees: Otto - Chair/Bonnen, Dennis/Darby/Geren/Pitts

**HB 7** (non-record vote)

House Conferees: Darby - Chair/Eiland/Otto/Pitts/Turner, Sylvester

**HB 194** (non-record vote)

House Conferees: Farias - Chair/Guillen/Menéndez/Miller, Rick/Sheets

**HB 489** (non-record vote)

House Conferees: Menéndez - Chair/Collier/Dale/Miller, Rick/Moody

**HB 500** (non-record vote)

House Conferees: Hilderbran - Chair/Bohac/Button/Gonzalez, Naomi/King, Tracy O.

**HB 586** (non-record vote)

House Conferees: Workman - Chair/Callegari/Farrar/Leach/Menéndez

**HB 680** (non-record vote)

House Conferees with Instructions: Burkett - Chair/Cortez/Farias/Fletcher/Sheets

**HB 1025** (non-record vote)

House Conferees: Pitts - Chair/Darby/Martinez Fischer/Oliveira/Otto

**HB 2305** (non-record vote)

House Conferees: Rodriguez, Eddie - Chair/Harper-Brown/Johnson/Martinez, "Mando"/Workman

**HB 3390** (non-record vote)

House Conferees: Hilderbran - Chair/Darby/Davis, John/Eiland/Murphy

THE HOUSE HAS TAKEN THE FOLLOWING OTHER ACTION:

**HB 3523**

Pursuant to Rule 13, Section 5A of the Rules of the Texas House, 83rd Legislature, the house hereby returns HB 3523 to the senate for further consideration due to non-germane amendments.

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**SENATE RESOLUTION 1037**

Senator West offered the following resolution:

**SR 1037**, Recognizing Mary K. Suhm on the occasion of her retirement.

The resolution was read and was adopted without objection.

**SENATE BILL 1292 WITH HOUSE AMENDMENTS**

Senator Ellis called **SB 1292** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

**Floor Amendment No. 1**

Amend **SB 1292** (house committee printing) as follows:

(1) On page 1, line 9, between "penalty," and "the Department", insert "subject to Subsection (j), the state shall require either".

(2) On page 1, line 10, strike "shall" and substitute "through one of its laboratories or a laboratory accredited under Section 411.0205, Government Code, to".

(3) On page 1, line 11, strike "department's" and substitute "laboratory's".

(4) On page 1, lines 11-13, strike "or have DNA tested by a laboratory accredited under Section 411.0205, Government Code, on all" and substitute "on any".

(5) On page 1, line 14, between "offense" and the underlined period, insert "and is in the possession of the state".

(6) On page 1, line 15, strike "performed the" and substitute "performs the".

(7) On page 1, line 19, between "case," and "the", insert "unless the state has affirmatively waived the death penalty in writing,".

(8) On page 2, strike lines 7-10 and substitute the following:  
to the state and the defendant. At the hearing, there is a rebuttable presumption that the biological material that the defendant requests to be tested constitutes biological evidence that is required to be tested under Subsection (i). This subsection does not in any way prohibit the state from testing biological evidence in the state's possession.

(9) On page 2, line 14, strike "documentation" and substitute "bench notes prepared by the laboratory that are".

(10) On page 2, strike lines 16-18 and substitute the following:

(l) The defendant's exclusive remedy for testing that was not performed as required under Subsection (i) or (j) 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 under Section 4(a), Article 11.071. An application for a writ of mandamus under this subsection does not toll any period of limitations applicable to a habeas petition under state or federal law. The defendant is entitled to only one application for a writ of mandamus under this subsection. At any time after the date an application for a writ of habeas corpus is filed in the defendant's case under Section 4(a), Article 11.071, the defendant may file one additional motion for forensic testing under Chapter 64.

### **Floor Amendment No. 2**

Amend **SB 1292** (house committee printing) on page 2, line 11, between "destroyed" and "as" by inserting "or lost".

The amendments were read.

Senator Ellis moved to concur in the House amendments to **SB 1292**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

### **SENATE BILL 126 WITH HOUSE AMENDMENT**

Senator Nelson called **SB 126** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

### **Floor Amendment No. 1**

Amend **SB 126** (house committee report) as follows:

(1) On page 1, line 8, between "department" and "shall", insert ", in collaboration with the commission,".

(2) On page 1, line 11, strike "and the department" and substitute ", the department, and the commission".

(3) On page 1, line 16, between "(2)" and "managed", insert "Medicaid".

(4) On page 1, line 18, between "(3)" and "persons", insert "agencies, organizations, and".

(5) Strike page 1, line 20, through page 2, line 3, and substitute the following:

(b) The system must allow external users to view and compare the performance, outputs, and outcomes of the Medicaid managed care programs that provide mental health services.

(c) The department shall post the performance, output, and outcome measures on the department's website so that the information is accessible to the public. The department shall post the measures quarterly or semiannually in accordance with when the measures are reported to the department.

(d) The department shall consider public input in determining the appropriate outcome measures to collect in the public reporting system. To the extent possible, the department shall 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.

(e) The commission shall 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 impact on managed care organizations and providers of collecting the outcome measures required by Subsection (d). Not later than December 1, 2014, the commission shall report the results of the study to the legislature and appropriate legislative committees.

(f) The department shall ensure that information reported through the public reporting system does not permit the identification of an individual.

(6) Insert the following appropriately numbered SECTION and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Not later than December 1, 2014, the Department of State Health Services shall submit a report to the legislature and the Legislative Budget Board on the development of the public reporting system as required by Section 1001.078, Health and Safety Code, as added by this Act, and the outcome measures collected.

The amendment was read.

Senator Nelson moved to concur in the House amendment to **SB 126**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

#### **SENATE BILL 345 WITH HOUSE AMENDMENT**

Senator Whitmire called **SB 345** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

#### **Floor Amendment No. 1**

Amend **SB 345** by adding the following appropriately numbered SECTIONS to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 501.009, Government Code, is amended to read as follows:

Sec. 501.009. **VOLUNTEER AND FAITH-BASED ORGANIZATIONS; REPORT.** (a) The department shall adopt a policy that requires each warden to identify [actively encourage] volunteer and faith-based organizations that [to] provide [the following] programs for inmates housed in facilities operated by the department. The policy must require each warden to actively encourage volunteer and faith-based organizations to provide the following programs for inmates in the warden's facility:

- (1) literacy and education programs;
- (2) life skills programs;
- (3) job skills programs;
- (4) parent-training programs;
- (5) drug and alcohol rehabilitation programs;
- (6) support group programs;
- (7) arts and crafts programs; and

(8) other programs determined by the department to aid inmates in the transition between confinement and society and to reduce incidence of recidivism among inmates.

(b) The policy must require that each warden submit a report to the board not later than December 31 of each year that includes, for the preceding fiscal year, a summary of:

- (1) the programs provided to inmates under this section; and
- (2) 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.

SECTION \_\_\_\_\_. Not later than December 1, 2013, the Texas Department of Criminal Justice shall adopt the policy, including a schedule for implementing the policy, required by Section 501.009, Government Code, as amended by this Act.

The amendment was read.

Senator Whitmire moved to concur in the House amendment to **SB 345**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

### **SENATE BILL 1234 WITH HOUSE AMENDMENTS**

Senator Whitmire called **SB 1234** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

#### **Amendment**

Amend **SB 1234** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the prevention of truancy and the offense of failure to attend school.

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

SECTION 1. Subsection (i), Article 45.054, Code of Criminal Procedure, is amended to read as follows:

(i) A county, justice, or municipal court shall dismiss the complaint against an individual alleging that the individual committed an offense under Section 25.094, Education Code, if:

(1) the court finds that the individual has successfully complied with the conditions imposed on the individual by the court under this article; or

(2) the individual presents to the court proof that the individual has obtained a high school diploma or a high school equivalency certificate after taking a high school equivalency examination administered under Section 7.111, Education Code.

SECTION 2. Subsection (e), Article 45.055, Code of Criminal Procedure, is amended to read as follows:

(e) A court shall expunge an individual's conviction under Section 25.094, Education Code, and records relating to a conviction, regardless of whether the individual has previously been convicted of an offense under that section, if:

(1) the court finds that the individual has successfully complied with the conditions imposed on the individual by the court under Article 45.054; or

(2) before the individual's 21st birthday, the individual presents to the court proof that the individual has obtained a high school diploma or a high school equivalency certificate after taking a high school equivalency examination administered under Section 7.111, Education Code.

SECTION 3. Article 45.056, Code of Criminal Procedure, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) ~~Except as provided by Subsection (a-1), [On approval of the commissioners court, city council, school district board of trustees, juvenile board, or other appropriate authority,] a county court, justice court, municipal court, school district, or juvenile probation department shall[, or other appropriate governmental entity may:~~

~~[(+)] employ a case manager or agree, in accordance with Chapter 791, Government Code, with any entity listed in this subsection or another appropriate governmental entity to jointly employ a case manager to provide services in cases involving:~~

~~(1) a juvenile offender who is [offenders] before a court consistent with the court's statutory powers; or~~

~~(2) a student, before the student is referred to a court for a violation of Section 25.094, Education Code, who is referred to the case manager by a school administrator or designee for intervention services because the student is considered at risk of dropping out of school, if the student and the student's parent or guardian consent to the referral to the [agree in accordance with Chapter 791, Government Code, to jointly employ a] case manager.~~

~~(a-1) A school district that employs a truancy prevention facilitator is not required to employ a case manager.~~

SECTION 4. Subsection (e), Section 25.085, Education Code, is amended to read as follows:

(e) A person who voluntarily enrolls in school or voluntarily attends school after the person's 18th birthday shall attend school each school day for the entire period the program of instruction is offered. A school district may revoke for the remainder of the school year the enrollment of a person who has more than five absences in a semester that are not excused under Section 25.087, except that a school district may not revoke the enrollment of a person under this subsection on a day on which the person is physically present at school. A person whose enrollment is revoked under this subsection may be considered an unauthorized person on school district grounds for purposes of Section 37.107.

SECTION 5. Subsection (a), Section 25.087, Education Code, is amended to read as follows:

(a) A person required to attend school~~[-, including a person required to attend school under Section 25.085(e),]~~ may be excused for temporary absence resulting from any cause acceptable to the teacher, principal, or superintendent of the school in which the person is enrolled.

SECTION 6. Section 25.0915, Education Code, is amended to read as follows:

Sec. 25.0915. TRUANCY PREVENTION MEASURES; REFERRAL AND FILING REQUIREMENT. (a) A school district shall adopt truancy prevention measures designed to:

(1) address student conduct related to truancy in the school setting before the student violates Section 25.094;

(2) minimize the need for referrals to juvenile court for conduct described by Section 51.03(b)(2), Family Code; and

(3) minimize the filing of complaints in county, justice, and municipal courts alleging a violation of Section 25.094.

(b) As a truancy prevention measure under Subsection (a), a school district may:

(1) issue a warning letter to the student and the student's parent or guardian that states the number of absences of the student and explains the consequences if the student has additional absences;

(2) impose:

(A) a behavior improvement plan on the student that must be signed by the student, the student's parent or guardian, and an employee of the school and that includes:

(i) a specific description of the behavior that is required or prohibited for the student;

(ii) the period for which the plan will be effective, not to exceed 45 school days after the date the contract becomes effective; and

(iii) the penalties for additional absences, including additional disciplinary action or the referral of the student to a juvenile court; and

(B) school-based community service; or

(3) refer the student to counseling, community-based services, or other in-school or out-of-school services aimed at addressing the student's truancy.

(c) A referral made under Subsection (b)(3) may include participation by the child's parent or guardian if necessary.

(d) Each referral to juvenile court for conduct described by Section 51.03(b)(2), Family Code, or complaint filed in county, justice, or municipal court alleging a violation by a student of Section 25.094 must:

(1) be accompanied by a statement from the student's school certifying that:

(A) the school applied the truancy prevention measures adopted under Subsection (a) to the student; and

(B) the truancy prevention measures failed to meaningfully address the student's school attendance; and

(2) specify whether the student is eligible for or receives special education services under Subchapter A, Chapter 29.

SECTION 7. Subsection (e), Section 25.094, Education Code, is amended to read as follows:

(e) An offense under this section is a Class C misdemeanor punishable by a fine not to exceed:

(1) \$100 for a first offense;

(2) \$200 for a second offense;

(3) \$300 for a third offense;

(4) \$400 for a fourth offense; or

(5) \$500 for a fifth or subsequent offense.

SECTION 8. Subsections (a) and (b), Section 25.0951, Education Code, are amended to read as follows:



(a) If a student fails to attend school without excuse on 10 or more days or parts of days within a six-month period in the same school year, a school district shall within 10 school days of the student's 10th absence:

(1) file a complaint against the student or the student's parent 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 for an offense under Section 25.093 or 25.094, as appropriate, or refer the student to a juvenile court in a county with a population of less than 100,000 for conduct that violates Section 25.094; or

(2) refer the student to a juvenile court for conduct indicating a need for supervision under Section 51.03(b)(2), Family Code.

(b) If a student fails to attend school without excuse on three or more days or parts of days within a four-week period but does not fail to attend school for the time described by Subsection (a), the school district may:

(1) file a complaint against the student or the student's parent 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 for an offense under Section 25.093 or 25.094, as appropriate, or refer the student to a juvenile court in a county with a population of less than 100,000 for conduct that violates Section 25.094; or

(2) refer the student to a juvenile court for conduct indicating a need for supervision under Section 51.03(b)(2), Family Code.

SECTION 9. The changes in law made by this Act apply only to conduct violating Section 25.094, Education Code, on or after the effective date of this Act. A violation that occurs before the effective date of this Act is covered by the law in effect when the violation occurred, and the former law is continued in effect for that purpose. For purposes of this section, a violation occurs before the effective date of this Act if any element of the violation occurs before that date.

SECTION 10. This Act takes effect September 1, 2013.

### **Floor Amendment No. 1**

Amend **CSSB 1234** (house committee report) by striking all below the enacting clause and substituting the following:

SECTION 1. Subsection (i), Article 45.054, Code of Criminal Procedure, is amended to read as follows:

(i) A county, justice, or municipal court shall dismiss the complaint against an individual alleging that the individual committed an offense under Section 25.094, Education Code, if:

(1) the court finds that the individual has successfully complied with the conditions imposed on the individual by the court under this article; or

(2) the individual presents to the court proof that the individual has obtained a high school diploma or a high school equivalency certificate after taking a high school equivalency examination administered under Section 7.111, Education Code.

SECTION 2. Subsection (e), Article 45.055, Code of Criminal Procedure, is amended to read as follows:

(e) A court shall expunge an individual's conviction under Section 25.094, Education Code, and records relating to a conviction, regardless of whether the individual has previously been convicted of an offense under that section, if:

(1) the court finds that the individual has successfully complied with the conditions imposed on the individual by the court under Article 45.054; or

(2) before the individual's 21st birthday, the individual presents to the court proof that the individual has obtained a high school diploma or a high school equivalency certificate after taking a high school equivalency examination administered under Section 7.111, Education Code.

SECTION 3. Subsection (a), Article 45.056, Code of Criminal Procedure, is amended to read as follows:

(a) On approval of the commissioners court, city council, ~~[school district board of trustees,]~~ juvenile board, or other appropriate authority, a county court, justice court, municipal court, ~~[school district,]~~ juvenile probation department, or other appropriate governmental entity may[~~]~~:

~~[(1)]~~ employ a case manager or agree, in accordance with Chapter 791, Government Code, with any appropriate governmental entity to jointly employ a case manager or to jointly contribute to the costs of a case manager employed by one governmental entity to provide services in cases involving juvenile offenders before a court consistent with the court's statutory powers[~~]; or~~

~~[(2) agree in accordance with Chapter 791, Government Code, to jointly employ a case manager].~~

SECTION 4. Section 25.085, Education Code, is amended by amending Subsection (e) and adding Subsections (g) and (h) to read as follows:

(e) A person who voluntarily enrolls in school or voluntarily attends school after the person's 18th birthday shall attend school each school day for the entire period the program of instruction is offered. A school district may revoke for the remainder of the school year the enrollment of a person who has more than five absences in a semester that are not excused under Section 25.087, except that a school district may not revoke the enrollment of a person under this subsection on a day on which the person is physically present at school. A person whose enrollment is revoked under this subsection may be considered an unauthorized person on school district grounds for purposes of Section 37.107.

(g) After the third unexcused absence of a person described by Subsection (e), a school district shall issue a warning letter to the person that states 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.

(h) As an alternative to revoking a person's enrollment under Subsection (e), a school district may impose a behavior improvement plan described by Section 25.0915(b)(1).

SECTION 5. Section 25.0915, Education Code, is amended to read as follows:

Sec. 25.0915. TRUANCY PREVENTION MEASURES; REFERRAL AND FILING REQUIREMENT. (a) A school district shall adopt truancy prevention measures designed to:

(1) address student conduct related to truancy in the school setting before the student violates Section 25.094;

(2) minimize the need for referrals to juvenile court for conduct described by Section 51.03(b)(2), Family Code; and

(3) minimize the filing of complaints in county, justice, and municipal courts alleging a violation of Section 25.094.

(b) As a truancy prevention measure under Subsection (a), a school district may take one or more of the following actions:

(1) impose:

(A) a behavior improvement plan on the student that must be signed by an employee of the school, that the school district has made a good faith effort to have signed by the student and the student's parent or guardian, and that includes:

(i) a specific description of the behavior that is required or prohibited for the student;

(ii) the period for which the plan will be effective, not to exceed 45 school days after the date the contract becomes effective; or

(iii) the penalties for additional absences, including additional disciplinary action or the referral of the student to a juvenile court; or

(B) school-based community service; or

(2) refer the student to counseling, community-based services, or other in-school or out-of-school services aimed at addressing the student's truancy.

(c) A referral made under Subsection (b)(2) may include participation by the child's parent or guardian if necessary.

(d) Each referral to juvenile court for conduct described by Section 51.03(b)(2), Family Code, or complaint filed in county, justice, or municipal court alleging a violation by a student of Section 25.094 must:

(1) be accompanied by a statement from the student's school certifying that:

(A) the school applied the truancy prevention measures adopted under Subsection (a) to the student; and

(B) the truancy prevention measures failed to meaningfully address the student's school attendance; and

(2) specify whether the student is eligible for or receives special education services under Subchapter A, Chapter 29.

(e) Except as provided by Subsection (f), a school district shall employ a truancy prevention facilitator to implement the truancy prevention measures required by this section and any other effective truancy prevention measures as determined by the school district or campus. At least annually, the truancy prevention facilitator shall 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.

(f) Instead of employing a truancy prevention facilitator, a school district may designate an existing district employee to implement the truancy prevention measures required by this section and any other effective truancy prevention measures as determined by the school district or campus.

SECTION 6. Subsection (e), Section 25.094, Education Code, is amended to read as follows:

(e) An offense under this section is a [Class C] misdemeanor punishable by a fine not to exceed:

- (1) \$100 for a first offense;
- (2) \$200 for a second offense;
- (3) \$300 for a third offense;
- (4) \$400 for a fourth offense; or
- (5) \$500 for a fifth or subsequent offense.

SECTION 7. Subsections (a) and (b), Section 25.0951, Education Code, are amended to read as follows:

(a) If a student fails to attend school without excuse on 10 or more days or parts of days within a six-month period in the same school year, a school district shall within 10 school days of the student's 10th absence:

(1) file a complaint against the student or the student's parent 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 for an offense under Section 25.093 or 25.094, as appropriate, or refer the student to a juvenile court in a county with a population of less than 100,000 for conduct that violates Section 25.094; or

(2) refer the student to a juvenile court for conduct indicating a need for supervision under Section 51.03(b)(2), Family Code.

(b) If a student fails to attend school without excuse on three or more days or parts of days within a four-week period but does not fail to attend school for the time described by Subsection (a), the school district may:

(1) file a complaint against the student or the student's parent 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 for an offense under Section 25.093 or 25.094, as appropriate, or refer the student to a juvenile court in a county with a population of less than 100,000 for conduct that violates Section 25.094; or

(2) refer the student to a juvenile court for conduct indicating a need for supervision under Section 51.03(b)(2), Family Code.

SECTION 8. The changes in law made by this Act apply only to conduct violating Section 25.094, Education Code, on or after the effective date of this Act. A violation that occurs before the effective date of this Act is covered by the law in effect when the violation occurred, and the former law is continued in effect for that purpose. For purposes of this section, a violation occurs before the effective date of this Act if any element of the violation occurs before that date.

SECTION 9. This Act takes effect September 1, 2013.

### Floor Amendment No. 2

Amend **CSSB 1234** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Subchapter C, Chapter 25, Education Code, is amended by adding Section 25.0916 to read as follows:

Sec. 25.0916. UNIFORM TRUANCY POLICIES IN CERTAIN COUNTIES.

(a) This section applies only to a county:

- (1) with a population greater than 1.5 million; and
- (2) that includes at least:

(A) 15 school districts with the majority of district territory in the county; and

(B) 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, computed in accordance with standards and definitions adopted by the National Center for Education Statistics of the United States Department of Education.

(b) A committee shall be established to recommend a uniform truancy policy for each school district located in the county.

(c) Not later than September 1, 2013, the county judge and the mayor of the municipality in the county with the greatest population shall each appoint one member to serve on the committee as a representative of each of the following:

(1) a juvenile district court;

(2) a municipal court;

(3) the office of a justice of the peace;

(4) the superintendent or designee of an independent school district;

(5) an open-enrollment charter school;

(6) the office of the district attorney; and

(7) the general public.

(d) Not later than September 1, 2013, the county judge shall 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.

(e) The county judge and mayor of the municipality in the county with the greatest population shall:

(1) both serve on the committee or appoint representatives to serve on their behalf; and

(2) jointly appoint a member of the committee to serve as the presiding officer.

(f) Not later than September 1, 2014, the committee shall recommend:

(1) a uniform process for filing truancy cases with the judicial system;

(2) uniform administrative procedures;

(3) uniform deadlines for processing truancy cases;

(4) effective prevention, intervention, and diversion methods to reduce truancy and referrals to a county, justice, or municipal court;

(5) a system for tracking truancy information and sharing truancy information among school districts and open-enrollment charter schools in the county; and

(6) any changes to statutes or state agency rules the committee determines are necessary to address truancy.

(g) Compliance with the committee recommendations is voluntary.

(h) The committee's presiding officer shall 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.

(i) This section expires January 1, 2016.

The amendments were read.

Senator Whitmire moved to concur in the House amendments to **SB 1234**.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Birdwell, Campbell, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Garcia, Hancock, Hegar, Hinojosa, Huffman, Lucio, Nichols, Patrick, Rodríguez, Schwertner, Seliger, Taylor, Uresti, Van de Putte, West, Whitmire, Williams, Zaffirini.

Nays: Nelson, Paxton, Watson.

### SENATE BILL 347 WITH HOUSE AMENDMENTS

Senator Seliger called **SB 347** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

#### Floor Amendment No. 1

Amend **SB 347** (house committee printing) as follows:

(1) On page 1, line 6, between "by" and "adding", insert "amending Subsection (e) and".

(2) On page 1, between lines 6 and 7, insert the following:

(e) The commission may transfer money from the low-level radioactive waste fund to the perpetual care account to make payments required by the commission under Section 401.303. The commission shall notify the Texas Low-Level Radioactive Waste Disposal Compact Commission of an action the commission takes under this subsection.

(3) Add the following appropriately numbered SECTIONS and renumber any subsequent SECTIONS accordingly:

SECTION \_\_\_\_ . Section 401.207, Health and Safety Code, is amended by adding Subsections (d-1), (d-2), (d-3), (e-1) and (e-2) and amending Subsection (e) to read as follows:

(d-1) Beginning September 1, 2015, the compact waste disposal facility license holder may accept nonparty compact waste for disposal at the facility only if:

(1) the waste has been volume-reduced, if eligible, by at least a factor of three in a manner consistent with this subchapter as provided by commission rule; and

(2) the compact waste disposal facility license holder collects a fee under Section 401.249(f).

(d-2) If volume reduction of a low-level radioactive waste stream would result in a change of waste classification to a class higher than Class C, the payment of the fee and compliance with other requirements of Subsection (d-1) do not apply.

(d-3) The commission may assess an additional fee on a nonparty compact waste generator for failing to comply with the volume reduction requirements established under this section. The fee shall be deposited to the credit of the low-level radioactive waste fund under Section 401.249(f). Fees deposited under this subsection may be transferred and used only to support the operations of the Texas Low-Level Radioactive Waste Disposal Compact Commission under Section 401.251.

(e) The compact waste disposal facility license holder may not collect a fee under this section or enter into a contract for the disposal of nonparty low-level radioactive waste that has been designated as Class A low-level radioactive waste under 10 C.F.R. Section 61.55 and commission rule unless the waste is containerized. The compact waste disposal facility license holder may collect a fee and dispose of:

(1) not more than the greater of:

(A) 1.167 million curies of nonparty compact waste; or

(B) an amount of nonparty compact waste equal to 30 percent of the initial licensed capacity of the facility; and

(2) not more than 275,000 curies of nonparty compact waste in any fiscal year [accept more than 50,000 total cubic feet of nonparty compact waste annually. The compact waste disposal facility license holder may not accept more than 120,000 curies of nonparty compact waste annually, except that in the first year the license holder may accept 220,000 curies].

(e-1) The legislature by general law may establish revised limits under Subsection (e) after considering the results of the study under Section 401.208.

(e-2) [(e-1)] The commission's executive director, on completion of the study under Section 401.208, may prohibit the license holder from accepting any additional nonparty compact waste if the commission determines from the study that the capacity of the facility will be limited, regardless of whether the limit under Subsection (f) has been reached.

SECTION \_\_\_\_\_. Section 401.218, Health and Safety Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) In addition to the fees charged to support the operations of the Texas Low-Level Radioactive Waste Disposal Compact Commission, the commission's executive director may charge a license holder a fee to cover the administrative costs of the executive director's action to adjust, correct, or otherwise modify a license.

SECTION \_\_\_\_\_. The changes in law made by this Act apply only to a contract for the disposal of compact waste or nonparty compact waste that is signed on or after the effective date of this Act. A contract signed before the effective date of this Act is governed by the law in effect on the date the contract was signed, and the former law is continued in effect for that purpose.

## **Floor Amendment No. 2**

Amend **SB 347** (house committee report) as follows:

Insert the following new sections in the bill and renumber remaining sections accordingly:

SECTION \_\_\_\_\_. Subsection (d), Section 401.052, Health and Safety Code, as amended by Chapters 580 (H.B. 1678) and 1067 (H.B. 1567), Acts of the 78th Legislature, Regular Session, 2003, is reenacted and amended to read as follows:

(d) Fees assessed under this section to provide additional revenue to support the activities of the Texas Low-Level Radioactive Waste Disposal Compact Commission:

(1) may not exceed \$10 per cubic foot of shipped low-level radioactive waste;

(2) shall be collected by the department and deposited to the credit of the perpetual care account;

(3) shall be used ~~[exclusively]~~ by the department for emergency planning for and response to transportation accidents involving low-level radioactive waste, including first responder training in counties through which transportation routes are designated in accordance with Subsection (a); and

(4) may not be collected on waste disposed of at a federal facility waste disposal facility ~~[shall be suspended when the amount of fees collected reaches \$500,000, except that if the balance of fees collected is reduced to \$350,000 or less, the assessments shall be reinstated to bring the balance of fees collected to \$500,000].~~

SECTION \_\_\_\_ . Subsection (a), Section 401.109, Health and Safety Code, is amended to read as follows:

(a) The department or commission may require a holder of a license issued by the agency to provide security acceptable to the agency to assure performance of the license holder's obligations under this chapter. The department ~~[or commission]~~ shall deposit security provided to the department under this section to the credit of the perpetual care account. The department [or commission] by rule shall provide that any evidence of security must be made payable to the credit of the perpetual care account. The commission shall deposit security provided to the commission under this section to the credit of the environmental radiation and perpetual care account. The commission shall provide that security must be made payable to the credit of the environmental radiation and perpetual care account.

SECTION \_\_\_\_ . Section 401.152, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The department ~~[agency]~~ shall use the security provided by the license holder to pay the costs of actions that are taken or that are to be taken under this section. The department [agency] shall send to the comptroller a copy of its order together with necessary written requests authorizing the comptroller to:

- (1) enforce security supplied by the license holder;
- (2) convert an amount of security into cash, as necessary; and
- (3) disburse from the security in the radiation and perpetual care account the amount necessary to pay the costs.

(c) The commission shall use the security provided by the license holder to pay the costs of actions taken or to be taken under this section, including costs associated with the Texas Low-Level Radioactive Waste Disposal Compact Commission. The commission shall send to the comptroller a copy of its order together with necessary written requests authorizing the comptroller to:

- (1) enforce security supplied by the license holder;
- (2) convert an amount of security to cash, as necessary; and
- (3) disburse from the security in the environmental radiation and perpetual care account the amount necessary to pay the costs.

SECTION \_\_\_\_ . Section 401.207(h), Health and Safety Code, is amended to read as follows:

(h) A surcharge collected under Subsection (g) shall be deposited to the credit of the environmental radiation and perpetual care account ~~[low level radioactive waste fund].~~



SECTION \_\_\_\_\_. Section 401.208, Health and Safety Code, is amended by amending Subsection (c) and adding Subsection (f) to read as follows:

(c) Not later than December 1, 2016 [~~2012~~], the commission shall submit a final report of the results of the study to the standing committees of the senate and the house of representatives with jurisdiction over the disposal of low-level radioactive waste.

SECTION \_\_\_\_\_. Subsection (e), Section 401.249, Health and Safety Code, is amended to read as follows:

(e) The commission may transfer money from the low-level radioactive waste fund to the environmental radiation and perpetual care account to make payments required by the commission under Section 401.303.

SECTION \_\_\_\_\_. Subsection (d), Section 401.301, Health and Safety Code, is amended to read as follows:

(d) The commission and department shall [~~may~~] require that each person who holds a specific license issued by the agency pay to the agency an additional five percent of the appropriate fee set under Subsection (b). Fees collected by the department under this subsection shall be deposited to the credit of the perpetual care account. Fees collected by the commission under this subsection shall be deposited to the environmental radiation and perpetual care account. The fees are not refundable. The holder of a specific license authorizing the extraction, processing, or concentration of uranium or thorium from ore is not required to pay the additional fee described by this subsection before the beginning of operations under the license.

SECTION \_\_\_\_\_. Subsection (g), Section 401.303, Health and Safety Code, is amended to read as follows:

(g) If a license holder satisfies the obligations under this chapter, the issuing agency shall have the comptroller promptly refund to the license holder from the perpetual care account or the environmental radiation and perpetual care account, as applicable, the excess of the amount of all payments made by the license holder to the issuing agency and the investment earnings of those payments over the amount determined to be required for the continuing maintenance and surveillance of land, buildings, and radioactive material conveyed to the state.

SECTION \_\_\_\_\_. Subsections (b), (c), (d), (e), (f), and (g), Section 401.305, Health and Safety Code, are amended to read as follows:

(b) The department [~~and commission each~~] shall deposit to the credit of the perpetual care account money and security it receives [~~they receive~~] under this chapter, including an administrative penalty collected by the department under Sections 401.384-401.390 but excluding fees collected under Sections 401.301(a)-(c) and 401.302. Interest earned on money in the perpetual care account shall be credited to the perpetual care account.

(c) Money and security in the perpetual care account may be administered by the department [~~or commission~~] only for storage, maintenance, and distribution of mammography medical records or the decontamination, decommissioning, stabilization, reclamation, maintenance, surveillance, control, storage, and disposal of radioactive substances for the protection of the public health and safety and the environment under this chapter and for refunds under Section 401.303.

(d) Money and security in the perpetual care account may not be used for normal operating expenses of the department [~~or commission~~].

(e) The department [~~or commission~~] may use money in the perpetual care account to pay for measures:

(1) to prevent or mitigate the adverse effects of abandonment of radioactive substances, default on a lawful obligation, insolvency, or other inability by the holder of a license issued by the department [~~or commission~~] to meet the requirements of this chapter or of department [~~or commission~~] rules;

(2) to assure the protection of the public health and safety and the environment from the adverse effects of ionizing radiation; and

(3) to protect the health and safety of mammography patients by assuring mammography medical records are made available to affected patients.

(f) The department [~~or commission~~] may provide, by the terms of a contract or lease entered into between the department [~~or commission~~] and any person, by the terms of a mammography certification issued by the department [~~or commission~~] to any person, or by the terms of a license issued to any person, for the storage, maintenance, and distribution of mammography medical records. The department [~~or commission~~] may provide, by the terms of a contract or lease entered into between the department [~~or commission~~] and any person or by the terms of a license issued by the department [~~or commission~~] to any person, for the decontamination, closure, decommissioning, reclamation, surveillance, or other care of a site or facility subject to department [~~or commission~~] jurisdiction under this chapter as needed to carry out the purpose of this chapter.

(g) The existence of the perpetual care account does not make the department [~~or commission~~] liable for the costs of storage, maintenance, and distribution of mammography medical records arising from a mammography certification holder's failure to store, maintain, and make available mammography medical records or for the costs of decontamination, transfer, transportation, reclamation, surveillance, or disposal of radioactive substances arising from a license holder's abandonment of radioactive substances, default on a lawful obligation, insolvency, or inability to meet the requirements of this chapter or of department [~~or commission~~] rules.

SECTION \_\_\_\_\_. Subchapter H, Chapter 401, Health and Safety Code, is amended by adding Sections 401.306 and 401.307 to read as follows:

Sec. 401.306. ENVIRONMENTAL RADIATION AND PERPETUAL CARE ACCOUNT. (a) The environmental radiation and perpetual care account is an account in the general revenue fund to support the activities of the Texas Low-Level Radioactive Waste Disposal Compact Commission.

(b) The commission shall deposit to the credit of the environmental radiation and perpetual care account money and security it receives under this chapter, including fees collected under Section 401.301(d). Interest earned on money in the environmental radiation and perpetual care account shall be credited to the environmental radiation and perpetual care account.

(c) Money and security in the environmental radiation and perpetual care account may be administered by the commission only for the decontamination, decommissioning, stabilization, reclamation, maintenance, surveillance, control,

storage, and disposal of radioactive substances for the protection of the public health and safety and the environment under this chapter and for refunds under Section 401.303.

(d) Money and security in the environmental radiation and perpetual care account may not be used for normal operating expenses of the commission.

(e) The commission may use money in the environmental radiation and perpetual care account to pay for measures:

(1) to prevent or mitigate the adverse effects of abandonment of radioactive substances, default on a lawful obligation, insolvency, or other inability by the holder of a license issued by the commission to meet the requirements of this chapter or of commission rules; and

(2) to ensure the protection of the public health and safety and the environment.

(f) The commission may provide, by the terms of a contract or lease entered into between the commission and any person, or by the terms of a license issued to any person, for the decontamination, closure, decommissioning, reclamation, surveillance, or other care of a site or facility subject to commission jurisdiction under this chapter as needed to carry out the purposes of this chapter.

(g) The existence of the environmental radiation and perpetual care account does not make the commission liable for the costs of decontamination, transfer, transportation, reclamation, surveillance, or disposal of radioactive substances arising from a license holder's abandonment of radioactive substances, default on a lawful obligation, insolvency, or inability to meet the requirements of this chapter or of commission rules.

Sec. 401.307. PERPETUAL CARE ACCOUNT AND ENVIRONMENTAL RADIATION AND PERPETUAL CARE ACCOUNT CAPS. (a) The fees imposed under Sections 401.052(d) and 401.301(d) are suspended when the sum of the balances of the perpetual care account and the environmental radiation and perpetual care account reaches \$100 million. The fees are reinstated when the sum of the balances of the perpetual care account and the environmental radiation and perpetual care account falls to \$50 million or less.

(b) The surcharge collected under Section 401.207(g) is collected without regard to the balances of the perpetual care account and the environmental radiation and perpetual care account.

(c) Notwithstanding Subsection (a), a fee imposed by the commission under Section 401.301(d) on the holder of a license authorizing the extraction, processing, or concentration of uranium or thorium from ore is suspended when the amount in the environmental radiation and perpetual care account attributable to those fees reaches \$2 million. If the amount in that account attributable to those fees is reduced to \$1.5 million or less, the fee is reinstated until the amount reaches \$2 million.

(d) Notwithstanding Subsection (a), a fee imposed under Section 401.052(d) is suspended from imposition against a party state compact waste generator when the amount in the perpetual care account attributable to those fees reaches \$500,000. If the amount in that account attributable to those fees is reduced to \$350,000 or less, the fee is reinstated until the amount reaches \$500,000.

(e) This section does not relieve a generator from liability for a transportation accident involving low-level radioactive waste.

SECTION \_\_\_\_\_. The following sections of the Health and Safety Code are repealed:

- (1) Subsection (h), Section 401.245;
- (2) Subsection (b), Section 401.2455;
- (3) Subsection (e), Section 401.301; and
- (4) Section 403.0052.

SECTION \_\_\_\_\_. (a) As soon as practicable after the effective date of this Act, the Texas Commission on Environmental Quality shall adopt rules to implement Subsection (d-1), Section 401.207, and Subsection (d), Section 401.218, Health and Safety Code, as added by this Act.

(b) As soon as practicable after the effective date of this Act but not later than the first anniversary of the effective date of this Act, the Texas Commission on Environmental Quality shall adopt rules to implement Subsection (b), Section 401.2456, Health and Safety Code, as amended by this Act, and Subsection (f), Section 401.2456, Health and Safety Code, as added by this Act.

(c) As soon as practicable after the effective date of this Act but not later than January 1, 2014, the Texas Commission on Environmental Quality and the Department of State Health Services shall update the portion of the memorandum of understanding between the two agencies under Section 401.069, Health and Safety Code, that governs each agency's role regarding the regulation and oversight of radioactive materials and sources of radiation.

The amendments were read.

Senator Seliger moved to concur in the House amendments to **SB 347**.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Birdwell, Campbell, Carona, Deuell, Ellis, Eltife, Estes, Fraser, Hancock, Hegar, Hinojosa, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor, Uresti, Van de Putte, West, Whitmire, Williams, Zaffirini.

Nays: Davis, Duncan, Garcia, Rodriguez, Watson.

### SENATE BILL 1795 WITH HOUSE AMENDMENT

Senator Watson called **SB 1795** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

#### Floor Amendment No. 1

Amend **SB 1795** (house committee printing) as follows:

(1) On page 6, line 8, strike "or".

(2) On page 6, line 11, strike the period and substitute "; or

(6) in the course of acting as a navigator, engage in any electioneering activities or finance or otherwise support the candidacy of a person for an office in the legislative, executive, or judicial branch of state government, or of the government of the United States, or any political subdivision of this state.

The amendment was read.

Senator Watson moved to concur in the House amendment to **SB 1795**.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Paxton.

### SENATE BILL 492 WITH HOUSE AMENDMENTS

Senator Lucio called **SB 492** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

#### Amendment

Amend **SB 492** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the licensing and regulation of prescribed pediatric extended care centers; providing penalties; imposing fees.

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

SECTION 1. Subtitle B, Title 4, Health and Safety Code, is amended by adding Chapter 248A to read as follows:

#### CHAPTER 248A. PRESCRIBED PEDIATRIC EXTENDED CARE CENTERS

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 248A.001. DEFINITIONS. In this chapter:

- (1) "Basic services" includes:
  - (A) the development, implementation, and monitoring of a comprehensive protocol of care that:
    - (i) is provided to a medically dependent or technologically dependent minor;
    - (ii) is developed in conjunction with the minor's parent or legal guardian; and
    - (iii) specifies the medical, nursing, psychosocial, therapeutic, and developmental services required by the minor served; and
  - (B) the caregiver training needs of the minor's parent or legal guardian.
- (2) "Center" means a prescribed pediatric extended care center.
- (3) "Commission" means the Health and Human Services Commission.
- (4) "Commissioner" means the commissioner of aging and disability services.
- (5) "Controlling person" has the meaning assigned by Section 248A.0012.
- (6) "Department" means the Department of Aging and Disability Services.
- (7) "Executive commissioner" means the executive commissioner of the commission.
- (8) "Medically dependent or technologically dependent minor" means a minor who because of an acute, chronic, or intermittent medically complex or fragile condition or disability requires ongoing, technology-based skilled nursing care prescribed by the minor's physician to avert death or further disability or the routine use of a medical device to compensate for a deficit in a life-sustaining body function.

The term does not include minor or occasional medical conditions that do not require continuous nursing care, including asthma or diabetes, or a condition that requires an epinephrine injection.

(9) "Minor" means an individual younger than 21 years of age.

(10) "Prescribed pediatric extended care center" means 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.

Sec. 248A.0012. CONTROLLING PERSON. (a) 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 center or other person.

(b) For purposes of this chapter, "controlling person" includes:

(1) a management company, landlord, or other business entity that operates or contracts with another person for the operation of a center;

(2) any person who is a controlling person of a management company or other business entity that operates a center or that contracts with another person for the operation of a center; and

(3) any other person who, because of a personal, familial, or other relationship with the owner, manager, landlord, tenant, or provider of a center, is in a position of actual control of or authority with respect to the center, regardless of whether the person is formally named as an owner, manager, director, officer, provider, consultant, contractor, or employee of the center.

(c) Notwithstanding any other provision of this section, for purposes of this chapter, a controlling person of a center or of a management company or other business entity described by Subsection (b)(1) that is a publicly traded corporation or is controlled by a publicly traded corporation means an officer or director of the corporation. The term does not include a shareholder or lender of the publicly traded corporation.

(d) A controlling person described by Subsection (b)(3) does not include a person, including an employee, lender, secured creditor, or landlord, who does not exercise any formal or actual influence or control over the operation of a center.

(e) The executive commissioner may adopt rules that define the ownership interests and other relationships that qualify a person as a controlling person under this section.

Sec. 248A.002. EXEMPTIONS. This chapter does not apply to:

(1) a facility operated by the United States government or a federal agency;

or

(2) a health facility otherwise licensed under this subtitle.

Sec. 248A.003. CONFLICT WITH LOCAL LAWS. To the extent of any conflict between the standards adopted under this chapter and a standard required in a local, county, or municipal ordinance, this chapter controls.

SUBCHAPTER B. LICENSING OF CENTERS

Sec. 248A.051. LICENSE REQUIRED; PREMISES RESTRICTION. (a) A person may not own or operate a prescribed pediatric extended care center in this state unless the person holds a license issued under this chapter.

(b) 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.

(c) A person may not operate a center on the same premises as:

(1) a child-care facility licensed under Chapter 42, Human Resources Code;

or

(2) any other facility licensed by the department or the Department of State Health Services.

Sec. 248A.052. APPLICATION; ISSUANCE. (a) An applicant for a prescribed pediatric extended care center license shall submit to the department in accordance with executive commissioner rules:

(1) a sworn application on the form prescribed by the department;

(2) a letter of credit as prescribed by the department to demonstrate the applicant's financial viability; and

(3) the required fees.

(b) The application must contain:

(1) the location of the premises of the center for which the license is sought;

(2) documentation, signed by the appropriate local government official, stating the location and use of the premises meet local zoning requirements;

(3) the name, address, and social security number of, and background and criminal history check information for:

(A) the applicant;

(B) the administrator responsible for daily operations of the center;

(C) the financial officer responsible for financial operations of the

center; and

(D) each controlling person;

(4) the name, address, and federal employer identification number or taxpayer identification number of the applicant and of each controlling person, if the applicant or controlling person is not an individual;

(5) the business name of the center;

(6) the maximum patient capacity requested for the center; and

(7) a sworn affidavit that the applicant has complied with this chapter and rules adopted under this chapter.

(c) The department shall issue a license to a center under this chapter if the department determines that the applicant and the center meet the requirements of this chapter and the rules and standards adopted under this chapter. The license must include:

(1) the license holder's name;

(2) the location of the premises of the center; and

(3) a statement indicating the center provides services to minors for 12 hours or less in a 24-hour period and does not provide 24-hour care.

Sec. 248A.053. LICENSE TERM; RENEWAL; NOTIFICATION. (a) A license issued under this chapter expires on the second anniversary of the date of issuance.

(b) A person applying to renew a center license shall:

(1) submit a renewal application to the department on the form prescribed by the department at least 60 days but not more than 120 days before expiration of the license;

(2) submit the renewal fee in the amount required by the department; and

(3) comply with any other requirements specified by executive commissioner rule.

(c) The department shall assess a \$50 per day late fee to a license holder who submits a renewal application after the date required by Subsection (b)(1), except that the total amount of a late fee may not exceed the lesser of 50 percent of the license renewal fee or \$500.

(d) At least 120 days before expiration of a center license, the department shall notify the owner or operator of the center of the license expiration.

Sec. 248A.054. LICENSE NOT TRANSFERABLE OR ASSIGNABLE. A license under this chapter is issued to the license holder named on the license at the location of the premises listed on the license and is not transferable or assignable.

#### SUBCHAPTER C. POWERS AND DUTIES OF

#### EXECUTIVE COMMISSIONER, COMMISSION, AND DEPARTMENT

Sec. 248A.101. ADOPTION OF RULES AND STANDARDS. (a) The executive commissioner shall adopt rules necessary to implement this chapter.

(b) To protect the health and safety of the public and ensure the health, safety, and comfort of the minors served by a center, the rules must establish minimum center standards, including:

(1) standards relating to the issuance, renewal, denial, suspension, probation, and revocation of a license to operate a center;

(2) standards relating to the provision of family-centered basic services that include individualized medical, developmental, and family training services;

(3) based on the size of the building and the number of minors served, building construction and renovation standards, including standards for plumbing, electrical, glass, manufactured buildings, accessibility for the physically disabled, and fire protection;

(4) based on the size of the building and the number of minors served, building maintenance conditions relating to plumbing, heating, lighting, ventilation, adequate space, fire protection, and other conditions;

(5) standards relating to the minimum number of and qualifications required for personnel who provide personal care or basic services to the minors served;

(6) standards relating to the sanitary conditions within a center and its surroundings, including water supply, sewage disposal, food handling, and general hygiene;

(7) standards relating to the programs offered by the center to promote and maintain the health and development of the minors served and to meet the training needs of the minors' parents or legal guardians;

(8) standards relating to physician-prescribed supportive services;



(9) standards relating to transportation services; and  
(10) standards relating to maintenance of patient medical records and program records in accordance with other law and with accepted professional standards and practices.

(c) The executive commissioner by rule shall authorize the commissioner to grant a waiver from compliance with standards adopted under Subsection (b)(3), (4), or (6) 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 under Subsection (b)(3), (4), or (6).

Sec. 248A.102. INSPECTIONS; CORRECTIVE ACTION PLAN. (a) The department may inspect a center, including its records, at reasonable times as necessary to ensure compliance with this chapter and the rules adopted under this chapter. The center shall provide the department with access to all center records.

(b) The department shall inspect a center before issuing or renewing a license under this chapter.

(c) The department may require a center that undergoes an inspection to:

(1) take appropriate corrective action necessary to comply with the requirements of this chapter and rules adopted under this chapter; and

(2) submit a corrective action plan to the department for approval.

(d) A center shall make available to any person on request a copy of each inspection report pertaining to the center that has been issued by the department. Before making an inspection report available under this subsection, the center shall redact from the report any information that is confidential under other law.

Sec. 248A.103. FEES. (a) The executive commissioner shall set fees imposed by this chapter in amounts reasonable and necessary to cover the cost of administering this chapter.

(b) A fee collected under this chapter shall be deposited in the state treasury to the credit of the general revenue fund and shall be appropriated to the department to administer and enforce this chapter.

(c) A fee collected under this chapter is nonrefundable.

Sec. 248A.104. COMMISSION DUTIES. The commission shall designate a center licensed under this chapter as a health care services provider under the medical assistance program established under Chapter 32, Human Resources Code.

#### SUBCHAPTER D. CENTER REGULATION

Sec. 248A.151. ADMISSION CRITERIA FOR MINOR CLIENT. A center may not admit a minor client to the center unless:

(1) the client is a medically dependent or technologically dependent minor;

(2) the minor's prescribing physician issues a prescription ordering care at a center;

(3) the minor's parent or legal guardian consents to the minor's admission to the center; and

(4) 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.

Sec. 248A.152. RESTRICTIONS ON HOURS, SERVICES, AND PATIENT CAPACITY. (a) A center may not provide services to a minor for more than 12 hours in any 24-hour period.

(b) A center may not provide services other than services regulated under this chapter and executive commissioner rule.

(c) The maximum patient capacity at a center may not exceed 60.

Sec. 248A.153. LICENSE DISPLAY. Each center licensed under this chapter shall display the center's license in a conspicuous location readily visible to a person entering the center.

Sec. 248A.154. MAINTENANCE OF RECORDS. Each center shall maintain at the center the medical and other records required by this chapter and by rules adopted under this chapter.

Sec. 248A.155. COMPLAINTS. A person may file a complaint with the department against a center licensed or required to be licensed under this chapter. The department shall investigate the complaint in accordance with the complaint procedures established under Chapter 161, Human Resources Code.

Sec. 248A.156. COMPLIANCE WITH OTHER LAW. (a) A center shall comply with Chapter 260A and rules adopted under that chapter.

(b) An owner, center employee, or other person subject to Chapter 260A shall comply with that chapter and rules adopted under that chapter.

Sec. 248A.157. CLOSING OF CENTER. At least 30 days before the date a center voluntarily discontinues operation, the owner or operator of the center shall inform the parent or legal guardian of each minor client to whom the center is providing services of:

(1) the discontinuance; and

(2) the proposed time of the discontinuance.

#### SUBCHAPTER E. GENERAL ENFORCEMENT

Sec. 248A.201. DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.

(a) The department may deny, suspend, or revoke a license issued under this chapter for:

(1) a violation of this chapter or a rule or standard adopted under this chapter;

(2) an intentional or negligent act by the center or an employee of the center that the department determines significantly affects the health or safety of a minor served by the center;

(3) use of drugs or intoxicating liquors to an extent that affects the license holder's or applicant's professional competence;

(4) a felony conviction, including a finding or verdict of guilty, an admission of guilt, or a plea of nolo contendere, in this state or in any other state of any person required to undergo a background and criminal history check under this chapter;

(5) fraudulent acts, including acts relating to Medicaid fraud and obtaining or attempting to obtain a license by fraud or deception; or

(6) a license revocation, suspension, or other disciplinary action taken against the license holder or any person listed in the application in another state.

(b) Except as provided by Section 248A.203, the procedures by which the department denies, suspends, or revokes a license and by which those actions are appealed are governed by the procedures for a contested case hearing under Chapter 2001, Government Code.

Sec. 248A.202. PROBATION. (a) If the department finds that a center is in repeated noncompliance with this chapter, rules adopted under this chapter, or a corrective action plan, but that the noncompliance does not endanger a minor served by the center or the public health and safety, the department may schedule the center for probation rather than suspending or revoking the center's license.

(b) The department shall provide notice to the center of the probation and of the items of noncompliance not later than the 10th day before the date the probation period begins.

(c) The department shall designate a period of not less than 30 days during which the center will remain under probation. During the probation period, the center must correct the items that were in noncompliance and report the corrections to the department for approval.

(d) The department may suspend or revoke the license of a center that does not correct items that were in noncompliance or does not comply with this chapter or the rules adopted under this chapter within the applicable probation period.

Sec. 248A.203. EMERGENCY SUSPENSION. (a) The department may issue an emergency order to suspend a license issued under this chapter if the department 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. An emergency suspension is effective immediately without a hearing on notice to the license holder.

(b) On written request of the license holder, the department shall conduct a hearing not earlier than the 10th day or later than the 30th day after the date the hearing request is received to determine if the emergency suspension is to be continued, modified, or rescinded.

(c) The hearing and any appeal are governed by the department's rules for a contested case hearing and by Chapter 2001, Government Code.

Sec. 248A.204. INJUNCTION. (a) The department may petition a district court for a temporary restraining order to restrain a continuing violation of this chapter or a rule or standard adopted under this chapter if the department finds that the violation creates an immediate threat to the health and safety of the minors served by a center.

(b) A district court, on petition of the department and on a finding by the court that a person is violating this chapter or the rules adopted under this chapter, may by injunction:

(1) prohibit the person from continuing the violation;  
(2) restrain or prevent the establishment or operation of a center without a license issued under this chapter; or

(3) grant any other injunctive relief warranted by the facts.

(c) The attorney general may institute and conduct a suit authorized by this section at the request of the department. The attorney general and the department may recover reasonable expenses incurred in obtaining relief under this section, including court costs, reasonable attorney's fees, investigation costs, witness fees, and deposition expenses.

(d) Venue for a suit brought under this section is in the county in which the center is located or in Travis County.

Sec. 248A.205. CIVIL PENALTY. (a) A person who violates this chapter or a rule or standard adopted under this chapter or who fails to comply with a corrective action plan submitted under this chapter is liable for a civil penalty of not more than \$500 for each violation if the department determines the violation threatens the health and safety of a minor served by the center.

(b) Each day a violation continues constitutes a separate violation for the purposes of this section.

(c) The attorney general may sue to collect the penalty. The attorney general and the department may recover reasonable expenses incurred in obtaining relief under this section, including court costs, reasonable attorney's fees, investigation costs, witness fees, and deposition expenses.

(d) All penalties collected under this section shall be deposited in the state treasury in the general revenue fund.

Sec. 248A.206. CRIMINAL PENALTY. (a) A person commits an offense if the person knowingly establishes or operates a center without the appropriate license issued under this chapter.

(b) An offense under this section is a Class B misdemeanor.

(c) Each day a violation continues constitutes a separate offense.

#### SUBCHAPTER F. ADMINISTRATIVE PENALTY

Sec. 248A.251. IMPOSITION OF PENALTY. The commissioner may impose an administrative penalty on a person licensed under this chapter who violates this chapter or a rule or standard adopted or order issued under this chapter.

Sec. 248A.252. AMOUNT OF PENALTY. (a) The amount of the penalty may not exceed \$500 for each violation, and each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(b) The amount shall be based on:

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

(2) the threat to health or safety caused by the violation;

(3) any previous violations;

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

(5) the efforts made by the violator to correct the violation; and

(6) any other matter that justice may require.

Sec. 248A.253. REPORT AND NOTICE OF VIOLATION AND PENALTY.

(a) If the department initially determines that a violation occurred, the department shall give written notice of the report to the person.

(b) The notice must:

(1) include a brief summary of the alleged violation;

(2) state the amount of the recommended penalty; and

(3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

Sec. 248A.254. PENALTY TO BE PAID OR HEARING REQUESTED.

(a) Not later than the 20th day after the date the person receives the notice sent under Section 248A.253, the person in writing may:

(1) accept the determination and recommended penalty of the department;

or

(2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(b) If the person accepts the determination and recommended penalty or if the person fails to respond to the notice, the commissioner by order shall approve the determination and impose the recommended penalty.

Sec. 248A.255. HEARING. (a) If the person requests a hearing, the commissioner shall refer the matter to the State Office of Administrative Hearings, which shall promptly set a hearing date and give written notice of the time and place of the hearing to the person. An administrative law judge of the State Office of Administrative Hearings shall conduct the hearing.

(b) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the commissioner a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty.

Sec. 248A.256. DECISION BY COMMISSIONER. (a) Based on the findings of fact, conclusions of law, and proposal for a decision, the commissioner by order may:

(1) find that a violation occurred and impose a penalty; or

(2) find that a violation did not occur.

(b) The notice of the commissioner's order under Subsection (a) that is sent to the person in accordance with Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

Sec. 248A.257. OPTIONS FOLLOWING DECISION: PAY OR APPEAL. Not later than the 30th day after the date the order of the commissioner imposing an administrative penalty under Section 248A.256 becomes final, the person shall:

(1) pay the penalty; or

(2) file a petition for judicial review of the commissioner's order contesting the occurrence of the violation, the amount of the penalty, or both.

Sec. 248A.258. STAY OF ENFORCEMENT OF PENALTY. (a) Within the period prescribed by Section 248A.257, a person who files a petition for judicial review may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account in the court registry; or

(B) giving the court a supersedeas bond approved by the court that:

(i) is for the amount of the penalty; and

(ii) is effective until all judicial review of the commissioner's order

is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) sending a copy of the affidavit to the commissioner by certified mail.

(b) If the commissioner receives a copy of an affidavit under Subsection (a)(2), the commissioner may file with the court, not later than the fifth day after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts

alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty and to give a supersedeas bond.

Sec. 248A.259. COLLECTION OF PENALTY. (a) If the person does not pay the penalty and the enforcement of the penalty is not stayed, the penalty may be collected.

(b) The attorney general may sue to collect the penalty and may recover reasonable expenses, including attorney's fees, incurred in recovering the penalty.

(c) A penalty collected under this subchapter shall be deposited in the state treasury in the general revenue fund.

Sec. 248A.260. DECISION BY COURT. (a) If the court sustains the finding that a violation occurred, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty.

(b) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not owed.

Sec. 248A.261. REMITTANCE OF PENALTY AND INTEREST. (a) If the person paid the penalty and if the amount of the penalty is reduced or the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, that the appropriate amount plus accrued interest be remitted to the person not later than the 30th day after the date the judgment of the court becomes final.

(b) The interest accrues at the rate charged on loans to depository institutions by the New York Federal Reserve Bank.

(c) The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

Sec. 248A.262. RELEASE OF BOND. (a) If the person gave a supersedeas bond and the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, the release of the bond.

(b) If the person gave a supersedeas bond and the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the reduced amount.

Sec. 248A.263. ADMINISTRATIVE PROCEDURE. A proceeding to impose the penalty is considered to be a contested case under Chapter 2001, Government Code.

SECTION 2. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.13861 to read as follows:

Sec. 411.13861. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF AGING AND DISABILITY SERVICES.

(a) The Department of Aging and Disability Services is entitled to obtain from the Department of Public Safety criminal history record information maintained by the Department of Public Safety that relates to a person required to undergo a background and criminal history check under Chapter 248A, Health and Safety Code.

(b) Criminal history record information obtained under Subsection (a) is for the exclusive use of the Department of Aging and Disability Services and is privileged and confidential.

(c) Criminal history record information obtained under Subsection (a) may not be released or disclosed to any person or agency except on court order or with the consent of the person who is the subject of the information. The Department of Aging and Disability Services may destroy the criminal history record information after the information is used for the purposes authorized by this section.

(d) This section does not prohibit the Department of Aging and Disability Services from obtaining and using criminal history record information as provided by other law.

SECTION 3. Subdivision (3), Section 250.001, Health and Safety Code, is amended to read as follows:

(3) "Facility" means:

(A) a nursing home, custodial care home, or other institution licensed by the Department of Aging and Disability Services under Chapter 242;

(B) an assisted living facility licensed by the Department of Aging and Disability Services under Chapter 247;

(C) a home and community support services agency licensed under Chapter 142;

(D) an adult day care facility licensed by the Department of Aging and Disability Services under Chapter 103, Human Resources Code;

(E) a facility for persons with mental retardation licensed under Chapter 252;

(F) an adult foster care provider that contracts with the Department of Aging and Disability Services;

(G) a facility that provides mental health services and that is operated by or contracts with the Department of State Health Services;

(H) a local mental health or mental retardation authority designated under Section 533.035;

(I) a person exempt from licensing under Section 142.003(a)(19); ~~or~~

(J) a special care facility licensed by the Department of State Health Services under Chapter 248; or

(K) a prescribed pediatric extended care center licensed by the Department of Aging and Disability Services under Chapter 248A.

SECTION 4. Subdivision (4), Section 253.001, Health and Safety Code, is amended to read as follows:

(4) "Facility" means:

(A) a facility:

(i) licensed by the department; or

(ii) licensed under Chapter 252;

(B) an adult foster care provider that contracts with the department; ~~or~~

(C) a home and community support services agency licensed by the department under Chapter 142; or

(D) a prescribed pediatric extended care center licensed under Chapter 248A.

SECTION 5. Subdivisions (5) and (7), Section 260A.001, Health and Safety Code, are amended to read as follows:

(5) "Facility" means:

- (A) an institution as that term is defined by Section 242.002; ~~and~~  
 (B) an assisted living facility as that term is defined by Section 247.002;

and

(C) a prescribed pediatric extended care center as that term is defined by Section 248A.001.

(7) "Resident" means an individual, including a patient, who resides in or receives services from a facility.

SECTION 6. Section 32.024, Human Resources Code, is amended by adding Subsection (jj) to read as follows:

(jj) The department shall establish a separate provider type for prescribed pediatric extended care centers licensed under Chapter 248A, Health and Safety Code, for purposes of enrollment as a provider for and reimbursement under the medical assistance program.

SECTION 7. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 8. (a) Not later than July 1, 2014, the executive commissioner of the Health and Human Services Commission shall adopt the rules required by Subchapter C, Chapter 248A, Health and Safety Code, as added by this Act.

(b) Notwithstanding Section 248A.051, Health and Safety Code, as added by this Act, a person is not required to hold a prescribed pediatric extended care center license until January 1, 2015.

(c) When determining an initial reimbursement rate for licensed prescribed pediatric extended care centers that are enrolled in the medical assistance program, the executive commissioner of the Health and Human Services Commission shall 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 the Texas Health Steps Comprehensive Care Program.

SECTION 9. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2013.

(b) Subchapters E and F, Chapter 248A, Health and Safety Code, as added by this Act, take effect January 1, 2015.

### Floor Amendment No. 1

Amend **CSSB 492** (house committee report) as follows:

(1) On page 10, line 14, between "CLIENT." and "A", insert "(a)".

(2) On page 10, between lines 24 and 25, insert the following:

(b) An admission authorized under this section is not intended to supplant the right to a Medicaid private duty nursing benefit, when medically necessary.

The amendments were read.

Senator Lucio moved to concur in the House amendments to **SB 492**.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Paxton.



**SENATE BILL 1003 WITH HOUSE AMENDMENTS**

Senator Carona called **SB 1003** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

**Amendment**

Amend **SB 1003** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to a review of and report regarding the use of adult and juvenile administrative segregation in facilities in this state.

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

SECTION 1. DEFINITION. In this Act, "facility" means:

- (1) a facility operated by or under contract with the Texas Department of Criminal Justice;
- (2) a facility operated by a municipality, or a private vendor on behalf of a municipality, for the confinement of a person arrested for, charged with, or convicted of a criminal offense; or
- (3) a public or private juvenile secure detention facility.

SECTION 2. REVIEW OF ADMINISTRATIVE SEGREGATION POLICIES.

Subject to the availability of funds from gifts, grants, and donations accepted under Section 3 of this Act, the Criminal Justice Legislative Oversight Committee shall appoint an independent third party to conduct a review of facilities in this state regarding the facilities' use of adult and juvenile administrative segregation and related statistics, including:

- (1) classification to administrative segregation and release from administrative segregation;
- (2) security threat group classification;
- (3) notification of release and release procedures;
- (4) access of adults and juveniles confined in administrative segregation to:
  - (A) mental health services;
  - (B) health care services;
  - (C) substance abuse programs and services;
  - (D) reentry resources and transitional programs and services; and
  - (E) other programs and services that are available to the general adult and juvenile population;
- (5) access of adults confined in administrative segregation to programs and services for adults who are veterans;
- (6) the number of adults and juveniles confined in administrative segregation who were referred to mental health professionals;
- (7) the average length of time adults and juveniles were continuously confined in administrative segregation; and
- (8) the rate of recidivism among adults and juveniles who were confined in administrative segregation at any time.

SECTION 3. ACCEPTANCE OF GIFTS, GRANTS, AND DONATIONS. (a) For the purpose of funding the third-party review under Section 2 of this Act, the Criminal Justice Legislative Oversight Committee may:

(1) apply for and accept:

(A) gifts, grants, and donations from any organization described in Section 501(c)(3) or (4) of the Internal Revenue Code of 1986; and

(B) federal grants; and

(2) accept donations from an individual or a private entity.

(b) All gifts, grants, and donations must be reported in the public records of the Criminal Justice Legislative Oversight Committee with the name of the donor and purpose of the gift, grant, or donation accepted.

SECTION 4. REPORT. Not later than December 31, 2014, the independent third party shall provide a report of the third party's 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. At a minimum, the report must contain detailed recommendations to:

(1) reduce the administrative segregation population in facilities in this state;

(2) divert adults and juveniles with mental illness from administrative segregation; and

(3) decrease the length of time adults and juveniles are confined in administrative segregation in facilities in this state.

SECTION 5. PUBLIC INFORMATION. Chapter 552, Government Code, applies to:

(1) the review conducted by the independent third party under this Act and all information gathered and analyzed for that review, including background research and any report or summary; and

(2) the report submitted by the independent third party under Section 4 of this Act.

SECTION 6. EXPIRATION. This Act expires February 1, 2015.

SECTION 7. EFFECTIVE DATE. This Act takes effect September 1, 2013.

#### **Floor Amendment No. 1**

Amend **CSSB 1003** (house committee printing) on page 3 by striking lines 25 through 27 and substituting the following:  
summary;

(2) the report submitted by the independent third party under Section 4 of this Act; and

(3) all information collected, created, or stored under this Act by the Criminal Justice Legislative Oversight Committee.

#### **Floor Amendment No. 1 on Third Reading**

Amend **CSSB 1003** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Chapter 203, Human Resources Code, is amended by adding Section 203.016 to read as follows:

Sec. 203.016. DATA REGARDING PLACEMENT IN DISCIPLINARY SECLUSION. (a) In this section:

(1) "Disciplinary seclusion" means 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.

(2) "Juvenile facility" means a facility that serves juveniles under juvenile court jurisdiction and that is operated as a pre-adjudication secure detention facility, a short-term detention facility, or a post-adjudication secure correctional facility.

(b) The department shall collect the following data during the annual registration of juvenile facilities and make the data publicly available:

(1) the number of placements in disciplinary seclusion lasting at least 90 minutes but less than 24 hours;

(2) the number of placements in disciplinary seclusion lasting 24 hours or more but less than 48 hours; and

(3) the number of placements in disciplinary seclusion lasting 48 hours or more.

The amendments were read.

Senator Carona moved to concur in the House amendments to **SB 1003**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**SENATE BILL 1388 WITH HOUSE AMENDMENT**

Senator Carona called **SB 1388** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

**Amendment**

Amend **SB 1388** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to identity recovery services; imposing a fee.

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

SECTION 1. Section 348.208, Finance Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) A retail installment contract may include as a separate charge an amount for:

(1) motor vehicle property damage or bodily injury liability insurance;

(2) mechanical breakdown insurance;

(3) participation in a motor vehicle theft protection plan;

(4) insurance to reimburse the retail buyer for the amount computed by subtracting the proceeds of the buyer's basic collision policy on the motor vehicle from the amount owed on the vehicle if the vehicle has been rendered a total loss;

(5) a warranty or service contract relating to the motor vehicle;

(6) an identity recovery service contract [~~defined by Section 1306.003, Occupations Code~~]; or

(7) a debt cancellation agreement if the agreement is included as a term of a retail installment contract under Section 348.124.

(b-1) In this section, "identity recovery service contract" means an agreement:

(1) to provide identity recovery, as defined by Section 1304.003, Occupations Code;

(2) that is entered into for a separately stated consideration and for a specified term; and

(3) that is financed through a retail installment contract.

SECTION 2. Section 353.207, Finance Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) A retail installment contract may include as a separate charge an amount for:

(1) motor vehicle property damage or bodily injury liability insurance;

(2) mechanical breakdown insurance;

(3) participation in a motor vehicle theft protection plan;

(4) insurance to pay all or part of the amount computed by subtracting the proceeds of the retail buyer's basic collision policy on the commercial vehicle from the amount owed on the vehicle in the event of a total loss or theft of the vehicle;

(5) a warranty or service contract relating to the commercial vehicle;

(6) an identity recovery service contract [~~defined by Section 1306.003, Occupations Code~~]; or

(7) a debt cancellation agreement.

(b-1) In this section, "identity recovery service contract" means an agreement:

(1) to provide identity recovery, as defined by Section 1304.003, Occupations Code;

(2) that is entered into for a separately stated consideration and for a specified term; and

(3) that is financed through a retail installment contract.

SECTION 3. Sections 1304.003(a) and (b), Occupations Code, are amended to read as follows:

(a) In this chapter:

(1) "Identity recovery" means a process, through a limited power of attorney and the assistance of an identity recovery expert, that returns the identity of an identity theft victim to pre-identity theft event status.

(2) "Service [~~,"service]~~ contract" means an agreement[~~+~~]  
[~~(4)~~] that is entered into for a separately stated consideration and for a specified term[~~;~~and

[~~(2)~~] under which a provider agrees to:

(A) 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

(B) provide identity recovery, if the service contract is financed under Chapter 348 or 353, Finance Code.

(b) A service contract described by Subsection (a)(2)(A) may also provide for:

(1) incidental payment or indemnity under limited circumstances, including towing, rental, and emergency road service;

(2) the repair or replacement of a product for damage resulting from a power surge or for accidental damage incurred in handling the product; or

(3) identity recovery, [~~as defined by Section 1306.002,~~] if the service contract is financed under Chapter 348 or 353, Finance Code.

SECTION 4. Subchapter C, Chapter 1304, Occupations Code, is amended by adding Section 1304.1035 to read as follows:

Sec. 1304.1035. IDENTITY RECOVERY SERVICE CONTRACT REPORT; FEE. Not later than the 30th day after the date each calendar quarter ends, a provider must report to the department the number of service contracts described by Section 1304.003(a)(2)(B) that were sold or issued to consumers in this state during the most recent calendar quarter and must submit a fee of \$1 for each of those service contracts to the department. The report and fee are required only for a service contract that provides only for identity recovery services.

SECTION 5. Section 1304.104, Occupations Code, is amended to read as follows:

Sec. 1304.104. INFORMATION CONCERNING NUMBER OF SERVICE CONTRACTS SOLD OR ISSUED. Information concerning the number of service contracts sold or issued by a provider that is submitted under Section 1304.103 or 1304.1035 is a trade secret to which Section 552.110, Government Code, applies.

SECTION 6. Section 2306.003(c), Occupations Code, is amended to read as follows:

(c) A vehicle protection product may also include identity recovery, as defined by Section 1304.003 [~~1306.002~~], if the vehicle protection product is financed under Chapter 348 or 353, Finance Code.

SECTION 7. Chapter 1306, Occupations Code, is repealed.

SECTION 8. (a) The changes in law made by this Act apply only to a contract entered into or renewed on or after the effective date of this Act. A contract entered into or renewed before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) The repeal of Chapter 1306, Occupations Code, by this Act does not apply to a violation of that chapter that occurs before the effective date of the repeal. A violation that occurs before the effective date of the repeal is governed by the law as it existed on the date the violation occurred, and the former law is continued in effect for that purpose. For purposes of this subsection, a violation occurred before the effective date of the repeal if any element of the violation occurred before that date.

SECTION 9. This Act takes effect September 1, 2013.

The amendment was read.

Senator Carona moved to concur in the House amendment to **SB 1388**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 1897 (Motion In Writing)**

Senator Carona called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1897** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1897** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Carona, Chair; Watson, West, Deuell, and Taylor.

**CONFERENCE COMMITTEE ON HOUSE BILL 1951**  
**(Motion In Writing)**

Senator Carona called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1951** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1951** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Carona, Chair; Ellis, Van de Putte, Eltife, and Duncan.

**CONFERENCE COMMITTEE ON HOUSE BILL 2982**  
**(Motion In Writing)**

Senator Duncan called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2982** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2982** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Duncan, Chair; Fraser, Davis, Seliger, and Uresti.

**CONFERENCE COMMITTEE ON HOUSE BILL 3142**  
**(Motion In Writing)**

Senator Estes called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3142** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3142** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Estes, Chair; Schwertner, Uresti, Hinojosa, and Hegar.

**CONFERENCE COMMITTEE ON HOUSE BILL 3903**  
**(Motion In Writing)**

Senator Campbell called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3903** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3903** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Campbell, Chair; Fraser, Hegar, Hinojosa, and Taylor.

**SENATE BILL 949 WITH HOUSE AMENDMENT**  
**(Motion In Writing)**

Senator Nelson called **SB 949** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

**Floor Amendment No. 1**

Amend **SB 949** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 155.0045, Occupations Code, is repealed.

The amendment was read.

Senator Nelson submitted a Motion In Writing that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 949** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Nelson, Chair; Huffman, Rodriguez, Deuell, and Taylor.

**SENATE BILL 1373 WITH HOUSE AMENDMENT**  
**(Motion In Writing)**

Senator Hinojosa called **SB 1373** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

**Amendment**

Amend **SB 1373** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to display of the Honor and Remember flag.

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

SECTION 1. Subchapter A, Chapter 2165, Government Code, is amended by adding Section 2165.0065 to read as follows:

Sec. 2165.0065. DISPLAY OF HONOR AND REMEMBER FLAG. (a) In this section, "Honor and Remember flag" means the Honor and Remember, Inc., flag.

(b) The Honor and Remember flag shall be displayed at each state office building, at the State Cemetery under Section 2165.256, and at each veterans cemetery managed by the Veterans' Land Board on:

(1) the third Saturday in May, "Armed Forces Day";

(2) the last Monday in May, "Memorial Day";

(3) the 14th day of June, "Flag Day";

(4) the fourth day of July, "Independence Day";

(5) the 11th day of November, "Veterans Day";

(6) "National POW/MIA Recognition Day";

(7) the last Sunday in September, "Gold Star Mother's Day"; and

(8) any date on which a resident of this state is killed while serving on active duty in the armed forces of the United States.

(c) If a facility to which Subsection (b) applies will not have staff available to display the Honor and Remember flag on the day provided by Subsection (b), the facility's staff shall display the flag on the last preceding day the staff is available and leave the flag on display on the day provided by Subsection (b).

SECTION 2. The Honor and Remember flag is designated as the symbol of our state's concern and commitment to honoring and remembering the lives of all members of the United States armed forces who have lost their lives while serving or as a result of service and their families.

SECTION 3. The Honor and Remember flag's red field represents the blood shed by brave men and women who sacrificed their lives for freedom, and the flag's white border recognizes the purity of that sacrifice. The flag's blue star is a symbol of active service in military conflict that dates back to World War I. The flag's gold star signifies the ultimate sacrifice of a warrior in active service who is not returning home and reflects the value of the life given. The folded flag element highlights this nation's final tribute to a fallen service member and a family's sacrifice. The flag's flame symbolizes the eternal spirit of the departed.



SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

The amendment was read.

Senator Hinojosa submitted a Motion In Writing that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1373** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Hinojosa, Chair; Birdwell, Campbell, Uresti, and Whitmire.

#### SENATE BILL 646 WITH HOUSE AMENDMENT

Senator Deuell called **SB 646** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

#### Amendment

Amend **SB 646** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to court-ordered outpatient mental health services.

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

SECTION 1. Subchapter A, Chapter 574, Health and Safety Code, is amended by adding Section 574.0125 to read as follows:

Sec. 574.0125. IDENTIFICATION OF PERSON RESPONSIBLE FOR COURT-ORDERED OUTPATIENT MENTAL HEALTH SERVICES. 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, the judge shall identify the person the judge intends to designate to be responsible for those services under Section 574.037.

SECTION 2. Section 574.037, Health and Safety Code, is amended by amending Subsections (a) and (b) and adding Subsections (b-1), (b-2), (c-1), (c-2), (c-3), and (c-4) to read as follows:

(a) The court, in an order that directs a patient to participate in outpatient mental health services, shall designate the person identified under Section 574.0125 as [identify a person who is] responsible for those services or may designate a different person if necessary. The person designated [identified] must be the facility administrator or an individual involved in providing court-ordered outpatient services. A person may not be designated as responsible for the ordered services without the

person's consent unless the person is the facility administrator of a department facility or the facility administrator of a community center that provides mental health services in the region in which the committing court is located.

(b) The person responsible for the services shall submit to the court ~~[within two weeks after the court enters the order]~~ a general program of the treatment to be provided as required by this subsection and Subsection (b-2). The program must be incorporated into the court order. The program must include:

(1) services to provide care coordination; and  
 (2) 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.

(b-1) If the patient is receiving inpatient mental health services at the time the program is being prepared, the person responsible for the services under this section shall seek input from the patient's inpatient treatment providers in preparing the program.

(b-2) The person responsible for the services shall submit the program to the court before the hearing under Section 574.034 or 574.035 or before the court modifies an order under Section 574.061, as appropriate.

(c-1) A patient subject to court-ordered outpatient services may petition the court for specific enforcement of the court order.

(c-2) A court may, on its own motion, set a status conference with the person responsible for the services, the patient, and the patient's attorney.

(c-3) The court shall order the patient to participate in the program but may not compel performance. If a court receives information under Subsection (c)(1) that a patient is not complying with the court's order, the court may:

(1) set a modification hearing under Section 574.062; and  
 (2) issue an order for temporary detention if an application is filed under Section 574.063.

(c-4) The failure of a patient to comply with the program incorporated into a court order is not grounds for punishment for contempt of court under Section 21.002, Government Code.

SECTION 3. Section 574.061(f), Health and Safety Code, is amended to read as follows:

(f) If the court modifies the order, the court shall designate [identify] a person to be responsible for the outpatient services as prescribed by Section 574.037.

SECTION 4. Section 574.063(b), Health and Safety Code, is amended to read as follows:

(b) The application must state the applicant's opinion and detail the reasons for the applicant's opinion that:

(1) the patient meets the criteria described by Section 574.064(a-1) ~~[574.065(a)]~~; and

(2) detention in an inpatient mental health facility is necessary to evaluate the appropriate setting for continued court-ordered services.

SECTION 5. Section 574.064, Health and Safety Code, is amended by adding Subsections (a-1) and (a-2) and amending Subsections (b) and (e) to read as follows:

(a-1) A physician shall 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 under Subsection (b). The determination that the patient presents a substantial risk of serious harm to the patient or others may be demonstrated by:

(1) the patient's behavior; or  
(2) evidence of severe emotional distress and deterioration in the patient's mental condition to the extent that the patient cannot live safely in the community.

(a-2) If the physician who conducted the evaluation determines that the patient does not present a substantial risk of serious harm to the patient or others, the facility shall:

(1) notify:

(A) the person designated under Section 574.037 as responsible for providing outpatient mental health services or the facility administrator of the outpatient facility treating the patient; and

(B) the court that entered the order directing the patient to receive court-ordered outpatient mental health services; and

(2) release the patient.

(b) A patient who is not released under Subsection (a-2) may 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) 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:

(1) the patient, due to mental illness, presents a substantial risk of serious harm to the patient or others, using the criteria prescribed by Subsection (a-1), to the extent that the patient cannot be at liberty pending the final hearing under Section 574.062 [meets the criteria described by Section 574.065(a)]; and

(2) detention in an inpatient mental health facility is necessary to evaluate the appropriate setting for continued court-ordered services.

(e) A patient released from an inpatient mental health facility under Subsection (a-2) or (d) continues to be subject to the order for court-ordered outpatient services, if the order has not expired.

SECTION 6. Section 574.065(a), Health and Safety Code, is amended to read as follows:

(a) The court may 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) or 574.035(a).

SECTION 7. The heading to Subchapter G, Chapter 574, Health and Safety Code, is amended to read as follows:

SUBCHAPTER G. ADMINISTRATION OF MEDICATION TO PATIENT UNDER  
COURT ORDER FOR [INPATIENT] MENTAL HEALTH SERVICES

SECTION 8. Section 574.102, Health and Safety Code, is amended to read as follows:

Sec. 574.102. APPLICATION OF SUBCHAPTER. This subchapter applies to the application of medication to a patient subject to a court ~~an~~ order for ~~inpatient~~ mental health services under this chapter or other law.

SECTION 9. Section 574.103(b), Health and Safety Code, is amended to read as follows:

(b) A person may not administer a psychoactive medication to a patient under court-ordered inpatient mental health services who refuses to take the medication voluntarily unless:

- (1) the patient is having a medication-related emergency;
- (2) the patient is under an order issued under Section 574.106 authorizing the administration of the medication regardless of the patient's refusal; or
- (3) the patient 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 treatment with psychoactive medication.

SECTION 10. Subchapter D, Chapter 1001, Health and Safety Code, is amended by adding Section 1001.083 to read as follows:

Sec. 1001.083. REPORT ON COURT-ORDERED OUTPATIENT MENTAL HEALTH SERVICES. (a) Not later than December 1, 2016, the department shall prepare and submit to the legislature a report containing information about persons receiving court-ordered outpatient mental health services in this state and the effectiveness of those services.

(b) This section expires September 1, 2017.

SECTION 11. Sections 574.034(i) and 574.035(j), Health and Safety Code, are repealed.

SECTION 12. The change in law made by this Act applies only to an application for court-ordered mental health services or temporary detention filed on or after the effective date of this Act. An application filed before the effective date of this Act is governed by the law in effect when the application was filed, and the former law is continued in effect for that purpose.

SECTION 13. This Act takes effect September 1, 2013.

The amendment was read.

Senator Deuell moved to concur in the House amendment to **SB 646**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**(Senator Seliger in Chair)**

### **SENATE BILL 1216 WITH HOUSE AMENDMENTS**

Senator Eltife called **SB 1216** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

#### **Floor Amendment No. 1**

Amend **SB 1216** (house committee printing) on page 3, lines 9 through 12, by striking added Section 1217.002(c), Insurance Code, and relettering the subsequent subsections of that section accordingly.

**Floor Amendment No. 2**

Amend **SB 1216** (house committee printing) as follows:

(1) On page 4, line 18, strike "or".

(2) On page 4, line 23, between "1217.002" and the period, insert the following:

; or

(5) a workers' compensation insurance policy

**Floor Amendment No. 3**

Amend **SB 1216** (house committee printing) on page 7, line 12, by striking "medical".

The amendments were read.

Senator Eltife moved to concur in the House amendments to **SB 1216**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**(Senator Eltife in Chair)**

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 176 ADOPTED**

Senator Carona called from the President's table the Conference Committee Report on **SB 176**. The Conference Committee Report was filed with the Senate on Tuesday, May 21, 2013.

On motion of Senator Carona, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 200 ADOPTED**

Senator Patrick called from the President's table the Conference Committee Report on **SB 200**. The Conference Committee Report was filed with the Senate on Tuesday, May 21, 2013.

On motion of Senator Patrick, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

Friday, May 24, 2013 - 4

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the house to inform the senate that the house has taken the following action:

**THE HOUSE HAS CONCURRED IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES:**

- HB 38** (115 Yeas, 25 Nays, 2 Present, not voting)  
**HB 585** (146 Yeas, 0 Nays, 2 Present, not voting)  
**HB 595** (144 Yeas, 0 Nays, 2 Present, not voting)  
**HB 658** (144 Yeas, 0 Nays, 2 Present, not voting)  
**HB 1606** (119 Yeas, 26 Nays, 2 Present, not voting)  
**HB 1692** (90 Yeas, 54 Nays, 2 Present, not voting)  
**HB 2028** (145 Yeas, 0 Nays, 2 Present, not voting)  
**HB 2029** (144 Yeas, 0 Nays, 2 Present, not voting)  
**HB 2259** (144 Yeas, 0 Nays, 2 Present, not voting)  
**HB 2645** (139 Yeas, 6 Nays, 3 Present, not voting)  
**HB 2733** (145 Yeas, 0 Nays, 2 Present, not voting)  
**HB 3028** (146 Yeas, 0 Nays, 2 Present, not voting)  
**HB 3605** (146 Yeas, 0 Nays, 2 Present, not voting)

THE HOUSE HAS REFUSED TO CONCUR IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

**HB 3569** (non-record vote)

House Conferees: Kleinschmidt - Chair/Anderson/Guillen/Kacal/White

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### GUESTS PRESENTED

Senator West was recognized and introduced to the Senate students from the Irma Lerma Rangel Young Women's Leadership School.

The Senate welcomed its guests.

### CONFERENCE COMMITTEE ON HOUSE BILL 3390 (Motion In Writing)

Senator Deuell called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3390** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3390** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Deuell, Chair; Hancock, Watson, Eltife, and Seliger.

### **SESSION TO CONSIDER EXECUTIVE APPOINTMENTS**

The Presiding Officer announced the time had arrived to consider appointment to agencies, boards, and commissions. Notice of submission of these names for consideration was given yesterday by Senator Hegar.

Senator Hegar moved confirmation of the nominees reported yesterday by the Committee on Nominations.

The Presiding Officer asked if there were requests to sever nominees.

Senator Zaffirini requested the following nominees be severed:

Member, Board of Regents, The University of Texas System: Ernest Aliseda, Hidalgo County.

Member, Board of Regents, The University of Texas System: Paul Lewis Foster, El Paso County.

Member, Board of Regents, The University of Texas System: Jeffery Dee Hildebrand, Harris County.

### **NOMINEES CONFIRMED**

The following nominees, not severed and reported by the Committee on Nominations, were confirmed by the following vote: Yeas 31, Nays 0.

Member, Commission on Human Rights: Sharon Breckenridge Thomas, Bexar County.

Members, Commission on Jail Standards: Donna Sue Klaeger, Burnet County; Jerry Wayne Lowry, Montgomery County; Larry S. May, Nolan County; Dennis Darwin Wilson, Limestone County.

Members, Governing Board, Texas Indigent Defense Commission: Jon H. Burrows, Bell County; Don Taylor Hase, Tarrant County; Anthony C. Odiorne, Williamson County; Olen U. Underwood, Montgomery County; B. Glen Whitley, Tarrant County.

Members, Board of Directors, Guadalupe-Blanco River Authority: William R. Carbonara, DeWitt County; Darrell Gene McLain, Gonzales County; Don B. Meador, Hays County; Kenneth Alan Motl, Calhoun County.

Members, Judicial Compensation Commission: William Buck Brod, Harris County; Conrith Warren Davis, Fort Bend County; Patrick W. Mizell, Harris County; Linda B. Russell, Galveston County.

Members, Board of Directors, Lavaca-Navidad River Authority: Glenn Terrell Martin, Jackson County; Scott Herin Sachtleben, Jackson County; Leonard A. Steffek, Jackson County; Charles David Taylor, Jackson County.

Member, Board of Directors, Lower Colorado River Authority: Raymond Alexander Gill, Llano County.

Members, Board of Directors, Nueces River Authority: Rebecca Bradford, Nueces County; Dane Charles Bruun, Nueces County; Lynn Elizabeth Haueter, Nueces County; Joe Curtis McMillian, Frio County; David E. Purser, Karnes County; Armandina Garcia Ramirez, Karnes County; Emily Gayle Kinney Stroup, Bexar County.

Members, Product Development and Small Business Incubator Board: Brett Lawrence Cornwell, Brazos County; John-Patrick Allison Lane, Tarrant County; David Russell Margrave, Bexar County; David L. Miller, Lubbock County; Barry Neal Williams, Comal County.

Members, Real Estate Research Advisory Committee: Walter Frederick Nelson, Montgomery County; Stephen Douglas Roberts, Travis County; Christopher Clark Welder, Bee County.

Member, Board of Directors, San Jacinto River Authority: Michael Gerard Bleier, Montgomery County.

Members, Texas Board of Occupational Therapy Examiners: Jennifer Bowlin Clark, Grimes County; Amanda Jean Ellis, Travis County; Todd Matthew Novosad, Travis County.

Members, Texas Commission of Licensing and Regulation: Thomas Felton Butler, Harris County; Deborah Ann Yurco, Travis County.

Member, Texas Lottery Commission: James Winston Krause, Travis County.

Members, Texas Medical Board: Michael Ray Arambula, Bexar County; Devinder Singh Bhatia, Harris County; Frank S. Denton, Montgomery County; Carlos L. Gallardo, Denton County; James Scott Holliday, Dallas County; Margaret Carter McNeese, Harris County; Robert Barkley Simonson, Dallas County; Tessa Paulette Southard, Jim Wells County; Karl Winston Swann, Bexar County; Timothy Webb, Harris County.

Members, Texas Physician Assistant Board: Reginald C. Baptiste, Travis County; Linda Lou Contreras, Collin County; Teralea Davis Jones, Bee County; Michael David Reis, McLennan County; Raymond Blayne Rush, Denton County.

Members, Texas State Board of Public Accountancy: Susan Hayes Fletcher, Collin County; Donna J. Hugly Franks, Dallas County; William Clarence Lawrence, Denton County; Stephen Daniel Pena, Williamson County.

Members, Texas State Board of Social Worker Examiners: Timothy Martel Brown, Dallas County; Carol M. Rainey, Tarrant County; Mark Mitchell Talbot, Hidalgo County.

Members, Texas Water Development Board: Lewis Hill McMahan, Dallas County; Fredrick A. Rylander, Pecos County.

Members, Board of Directors, Trinity River Authority: Henry Borbolla, Tarrant County; Amanda Boswell Davis, Leon County; Valerie E. Ertz, Dallas County; Tommy G. Fordyce, Walker County; Jess Alton Laird, Henderson County; David



Blake Leonard, Liberty County; James W. Neale, Dallas County; Amirali Rupani, Dallas County; Ana Laura Saucedo, Dallas County; Dudley Knox Skyrme, Anderson County; Carl Dwayne Somerville, Freestone County.

#### NOMINEES CONFIRMED

The following severed nominee, as reported by the Committee on Nominations, was confirmed by the following vote: Yeas 30, Nays 1.

Nays: Whitmire.

Member, Board of Regents, The University of Texas System: Ernest Aliseda, Hidalgo County.

The following severed nominee, as reported by the Committee on Nominations, was confirmed by the following vote: Yeas 30, Nays 1.

Nays: Whitmire.

Member, Board of Regents, The University of Texas System: Paul Lewis Foster, El Paso County.

The following severed nominee, as reported by the Committee on Nominations, was confirmed by the following vote: Yeas 30, Nays 1.

Nays: Whitmire.

Member, Board of Regents, The University of Texas System: Jeffery Dee Hildebrand, Harris County.

#### REMARKS ORDERED PRINTED

On motion of Senator Zaffirini and by unanimous consent, the remarks regarding The University of Texas System Board of Regents nominees were ordered reduced to writing and printed in the *Senate Journal* as follows:

**Senator Watson:** Thank you, Mr. President. Members, for months now we've stood together in the face of controversy involving The University of Texas System. We've asked serious questions about the governance and management and what some of us saw as micromanagement of activities at The University of Texas at Austin by members of the system's Board of Regents. Concerns were expressed about whether there was a campaign by a few to oust the successful President. We've expressed disappointment when we believed the Regents weren't forthcoming in providing us information we're entitled to. Sadly, this issue has regressed to the point that people speak in terms of battle and the fog of war. There's reason to believe that the controversy and the battle is damaging this great system, a university system we simply must have function well, a system that is a cornerstone of our state's legacy of success and its future promise. We responded to this controversy, these concerns, and this damage through our part of the overall governance structure, with legislation that sends clear direction, including about the role of policymaker versus micromanager and when a board can terminate a President of an institution, making it clear that Regents can't fire a President unilaterally but, instead, the decision is one for the Chancellor. This week we exercised, and today we exercise another part of our oversight role with a Regent confirmation process. In the hearing, we heard unmistakable commitments to move past divisiveness, controversies, hidden agendas,

investigations, and the war metaphors that have taken a toll of this system and university we all value. The vetting process revealed recognition that current activity by some on the board is unhealthy and yielded firm assurances that the nominees will seek better solutions. The three nominees acknowledged the Legislature's legitimate function and role in higher education governance and committed to seek good relations with Members of the Legislature and to implement and honor good policies reflected in Senate Bill 15. And we heard solid promises that these nominees are not part of any vendetta to oust UT's excellent President. So, Members, I will vote to convert, to confirm these three men as Regents. My vote today is of both hope and pragmatism: hope and belief that these three men made promises, have the ability, and can be voices of reason, moderation, and reconciliation; hope that as a state we can come together to continue down this trail of progress and achievement that our universities and the Texans trained at those universities have helped blaze; hope that these men are being sincere when they pledged to work with us in this Legislature just as we try to work with them; hope that they are as passionate as they appear about the future of this university system. And I mean all of it, all of its potential, including the truly historical developments we've witnessed recently with the creation of the new medical school in Austin, the new university and medical school in South Texas, the research that's going on at MD Anderson Cancer Center, and so much more, and that their passion for the people who we all serve will keep them focused on the enormous future and not petty grievances. But we also must be pragmatic. The Constitution gives the Governor power to appoint whomever he chooses. I'd much rather confirm these men who've gone through this process and answered our questions than have their seats filled by people who haven't and aren't in a position to demonstrate anything to us or the people of Texas before taking such an important office. So, I think we should take the chance that they mean what they told us. I think we should confirm them in the sincere hope that they'll work with us and with President Powers to help the system as a whole, and The University of Texas in particular, thrive in the 21st century. In my opinion, that's what they pledged to us, and that pledge means a lot. I'd hate to think someone might serve under our current circumstances without having the opportunity to make it. I wish them good luck, and I look forward to working with them. Thank you, Mr. President, and thank you, Members.

**Senator Zaffirini:** Thank you, Mr. President. Mr. President and Members, I rise, too, to address the subject of nominees for the UT Board of Regents. In 1876, the Texas Constitution called for the creation of a university of the first class. In response, the state created The University of Texas at Austin. The UT seal embodies the words of Mirabeau B. Lamar, the father of education, who wrote, the cultivated mind is the guardian genius of democracy. Words like first class, cultivated mind, guardian genius, and democracy are hallmarks of academic excellence. These ideals require the best students, the best faculty, the best researchers, the administrators, and the best Regents. When Regents micromanage and focus on accountability, affordability, efficiency, and productivity without simultaneously focusing on excellence, they risk lowering our standards, tarnishing our brand, and damaging our recruitment and retention of the best students, faculty, researchers, and administrators. This is especially true if they micromanage individually instead of functioning as a policymaking board. Today, as the Texas Senate exercises our responsibility to

provide advice and consent in the nomination and confirmation process, we focus on three outstanding Texans who are being scrutinized, not necessarily because of their own character, qualifications, or experience but, frankly, because of the conduct of a minority of Regents who have been called, among other things, rogue Regents, who have hijacked the UT agenda, stirred controversy that lowered morale, and resulted in negative attention and publicity in Texas and nationally and focused on UT at the expense of other institutions in the system. Last Monday, 22 Senators participated in the Nominations Committee hearing of UT Regent nominees Paul Foster, Ernesto Aliseda, and Jeff Hildebrand. And 11 Senators asked them questions and made comments. First and foremost, at the Nominations Committee hearing and during additional meetings and conversations, the nominees agreed that they were committed to excellence, not to widgetizing of higher education. In doing so, they expressed their understanding that the importance of academic research, not only in the sciences but also in the liberal arts and other areas, their support for academic freedom and tenure, their belief that every institution in the UT system merits attention, including those in South Texas and in El Paso, and most important, their agreement to focus on excellence as they discuss any topics, such as accountability, affordability, efficiency, productivity, and transparency. In response to observations that some UT Regents reflected a double standard, refusing to practice the accountability, responsiveness, transparency that they demand of others, the three nominees agreed to reach out to all stakeholders and to be responsive to them going forward, particularly in understanding their concerns and their solutions for the controversy at hand, to improve morale by ensuring that personnel not be burdened with unreasonable data demands and deadlines, to ensure that the board functions as a policymaking body, not as a collection of micromanaging individuals with their own agendas, and to investigate and to improve the process by which the board, in particular, responds to requests for public information. Contrary to the belief expressed in a document submitted by Regent Chair Gene Powell, the three nominees agreed that The University of Texas System is subject to Section 51.352 of the Education Code. Specifically, they agreed that under this law, UT Regents are bound by directives, including that they shall exercise the traditional and time-honored role for such boards as their roles have evolved in the U.S. and shall be the keystone of the governing structure, shall preserve institutional independence and defend a university's right to manage its own affairs through its chosen administrators and employees, shall enhance the public image of each institution, shall nurture each institution to be sure each achieves its full potential with its enrolled admission, and shall provide policy direction. For the life of me, Members, I cannot understand why anyone would assume that the UT board is exempt from these directives that also are best practices, but I am heartened by each nominee's stated belief that they apply to UT. In effect, the nominees agreed that they must abide by the law and not hold themselves above it in any way. Specifically, they agreed that Regents have a fiduciary duty and that they would report anyone who breached that duty. All of us who believe in the transparency and accountability standards memorialized in the Texas Public Information Act welcome the pledges of these nominees to investigate and to improve the process, reportedly defied by some UT Regents, that thwart public information requests. These problems include delaying, inexcusably and deliberately, responses to

legislators' requests; labeling inconvenient information as confidential; reducing access to information by embedding security codes that preclude printing; using large, dark watermarks to reduce readability; allowing one Regent, perhaps more, to insert himself in the process by revealing documents before they are submitted to us; and requiring legislators to sign confidentiality agreements to access confidential information to which we have a right. In 2011, when the attempt to hijack the higher education agenda exploded into a statewide controversy that attracted national and even international attention, many understood the negative impact on higher education in general, but on A&M, UT Austin, and the emerging research universities in particular. The three nominees whom we consider today denied any interest in implementing the so-called seven solutions espoused by Jeff Sandefer, the Texas Public Policy Foundation, and others. They went so far as to express positions counter to those so-called solutions and other legislative recommendations, including their disdain for the black and red reports and for placing universities under Sunset and their support for using taxpayer money for research. Because the situation evolved into a focus on UT Austin and its President, many legislators repeatedly have expressed our admiration, respect, support, and, yes, even our love for Bill Powers. And we have warned that all hell would break loose if he were fired or forced to resign. The three Regent nominees denied any participation in any attempt to fire Bill Powers. They agreed that only the Chancellor, not the Regents, can recommend the firing of a President. They agreed to meet with President Powers and to understand his perspective and went so far as to express admiration for him. When Regent Foster mentioned his reservation about President Powers' fundraising capabilities, we pointed out that UT Austin is raising an average of \$1.2 million per day and is on track to surpass its best year in fundraising. Specific concerns about these three nominees were raised to them. Regent Foster explained why he cast the deciding vote to continue the investigation of the UT Law School Foundation, admitted that he should have done more to resolve the controversy, and pledged to exercise his leadership in the future. Nominee Aliseda said he is an Aggie who loves UT, expressed a particular interest in the system's South Texas institutions, and said he would use his mediation skills to resolve the controversy. Nominee Hildebrand denied he would be influenced by his friend, Jeff Sandefer, or by any other person, stated that his success reflects his independence, and pledged to use his problem-solving skills for the betterment of the UT system. I am confident that the Senate today could block these three nominees. Many of us have reservations about each of these nominees, partly because we regret confirming the three 2011 nominees, whose nominations were not vetted fully or properly. Having listened intently and repeatedly to our current nominees, however, some of us will vote to confirm them because we are willing to give them the benefit of the doubt, know that we can continue to interact with them and, above all, above all, recognize that if we don't confirm them, three other nominees could be appointed and could serve without undergoing the Senate confirmation process until the next regular legislative session in 2015. I am cautiously optimistic that having listened to us, these three nominees realize that the responsibility is enormous, are committed to counter-balancing negative forces, and understand that their work will be scrutinized by all of us who are passionate about higher education in general and the UT system and UT Austin in particular.

Accordingly, although unenthusiastically, I will vote "aye" and look forward to a productive relationship with these three nominees. My prayer is that they and all Regents will listen as closely to us as we have listened, and will continue to listen, to each of them. Thank you, Mr. President and Members.

**Senator Hinojosa:** Thank you, Mr. President and Members. I rise to support the nomination of Ernest Aliseda to The University of Texas Board of Regents. I've known Judge Aliseda for 15 years. He's a resident of my San Antonio District 20. He's a resident of the City of McAllen where I reside and is my hometown. I will just give a few of the highlights of his qualifications to serve on the Board of Regents for The University of Texas. His education, he has a bachelor's degree from University of Texas, A&M, excuse me, from Texas A&M College Station. He also attended The University of Texas–Pan American. His law degree, he has a law degree from the University of Houston school center. He also has studied in Spain and Mexico. He's written numerous articles on different legal issues. They've been published not only throughout the state but throughout the nation. He's also a very experienced person. Judge Aliseda served as a District Judge twice in two separate district courts, Hidalgo County. He's also served as a municipal judge in the City of McAllen. He's also a mediator. He's mediated many difficult issues among parties who had disagreements among themselves. He's also very knowledgeable in commercial law, litigation, and has extensive management experience. He's also involved very much in the community. He's a past director of the board of Texas Rural Legal Aid, legal services for the poor. He's also a bar member of the Hispanic issues section for the State Bar of Texas. He participates and is a member of the citizens league, where citizens get together to discuss different public issues before the community of the City of McAllen. And he also participates in the teen court system, trying to encourage students, the youngsters, to understand our civil justice system and the way it works. He's also a military person. He is a Major in the United States Army Reserve, Judge Advocate General's Corps. He's received the meritorious army award. He's received the Medal of Commendation for his service and a national defense service medal, to name just a few of the distinguished awards in the Army. I also tell you, he's a family man, a family man who also believes in public service. He has a brother, former State Representative Jose Aliseda, who is a District Attorney for Bee, Live Oak, and McMullen counties. But just as important, his wife, Debbie Crane Aliseda, also serves the public in that she's a member of McAllen school board. He also has a brother-in-law, Scott Crane, who's involved in public service; he's a City Commissioner for the City of McAllen. He has another brother-in-law who also serves the public; he's a federal judge for the southern district of McAllen. And just as important, he's got five children, five children, and two of them attend The University of Texas here in Austin. I will tell you that he's a man of character. He's a responsible person. He has integrity and is committed to education. I support the nomination and ask that Ernest Aliseda become confirmed by the Texas Senate to The University of Texas Board of Regents. Thank you, Mr. President, and thank you, Members.

**Senator Huffman:** Thank you, Mr. President. Members, I rise today in support of my constituent, Mr. Jeff Hildebrand. After the nomination hearing on Monday, many of you came up to me and told me how impressed you were with Mr. Hildebrand and his presentation to the Committee. As a public servant, I, too, am impressed by Mr.

Hildebrand and feel that we are actually very fortunate to have someone with his vision and knowledge who is willing to serve us on The UT System Board of Regents. One of the things that I find very interesting about Mr. Hildebrand is that he is very successful, but he's self-made. In 1989, he left a safe career at Exxon and founded Hilcorp Energy. He started small, just three guys and a telephone, and that risk has turned into a very successful business which has been cited as one of the top workplaces in the country. I fully support Mr. Hildebrand's nomination for appointment to The University of Texas System Board of Regents. I urge all of my colleagues to support my constituent as well, and I expect that we will see great things from this man as he serves our state. Thank you very much.

**Senator Seliger:** Thank you, Mr. President. Members, one of the tough things to acknowledge, I think, is over the last several biennia, we have made some mistakes, I think, in some of the confirmations of people at The University of Texas Board of Regents. And I absolutely share that responsibility with those of us who have sat on this floor. But it is the Governor's right to appoint who he will, and in this case, he has appointed very successful and accomplished, even impressive, individuals who deserve the right to show they can do the important job they have to do as Regents. And as they talked, as you listened carefully, I think that they all want to. They are not people who are easily led, and there's a very good chance as we go forward, they're people who certainly have the capability to make the best judgments based upon what's best for this institution and for the Texans who will go there and prepare for the future, for Texas' future. They have pledged to follow the spirit of SB 15, really, whether it passed or not, and see to it that governance follows a very carefully delineated and purposeful hierarchy to see to it that the people who are responsible for certain functions in the university do those functions. I think they acknowledged to us in that hearing that they believe that universities are places not only for industrial productivity but for intellectual inquiry. There is a tremendous amount of value of having honored awarded engineers and physicists, but there is no less value in having true humanity scholars, Pulitzer Prize winners, also on that faculty, because we, as Texans, our children, grandchildren, great-grandchildren will learn something from all of them that they will take forward in the future. I was impressed by the fact, if you saw, they had given the probative and incisive questioning and remarks by Senator Watson and Senator Garcia, Senator Zaffirini, Senator Eltife, that one of the real values in this hearing, in some ways, were not what we learned from them themselves but the fact that they realize that their activities as Regents are going to be very, very carefully scrutinized by the people in this body, some of whom are loyal and loving UT alumni. Some of us are not, but realize the value in those institutions and all great institutions as they shape the state that they are here to serve. And, therefore, I think these gentlemen deserve the right, since we know of no reason not to, to be treated as people of integrity, that they are going to do what they say and their commitment is a real one to the long term and near term, I guess, benefit of that university. And that's why I intend to, and would urge the Members, to vote for the confirmation of these three nominees. Thank you, Mr. President and Members.

**Senator Rodríguez:** Thank you, Mr. President and Members. I, too, rise in support of all three nominees, but I wish to confine my remarks to my constituent, Paul Foster. Paul Foster has been a UT system Regent since 2007. He's Vice-chair of the board

and is Chairman of the board's Finance and Planning Committee. He is also the Chairman of the board of UTIMCO, the nonprofit investment management company that manages 30 billion in assets for the UT system. I believe he's a man who understands fiduciary responsibility, given the task that he has carried out on behalf of the system. As we all know, UTIMCO is the second largest university endowment in the country and widely recognized and widely regarded as one of the best run university endowment organizations. Paul is also a former member of the Texas Higher Education Coordinating Board. His personal commitment to education can be seen across the state, from his work at the UT system to giving back to his alma mater, Baylor, and, of course, his support of El Paso institutions. Many people have played a vital role in building, for example, the Texas Tech Medical School in El Paso, which is a cornerstone for the Medical University of the Americas. However, without Paul's generous contribution of \$50 million in 2007, our community would not have been able to realize this goal of establishing a first class, four-year medical school as quickly as we did. In addition, he's been a strong supporter for The University of Texas at El Paso, where he has contributed to new athletic facilities that are source of pride for the school and the community. When Paul, a 1979 graduate of Baylor University, Senator Watson, and your classmate, was named Alumni of the Year, he said this about giving back to the school, education is absolutely critical to the breeding, to breeding successful environments, economic development, and moving society forward; it's just something that I've developed a passion for and that I believe is critically important. Now, I realize that this may not be an easy vote for some people because of all the controversy that we have been hearing about, including this afternoon, there is a vigorous debate, in fact, over the relationship of the Board of Regents and the UT Austin campus and the system. But as many have already pointed out, Senator Zaffirini, Senator Watson, and others, the UT system is larger than just one institution. As we all know, it serves more than 200,000 students in nine universities and six health institutions, and it has close to 90,000 employees. The UT system brand, as was testified at the committee hearing, is a significant asset to the state. In the Nominations Committee, we heard Paul commit to the importance of maintaining that brand and to maintaining the system's commitment to building that brand throughout all of the UT systems' campuses. He also acknowledged, in recognition of questions from Senator Zaffirini, that the Regents are bound by the state code regarding boards and commissions. And he stated, as has already been said, that he was not interested in micromanagement. And in prior conversations I had with him before the Nomination Committee hearings, he assured me that he was not involved in any agenda to get rid of President Powers or to diminish the standing of the university in this state and in this country. I believe that Paul has been an asset to The UT System Board of Regents and that he will continue to be an asset to the system as it continues to be at the forefront of American higher education. And, therefore, Mr. President and Members, I urge you to support his nomination to The UT System Board of Regents, as well as the other two nominees. Thank you.

**Senator Lucio:** Thank you, Mr. President. I, too, rise and I join my colleague, Senator Hinojosa, in support of, as a matter of fact, I claim Ernesto Aliseda myself, because he is from McAllen. I represent McAllen, and I want to recommend to you, Members, this outstanding man. I will not reiterate, obviously, what Senator Hinojosa

shared with us, but you can tell at this point, Ernest Aliseda has lived an exemplary life and he's contributed to community, state, and country in so many different ways. I do want to, I would be remiss if I didn't thank Regent Foster, Paul, obviously took part in decision-making that supported our efforts in bringing a world class university, a new university, a component, another campus of The University of Texas System in the Rio Grande Valley, a regional university that will also have in it, within its umbrella, a medical school that we're all pretty excited. And I, obviously, thank you, the body, this body, the Senate, for supporting that effort. Congratulate Mr. Jeffery Hildebrand and wish him well. But I think the only thing I want to say is that for those listening—and a lot of people in our state don't realize that Texas really is run by boards and commissions—we, as a Legislature, take part every two years in establishing public policy that hopefully will have a positive impact to our state. The Governor appoints, we confirm, and that's been mentioned by many of you. We hope to come together in the confirmation process to make sure that we have the men and women in these positions that will do good for the, and serve well in the boards they're going to be serving in. So, I rise to support not only Ernest Aliseda but the other two nominees, Regent Foster, who has already been on the board for a while and, of course, Jeffery Hildebrand, and ask them to work with other members that are on the board at this time for the good of the UT system in our state. Thank you.

### MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Friday, May 24, 2013 - 5

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the house to inform the senate that the house has taken the following action:

THE HOUSE HAS CONCURRED IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

**HB 16** (142 Yeas, 1 Nays, 2 Present, not voting)

**HB 431** (144 Yeas, 0 Nays, 2 Present, not voting)

**HB 1050** (139 Yeas, 1 Nays, 2 Present, not voting)

**HB 1090** (120 Yeas, 18 Nays, 2 Present, not voting)

**HB 1128** (103 Yeas, 41 Nays, 2 Present, not voting)

**HB 2000** (141 Yeas, 3 Nays, 2 Present, not voting)

**HB 2615** (114 Yeas, 29 Nays, 2 Present, not voting)

**HB 2694** (144 Yeas, 1 Nays, 2 Present, not voting)

**HB 2825** (144 Yeas, 0 Nays, 2 Present, not voting)



**HB 2895** (145 Yeas, 0 Nays, 2 Present, not voting)

**HB 2935** (135 Yeas, 3 Nays, 2 Present, not voting)

**HB 3063** (142 Yeas, 2 Nays, 2 Present, not voting)

**HB 3103** (141 Yeas, 0 Nays, 2 Present, not voting)

**HB 3188** (145 Yeas, 0 Nays, 2 Present, not voting)

**HB 3209** (143 Yeas, 2 Nays, 2 Present, not voting)

**HB 3357** (142 Yeas, 0 Nays, 2 Present, not voting)

**HB 3422** (143 Yeas, 2 Nays, 2 Present, not voting)

**HB 3556** (139 Yeas, 3 Nays, 3 Present, not voting)

THE HOUSE HAS REFUSED TO CONCUR IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

**HB 1675** (non-record vote)

House Conferees: Bonnen, Dennis - Chair/Anchia/Cook/Dutton/Price

**HB 2012** (non-record vote)

House Conferees: Villarreal - Chair/Aycock/Farney/Howard/King, Ken

**HB 2741** (non-record vote)

House Conferees: Phillips - Chair/Fletcher/Harper-Brown/Martinez, "Mando"/Pickett

**HB 2836** (non-record vote)

House Conferees: Ratliff - Chair/Farney/Huberty/Kuempel/Turner, Sylvester

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 429** (142 Yeas, 3 Nays, 2 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**CONFERENCE COMMITTEE ON HOUSE BILL 6**  
**(Motion In Writing)**

Senator Williams called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 6** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 6** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Williams, Chair; Duncan, Nelson, Watson, and Hinojosa.

**CONFERENCE COMMITTEE ON HOUSE BILL 7**  
**(Motion In Writing)**

Senator Williams called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 7** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 7** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Williams, Chair; Duncan, Nelson, Eltife, and Hegar.

**CONFERENCE COMMITTEE ON HOUSE BILL 500**  
**(Motion In Writing)**

Senator Hegar called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 500** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 500** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Hegar, Chair; Williams, Duncan, Nelson, and Lucio.

**CONFERENCE COMMITTEE ON HOUSE BILL 213**  
**(Motion In Writing)**

Senator Hegar called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 213** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 213** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Hegar, Chair; Williams, Duncan, Nelson, and Lucio.

**CONFERENCE COMMITTEE ON HOUSE BILL 508**  
**(Motion In Writing)**

Senator Patrick called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 508** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 508** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Patrick, Chair; Carona, Paxton, Hinojosa, and Deuell.

**CONFERENCE COMMITTEE ON HOUSE BILL 912**  
**(Motion In Writing)**

Senator Estes called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 912** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 912** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Estes, Chair; Hegar, Duncan, Ellis, and West.

**CONFERENCE COMMITTEE ON HOUSE BILL 3106**  
**(Motion In Writing)**

Senator Carona called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3106** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3106** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Carona, Chair; Eltife, Hancock, Lucio, and Van de Putte.

**SENATE BILL 1907 WITH HOUSE AMENDMENTS**  
**(Motion In Writing)**

Senator Hegar called **SB 1907** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

**Amendment**

Amend **SB 1907** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the transportation and storage of firearms and ammunition in private vehicles on the campuses of institutions of higher education.

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

SECTION 1. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.979 to read as follows:

Sec. 51.979. TRANSPORTATION AND STORAGE OF FIREARMS AND AMMUNITION IN PRIVATE VEHICLES ON CERTAIN CAMPUSES. (a) For purposes of this section:

(1) "Campus" means all land and buildings owned or leased by an institution of higher education or private or independent institution of higher education.

(2) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003.

(b) An institution of higher education or private or independent institution of higher education in this state may not adopt or enforce any rule, regulation, or other provision prohibiting or placing restrictions on the storage or transportation of a firearm or ammunition in a locked, privately owned or leased motor vehicle by a person who lawfully possesses the firearm or ammunition:

(1) on a street or driveway located on the campus of the institution; or

(2) in a parking lot, parking garage, or other parking area located on the campus of the institution.

SECTION 2. This Act takes effect September 1, 2013.

**Floor Amendment No. 1**

Amend **CSSB 1907** (House Committee Printing) as follows:

(1) On page 1, line 19, after "provision" insert "or take any other action, including posting notice under Section 30.06, Penal Code,".

(2) On page 1, line 22, after between "person" and "who", insert ", including a student enrolled at that institution,".

The amendments were read.

Senator Hegar submitted a Motion In Writing that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1907** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Hegar, Chair; Whitmire, Patrick, Huffman, and Birdwell.

**SENATE BILL 1158 WITH HOUSE AMENDMENTS**  
**(Motion In Writing)**

Senator Van de Putte called **SB 1158** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

**Amendment**

Amend **SB 1158** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to higher education for veterans and their families.

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

SECTION 1. Section 54.341, Education Code, is amended by amending Subsections (a-2), (b), (d), (h), (i), (k), (k-1), (l), (m), and (n) and adding Subsections (a-4) and (o) to read as follows:

(a-2) The exemptions provided for in Subsection (a) also apply to the spouse of:

(1) a member of the armed forces of the United States:

(A) who was killed in action;

(B) who died while in service;

(C) who is missing in action;

(D) whose death is documented to be directly caused by illness or injury connected with service in the armed forces of the United States; or

(E) who became totally and permanently disabled or meets the eligibility requirements for individual unemployability [~~for purposes of employability~~] according to the disability ratings of the Department of Veterans Affairs as a result of a service-related injury; or

(2) a member of the Texas National Guard or the Texas Air National Guard who:

(A) was killed since January 1, 1946, while on active duty either in the service of this state or the United States; or

(B) is totally and permanently disabled or meets the eligibility requirements for individual unemployability [~~for purposes of employability~~] according to the disability ratings of the Department of Veterans Affairs, regardless of

whether the member is eligible to receive disability benefits from the department, as a result of a service-related injury suffered since January 1, 1946, while on active duty either in the service of this state or the United States.

(a-4) A person who before the 2014-2015 academic year received an exemption under this section continues to be eligible for the exemption provided by this section as this section existed on January 1, 2013.

(b) The exemptions provided for in Subsection (a) also apply to:

(1) the children of members of the armed forces of the United States:

- (A) who are or were killed in action;
- (B) who die or died while in service;
- (C) who are missing in action;
- (D) whose death is documented to be directly caused by illness or injury connected with service in the armed forces of the United States; or
- (E) who became totally and permanently disabled or meet the eligibility requirements for individual unemployability ~~[for purposes of employability]~~ according to the disability ratings of the Department of Veterans Affairs as a result of a service-related injury; and

(2) the children of members of the Texas National Guard and the Texas Air National Guard who:

(A) were killed since January 1, 1946, while on active duty either in the service of their state or the United States; or

(B) are totally and permanently disabled or meet the eligibility requirements for individual unemployability ~~[for purposes of employability]~~ according to the disability ratings of the Department of Veterans Affairs, regardless of whether the members are eligible to receive disability benefits from the department, as a result of a service-related injury suffered since January 1, 1946, while on active duty either in the service of this state or the United States.

(d) The governing board of each institution of higher education granting an exemption under this section shall require each applicant claiming the exemption to submit to the institution, in the form and manner prescribed by the Texas Veterans Commission for purposes of this section under Section 434.0079(b), Government Code, an application for the exemption and necessary ~~[satisfactory]~~ evidence that the applicant qualifies for the exemption 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 governing board ~~[one year after the earlier of the date the institution:~~

~~[(1) provides written notice to the applicant of the applicant's eligibility for the exemption; or~~

~~[(2) receives a written acknowledgement from the applicant evidencing the applicant's awareness of the applicant's eligibility for the exemption].~~

(h) The governing board of each institution of higher education shall electronically report to the Texas Veterans Commission ~~[Higher Education Coordinating Board]~~ the information required by Section 434.00791, Government Code, ~~[61.0516]~~ relating to each individual receiving an exemption from fees and charges under Subsection (a), (a-2), or (b). The institution shall report the information

for the preceding fiscal year not later than December 31 of each year [~~for the fall semester, May 31 of each year for the spring semester, and September 30 of each year for the summer session~~].

(i) The Texas Veterans Commission [~~Texas Higher Education Coordinating Board~~] may adopt rules to provide for the efficient and uniform application of this section. In developing rules under this subsection, the commission shall consult with the Texas Higher Education Coordinating Board and institutions of higher education.

(k) The Texas Veterans Commission [~~Higher Education Coordinating Board~~] by rule shall prescribe procedures to allow:

(1) a person who becomes eligible for an exemption provided by Subsection (a) to waive the person's right to any unused portion of the [~~maximum~~] number of cumulative credit hours for which the person could receive the exemption and assign the exemption for the unused portion of those credit hours to a child of the person; and

(2) following the death of a person who becomes eligible for an exemption provided by Subsection (a), the assignment of the exemption for the unused portion of the credit hours to a child of the person, to be made by the person's spouse or by the conservator, guardian, custodian, or other legally designated caretaker of the child, if the child does not otherwise qualify for an exemption under Subsection (b).

(k-1) The procedures under Subsection (k) must provide:

(1) the manner in which a person may waive the exemption;

(2) the manner in which a child may be designated to receive the exemption;

(3) a procedure permitting the designation of a different child to receive the exemption if the child previously designated to receive the exemption did not use the exemption under this section for all of the assigned portion of credit hours; [~~and~~]

(4) a method of documentation to enable institutions of higher education to determine the eligibility of the designated child to receive the exemption; and

(5) 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.

(l) To be eligible to receive an exemption under Subsection (k), the child must:

(1) be a student who is classified as a resident under Subchapter B when the child enrolls in an institution of higher education; [~~and~~].

(2) make satisfactory academic progress in a degree, certificate, or continuing education program as determined by the institution at which the child is enrolled in accordance with the policy of the institution's financial aid department, except that the institution may not require the child to enroll in a minimum course load; and

(3) be 25 years of age or younger on the first day of the semester or other academic term for which the exemption is claimed.

(m) For purposes of this section, a person is the child of another person if [~~the person is 25 years of age or younger on the first day of the semester or other academic term for which the exemption is claimed and~~]:

(1) the person is the stepchild or the biological or adopted child of the other person; or

(2) the other person claimed the person as a dependent on a federal income tax return filed for the preceding year or will claim the person as a dependent on a federal income tax return for the current year.

(n) The Texas Veterans Commission [~~Higher Education Coordinating Board~~] by rule shall prescribe procedures by which a child assigned an exemption under Subsection (k) who suffered from a severe illness or other debilitating condition that affected the child's ability to use the exemption before reaching the age described by Subsection (1)(3) [~~(m)~~] may be granted additional time to use the exemption corresponding to the time the child was unable to use the exemption because of the illness or condition.

(o) The Texas Higher Education Coordinating Board and the Texas Veterans Commission shall coordinate to provide each respective agency with any information required to ensure the proper administration of this section and the proper execution of each agency's statutory responsibilities concerning this section.

SECTION 2. Subchapter D, Chapter 54, Education Code, is amended by adding Section 54.3411 to read as follows:

Sec. 54.3411. PERMANENT FUND SUPPORTING MILITARY AND VETERANS EXEMPTIONS. (a) In this section, "trust company" means the Texas Treasury Safekeeping Trust Company.

(b) The permanent fund supporting military and veterans exemptions is a special fund in the treasury outside the general revenue fund. The fund is composed of:

- (1) money transferred or appropriated to the fund by the legislature;
- (2) gifts and grants contributed to the fund; and
- (3) the returns received from investment of money in the fund.

(c) The trust company shall administer the fund. The trust company shall determine the amount available for distribution from the fund, determined in accordance with a distribution policy that is adopted by the comptroller and designed to preserve the purchasing power of the fund's assets and to provide a stable and predictable stream of annual distributions. Expenses of managing the fund's assets shall be paid from the fund. Except as provided by this section, money in the fund may not be used for any purpose. Sections 403.095 and 404.071, Government Code, do not apply to the fund.

(d) In managing the assets of the fund, through procedures and subject to restrictions the trust company considers appropriate, the trust company may 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.

(e) The amount available for distribution from the fund may be appropriated only to offset the cost to institutions of higher education of the exemptions required by Section 54.341. The amount appropriated shall be distributed to eligible institutions in proportion to each institution's respective share of the aggregate cost to all institutions of the exemptions required by Section 54.341, as determined by the Legislative Budget Board. The amount appropriated shall be distributed annually to each eligible institution of higher education.



(f) The governing board of an institution of higher education entitled to receive money under this section may solicit and accept gifts and grants to the fund. A gift or grant to the fund must 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.

SECTION 3. Subchapter A, Chapter 434, Government Code, is amended by adding Section 434.0079 to read as follows:

Sec. 434.0079. DUTIES REGARDING CERTAIN TUITION AND FEE EXEMPTIONS FOR VETERANS AND FAMILY MEMBERS. (a) The commission, through its veteran education program, shall assist veterans and their family members in claiming and qualifying for exemptions from the payment of tuition and fees at institutions of higher education under Section 54.341, Education Code.

(b) The commission shall establish the application and necessary evidence requirements for a person to claim an exemption under Section 54.341, Education Code, at an institution of higher education.

(c) The commission shall adopt rules governing the coordination of federal and state benefits of a person eligible to receive an exemption under Section 54.341(k), Education Code, including rules governing:

(1) the total number of credit hours assigned under that section that a person may apply to an individual degree or certificate program, consistent with the standards of the appropriate recognized regional accrediting agency; and

(2) the application of the assigned exemption to credit hours for which the institution of higher education does not receive state funding.

SECTION 4. Section 61.0516, Education Code, is transferred to Subchapter A, Chapter 434, Government Code, redesignated as Section 434.00791, Government Code, and amended to read as follows:

Sec. 434.00791 [61.0516]. ELECTRONIC SYSTEM TO MONITOR TUITION EXEMPTIONS FOR VETERANS AND FAMILY MEMBERS [DEPENDENTS].

(a) In this section, "institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(b) The commission [board] shall ensure [develop] a system to electronically monitor the use of tuition and fee exemptions at institutions of higher education under Section 54.341, Education Code, is developed. The system must allow the commission [board] to electronically receive, for each semester, the following information from institutions of higher education:

(1) the name of the institution;

(2) the name, identification number, and date of birth of each individual attending the institution and receiving benefits for the semester under Section 54.341, Education Code;

(3) for each individual receiving benefits, the number of credit hours for which the individual received an exemption for the semester;

(4) for each individual receiving benefits at the institution during the semester, the total cumulative number of credit hours for which the individual has received an exemption at the institution; and

(5) any other information required by the commission [board].

(c) Not later than January 1, 2014, the Texas Higher Education Coordinating Board, under an agreement with the commission, shall provide access to the system developed by the coordinating board that meets the requirements of this section. This subsection expires September 1, 2015.

SECTION 5. Chapter 434, Government Code, is amended by adding Subchapters F and G to read as follows:

SUBCHAPTER F. VETERAN EDUCATION EXCELLENCE RECOGNITION  
AWARD NETWORK

Sec. 434.251. DEFINITIONS. In this subchapter:

- (1) "Commission" means the Texas Veterans Commission.
- (2) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

Sec. 434.252. VETERAN EDUCATION EXCELLENCE RECOGNITION AWARD NETWORK. (a) The commission by rule shall establish an award program under which institutions of higher education may receive recognition from the commission for excellence in providing education and related services to veterans.

(b) For purposes of receiving an award under Subsection (a), the commission shall evaluate an institution of higher education regarding, as applicable, the existence and quality at the institution of:

- (1) a centralized place for students who are veterans to meet or find assistance and information;
- (2) an institution employee who serves as a central point of contact for students who are veterans;
- (3) a United States Department of Veterans Affairs work-study program;
- (4) admissions and enrollment policies for veterans;
- (5) new student orientation and courses for veterans;
- (6) a student organization for veterans;
- (7) academic support services for students who are veterans;
- (8) mental health and disability services;
- (9) a housing policy that applies to veterans;
- (10) faculty and staff training on issues affecting students who are veterans;
- (11) career services for students who are veterans; and
- (12) any other criteria considered necessary or appropriate by the commission.

Sec. 434.253. RULEMAKING AUTHORITY. The commission may adopt rules as necessary to administer this subchapter. In developing rules under this section, the commission shall consult with the Texas Higher Education Coordinating Board and institutions of higher education.

SUBCHAPTER G. VETERANS EDUCATION COUNSELING

Sec. 434.301. DEFINITIONS. In this subchapter:

- (1) "Commission" means the Texas Veterans Commission.
- (2) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

Sec. 434.302. VETERANS EDUCATION COUNSELING; PROGRAM MANAGER. (a) The commission shall designate a commission employee as a program manager whose primary duty is to coordinate with institutions of higher education to ensure that veterans programs at institutions of higher education:

- (1) create a hospitable and supportive environment for veterans;
- (2) enhance awareness of and encourage participation in veterans educational programs and commission programs providing other services to veterans, including employment and claims assistance services;
- (3) develop programs providing ancillary assistance to veterans based on the unique needs of veterans and their family members;
- (4) assist veterans to successfully complete their education; and
- (5) promote the establishment of a student veterans group on each campus.

(b) In addition to the primary duties under Subsection (a), the program manager may, in cooperation with institutions of higher education:

(1) work with local, state, and national veterans groups, including the Veterans of Foreign Wars and the American Legion, to promote educational opportunities and benefits to the veteran population;

(2) work with local workforce development boards to:

(A) ensure that persons providing educational counseling to veterans are aware of available nontraditional educational opportunities, including on-the-job training programs and apprenticeships; and

(B) advise employers of potential opportunities to create on-the-job training programs for veterans;

(3) work with education services officers at military installations to encourage active duty members of the armed forces of the United States and veterans to use federal and state educational benefits;

(4) create and manage publicity campaigns in concert with the commission and institutions of higher education to promote the use of education benefits under the federal Post-9/11 Veterans Educational Assistance Act of 2008 (38 U.S.C. Section 3301 et seq.), the tuition exemption program for veterans and their family members under Section 54.341, Education Code, and any other education benefit for veterans or their family members under federal or state law;

(5) support programs to assist students who are combat veterans in readjusting and reintegrating into a noncombat environment;

(6) maintain statistical information regarding demographics of veterans assisted, application success, program completion rates, dropout rates, and reasons for success or failure, as appropriate; and

(7) perform other activities, as assigned by the commission, to enhance the educational opportunities of veterans and their family members in the higher education region and throughout this state.

Sec. 434.303. SUPPORT FROM INSTITUTIONS OF HIGHER EDUCATION. Each institution of higher education shall cooperate with the commission to provide information, as permitted by law, related to student veterans at the institution, provide access to veterans resource centers or other student meeting areas, and otherwise support veterans education counseling.

Sec. 434.304. RULEMAKING AUTHORITY. The commission may adopt rules to implement this subchapter. In developing rules under this section, the commission shall consult with the Texas Higher Education Coordinating Board and institutions of higher education.

SECTION 6. Subdivision (4), Subsection (b), Section 9.01, Chapter 1049 (Senate Bill No. 5), Acts of the 82nd Legislature, Regular Session, 2011, which would repeal Subsection (h), Section 54.203, Education Code, effective September 1, 2013, is repealed and does not take effect, and Subsection (h), Section 54.341, Education Code, which was redesignated from Subsection (h), Section 54.203, Education Code, by Chapter 359 (Senate Bill No. 32), Acts of the 82nd Legislature, Regular Session, 2011, remains in effect as amended by this Act.

SECTION 7. The changes in law made by this Act to Sections 54.341(d), (h), (i), (k), and (n), Education Code, apply beginning with tuition and fees for the 2014 fall semester. Tuition and fees for a term or semester before the 2014 fall semester are covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 8. In adopting rules under this Act, including rules implementing authority transferred by this Act from the Texas Higher Education Coordinating Board, the Texas Veterans Commission shall engage institutions of higher education in a negotiated rulemaking process as described by Chapter 2008, Government Code.

SECTION 9. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

### **Floor Amendment No. 1**

Amend **CSSB 1158** (house committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Section 54.341, Education Code, is amended by amending Subsections (a-2), (b), (d), (k), (k-1), (l), (m), and (n) and adding Subsection (a-4) to read as follows:

(a-2) The exemptions provided for in Subsection (a) also apply to the spouse of:

(1) a member of the armed forces of the United States:

- (A) who was killed in action;
- (B) who died while in service;
- (C) who is missing in action;

(D) whose death is documented to be directly caused by illness or injury connected with service in the armed forces of the United States; or

(E) who became totally and permanently disabled or meets the eligibility requirements for individual unemployment [~~for purposes of employability~~] according to the disability ratings of the Department of Veterans Affairs as a result of a service-related injury; or

(2) a member of the Texas National Guard or the Texas Air National Guard who:

(A) was killed since January 1, 1946, while on active duty either in the service of this state or the United States; or

(B) is totally and permanently disabled or meets the eligibility requirements for individual unemployability [~~for purposes of employability~~] according to the disability ratings of the Department of Veterans Affairs, regardless of whether the member is eligible to receive disability benefits from the department, as a result of a service-related injury suffered since January 1, 1946, while on active duty either in the service of this state or the United States.

(a-4) A person who before the 2014-2015 academic year received an exemption under this section continues to be eligible for the exemption provided by this section as this section existed on January 1, 2013.

(b) The exemptions provided for in Subsection (a) also apply to:

(1) the children of members of the armed forces of the United States:

(A) who are or were killed in action;

(B) who die or died while in service;

(C) who are missing in action;

(D) whose death is documented to be directly caused by illness or injury connected with service in the armed forces of the United States; or

(E) who became totally and permanently disabled or meet the eligibility requirements for individual unemployability [~~for purposes of employability~~] according to the disability ratings of the Department of Veterans Affairs as a result of a service-related injury; and

(2) the children of members of the Texas National Guard and the Texas Air National Guard who:

(A) were killed since January 1, 1946, while on active duty either in the service of their state or the United States; or

(B) are totally and permanently disabled or meet the eligibility requirements for individual unemployability [~~for purposes of employability~~] according to the disability ratings of the Department of Veterans Affairs, regardless of whether the members are eligible to receive disability benefits from the department, as a result of a service-related injury suffered since January 1, 1946, while on active duty either in the service of this state or the United States.

(d) The governing board of each institution of higher education granting an exemption under this section shall require each applicant claiming the exemption to submit to the institution an application for the exemption and necessary [~~satisfactory~~] evidence that the applicant qualifies for the exemption not later than the end of the semester or term to which the exemption applies [~~one year after the earlier of the date the institution:~~

~~(1) provides written notice to the applicant of the applicant's eligibility for the exemption; or~~

~~(2) receives a written acknowledgement from the applicant evidencing the applicant's awareness of the applicant's eligibility for the exemption].~~

(k) The Texas Higher Education Coordinating Board by rule shall prescribe procedures to allow:

(1) a person who becomes eligible for an exemption provided by Subsection (a) to waive the person's right to any unused portion of the ~~maximum~~ number of cumulative credit hours for which the person could receive the exemption and assign the exemption for the unused portion of those credit hours to a child of the person; and

(2) following the death of a person who becomes eligible for an exemption provided by Subsection (a), the assignment of the exemption for the unused portion of the credit hours to a child of the person, to be made by the person's spouse or by the conservator, guardian, custodian, or other legally designated caretaker of the child, if the child does not otherwise qualify for an exemption under Subsection (b).

(k-1) The procedures under Subsection (k) must provide:

(1) the manner in which a person may waive the exemption;

(2) the manner in which a child may be designated to receive the exemption;

(3) a procedure permitting the designation of a different child to receive the exemption if the child previously designated to receive the exemption did not use the exemption under this section for all of the assigned portion of credit hours; ~~and~~

(4) a method of documentation to enable institutions of higher education to determine the eligibility of the designated child to receive the exemption; and

(5) 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.

(l) To be eligible to receive an exemption under Subsection (k), the child must:

(1) be a student who is classified as a resident under Subchapter B when the child enrolls in an institution of higher education; ~~and~~

(2) make satisfactory academic progress in a degree, certificate, or continuing education program as determined by the institution at which the child is enrolled in accordance with the policy of the institution's financial aid department, except that the institution may not require the child to enroll in a minimum course load; and

(3) be 25 years of age or younger on the first day of the semester or other academic term for which the exemption is claimed.

(m) For purposes of this section, a person is the child of another person if ~~the person is 25 years of age or younger on the first day of the semester or other academic term for which the exemption is claimed and~~:

(1) the person is the stepchild or the biological or adopted child of the other person; or

(2) the other person claimed the person as a dependent on a federal income tax return filed the preceding year or will claim the person as a dependent on a federal income tax return for the current year.

(n) The Texas Higher Education Coordinating Board by rule shall prescribe procedures by which a child assigned an exemption under Subsection (k) who suffered from a severe illness or other debilitating condition that affected the child's ability to use the exemption before reaching the age described by Subsection (l)(3) ~~(m)~~ may be granted additional time to use the exemption corresponding to the time the child was unable to use the exemption because of the illness or condition.

SECTION 2. Subchapter D, Chapter 54, Education Code, is amended by adding Section 54.3411 to read as follows:

Sec. 54.3411. PERMANENT FUND SUPPORTING MILITARY AND VETERANS EXEMPTIONS. (a) In this section, "trust company" means the Texas Treasury Safekeeping Trust Company.

(b) The permanent fund supporting military and veterans exemptions is a special fund in the treasury outside the general revenue fund. The fund is composed of:

- (1) money transferred or appropriated to the fund by the legislature;
- (2) gifts and grants contributed to the fund; and
- (3) the returns received from investment of money in the fund.

(c) The trust company shall administer the fund. The trust company shall determine the amount available for distribution from the fund, determined in accordance with a distribution policy that is adopted by the comptroller and designed to preserve the purchasing power of the fund's assets and to provide a stable and predictable stream of annual distributions. Expenses of managing the fund's assets shall be paid from the fund. Except as provided by this section, money in the fund may not be used for any purpose. Sections 403.095 and 404.071, Government Code, do not apply to the fund.

(d) In managing the assets of the fund, through procedures and subject to restrictions the trust company considers appropriate, the trust company may 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.

(e) The amount available for distribution from the fund may be appropriated only to offset the cost to institutions of higher education of the exemptions required by Section 54.341. The amount appropriated shall be distributed to eligible institutions in proportion to each institution's respective share of the aggregate cost to all institutions of the exemptions required by Section 54.341, as determined by the Legislative Budget Board. The amount appropriated shall be distributed annually to each eligible institution of higher education.

(f) The governing board of an institution of higher education entitled to receive money under this section may solicit and accept gifts and grants to the fund. A gift or grant to the fund must 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.

SECTION 3. Subdivision (4), Subsection (b), Section 9.01, Chapter 1049 (Senate Bill No. 5), Acts of the 82nd Legislature, Regular Session, 2011, which would repeal Subsection (h), Section 54.203, Education Code, effective September 1, 2013, is repealed and does not take effect, and Subsection (h), Section 54.341, Education Code, which was redesignated from Subsection (h), Section 54.203, Education Code, by Chapter 359 (Senate Bill No. 32), Acts of the 82nd Legislature, Regular Session, 2011, remains in effect as amended by this Act.

SECTION 4. The changes in law made by this Act to Sections 54.341(d), (k), and (n), Education Code, apply beginning with tuition and fees for the 2014 fall semester. Tuition and fees for a term or semester before the 2014 fall semester are covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 5. In adopting rules under this Act, the Texas Higher Education Coordinating Board shall engage institutions of higher education in a negotiated rulemaking process as described by Chapter 2008, Government Code.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

The amendments were read.

Senator Van de Putte submitted a Motion In Writing that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1158** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Van de Putte, Chair; Williams, Duncan, Rodríguez, and Seliger.

**SENATE BILL 1747 WITH HOUSE AMENDMENTS**  
**(Motion In Writing)**

Senator Uresti called **SB 1747** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

**Amendment**

Amend **SB 1747** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to funding and donations for county transportation projects, including projects of county energy transportation reinvestment zones.

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

SECTION 1. Chapter 256, Transportation Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. TRANSPORTATION INFRASTRUCTURE FUND FOR  
COUNTY ENERGY TRANSPORTATION REINVESTMENT ZONES

Sec. 256.101. DEFINITIONS. In this subchapter:

(1) "Fund" means the transportation infrastructure fund established under this subchapter.



(2) "Transportation infrastructure project" means the planning for, construction of, reconstruction of, or maintenance of transportation infrastructure, including roads, bridges, and culverts, intended to alleviate degradation caused by the exploration, development, or production of oil or gas. The term includes the acquisition of equipment used for road maintenance.

(3) "Weight tolerance permit" means a permit issued under Chapter 623 authorizing a vehicle to exceed maximum legal weight limitations.

(4) "Well completion" means the completion, reentry, or recompletion of an oil or gas well.

Sec. 256.102. TRANSPORTATION INFRASTRUCTURE FUND. (a) The transportation infrastructure fund is a dedicated fund in the state treasury outside the general revenue fund. The fund consists of:

(1) any federal funds received by the state deposited to the credit of the fund;

(2) matching state funds in an amount required by federal law;

(3) funds appropriated by the legislature to the credit of the fund;

(4) a gift or grant;

(5) any fees paid into the fund; and

(6) investment earnings on the money on deposit in the fund.

(b) Money in the fund may be appropriated only to the department for the purposes of this subchapter.

(c) Sections 403.095 and 404.071, Government Code, do not apply to the fund.

Sec. 256.103. GRANT PROGRAM. (a) The department shall administer a grant program under this subchapter to make grants for transportation infrastructure projects located in a county containing at least one county energy transportation reinvestment zone if the fund has a positive balance.

(b) The department shall develop criteria for the awarding of grants for transportation infrastructure projects on county roads. The criteria must include consideration of:

(1) the amount of oil and gas production in the county, including required maintenance performed on wells, the refracturing of wells, well completions, and the drilling of disposal wells;

(2) safety needs and projects in the county;

(3) county traffic levels;

(4) pavement and bridge conditions in the county;

(5) weight tolerance permits issued for the county; and

(6) geographic distribution of grant funds throughout oil and gas regions of the state.

Sec. 256.104. GRANT APPLICATION PROCESS. (a) In applying for a grant under this subchapter, the county shall:

(1) provide the road condition report described by Section 251.018 made by the county for the previous two years;

(2) submit to the department:

(A) a copy of the order or resolution establishing a county energy transportation reinvestment zone in the county; and

(B) a plan that:

(i) provides a list of transportation infrastructure projects to be funded by the grant;

(ii) describes the scope of the transportation infrastructure project or projects to be funded by the grant using best practices for prioritizing the projects;

(iii) provides for matching funds as required by Section 256.105;  
and

(iv) meets any other requirements imposed by the department; and

(3) certify that the county has not reduced county funding for transportation infrastructure projects by more than 25 percent from the average of the amounts that the county has spent for transportation infrastructure projects in the three years before the date of the certification.

(b) In reviewing grant applications under this subchapter, the department shall:

(1) seek other potential sources of funding to maximize resources available for the transportation infrastructure projects to be funded by grants under this subchapter; and

(2) consult related transportation planning documents to improve project efficiency and work effectively in partnership with counties.

(c) Except as otherwise provided by this subsection, the department shall review a grant application before the 31st day after the date the department receives the application. The department may act on an application not later than the 60th day after the date the department receives the application if the department provides notice of the extension to the county that submitted the application.

Sec. 256.105. MATCHING FUNDS. (a) Except as provided by Subsection (b), to be eligible to receive a grant under the program, matching funds must be provided, from any source, in an amount equal to at least 10 percent of the amount of the grant.

(b) A county that the department determines to be economically disadvantaged must provide matching funds in an amount equal to at least five percent of the amount of the grant.

Sec. 256.106. PROGRAM ADMINISTRATION. (a) A county that makes a second or subsequent application for a grant from the department under this subchapter must:

(1) provide the department with a copy of a report filed under Section 256.009;

(2) certify that all previous grants are being spent in accordance with the plan submitted under Section 256.104; and

(3) provide an accounting of how previous grants were spent, including any amounts spent on administrative costs.

(b) The department may use one-half of one percent of the amount deposited into the fund in the preceding fiscal year, not to exceed \$500,000 in a state fiscal biennium, to administer this subchapter.

SECTION 2. Subchapter E, Chapter 222, Transportation Code, is amended by adding Sections 222.1071 and 222.1072 to read as follows:

Sec. 222.1071. COUNTY ENERGY TRANSPORTATION REINVESTMENT ZONES. (a) A county shall determine the amount of the tax increment for a county energy transportation reinvestment zone in the same manner the county would determine the tax increment as provided in Section 222.107(a) for a county transportation reinvestment zone.

(b) A county, after determining that an area is affected by oil and gas exploration and production activities and would benefit from funding under Chapter 256, by order or resolution of the commissioners court:

(1) may designate a contiguous geographic area in the jurisdiction of the county to be a county energy transportation reinvestment zone to promote one or more transportation infrastructure projects, as that term is defined by Section 256.101, located in the zone; and

(2) may jointly administer a county energy transportation reinvestment zone with a contiguous county energy transportation reinvestment zone formed by another county.

(c) A commissioners court must:

(1) dedicate or pledge all of the captured appraised value of real property located in the county energy transportation reinvestment zone to transportation infrastructure projects; and

(2) comply with all applicable laws in the application of this chapter.

(d) Not later than the 30th day before the date a commissioners court proposes to designate an area as a county energy transportation reinvestment zone under this section, the commissioners court must hold a public hearing on the creation of the zone and its benefits to the county and to property in the proposed zone. At the hearing an interested person may speak for or against the designation of the zone, its boundaries, the joint administration of a zone in another county, or the use of tax increment paid into the tax increment account.

(e) Not later than the seventh day before the date of the hearing, notice of the hearing and the intent to create a zone must be published in a newspaper having general circulation in the county.

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

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

(2) provide that the zone takes effect immediately on adoption of the order or resolution designating an area and that the base year shall be the year of passage of the order or resolution designating an area or some year in the future;

(3) establish an ad valorem tax increment account for the zone or provide for the establishment of a joint ad valorem tax increment account, if applicable; and

(4) if two or more counties are designating a zone for the same transportation infrastructure project or projects, include a finding that:

(A) the project or projects will benefit the property and residents located in the zone;

(B) the creation of the zone will serve a public purpose of the county;  
and

(C) details the transportation infrastructure projects for which each county is responsible.

(g) Compliance with the requirements of this section constitutes designation of an area as a county energy transportation reinvestment zone without further hearings or other procedural requirements.

(h) The county may, from taxes collected on property in a zone, pay into a tax increment account for the zone or zones an amount equal to the tax increment produced by the county less any amounts allocated under previous agreements, including agreements under Section 381.004, Local Government Code, or Chapter 312, Tax Code.

(i) The county may:

(1) use money in the tax increment account to provide:

(A) matching funds under Section 256.105; and

(B) funding for one or more transportation infrastructure projects located in the zone;

(2) apply for grants under Subchapter C, Chapter 256, subject to Section 222.1072;

(3) use five percent of any grant distributed to the county under Subchapter C, Chapter 256, for the administration of a county energy transportation reinvestment zone, not to exceed \$500,000; and

(4) enter into an agreement to provide for the joint administration of county energy transportation reinvestment zones if the commissioners court of the county has designated a county energy transportation reinvestment zone under this section for the same transportation infrastructure project or projects as another county commissioners court.

(j) Tax increment paid into a tax increment account may not be pledged as security for bonded indebtedness.

(k) A county energy transportation reinvestment zone terminates on December 31 of the 10th year after the year the zone was designated unless extended by an act of the county commissioners court that designated the zone. The extension may not exceed five years. On termination of the zone, any money remaining in the tax increment account must be transferred to the road and bridge fund described by Chapter 256 for the county that deposited the money into the tax increment account.

(l) The captured appraised value of real property located in a county energy transportation reinvestment zone shall be treated as provided by Section 26.03, Tax Code.

(m) The commissioners court of a county may enter into an agreement with the department to designate a county energy transportation reinvestment zone under this section for a specified transportation project involving a state highway located in the proposed zone.

Sec. 222.1072. ADVISORY BOARD OF COUNTY ENERGY TRANSPORTATION REINVESTMENT ZONE. (a) A county is eligible to apply for a grant under Subchapter C, Chapter 256, if the county creates an advisory board to advise the county on the establishment, administration, and expenditures of a county energy transportation reinvestment zone.

(b) Except as provided by Subsection (c), the advisory board of a county energy transportation reinvestment zone consists of the following members appointed by the county judge and approved by the county commissioners court:

(1) three oil and gas company representatives who perform company activities in the county and are local taxpayers; and

(2) two public members.

(c) County energy transportation reinvestment zones that are jointly administered are advised by a single joint advisory board for the zones. A joint advisory board under this subsection consists of members appointed under Subsection (b) for each zone to be jointly administered.

(d) An advisory board member may not receive compensation for service on the board or reimbursement for expenses incurred in performing services as a member.

SECTION 3. Section 222.110, Transportation Code, is amended by amending Subsections (a) and (h) and adding Subsection (i) to read as follows:

(a) In this section:

(1) "Sales~~[-,"sales]~~ tax base" for a transportation reinvestment zone means the amount of sales and use taxes imposed by a municipality under Section 321.101(a), Tax Code, or by a county under Chapter 323, Tax Code, as applicable, attributable to the zone for the year in which the zone was designated under this chapter.

(2) "Transportation reinvestment zone" includes a county energy transportation reinvestment zone.

(h) The hearing required under Subsection (g) may be held in conjunction with a hearing held under Section 222.106(e), ~~[or]~~ 222.107(e), or 222.1071(d) if the ordinance or order designating an area as a transportation reinvestment zone under Section 222.106, ~~[or]~~ 222.107, or 222.1071 also designates a sales tax increment under Subsection (b).

(i) Notwithstanding Subsection (e), the sales and use taxes to be deposited into the tax increment account established by a county energy transportation reinvestment zone or zones under this section may be disbursed from the account only to provide:

(1) matching funds under Section 256.105; and

(2) funding for one or more transportation infrastructure projects located in a zone.

SECTION 4. Subchapter A, Chapter 251, Transportation Code, is amended by adding Sections 251.018 and 251.019 to read as follows:

Sec. 251.018. ROAD REPORTS. A road condition report made by a county that is operating under a system of administering county roads under Chapter 252 or a special law, including a report made under Section 251.005, must include the primary cause of any road, culvert, or bridge degradation if reasonably ascertained.

Sec. 251.019. DONATIONS. (a) A commissioners court may accept donations of labor, money, or other property to aid in the building or maintaining of roads, culverts, or bridges in the county.

(b) A county operating under the county road department system on September 1, 2013, may use the authority granted under this section without holding a new election under Section 252.301.

(c) A county that accepts donations under this section must execute a release of liability in favor of the entity donating the labor, money, or other property.

SECTION 5. Subsection (a), Section 256.009, Transportation Code, is amended to read as follows:

(a) Not later than January 30 of each year, the county auditor or, if the county does not have a county auditor, the official having the duties of the county auditor shall file a report with the comptroller that includes:

(1) an account of how:

(A) the money allocated to a county under Section 256.002 during the preceding year was spent; and

(B) if the county designated a county energy transportation reinvestment zone, money paid into a tax increment account for the zone or from an award under Subchapter C was spent;

(2) a description, including location, of any new roads constructed in whole or in part with the money:

(A) allocated to a county under Section 256.002 during the preceding year; and

(B) paid into a tax increment account for the zone or from an award under Subchapter C if the county designated a county energy transportation reinvestment zone;

(3) any other information related to the administration of Sections 256.002 and 256.003 that the comptroller requires; and

(4) the total amount of expenditures for county road and bridge construction, maintenance, rehabilitation, right-of-way acquisition, and utility construction and other appropriate road expenditures of county funds in the preceding county fiscal year that are required by the constitution or other law to be spent on public roads or highways.

SECTION 6. The Texas Department of Transportation shall adopt rules implementing Subchapter C, Chapter 256, Transportation Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 7. This Act takes effect September 1, 2013.

### **Floor Amendment No. 1**

Amend **CSSB 1747** (house committee report) as follows:

(1) Strike page 2, lines 18-22 and substitute the following:

Sec. 256.103. GRANT PROGRAM. (a) The department shall establish and administer a transportation infrastructure grant program to make grants from the fund for transportation infrastructure projects on state or county roads located in areas of the state affected by increased energy production.

(b) At least 50 percent of grants from the fund must be awarded to counties containing at least one county energy transportation reinvestment zone if the fund has a positive balance.

(2) On page 2, line 23, strike "(b)" and substitute "(c)".

**Floor Amendment No. 2**

Amend **CSSB 1747** (house committee printing) on page 2, line 15, by inserting, between "subchapter" and the period, ", including providing to regional councils of government that include at least one oil and gas producing county matching funds to pay the costs associated with infrastructure assessments to determine the condition of roads in the counties for purposes of identifying and prioritizing transportation infrastructure projects for funding under this subchapter".

**Floor Amendment No. 3**

Amend **CSSB 1747** (house committee printing) as follows:

On page 3, line 3, insert a new subsection (2) to read as follows, and by renumbering subsequent subsections:

- (2) the volume of oil and gas waste injected in the county;

**Floor Amendment No. 4**

Amend **CSSB 1747** (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. STUDY AND REPORT. (a) In this section, "native plant" and "native seed" mean a plant or a seed from a plant that is found in, and naturally endemic to, ecosystems, sites, or regions in the present borders of this state, as to which the best available information indicates an indigenous nature precluding the plant's or seed's introduction or transport to this state from some other location by nonnatural conveyances. The terms include improved varieties of native seeds. Plants and seeds that do not meet the definition of "native plant" or "native seed" are designated as "nonnative."

(b) For the purpose of maximizing the use of native seed in land restoration and soil stabilization following transportation infrastructure projects, particularly in counties containing at least one county energy transportation reinvestment zone, the Texas Department of Transportation shall conduct a study based on a review of the use of native seed in projects related to land restoration and soil stabilization by the department and its contractors and assignees for the years 2008 through 2012, and shall report the department's historic use of native seed by geographic region or district.

(c) In conducting the study and preparing the report, the Texas Department of Transportation shall consider:

- (1) geographic, regional, or district use of specific varieties of native seed for restoration projects administered by the department and its contractors or assignees;

- (2) determinations of the percentage of the department's restoration projects using native seed versus nonnative seed, including blends of native and nonnative seed, by geographic region or district and projects performed by the department and its contractors or assignees; and

- (3) methodologies and procedures that the department and its contractors or assignees must use to forecast the future needs for native seed for restoration projects by geographic region.

(d) The Texas Department of Transportation shall develop methodologies and procedures for forecasting the departments' and its contractors' and assignees' future needs for native seeds for the years 2015 through 2020. The department shall continue to maintain a five-year forecast for native seed restoration project needs.

(e) Not later than December 1, 2014, the Texas Department of Transportation shall report the results of the study conducted under this Act to the legislature and post the forecast of future needs for native seeds on the department's Internet website.

The amendments were read.

Senator Uresti submitted a Motion In Writing that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1747** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Uresti, Chair; Williams, Hegar, Zaffirini, and Nichols.

#### SENATE BILL 1368 WITH HOUSE AMENDMENTS

Senator Davis called **SB 1368** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

#### Floor Amendment No. 1

Amend **SB 1368** (House committee printing) as follows:

(1) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_ . Section 552.002, Government Code, is amended to read as follows:

Sec. 552.002. DEFINITION OF PUBLIC INFORMATION; MEDIA CONTAINING PUBLIC INFORMATION. (a) In this chapter, "public information" means information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body; [~~or~~]
- (2) for a governmental body and the governmental body:

(A) owns the information; [~~or~~]

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body [~~†~~].



(a-1) Information is in connection with the transaction of official business if the information is created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer's or employee's official capacity, or a person or entity performing official business or a governmental function on behalf of a governmental body, and pertains to official business of the governmental body.

(a-2) The definition of "public information" provided by Subsection (a) applies to and includes any electronic communication created, transmitted, received, or maintained on any device if the communication is in connection with the transaction of official business.

(b) The media on which public information is recorded include:

- (1) paper;
- (2) film;
- (3) a magnetic, optical, ~~or~~ solid state, or other device that can store an electronic signal;
- (4) tape;
- (5) Mylar; and
- (6) any physical material on which information may be recorded, including linen,<sup>[;]</sup>
- ~~(7)~~ silk,<sup>[;]</sup> and
- ~~(8)~~ vellum.

(c) The general forms in which the media containing public information exist include a book, paper, letter, document, e-mail, Internet posting, text message, instant message, other electronic communication, printout, photograph, film, tape, microfiche, microfilm, photostat, sound recording, map, and drawing and a voice, data, or video representation held in computer memory.

SECTION \_\_\_\_\_. Section 552.003, Government Code, is amended by adding Subdivision (2-a) to read as follows:

(2-a) "Official business" means any matter over which a governmental body has or seeks to have any authority, administrative duties, or advisory duties.

(2) On page 2, line 4, strike "The change in law made by this Act" and substitute "Section 2252.907, Government Code, as added by this Act,".

### **Floor Amendment No. 1 on Third Reading**

Amend **SB 1368** on third reading in Section 552.003(2-a), Government Code, as added on second reading by the Alvarado amendment to the bill by striking "or seeks to have".

The amendments were read.

Senator Davis moved to concur in the House amendments to **SB 1368**.

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Birdwell, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Garcia, Hegar, Hinojosa, Huffman, Lucio, Nelson, Patrick, Paxton, Rodríguez, Seliger, Taylor, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Campbell, Hancock, Nichols, Schwertner.

**CONFERENCE COMMITTEE ON HOUSE BILL 3361**  
**(Motion In Writing)**

Senator Birdwell called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3361** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3361** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Birdwell, Chair; Nichols, Ellis, Patrick, and Hinojosa.

**CONFERENCE COMMITTEE ON HOUSE BILL 1025**  
**(Motion In Writing)**

Senator Williams called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1025** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1025** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Williams, Chair; Duncan, Nelson, Whitmire, and Hinojosa.

**CONFERENCE COMMITTEE ON HOUSE BILL 2818**

Senator Carona called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2818** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2818** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Carona, Chair; Van de Putte, Eltife, Estes, and Hancock.

**CONFERENCE COMMITTEE ON HOUSE BILL 3572**  
**(Motion In Writing)**

Senator Williams called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3572** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3572** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Williams, Chair; Hinojosa, Hegar, Lucio, and Huffman.

**SENATE BILL 1596 WITH HOUSE AMENDMENTS**  
**(Motion In Writing)**

Senator Zaffirini called **SB 1596** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

**Floor Amendment No. 1**

Amend **SB 1596** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter C, Chapter 775, Health and Safety Code, is amended by adding Section 775.045 to read as follows:

Sec. 775.045. APPLICABILITY OF CERTAIN LAWS. Notwithstanding any other law:

(1) Section 1301.551(i), Occupations Code, applies to a district as if the district were a municipality; and

(2) Section 233.062, Local Government Code, applies to a district as if the district were in an unincorporated area of a county.

**Floor Amendment No. 2**

Amend **SB 1596** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter B, Chapter 43, Local Government Code, is amended by adding Section 43.037 to read as follows:

Sec. 43.037. CONSENT REQUIRED FOR CERTAIN ANNEXATIONS. A municipality with a population of more than 300,000 may not annex territory located in the unincorporated area of a county with a population of more than 64,600 and less than 65,600 without the consent of the commissioners court of that county.

**Floor Amendment No. 1 on Third Reading**

Amend **SB 1596** on third reading by striking Sec. 43.037, Local Government Code, as added by House Floor Amendment No. 2 by Lozano, and renumbering subsequent SECTIONS of the bill accordingly.

**Floor Amendment No. 2 on Third Reading**

Amend **SB 1596** on third reading as follows:

(1) On page 2, line 10 (house committee printing), between "Subsections" and "(p)" add "(f-1),".

(2) On page 3, between lines 4 and 5 (house committee printing), insert:

(f-1) Subsections (f)(4), (f)(5), and (p) do not require a change in the type of fire department employees that provide services to an area that is part of a district that is annexed by a municipality. A municipality may determine the status of fire department employees that provide services in the area in its regular course of business.

The amendments were read.

Senator Zaffirini submitted a Motion In Writing that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1596** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Zaffirini, Chair; Hinojosa, Nichols, Fraser, and Watson.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER  
Austin, Texas  
Friday, May 24, 2013 - 6

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the house to inform the senate that the house has taken the following action:

THE HOUSE HAS CONCURRED IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

**HB 742** (105 Yeas, 39 Nays, 2 Present, not voting)

**HB 894** (145 Yeas, 0 Nays, 3 Present, not voting)

- HB 950** (78 Yeas, 61 Nays, 2 Present, not voting)  
**HB 1125** (142 Yeas, 0 Nays, 2 Present, not voting)  
**HB 1127** (138 Yeas, 4 Nays, 2 Present, not voting)  
**HB 1479** (145 Yeas, 0 Nays, 2 Present, not voting)  
**HB 1632** (142 Yeas, 0 Nays, 2 Present, not voting)  
**HB 1659** (143 Yeas, 0 Nays, 3 Present, not voting)  
**HB 1790** (94 Yeas, 44 Nays, 3 Present, not voting)  
**HB 2062** (91 Yeas, 50 Nays, 2 Present, not voting)  
**HB 2204** (144 Yeas, 2 Nays, 2 Present, not voting)  
**HB 2388** (142 Yeas, 0 Nays, 2 Present, not voting)  
**HB 2550** (124 Yeas, 17 Nays, 2 Present, not voting)  
**HB 2620** (118 Yeas, 25 Nays, 2 Present, not voting)  
**HB 3511** (144 Yeas, 0 Nays, 2 Present, not voting)  
**HB 3578** (141 Yeas, 4 Nays, 2 Present, not voting)  
**HB 3593** (90 Yeas, 53 Nays, 2 Present, not voting)  
**HB 3871** (144 Yeas, 0 Nays, 2 Present, not voting)

THE HOUSE HAS REFUSED TO CONCUR IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

**HB 1926** (non-record vote)

House Conferees: King, Ken - Chair/Dutton/Huberty/Ratliff/Villarreal

**HB 3169** (non-record vote)

House Conferees: Bohac - Chair/Larson/Otto/Sheets/Zerwas

**HB 3520** (non-record vote)

House Conferees: Branch - Chair/Burkett/Button/Sheets/Villalba

**HB 3793** (non-record vote)

House Conferees: Coleman - Chair/Davis, John/Farias/Kolkhorst/Zerwas

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

**SB 219** (non-record vote)

House Conferees: Bonnen, Dennis - Chair/Anchia/Johnson/Keffer/Price

**SB 1173** (non-record vote)

House Conferees: White - Chair/Hughes/Moody/Parker/Rose

**SB 1379** (non-record vote)

House Conferees: Sheets - Chair/Bonnen, Greg/Menéndez/Miller, Doug/Smithee

**SB 1915** (non-record vote)

House Conferees: Miller, Doug - Chair/Callegari/Kuempel/Larson/Ritter

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**SB 700** (143 Yeas, 2 Nays, 2 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### BILLS AND RESOLUTIONS SIGNED

The Presiding Officer announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

**SB 31, SB 34, SB 45, SB 49, SB 62, SB 112, SB 119, SB 122, SB 127, SB 138, SB 147, SB 171, SB 198, SB 232, SB 242, SB 273, SB 279, SB 284, SB 355, SB 381, SB 389, SB 391, SB 427, SB 462, SB 464, SB 474, SB 504, SB 515, SB 516, SB 517, SB 518, SB 533, SB 540, SB 673, SB 677, SB 679, SB 699, SB 702, SB 734, SB 742, SB 746, SB 747, SB 758, SB 804, SB 816, SB 817, SB 818, SB 833, SB 836, SB 856, SB 863, SB 875, SB 877, SB 895, SB 904, SB 978, SB 981, SB 1033, SB 1057, SB 1061, SB 1064, SB 1065, SB 1067, SB 1068, SB 1069, SB 1095, SB 1114, SB 1151, SB 1185, SB 1189, SB 1235, SB 1238, SB 1241, SB 1251, SB 1282, SB 1299, SB 1364, SB 1372, SB 1401, SB 1422, SB 1425, SB 1432, SB 1461, SB 1473, SB 1474, SB 1479, SB 1480, SB 1510, SB 1531, SB 1548, SB 1584, SB 1708, SB 1756, SB 1757, SB 1820, SB 1823, SB 1828, SB 1831, SB 1836, SB 1845, SB 1847, SB 1852, SB 1854, SB 1855, SB 1869, SB 1870, SB 1872, SB 1878, SB 1884, SB 1893, SB 1900, SB 1902, SCR 10, SCR 13.**

### CONFERENCE COMMITTEE ON HOUSE BILL 2741

#### (Motion In Writing)

Senator Nichols called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2741** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2741** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Nichols, Chair; Williams, Hagar, Uresti, and Campbell.

**CONFERENCE COMMITTEE ON HOUSE BILL 12**  
**(Motion In Writing)**

Senator Zaffirini called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 12** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 12** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Zaffirini, Chair; Seliger, Eltife, Garcia, and Schwertner.

**CONFERENCE COMMITTEE ON HOUSE BILL 1926**  
**(Motion In Writing)**

Senator Hegar called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1926** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1926** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Hegar, Chair; Patrick, Seliger, West, and Lucio.

**CONFERENCE COMMITTEE ON HOUSE BILL 194**  
**(Motion In Writing)**

Senator Hinojosa called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 194** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 194** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Hinojosa, Chair; Zaffirini, Birdwell, West, and Taylor.

**CONFERENCE COMMITTEE ON HOUSE BILL 3153**  
**(Motion In Writing)**

Senator West called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3153** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3153** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators West, Chair; Lucio, Duncan, Carona, and Hancock.

**CONFERENCE COMMITTEE ON HOUSE BILL 3459**  
**(Motion In Writing)**

Senator Taylor called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3459** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3459** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Taylor, Chair; Fraser, Hegar, Hinojosa, and Uresti.

**CONFERENCE COMMITTEE ON HOUSE BILL 2305**  
**(Motion In Writing)**

Senator Watson called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2305** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2305** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Watson, Chair; West, Nichols, Hancock, and Paxton.



**CONFERENCE COMMITTEE ON HOUSE BILL 489**  
**(Motion In Writing)**

Senator Uresti called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 489** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 489** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Uresti, Chair; Nelson, Van de Putte, Campbell, and Davis.

**CONFERENCE COMMITTEE ON HOUSE BILL 29**  
**(Motion In Writing)**

Senator Seliger called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 29** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 29** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Seliger, Chair; West, Watson, Eltife, and Duncan.

**CONFERENCE COMMITTEE ON HOUSE BILL 3520**  
**(Motion In Writing)**

Senator Carona called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3520** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3520** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Carona, Chair; Campbell, Patrick, Paxton, and Hancock.

**CONFERENCE COMMITTEE ON HOUSE BILL 3169**  
**(Motion In Writing)**

Senator Lucio called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3169** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3169** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Lucio, Chair; Seliger, Deuell, Hegar, and Carona.

**CONFERENCE COMMITTEE ON HOUSE BILL 586**  
**(Motion In Writing)**

Senator Deuell called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 586** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 586** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Deuell, Chair; Duncan, Van de Putte, Lucio, and Eltife.

**SENATE JOINT RESOLUTION 1 WITH HOUSE AMENDMENTS**  
**(Motion In Writing)**

Senator Williams called **SJR 1** from the President's table for consideration of the House amendments to the resolution.

The Presiding Officer laid the resolution and the House amendments before the Senate.

**Amendment**

Amend **SJR 1** by substituting in lieu thereof the following:

A JOINT RESOLUTION

proposing a constitutional amendment providing for the creation of the State Water Implementation Fund for Texas and the State Water Implementation Revenue Fund for Texas to assist in the financing of priority projects in the state water plan.

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

SECTION 1. Article III, Texas Constitution, is amended by adding Sections 49-d-12 and 49-d-13 to read as follows:

Sec. 49-d-12. (a) The State Water Implementation Fund for Texas is created as a special fund in the state treasury outside the general revenue fund. Money in the State Water Implementation Fund for Texas shall be administered, without further appropriation, by the Texas Water Development Board or that board's successor in function and shall be used for the purpose of implementing the state water plan that is adopted as required by general law by the Texas Water Development Board or that board's successor in function. Separate accounts may be established in the State Water Implementation Fund for Texas as necessary to administer the fund or authorized projects.

(b) The legislature by general law may authorize the Texas Water Development Board or that board's successor in function to enter into bond enhancement agreements to provide additional security for general obligation bonds or revenue bonds of the Texas Water Development Board or that board's successor in function, the proceeds of which are used to finance state water plan projects. Bond enhancement agreements must be payable solely from the State Water Implementation Fund for Texas; provided, however, the bond enhancement agreements may not exceed an amount that can be fully supported by the State Water Implementation Fund for Texas. Any amount paid under a bond enhancement agreement may be repaid as provided by general law; provided, however, any repayment may not cause general obligation bonds that are issued under Sections 49-d-9 and 49-d-11 of this article and that are payable from the fund or account receiving the bond enhancement payment to be no longer self-supporting for purposes of Section 49-j(b) of this article. Payments under a bond enhancement agreement entered into pursuant to this section may not be a constitutional state debt payable from general revenues of the state.

(c) The legislature by general law may authorize the Texas Water Development Board or that board's successor in function to use the State Water Implementation Fund for Texas to finance, including by direct loan, water projects included in the state water plan.

(d) The Texas Water Development Board or that board's successor in function shall provide written notice to the Legislative Budget Board or that board's successor in function before each bond enhancement agreement or loan agreement entered into pursuant to this section has been executed by the Texas Water Development Board or that board's successor in function and shall provide a copy of the proposed agreement to the Legislative Budget Board or that board's successor in function for approval. The proposed agreement shall be considered to be approved unless the Legislative Budget Board or that board's successor in function issues a written disapproval not later than the 21st day after the date on which the staff of that board receives the submission.

(e) The State Water Implementation Fund for Texas consists of:

(1) money transferred or deposited to the credit of the fund, including money from any source transferred or deposited to the credit of the fund at the discretion of the Texas Water Development Board or that board's successor in function as authorized by law;

(2) the proceeds of any fee or tax imposed by this state that by statute is dedicated for deposit to the credit of the fund;

(3) any other revenue that the legislature by statute dedicates for deposit to the credit of the fund;

(4) investment earnings and interest earned on amounts credited to the fund;

and

(5) money transferred to the fund under a bond enhancement agreement from another fund or account to which money from the fund was transferred under a bond enhancement agreement, as authorized by general law.

(f) The legislature by general law shall provide for the manner in which the assets of the State Water Implementation Fund for Texas may be used, subject to the limitations provided by this section. The legislature by general law may provide for costs of investment of the State Water Implementation Fund for Texas to be paid from that fund.

(g) As provided by general law, each fiscal year the Texas Water Development Board or that board's successor in function shall set aside from amounts on deposit in the State Water Implementation Fund for Texas an amount that is sufficient to make payments under bond enhancement agreements that become due during that fiscal year.

(h) Any dedication or appropriation of amounts on deposit in the State Water Implementation Fund for Texas may not be 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.

(i) Money in the State Water Implementation Fund for Texas is dedicated by this constitution for purposes of Section 22, Article VIII, of this constitution and an appropriation from the economic stabilization fund to the credit of the State Water Implementation Fund for Texas is an appropriation of state tax revenues dedicated by this constitution for the purposes of Section 22, Article VIII, of this constitution.

Sec. 49-d-13. (a) The State Water Implementation Revenue Fund for Texas is created as a special fund in the state treasury outside the general revenue fund. Money in the State Water Implementation Revenue Fund shall be administered, without further appropriation, by the Texas Water Development Board or that board's successor in function and shall be used for the purpose of implementing the state water plan that is adopted as required by general law by the Texas Water Development Board or that board's successor in function. Separate accounts may be established in the State Water Implementation Revenue Fund for Texas as necessary to administer the fund or authorized projects.

(b) The legislature by general law may authorize the Texas Water Development Board or that board's successor in function to issue bonds and enter into related credit agreements that are payable from all revenues available to the State Water Implementation Revenue Fund for Texas.

(c) The Texas Water Development Board or that board's successor in function shall provide written notice to the Legislative Budget Board or that board's successor in function before issuing a bond pursuant to this section or entering into a related credit agreement that is payable from revenue deposited to the credit of the State

Water Implementation Revenue Fund for Texas and shall provide a copy of the proposed bond or agreement to the Legislative Budget Board or that board's successor in function for approval. The proposed bond or agreement shall be considered to be approved unless the Legislative Budget Board or that board's successor in function issues a written disapproval not later than the 21st day after the date on which the staff of that board receives the submission.

(d) The State Water Implementation Revenue Fund for Texas consists of:

(1) money transferred or deposited to the credit of the fund by law, including money from any source transferred or deposited to the credit of the fund at the discretion of the Texas Water Development Board or that board's successor in function as authorized by law;

(2) the proceeds of any fee or tax imposed by this state that by statute is dedicated for deposit to the credit of the fund;

(3) any other revenue that the legislature by statute dedicates for deposit to the credit of the fund;

(4) investment earnings and interest earned on amounts credited to the fund;

(5) the proceeds from the sale of bonds, including revenue bonds issued by the board under this subchapter, that are designated by the Texas Water Development Board or that board's successor in function for the purpose of providing money for the fund; and

(6) money disbursed to the fund from the State Water Implementation Fund for Texas as authorized by general law.

(e) The legislature by general law shall provide for the manner in which the assets of the State Water Implementation Revenue Fund for Texas may be used, subject to the limitations provided by this section. The legislature by general law may provide for costs of investment of the State Water Implementation Revenue Fund for Texas to be paid from that fund.

(f) In each fiscal year in which amounts become due under the bonds or agreements authorized by this section, the Texas Water Development Board or that board's successor in function shall transfer from revenue deposited to the credit of the State Water Implementation Revenue Fund for Texas in that fiscal year an amount that is sufficient to pay:

(1) the principal of and interest on the bonds that mature or become due during the fiscal year; and

(2) any cost related to the bonds, including payments under related credit agreements that become due during that fiscal year.

(g) Any obligations authorized by general law to be issued by the Texas Water Development Board or that board's successor in function pursuant to this section shall be special obligations payable solely from amounts in the State Water Implementation Revenue Fund for Texas. Obligations issued by the Texas Water Development Board or that board's successor in function pursuant to this section may not be a constitutional state debt payable from the general revenue of the state.

(h) Any dedication or appropriation of revenue to the credit of the State Water Implementation Revenue Fund for Texas may not be 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.

(i) Money in the State Water Implementation Revenue Fund for Texas is dedicated by this constitution for purposes of Section 22, Article VIII, of this constitution.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 5, 2013. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment providing for the creation of the State Water Implementation Fund for Texas and the State Water Implementation Revenue Fund for Texas to assist in the financing of priority projects in the state water plan to ensure the availability of adequate water resources."

**Floor Amendment No. 1**

Amend **CSSJR 1** (house committee printing) as follows:

- (1) On page 3, line 7, between "fund" and the comma, insert "by general law".
- (2) On page 3, line 10, between "by" and "law", insert "general".
- (3) On page 4, between lines 19 and 20, insert the following:

(j) This section being intended only to establish a basic framework and not to be a comprehensive treatment of the State Water Implementation Fund for Texas, there is hereby reposed in the legislature full power to implement and effectuate the design and objects of this section, including the power to delegate such duties, responsibilities, functions, and authority to the Texas Water Development Board or that board's successor in function as the legislature believes necessary.

- (4) On page 4, line 23, between "Fund" and "shall", insert "for Texas".
- (5) On page 5, line 25, between "by" and "law", insert "general".
- (6) On page 6, line 1, between "by" and "law", insert "general".
- (7) On page 7, between lines 21 and 22, insert the following:

(j) This section being intended only to establish a basic framework and not to be a comprehensive treatment of the State Water Implementation Revenue Fund for Texas, there is hereby reposed in the legislature full power to implement and effectuate the design and objects of this section, including the power to delegate such duties, responsibilities, functions, and authority to the Texas Water Development Board or that board's successor in function as the legislature believes necessary.

The amendments were read.

Senator Williams submitted a Motion In Writing that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the resolution.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SJR 1** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Williams, Chair; Duncan, Nelson, Whitmire, and Hinojosa.

**CONFERENCE COMMITTEE ON HOUSE BILL 2012**  
**(Motion In Writing)**

Senator Patrick called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2012** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2012** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Patrick, Chair; Seliger, West, Taylor, and Lucio.

**CONFERENCE COMMITTEE ON HOUSE BILL 680**

Senator Patrick called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 680** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 680** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Patrick, Chair; Paxton, Taylor, Hinojosa, and Campbell.

**CONFERENCE COMMITTEE ON HOUSE BILL 3648**  
**(Motion In Writing)**

Senator Paxton called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3648** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3648** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Paxton, Chair; Taylor, Campbell, Davis, and Schwertner.

### CONFERENCE COMMITTEE ON HOUSE BILL 3793

Senator Hinojosa called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3793** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 3793** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Hinojosa, Chair; Nelson, Schwertner, Garcia, and Taylor.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 1106

Senator Schwertner submitted the following Conference Committee Report:

Austin, Texas  
May 23, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1106** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

SCHWERTNER  
HUFFMAN  
NELSON  
TAYLOR  
URESTI  
On the part of the Senate

DAVIS, JOHN  
DAVIS, YVONNE  
ALVARADO  
ZERWAS  
HUBERTY  
On the part of the House

### A BILL TO BE ENTITLED AN ACT

relating to the use of maximum allowable cost lists under a Medicaid managed care pharmacy benefit plan.

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

SECTION 1. Section 533.005, Government Code, is amended by amending Subsection (a) and adding Subsection (a-2) to read as follows:

(a) A contract between a managed care organization and the commission for the organization to provide health care services to recipients must contain:



(1) procedures to ensure accountability to the state for the provision of health care services, including procedures for financial reporting, quality assurance, utilization review, and assurance of contract and subcontract compliance;

(2) capitation rates that ensure the cost-effective provision of quality health care;

(3) a requirement that the managed care organization provide ready access to a person who assists recipients in resolving issues relating to enrollment, plan administration, education and training, access to services, and grievance procedures;

(4) a requirement that the managed care organization provide ready access to a person who assists providers in resolving issues relating to payment, plan administration, education and training, and grievance procedures;

(5) a requirement that the managed care organization provide information and referral about the availability of educational, social, and other community services that could benefit a recipient;

(6) procedures for recipient outreach and education;

(7) a requirement that the managed care organization make payment to a physician or provider for health care services rendered to a recipient 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 managed care organization to process the claim, or within a period, not to exceed 60 days, specified by a written agreement between the physician or provider and the managed care organization;

(8) a requirement that the commission, on the date of a recipient's enrollment in a managed care plan issued by the managed care organization, inform the organization of the recipient's Medicaid certification date;

(9) a requirement that the managed care organization comply with Section 533.006 as a condition of contract retention and renewal;

(10) a requirement that the managed care organization provide the information required by Section 533.012 and otherwise comply and cooperate with the commission's office of inspector general and the office of the attorney general;

(11) a requirement that the managed care organization's usages of out-of-network providers or groups of out-of-network providers may not exceed limits for those usages relating to total inpatient admissions, total outpatient services, and emergency room admissions determined by the commission;

(12) if the commission finds that a managed care organization has violated Subdivision (11), a requirement that the managed care organization reimburse an out-of-network provider for health care services at a rate that is equal to the allowable rate for those services, as determined under Sections 32.028 and 32.0281, Human Resources Code;

(13) a requirement that the organization use advanced practice nurses in addition to physicians as primary care providers to increase the availability of primary care providers in the organization's provider network;

(14) a requirement that the managed care organization reimburse a federally qualified health center or rural health clinic for health care services provided to a recipient outside of regular business hours, including on a weekend day or holiday, at

a rate that is equal to the allowable rate for those services as determined under Section 32.028, Human Resources Code, if the recipient does not have a referral from the recipient's primary care physician;

(15) a requirement that the managed care organization develop, implement, and maintain a system for tracking and resolving all provider appeals related to claims payment, including a process that will require:

(A) a tracking mechanism to document the status and final disposition of each provider's claims payment appeal;

(B) the contracting with physicians who are not network providers and who are of the same or related specialty as the appealing physician to resolve claims disputes related to denial on the basis of medical necessity that remain unresolved subsequent to a provider appeal; and

(C) the determination of the physician resolving the dispute to be binding on the managed care organization and provider;

(16) a requirement that a medical director who is authorized to make medical necessity determinations is available to the region where the managed care organization provides health care services;

(17) a requirement that the managed care organization ensure that a medical director and patient care coordinators and provider and recipient support services personnel are located in the South Texas service region, if the managed care organization provides a managed care plan in that region;

(18) a requirement that the managed care organization provide special programs and materials for recipients with limited English proficiency or low literacy skills;

(19) a requirement that the managed care organization develop and establish a process for responding to provider appeals in the region where the organization provides health care services;

(20) a requirement that the managed care organization develop and submit to the commission, 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:

(A) preventive care;

(B) primary care;

(C) specialty care;

(D) after-hours urgent care; and

(E) chronic care;

(21) a requirement that the managed care organization demonstrate to the commission, before the organization begins to provide health care services to recipients, that:

(A) the organization's provider network has the capacity to serve the number of recipients expected to enroll in a managed care plan offered by the organization;

(B) the organization's provider network includes:

(i) a sufficient number of primary care providers;

(ii) a sufficient variety of provider types; and

(iii) providers located throughout the region where the organization will provide health care services; and

(C) health care services will be accessible to recipients through the organization's provider network to a comparable extent that health care services would be available to recipients under a fee-for-service or primary care case management model of Medicaid managed care;

(22) a requirement that the managed care organization develop a monitoring program for measuring the quality of the health care services provided by the organization's provider network that:

(A) incorporates the National Committee for Quality Assurance's Healthcare Effectiveness Data and Information Set (HEDIS) measures;

(B) focuses on measuring outcomes; and

(C) includes the collection and analysis of clinical data relating to prenatal care, preventive care, mental health care, and the treatment of acute and chronic health conditions and substance abuse;

(23) subject to Subsection (a-1), a requirement that the managed care organization develop, implement, and maintain an outpatient pharmacy benefit plan for its enrolled recipients:

(A) that exclusively employs the vendor drug program formulary and preserves the state's ability to reduce waste, fraud, and abuse under the Medicaid program;

(B) that adheres to the applicable preferred drug list adopted by the commission under Section 531.072;

(C) that includes the prior authorization procedures and requirements prescribed by or implemented under Sections 531.073(b), (c), and (g) for the vendor drug program;

(D) for purposes of which the managed care organization:

(i) may not negotiate or collect rebates associated with pharmacy products on the vendor drug program formulary; and

(ii) may not receive drug rebate or pricing information that is confidential under Section 531.071;

(E) that complies with the prohibition under Section 531.089;

(F) under which the managed care organization may not prohibit, limit, or interfere with a recipient's selection of a pharmacy or pharmacist of the recipient's choice for the provision of pharmaceutical services under the plan through the imposition of different copayments;

(G) that allows the managed care organization or any subcontracted pharmacy benefit manager to contract with a pharmacist or pharmacy providers separately for specialty pharmacy services, except that:

(i) the managed care organization and pharmacy benefit manager are prohibited from allowing exclusive contracts with a specialty pharmacy owned wholly or partly by the pharmacy benefit manager responsible for the administration of the pharmacy benefit program; and

(ii) the managed care organization and pharmacy benefit manager must adopt policies and procedures for reclassifying prescription drugs from retail to specialty drugs, and those policies and procedures must be consistent with rules adopted by the executive commissioner and include notice to network pharmacy providers from the managed care organization;

(H) under which the managed care organization may not prevent a pharmacy or pharmacist from participating as a provider if the pharmacy or pharmacist agrees to comply with the financial terms and conditions of the contract as well as other reasonable administrative and professional terms and conditions of the contract;

(I) under which the managed care organization may include mail-order pharmacies in its networks, but may not require enrolled recipients to use those pharmacies, and may not charge an enrolled recipient who opts to use this service a fee, including postage and handling fees; ~~and~~

(J) under which the managed care organization or pharmacy benefit manager, as applicable, must pay claims in accordance with Section 843.339, Insurance Code; and

(K) under which the managed care organization or pharmacy benefit manager, as applicable:

(i) to place a drug on a maximum allowable cost list, must ensure that:

(a) 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

(b) the drug is generally available for purchase by pharmacies in the state from national or regional wholesalers and is not obsolete;

(ii) must 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 the maximum allowable cost pricing for the maximum allowable cost list specific to that provider;

(iii) must review and update maximum allowable cost price information at least once every seven days to reflect any modification of maximum allowable cost pricing;

(iv) must, in formulating the maximum allowable cost price for a drug, use only the price of the drug and drugs listed as therapeutically equivalent 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;

(v) must establish a process for eliminating products from the maximum allowable cost list or modifying maximum allowable cost prices in a timely manner to remain consistent with pricing changes and product availability in the marketplace;

(vi) must:

(a) provide a procedure under which a network pharmacy provider may challenge a listed maximum allowable cost price for a drug;

(b) respond to a challenge not later than the 15th day after the date the challenge is made;

(c) 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 managed care organization or pharmacy benefit manager, as appropriate;

(d) if the challenge is denied, provide the reason for the denial;  
and

(e) report to the commission every 90 days the total number of challenges that were made and denied in the preceding 90-day period for each maximum allowable cost list drug for which a challenge was denied during the period;

(vii) must notify the commission not later than the 21st day after implementing a practice of using a maximum allowable cost list for drugs dispensed at retail but not by mail; and

(viii) must provide a process for each of its network pharmacy providers to readily access the maximum allowable cost list specific to that provider;  
and

(24) a requirement that the managed care organization and any entity with which the managed care organization contracts for the performance of services under a managed care plan disclose, at no cost, to the commission and, on request, the office of the attorney general all discounts, incentives, rebates, fees, free goods, bundling arrangements, and other agreements affecting the net cost of goods or services provided under the plan.

(a-2) Except as provided by Subsection (a)(23)(K)(viii), a maximum allowable cost list specific to a provider and maintained by a managed care organization or pharmacy benefit manager is confidential.

SECTION 2. (a) The Health and Human Services Commission shall, in a contract between the commission and a managed care organization under Chapter 533, Government Code, that is entered into or renewed on or after the effective date of this Act, require that the managed care organization comply with Subsection (a), Section 533.005, Government Code, as amended by this Act.

(b) The Health and Human Services Commission shall seek to amend contracts entered into with managed care organizations under Chapter 533, Government Code, before the effective date of this Act to require those managed care organizations to comply with Subsection (a), Section 533.005, Government Code, as amended by this Act. To the extent of a conflict between that subsection and a provision of a contract with a managed care organization entered into before the effective date of this Act, the contract provision prevails.

SECTION 3. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 4. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2013.

(b) Subparagraph (viii), Paragraph (K), Subdivision (23), Subsection (a), Section 533.005, Government Code, as added by this Act, takes effect March 1, 2014.

The Conference Committee Report on **SB 1106** was filed with the Secretary of the Senate.

#### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1534

Senator Paxton submitted the following Conference Committee Report:

Austin, Texas  
May 23, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1534** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

PAXTON

DEUELL

ESTES

HANCOCK

NELSON

On the part of the Senate

LEACH

SANFORD

TAYLOR

On the part of the House

The Conference Committee Report on **HB 1534** was filed with the Secretary of the Senate.

#### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1768

Senator Hinojosa submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1768** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HINOJOSA  
 DEUELL  
 SELIGER  
 URESTI  
 WHITMIRE

On the part of the Senate

CANALES  
 NEVÁREZ  
 LUCIO III  
 RODRIGUEZ, JUSTIN

On the part of the House

The Conference Committee Report on **HB 1768** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
 SENATE BILL 578**

Senator Duncan submitted the following Conference Committee Report:

Austin, Texas  
 May 24, 2013

Honorable David Dewhurst  
 President of the Senate

Honorable Joe Straus  
 Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 578** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

DUNCAN  
 FRASER  
 LUCIO  
 PAXTON  
 VAN DE PUTTE  
 On the part of the Senate

SHEFFIELD, J. D.  
 SIMMONS  
 MILLER, RICK  
 JOHNSON  
 MORRISON  
 On the part of the House

**A BILL TO BE ENTITLED  
 AN ACT**

relating to use of countywide polling places for certain elections.

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

SECTION 1. Section 43.004, Election Code, is amended by adding Subsection (c) to read as follows:

(c) If a political subdivision holds an election jointly with an election described by Section 43.007(a)(1), (2), (3), or (4) and is required to use countywide polling places under Section 43.007, the governing body of the political subdivision may designate as the polling places for any required runoff election only the polling places located in the territory or in and near the territory of the political subdivision where eligible voters reside.

SECTION 2. Subsection (a), Section 43.007, Election Code, is amended to read as follows:

(a) The secretary of state shall implement a program to allow each commissioner court participating in the program to eliminate county election precinct polling places and establish countywide polling places for:

- (1) each general election for state and county officers;
- (2) each election held on the uniform election date in May;
- (3) each election on a proposed constitutional amendment; ~~and~~
- (4) each primary election and runoff primary election if:

(A) the county chair or county executive committee of each political party participating in a joint primary election under Section 172.126 agrees to the use of countywide polling places; or

(B) the county chair or county executive committee of each political party required to nominate candidates by primary election agrees to use the same countywide polling places; and

(5) each election of a political subdivision located in the county that is held jointly with an election described by Subdivision (1), (2), (3), or (4) [~~3~~].

SECTION 3. This Act takes effect September 1, 2013.

The Conference Committee Report on **SB 578** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 1458

Senator Duncan submitted the following Conference Committee Report:

Austin, Texas  
May 23, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1458** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

DUNCAN

DAVIS

SELIGER

WATSON

WILLIAMS

On the part of the Senate

CALLEGARI

ALLEN

ALONZO

BRANCH

STEPHENSON

On the part of the House

### A BILL TO BE ENTITLED AN ACT

relating to contributions to, benefits from, and the administration of systems and programs administered by the Teacher Retirement System of Texas.

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





(b-1) This subsection applies only to a person who becomes a member of the retirement system on or after September 1, 2007, and who is not subject to Subsection (b-2). If a member subject to this subsection is at least 55 years old and has at least five years of service credit in the retirement system, but does not meet the requirements under Subsection (d-1), the member is eligible to retire and receive a service retirement annuity reduced from the standard service retirement annuity available under Subsection (a-1)(1), to a percentage derived from the following table:

Age at date of retirement	55	56	57	58	59	60	61	62	63	64	65
Percentage of standard annuity receivable	47%	51%	55%	59%	63%	67%	73%	80%	87%	93%	100%

(b-2) This subsection applies only to a person who does not have at least five years of service credit in the retirement system on or before August 31, 2014, or who becomes a member of the retirement system on or after September 1, 2014. If a member subject to this subsection is at least 55 years old and has at least five years of service credit in the retirement system, but does not meet the requirements under Subsection (d-2), the member is eligible to retire and receive a service retirement annuity reduced from the standard service retirement annuity available under Subsection (a-2)(1), to a percentage derived from the following table:

Age at date of retirement	<u>55</u>	<u>56</u>	<u>57</u>	<u>58</u>	<u>59</u>	<u>60</u>	<u>61</u>	<u>62</u>	<u>63</u>	<u>64</u>	<u>65</u>
Percentage of standard annuity receivable	47%	51%	55%	59%	63%	67%	73%	80%	87%	93%	100%

(d) This subsection applies only to a person who is not subject to Subsection (d-1) or (d-2). If a member subject to this subsection has at least 30 years of service credit in the retirement system, the member is eligible to retire regardless of age and receive a service retirement annuity consisting of the standard service retirement annuity available under Subsection (a) decreased by two percent for each year of age under 50 years.

(d-1) This subsection applies only to a person who becomes a member of the retirement system on or after September 1, 2007, and who is not subject to Subsection (d-2). If the sum of the member's age and amount of service credit in the retirement system equals the number 80, with at least five years of service credit, or if the member has at least 30 years of service credit in the retirement system, the member is eligible to retire regardless of age and receive a service retirement annuity consisting of ~~[reduced from]~~ the standard service retirement annuity available under Subsection (a-1)(2) decreased by five percent for each year of age under 60 years ~~[(a)(2), to a percentage derived from the following table:~~

Age at date of retirement	50	51	52	53	54	55	56	57	58	59	60
Minimum years of service credit required	30	29	28	27	26	25	24	23	22	21	20
Percentage of standard	50%	55%	60%	65%	70%	75%	80%	85%	90%	95%	100%

annuity receivable

[For each year of age under 50 years with 30 years of service credit, the standard service retirement annuity shall be five percent less than the percentage for age 50 with 30 years of service credit].

(d-2) This subsection applies only to a person who does not have at least five years of service credit in the retirement system on or before August 31, 2014, or who becomes a member of the retirement system on or after September 1, 2014. If the sum of the member's age and amount of service credit in the retirement system equals the number 80, with at least five years of service credit, or if the member has at least 30 years of service credit in the retirement system, the member is eligible to retire regardless of age and receive a service retirement annuity consisting of the standard service retirement annuity available under Subsection (a-2)(2) decreased by five percent for each year of age under 62 years.

SECTION 2. Subchapter H, Chapter 824, Government Code, is amended by adding Section 824.702 to read as follows:

Sec. 824.702. COST-OF-LIVING ADJUSTMENT. (a) The retirement system shall make a one-time cost-of-living adjustment payable to annuitants receiving a monthly death or retirement benefit annuity, as provided by this section.

(b) Subject to Subsections (c) and (d), to be eligible for the adjustment, a person must be, on the effective date of the adjustment and disregarding any forfeiture of benefits under Section 824.601, an annuitant eligible to receive:

- (1) a standard service or disability retirement annuity payment;
- (2) an optional service or disability retirement annuity payment as either a retiree or beneficiary;
- (3) an annuity payment under Section 824.402(a)(3) or (4);
- (4) an annuity payment under Section 824.502; or
- (5) an alternate payee annuity payment under Section 804.005.

(c) If the annuitant:

(1) is a retiree, or is a beneficiary under an optional retirement payment plan, to be eligible for the adjustment under this section:

(A) the annuitant must be living on the effective date of the adjustment;  
and

(B) the effective date of the retirement of the member of the Teacher Retirement System of Texas must have been on or before August 31, 2004;

(2) is a beneficiary under Section 824.402(a)(3) or (4) or 824.502, to be eligible for the adjustment:

(A) the annuitant must be living on the effective date of the adjustment;  
and

(B) the date of death of the member of the retirement system must have been on or before August 31, 2004; or

(3) is an alternate payee under Section 804.005, the annuitant is eligible for the adjustment only if the effective date of the election to receive the annuity payment was on or before August 31, 2004.

(d) An adjustment made under this section does not apply to payments under:

(1) Section 824.203(d), relating to retirees who receive a standard service retirement annuity in an amount fixed by statute;

(2) Section 824.304(a), relating to disability retirees with less than 10 years of service credit;

(3) Section 824.304(b)(2), relating to disability retirees who receive a disability annuity in an amount fixed by statute;

(4) Section 824.404(a), relating to active member survivor beneficiaries who receive a survivor annuity in an amount fixed by statute;

(5) Section 824.501(a), relating to retiree survivor beneficiaries who receive a survivor annuity in an amount fixed by statute; or

(6) Section 824.804(b), relating to participants in the deferred retirement option plan with regard to payments from their deferred retirement option plan accounts.

(e) An adjustment under this section:

(1) must be made beginning with an annuity payable for the month of September 2013; and

(2) is limited to the lesser of:

(A) an amount equal to three percent of the monthly benefit subject to the increase; or

(B) \$100 a month.

(f) The board of trustees shall determine the eligibility for and the amount of any adjustment in monthly annuities in accordance with this section.

SECTION 3. Section 824.807, Government Code, is amended to read as follows:

Sec. 824.807. INTEREST. Interest is creditable to a member's account in the deferred retirement option account at an annual, prorated rate equal to two [~~five~~] percent during the period of participation in the plan and until all benefits are distributed.

SECTION 4. Subsection (b), Section 825.307, Government Code, is amended to read as follows:

(b) Interest on a member's contribution is earned monthly and computed at the rate of two [~~five~~] percent a year. Except as provided by Subsection (c), interest is computed based on the mean balance in the member's account during that fiscal year and shall be credited on August 31 of each year.

SECTION 5. Section 825.402, Government Code, is amended to read as follows:

Sec. 825.402. RATE OF MEMBER CONTRIBUTIONS. [~~(a)~~] The rate of contributions for each member of the retirement system is:

(1) five percent of the member's annual compensation or \$180, whichever is less, for service rendered after August 31, 1937, and before September 1, 1957;

(2) six percent of the first \$8,400 of the member's annual compensation for service rendered after August 31, 1957, and before September 1, 1969;

(3) six percent of the member's annual compensation for service rendered after August 31, 1969, and before the first day of the 1977-78 school year;

(4) 6.65 percent of the member's annual compensation for service rendered after the last day of the period described by Subdivision (3) and before September 1, 1985; [~~and~~]

(5) 6.4 percent of the member's annual compensation for service rendered after August 31, 1985, and before September 1, 2014;

(6) 6.7 percent of the member's annual compensation for service rendered after August 31, 2014, and before September 1, 2015;

(7) 7.2 percent of the member's annual compensation for service rendered after August 31, 2015, and before September 1, 2016;

(8) 7.7 percent of the member's annual compensation for service rendered after August 31, 2016, and before September 1, 2017; and

(9) for service rendered on or after September 1, 2017, the lesser of:

(A) 7.7 percent of the member's annual compensation; or

(B) a percentage of the member's annual compensation equal to 7.7 percent reduced by one-tenth of one percent for each one-tenth of one percent that the state contribution rate for the fiscal year to which the service relates is less than the state contribution rate established for the 2015 fiscal year [subject to Subsection (b)].

~~[(b) Subject to Subsection (c), the board of trustees may by order require that the rate of contributions for each member of the retirement system under Subsection (a) is increased to not more than 6.58 percent of the member's annual compensation for service rendered after the date of the order if:~~

~~[(1) the legislature by law requires or authorizes the board of trustees to pay a supplemental payment to specified annuitants; and~~

~~[(2) the board of trustees finds, as of the time the payment is to be made, that after the payment is made the amortization period for the unfunded actuarial liabilities of the retirement system would exceed 30 years by one or more years.~~

~~[(c) Notwithstanding any other law, the board of trustees may not make a supplemental payment required or authorized by the legislature by law, and may not impose an increase in the rate of contributions under Subsection (b), if the board of trustees finds that after making the payment and imposing the increase the amortization period for the unfunded actuarial liabilities of the retirement system would exceed 30 years by one or more years.~~

~~[(d) Notwithstanding any other law, the board of trustees may delay making a supplemental payment required or authorized by the legislature by law as necessary to make the determinations required under Subsections (b) and (c).]~~

SECTION 6. Subsection (a), Section 825.403, Government Code, is amended to read as follows:

(a) Each payroll period, each employer shall deduct from the compensation of each member employed by the employer ~~the~~ an amount required by Section 825.402 ~~[equal to 6.4 percent of the member's compensation for that period].~~

SECTION 7. Subchapter E, Chapter 825, Government Code, is amended by adding Section 825.4035 to read as follows:

Sec. 825.4035. EMPLOYER CONTRIBUTIONS FOR CERTAIN EMPLOYED MEMBERS FOR WHOM THE EMPLOYER IS NOT MAKING CONTRIBUTIONS TO THE FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM. (a) This section:

(1) applies to an employer who reports to the retirement system under Section 825.403 the employment of a member for whom the employer is not making contributions to the federal Old-Age, Survivors, and Disability Insurance program; and

(2) does not apply to an employer that is an institution of higher education.

(b) Except as provided in Subsection (c), for each member the employer reports to the retirement system and for whom the employer is not making contributions to the federal Old-Age, Survivors, and Disability Insurance program, the employer shall contribute monthly to the retirement system for each such member:

(1) for the period beginning with the report month of September 2014 and ending with the report month of August 2015, an amount equal to 1.5 percent of the member's compensation; and

(2) beginning with the report month for September 2015, an amount equal to the lesser of:

(A) 1.5 percent of the member's compensation; or

(B) a percentage of the member's compensation equal to 1.5 percent reduced by one-tenth of one percent for each one-tenth of one percent that the state contribution rate for the fiscal year to which the report month relates is less than the state contribution rate established for the 2015 fiscal year.

(c) If a member is entitled to the minimum salary for certain school personnel under Section 21.402, Education Code, or if a member would have been entitled to the minimum salary for certain school personnel under former Section 16.056, Education Code, as that section existed on January 1, 1995, the employer shall, in addition to any contributions required under Section 825.405, contribute monthly to the retirement system for each such member:

(1) for the period beginning with the report month of September 2014 and ending with the report month of August 2015, an amount equal to 1.5 percent of the statutory minimum salary determined under Section 825.405(b); and

(2) beginning with the report month for September 2015, an amount equal to the lesser of:

(A) 1.5 percent of the statutory minimum salary determined under Section 825.405(b); or

(B) a percentage of the statutory minimum salary determined under Section 825.405(b) equal to 1.5 percent reduced by one-tenth of one percent for each one-tenth of one percent that the state contribution rate for the fiscal year to which the report month relates is less than the state contribution rate established for the 2015 fiscal year.

(d) Contributions under this section:

(1) are subject to the requirements of Section 825.408; and

(2) must be used to fund the normal cost of the retirement system.

SECTION 8. Subsection (a), Section 825.404, Government Code, is amended to read as follows:

(a) During each fiscal year, the state shall contribute to the retirement system an amount equal to at least six and not more than 10 percent of the aggregate annual compensation of all members of the retirement system during that fiscal year. [The

~~amount of the state contribution made under this section may not be less than the amount contributed by members during that fiscal year in accordance with Section 825.402.]~~

SECTION 9. Subsection (a), Section 1575.158, Insurance Code, is amended to read as follows:

(a) Subject to Section 1575.1581, the ~~The~~ trustee may, in addition to providing a basic plan, contract for and make available an optional group health benefit plan for retirees, dependents, surviving spouses, or surviving dependent children.

SECTION 10. Subchapter D, Chapter 1575, Insurance Code, is amended by adding Section 1575.1581 to read as follows:

Sec. 1575.1581. LIMITATION ON ENROLLMENT IN OPTIONAL GROUP HEALTH BENEFIT PLAN. (a) A service retiree and any dependent of a service retiree are not eligible to participate in an optional group health benefit plan made available under Section 1575.158, unless the retiree:

(1) is at least 62 years of age or older; and

(2) meets the definition of retiree under Section 1575.004(a)(1).

(b) A retiree subject to Subsection (a) may, on the date the retiree reaches 62 years of age, under rules adopted by the trustee:

(1) enroll in any coverage tier under the group program; and

(2) enroll, in the same coverage tier, the retiree's dependents who are enrolled in the group program as of the date the retiree reaches 62 years of age.

SECTION 11. Section 1579.103, Insurance Code, is repealed.

SECTION 12. For purposes of determining whether a member has at least five years of service on or before August 31, 2014, under Subsection (a-2), (b-2), or (d-2), Section 824.202, Government Code, as added by this Act, only service actually credited in the Teacher Retirement System of Texas, the Employees Retirement System of Texas, or a retirement system participating in the proportionate retirement program under Chapter 803, Government Code, on or before August 31, 2014, may be counted. Purchased service credit in the retirement system is:

(1) not considered actually credited in the retirement system if the service credit is established only after completion of an installment payment plan under which any installment payment is made after August 31, 2014; and

(2) considered actually credited in the retirement system if:

(A) payment in full for the purchase of service credit is made by a direct rollover or otherwise on or before August 31, 2014; or

(B) payment in full by direct rollover or otherwise is made after August 31, 2014, if:

(i) the member's request to purchase service credit occurred on or before August 31, 2014; and

(ii) payment to purchase the service credit is made in accordance with uniform administrative requirements, including payment deadlines, established by the retirement system.

SECTION 13. Section 824.807 and Subsection (b), Section 825.307, Government Code, as amended by this Act, apply only to interest accrued on or after the effective date of this Act. Interest accrued before the effective date of this Act is governed by the law in effect on the date the interest accrued, and that law is continued in effect for that purpose.

SECTION 14. (a) The change in law made by this Act to Chapter 1575, Insurance Code, does not apply to, and the former law is continued in effect for, a person who takes a service retirement under the Teacher Retirement System of Texas on or after September 1, 2014, and who meets one or more of the following requirements on or before August 31, 2014:

(1) the sum of the person's age and amount of service credit in the retirement system equals 70 or greater; or

(2) the person has at least 25 years of service credit in the retirement system.

(b) Only service actually credited in the Teacher Retirement System of Texas or the Employees Retirement System of Texas on or before August 31, 2014, may be used to determine eligibility under this section. Purchased service credit in the retirement system is:

(1) not considered actually credited in the retirement system for purposes of this section if the service credit is established only after completion of an installment payment plan under which any installment payment is required to be made after August 31, 2014; and

(2) considered actually credited in the retirement system for purposes of this section if:

(A) payment in full for the purchase of service credit is made by a direct rollover or otherwise on or before August 31, 2014; or

(B) payment in full by direct rollover or otherwise is made after August 31, 2014, if:

(i) the member's request to purchase service credit occurred on or before August 31, 2014; and

(ii) payment to purchase the service credit is made in accordance with uniform administrative requirements, including payment deadlines, established by the retirement system.

SECTION 15. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2014.

(b) Section 824.702, Government Code, as added by this Act, Section 825.402, Government Code, as amended by this Act, and the repeal by this Act of Section 1579.103, Insurance Code, take effect September 1, 2013.

The Conference Committee Report on **SB 1458** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 213**

Senator Whitmire submitted the following Conference Committee Report:

Austin, Texas  
May 23, 2013



Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 213** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

WHITMIRE

DUNCAN

HINOJOSA

HUFFMAN

NICHOLS

On the part of the Senate

PRICE

ANCHIA

BONNEN, DENNIS

LARSON

PARKER

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the continuation and functions of the Texas Board of Criminal Justice, the Texas Department of Criminal Justice, and the Windham School District and to the functions of the Board of Pardons and Paroles and the Correctional Managed Health Care Committee.

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

SECTION 1. Section 492.012, Government Code, is amended to read as follows:

Sec. 492.012. **SUNSET PROVISION.** The Texas Board of Criminal Justice and the Texas Department of Criminal Justice are subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board and the department are abolished September 1, 2021 [2013].

SECTION 2. Chapter 493, Government Code, is amended by adding Section 493.031 to read as follows:

Sec. 493.031. **CASE MANAGEMENT COMMITTEES.** (a) Each facility under the oversight of the correctional institutions division shall establish a case management committee to assess each inmate in the facility and ensure the inmate is receiving appropriate services or participating in appropriate programs. The case management committee shall:

(1) review each individualized treatment plan adopted under Section 508.152 for an inmate in the facility and, as applicable, discuss with the inmate a possible treatment plan, including participation in any program or service that may be available through the department, the Windham School District, or any volunteer organization; and

(2) meet with each inmate in the facility at the time of the inmate's initial placement in the facility and at any time in which the committee seeks to reclassify the inmate based on the inmate's refusal to participate in a program or service recommended by the committee.

(b) A case management committee must include the members of the unit classification committee. In addition to those members, a case management committee may include any of the following members, based on availability and inmate needs:

(1) an employee whose primary duty involves providing rehabilitation and reintegration programs or services;

(2) an employee whose primary duty involves providing vocational training or educational services to inmates;

(3) an employee whose primary duty involves providing medical care or mental health care treatment to inmates; or

(4) a representative of a faith-based or volunteer organization.

SECTION 3. Section 501.092, Government Code, as added by Chapter 643 (H.B. 1711), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

Sec. 501.092. COMPREHENSIVE REENTRY AND REINTEGRATION PLAN FOR OFFENDERS. (a) The department shall develop and adopt a comprehensive plan to reduce recidivism and ensure the successful reentry and reintegration of offenders into the community following an offender's release or discharge from a correctional facility.

(b) The reentry and reintegration plan adopted ~~developed~~ under this section must ~~provide for~~:

(1) incorporate the use of the risk and needs assessment instrument adopted under Section 501.0921 ~~[an assessment of offenders entering a correctional facility to determine which skills the offender needs to develop to be successful in the community following release or discharge];~~

(2) provide for programs that address the assessed needs of offenders;

(3) provide for a comprehensive network of transition programs to address the needs of offenders released or discharged from a correctional facility;

(4) identify and define the transition services that are to be provided by the department and which offenders are eligible for those services;

(5) coordinate the provision of reentry and reintegration services provided to offenders through state-funded and volunteer programs across divisions of the department to:

(A) target eligible offenders efficiently; and

(B) ensure maximum use of existing facilities, personnel, equipment, supplies, and other resources;

(6) provide for collecting and maintaining data regarding the number of offenders who received reentry and reintegration services and the number of offenders who were eligible for but did not receive those services, including offenders who did not participate in those services;

(7) provide for evaluating the effectiveness of the reentry and reintegration services provided to offenders by collecting, maintaining, and reporting outcome information, including recidivism data as applicable;

(8) identify ~~[(4) the identification of]~~ providers of existing local programs and transitional services with whom the department may contract under Section 495.028 to implement the reentry and reintegration plan; and

(9) [(5)] subject to Subsection (f) [(e)], provide for the sharing of information between local coordinators, persons with whom the department contracts under Section 495.028, and other providers of services as necessary to adequately assess and address the needs of each offender.

(c) The department, in consultation with the Board of Pardons and Paroles and the Windham School District, shall establish the role of each entity in providing reentry and reintegration services. The reentry and reintegration plan adopted under this section must include, with respect to the department, the Board of Pardons and Paroles, and the Windham School District:

(1) the reentry and reintegration responsibilities and goals of each entity, including the duties of each entity to administer the risk and needs assessment instrument adopted under Section 501.0921;

(2) the strategies for achieving the goals identified by each entity; and

(3) specific timelines for each entity to implement the components of the reentry and reintegration plan for which the entity is responsible.

(d) The department shall regularly evaluate the reentry and reintegration plan adopted under this section. Not less than once in each three-year period following the adoption of the plan, the department shall update the plan.

(e) The department shall provide a copy of the initial reentry and reintegration plan adopted under this section and each evaluation and revision of the plan to the board, the Windham School District, and the Board of Pardons and Paroles.

(f) An offender's personal health information may be disclosed under Subsection (b)(9) [(b)(5)] only if:

(1) the offender consents to the disclosure; and

(2) the disclosure does not violate the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) or other state or federal law.

(g) [(d)] The programs provided under Subsections (b)(2) and (3) must:

(1) be implemented by highly skilled staff who are experienced in working with inmate reentry and reintegration programs;

(2) provide offenders with:

(A) individualized case management and a full continuum of care;

(B) life-skills training, including information about budgeting, money management, nutrition, and exercise;

(C) education and, if an offender has a learning disability, special education;

(D) employment training;

(E) appropriate treatment programs, including substance abuse and mental health treatment programs; and

(F) parenting and relationship building classes; and

(3) be designed to build for former offenders post-release and post-discharge support from the community into which an offender is released or discharged, including support from agencies and organizations within that community.

(h) [(e)] In developing the reentry and reintegration plan adopted under this section, the department shall ensure that the reentry program for long-term inmates under Section 501.096 and the reintegration services provided under Section 501.097 are incorporated into the plan.

(i) Not later than September 1 of each even-numbered year, the department shall deliver a report of the results of evaluations conducted under Subsection (b)(7) to the lieutenant governor, the speaker of the house of representatives, and each standing committee of the senate and house of representatives having primary jurisdiction over the department.

SECTION 4. Subchapter C, Chapter 501, Government Code, is amended by adding Section 501.0921 to read as follows:

Sec. 501.0921. RISK AND NEEDS ASSESSMENT INSTRUMENT. (a) The department shall adopt a standardized instrument to assess, based on criminogenic factors, the risks and needs of each offender within the adult criminal justice system.

(b) The department shall make the risk and needs assessment instrument available for use by each community supervision and corrections department established under Chapter 76.

(c) The department and the Windham School District shall jointly determine the duties of each entity with respect to implementing the risk and needs assessment instrument in order to efficiently use existing assessment processes.

(d) The department shall specify a timeline for the testing, adoption, and implementation of the risk and needs assessment instrument. The department's timeline must provide for the use of the instrument to be fully implemented not later than January 1, 2015. This subsection expires January 1, 2016.

SECTION 5. Section 501.098, Government Code, as added by Chapter 643 (H.B. 1711), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

Sec. 501.098. REENTRY TASK FORCE. (a) The department shall establish a reentry task force and shall coordinate the work of the task force with the Office of Court Administration. The executive director shall ensure that the task force includes representatives of], and by rule shall enter into a memorandum of understanding with] the following entities [to establish a reentry task force]:

- (1) the Texas Juvenile Justice Department [~~Youth Commission~~];
- (2) the Texas Workforce Commission;
- (3) the Department of Public Safety;
- (4) the Texas Department of Housing and Community Affairs;
- (5) the Texas Correctional Office on Offenders with Medical or Mental Impairments;
- (6) the Health and Human Services Commission;
- (7) the Texas Judicial Council; [~~and~~]
- (8) the Board of Pardons and Paroles;
- (9) the Windham School District;
- (10) the Texas Commission on Jail Standards;
- (11) the Department of State Health Services;
- (12) the Texas Court of Criminal Appeals;
- (13) the County Judges and Commissioners Association of Texas;
- (14) the Sheriffs' Association of Texas;
- (15) the Texas District and County Attorneys Association; and
- (16) the Texas Conference of Urban Counties.

(b) The executive director shall appoint a representative from each of the following entities to serve on the reentry task force:

(1) a community supervision and corrections department established under Chapter 76;

(2) an organization that advocates on behalf of offenders;

(3) a local reentry planning entity; and

(4) a statewide ~~an~~ organization ~~[selected by the department]~~ that advocates for or provides reentry or reintegration services to offenders following their release or discharge from a correctional facility.

(c) To the extent feasible, the executive director shall ensure that the membership of the reentry task force reflects the geographic diversity of this state and includes members of both rural and urban communities.

(d) The executive director may appoint additional members as the executive director determines necessary.

(e) ~~(b)~~ The reentry task force shall ~~[established under Subsection (a) may]:~~

(1) identify gaps in services for offenders following their release or discharge to rural or urban communities in the areas of employment, housing, substance abuse treatment, medical care, and any other areas in which the offenders need special services; and

(2) coordinate with providers of existing local reentry and reintegration programs, including programs operated by a municipality or county, to make recommendations regarding the provision of comprehensive services to offenders following their release or discharge to rural or urban communities.

(f) In performing its duties under Subsection (e), the reentry task force shall:

(1) identify:

(A) specific goals of the task force;

(B) specific deliverables of the task force, including the method or format in which recommendations under Subsection (e)(2) will be made available; and

(C) the intended audience or recipients of the items described by Paragraph (B);

(2) specify the responsibilities of each entity represented on the task force regarding the goals of the task force; and

(3) specify a timeline for achieving the task force's goals and producing the items described by Subdivision (1)(B).

SECTION 6. Section 501.131, Government Code, is amended to read as follows:

Sec. 501.131. DEFINITIONS ~~[DEFINITION]~~. In this subchapter:

(1) "Committee"~~["committee"]~~ means the Correctional Managed Health Care Committee.

(2) "Contracting entity" means an entity that contracts with the department to provide health care services under this chapter.

(3) "Medical school" means the medical school at The University of Texas Health Science Center at Houston, the medical school at The University of Texas Health Science Center at Dallas, the medical school at The University of Texas Health Science Center at San Antonio, The University of Texas Medical Branch at

Galveston, the Texas Tech University Health Sciences Center, the Baylor College of Medicine, the college of osteopathic medicine at the University of North Texas Health Science Center at Fort Worth, or The Texas A&M University System Health Science Center.

SECTION 7. Section 501.133, Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The committee consists of nine [~~five~~] voting members and one nonvoting member as follows:

(1) one member employed full-time by the department, appointed by the executive director;

(2) one member who is a physician and employed full-time by The University of Texas Medical Branch at Galveston, appointed by the president of the medical branch;

(3) one member who is a physician and employed full-time by the Texas Tech University Health Sciences Center, appointed by the president of the university;

(4) two members who are physicians, each of whom is employed full-time by a medical school other than The University of Texas Medical Branch at Galveston or the Texas Tech University Health Sciences Center, appointed by the governor;

(5) two members appointed by the governor who are licensed mental health professionals;

(6) two public members appointed by the governor who are not affiliated with the department or with any contracting entity [with which the committee has contracted to provide health care services under this chapter], at least one of whom is licensed to practice medicine in this state; and

(7) [~~5~~] the state Medicaid director or a person employed full-time by the Health and Human Services Commission and appointed by the Medicaid director, to serve ex officio as a nonvoting member.

(c) A committee member appointed under Subsection (a)(7) shall assist the department with developing the expertise needed to accurately assess health care costs and determine appropriate rates.

SECTION 8. Section 501.136, Government Code, is amended to read as follows:

Sec. 501.136. APPOINTMENT; TERMS OF OFFICE; VACANCY [FOR PUBLIC MEMBERS]. (a) The two committee members appointed under Section 501.133(a)(4) serve concurrent four-year terms expiring on February 1 following the fourth anniversary of the date of appointment. On the expiration of the terms, the governor shall appoint one member from each of the next two medical schools that, based on an alphabetical listing of the names of the medical schools, follow the medical schools that employ the vacating members. A medical school may not be represented at any given time by more than one member appointed under Section 501.133(a)(4).

(b) The two committee members appointed under Section 501.133(a)(5) serve concurrent four-year terms expiring on February 1 following the fourth anniversary of the date of appointment.

(c) Public [Committee] members appointed under Section 501.133(a)(6) [by the governor] serve staggered four-year terms, with the term of one of those members expiring on February 1 of each odd-numbered year.

(d) Other committee members serve at the will of the appointing official or until termination of the member's employment with the entity the member represents.

(e) If a vacancy occurs, the appropriate appointing authority shall appoint a person, in the same manner as the original appointment, to serve for the remainder of the unexpired term. If a vacancy occurs in a position appointed under Section 501.133(a)(4), the governor shall appoint a physician employed by the same medical school as that of the vacating member.

SECTION 9. Section 501.146, Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The committee shall develop and approve a managed health care plan for all persons confined by the department that [includes]:

(1) specifies the types and general level of care to be provided to [the establishment of a managed health care provider network of physicians and hospitals that will serve the department as the exclusive health care provider for] persons confined [in institutions operated] by the department; and

(2) ensures continued access to needed care in the correctional health care system [cost containment studies;

(3) care case management and utilization management studies performed for the department; and

(4) concerning the establishment of criteria for hospitals, home health providers, or hospice providers, a provision requiring the managed health care plan to accept certification by the Medicare program under Title XVIII, Social Security Act (42 U.S.C. Section 1395 et seq.), and its subsequent amendments, as an alternative to accreditation by the Joint Commission on Accreditation of Healthcare Organizations].

(c) The committee shall provide expertise to the department, and may appoint subcommittees to assist the department, in developing policies and procedures for implementation of the managed health care plan.

SECTION 10. Section 501.147, Government Code, is amended to read as follows:

Sec. 501.147. POWERS AND DUTIES OF DEPARTMENT; AUTHORITY TO CONTRACT. (a) The department, in cooperation with the contracting entities, shall:

(1) establish a managed health care provider network of physicians and hospitals to provide health care to persons confined by the department; and

(2) evaluate and recommend to the board sites for new medical facilities that appropriately support the managed health care provider network.

(b) The department may:

(1) communicate with the legislature regarding the financial needs of the correctional health care system;

(2) monitor the expenditures of a contracting entity to ensure that those expenditures comply with applicable statutory and contractual requirements;

(3) address problems found through monitoring activities, including requiring corrective action if care does not meet expectations as determined by those monitoring activities;

(4) identify and address long-term needs of the correctional health care system;

(5) ~~enter into a~~ contract with any entity to fully implement the managed health care plan under this subchapter, including contracting for health care services and the integration of those services into the managed health care provider network;

(6) contract with an individual for financial consulting services and make use of financial monitoring of the managed health care plan to assist the department in determining an accurate capitation rate; and

(7) contract with an individual for actuarial consulting services to assist the department in determining trends in the health of the inmate population and the impact of those trends on future financial needs.

(c) In contracting for the implementation of the managed health care plan, the department shall:

(1) ~~[A contract entered into under this subsection must]~~ include provisions necessary to ensure that the contracting entity ~~[The University of Texas Medical Branch at Galveston]~~ is eligible for and makes reasonable efforts to participate in the purchase of prescription drugs under Section 340B, Public Health Service Act (42 U.S.C. Section 256b); and~~[-]~~

(2) ~~[(b) The department may contract with other governmental entities for similar health care services and integrate those services into the managed health care provider network.~~

~~[(e) In contracting for implementation of the managed health care plan, the department,] to the extent possible, ~~[shall]~~ integrate the managed health care provider network with the ~~[public]~~ medical schools ~~[of this state]~~ and the component and affiliated hospitals of those medical schools. ~~[The contract must authorize The University of Texas Medical Branch at Galveston to contract directly with the Texas Tech University Health Sciences Center for the provision of health care services. The Texas Tech University Health Sciences Center shall cooperate with The University of Texas Medical Branch at Galveston in its efforts to participate in the purchase of prescription drugs under Section 340B, Public Health Service Act (42 U.S.C. Section 256b).]~~~~

(d) For services that a governmental entity ~~[the public medical schools and their components and affiliates]~~ cannot provide, the department shall initiate a competitive bidding process for contracts with other providers for medical care to persons confined by the department.

~~[(e) The department, in cooperation with the committee, may contract with an individual or firm for a biennial review of, and report concerning, expenditures under the managed health care plan. The review must be conducted by an individual or firm experienced in auditing the state's Medicaid expenditures and other medical expenditures. Not later than September 1 of each even-numbered year, the department shall submit a copy of a report under this section to the health care~~



~~providers that are part of the managed health care provider network established under this subchapter, the Legislative Budget Board, the governor, the lieutenant governor, and the speaker of the house of representatives.]~~

SECTION 11. Subchapter E, Chapter 501, Government Code, is amended by adding Section 501.1471 to read as follows:

Sec. 501.1471. REPORT. (a) Not later than the 30th day after the end of each fiscal quarter, the department shall submit to the Legislative Budget Board and the governor a report that contains, for the preceding quarter:

(1) the actual and projected expenditures for the correctional health care system, including expenditures for unit and psychiatric care, hospital and clinical care, and pharmacy services;

(2) health care utilization and acuity data;

(3) other health care information as determined by the governor and the Legislative Budget Board; and

(4) the amount of cost savings realized as a result of contracting for health care services under this subchapter with a provider other than the Texas Tech University Health Sciences Center and The University of Texas Medical Branch.

(b) A contract entered into by the department for the provision of health care services must require the contracting entity to provide the department with necessary documentation to fulfill the requirements of this section.

SECTION 12. Subsections (a) and (b), Section 501.148, Government Code, are amended to read as follows:

(a) The committee may:

(1) develop statewide policies for the delivery of correctional health care;

~~(2) [communicate with the department and the legislature regarding the financial needs of the correctional health care system;~~

~~[(3) in conjunction with the department, monitor the expenditures of The University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center to ensure that those expenditures comply with applicable statutory and contractual requirements;~~

~~[(4)] serve as a dispute resolution forum in the event of a disagreement relating to inmate health care services between:~~

~~(A) the department and the health care providers; or~~

~~(B) contracting entities [The University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center;~~

~~[(5) address problems found through monitoring activities by the department and health care providers, including requiring corrective action if care does not meet expectations as determined by those monitoring activities;~~

~~[(6) identify and address long-term needs of the correctional health care system]; and~~

~~(3) [(7)] report to the board [Texas Board of Criminal Justice] at the board's regularly scheduled meeting each quarter on the committee's policy recommendations[, the financial status of the correctional health care system, and corrective actions taken by or required of the department or the health care providers].~~

(b) The committee shall advise the department and the board as necessary, including providing medical expertise and assisting the department and the board in identifying system needs and resolving contract disputes [evaluate and recommend to the board sites for new medical facilities that appropriately support the managed health care provider network].

SECTION 13. Subsections (a) and (b), Section 501.1485, Government Code, are amended to read as follows:

(a) The department, in cooperation with any contracting entity that is a medical school [The University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center], shall develop and implement a training program for corrections medication aides that uses a curriculum specific to administering medication in a correctional setting.

(b) In developing the curriculum for the training program, the department and the medical school[, The University of Texas Medical Branch at Galveston, and the Texas Tech University Health Sciences Center] shall:

(1) consider the content of the curriculum developed by the American Correctional Association for certified corrections nurses; and

(2) modify as appropriate the content of the curriculum developed under Chapter 242, Health and Safety Code, for medication aides administering medication in convalescent and nursing homes and related institutions to produce content suitable for administering medication in a correctional setting.

SECTION 14. Subchapter E, Chapter 508, Government Code, is amended by adding Section 508.1411 to read as follows:

Sec. 508.1411. NOTIFICATION OF PAROLE PANEL DECISION. (a) For each decision of a parole panel granting or denying the release of an inmate on parole, or denying the release of an inmate on mandatory supervision, the parole panel shall:

(1) produce a written statement, in clear and understandable language, that explains:

(A) the decision; and

(B) the reasons for the decision only to the extent those reasons relate specifically to the inmate;

(2) provide a copy of the statement to the inmate; and

(3) place a copy of the statement in the inmate's file.

(b) In a written statement produced under Subsection (a), the parole panel may withhold information that:

(1) is confidential and not subject to public disclosure under Chapter 552; or

(2) the parole panel considers to possibly jeopardize the health or safety of any individual.

(c) The board shall keep a copy of each statement produced under Subsection (a) in a central location.

SECTION 15. Section 508.144, Government Code, is amended to read as follows:

Sec. 508.144. PAROLE GUIDELINES AND RANGE OF RECOMMENDED PAROLE APPROVAL RATES. (a) The board shall:

(1) develop according to an acceptable research method the parole guidelines that are the basic criteria on which a parole decision is made;

(2) base the guidelines on the seriousness of the offense and the likelihood of a favorable parole outcome;

(3) ensure that the guidelines require consideration of an inmate's progress in any programs in which the inmate participated during the inmate's term of confinement; ~~and~~

(4) establish and maintain a range of recommended parole approval rates for each category or score within the guidelines; and

(5) implement the guidelines.

~~(b) If a board member or parole commissioner deviates from the parole guidelines in voting on a parole decision, the member or parole commissioner shall:~~

~~(1) produce a written statement describing in detail the specific circumstances regarding the departure from the guidelines;~~

~~(2) place a copy of the statement in the file of the inmate for whom the parole decision was made; and~~

~~(3) provide a copy of the statement to the inmate.~~

~~(c) The board shall keep a copy of a statement made under Subsection (b) in a central location.~~

~~(d)~~ The board shall meet annually to review and discuss the parole guidelines and range of recommended parole approval rates ~~developed under Subsection (a)~~. The board may consult outside experts to assist with the review. The board shall prioritize the use of outside experts, technical assistance, and training in taking any action under Subsection (c). The board must consider:

(1) how the parole guidelines and range of recommended parole approval rates serve the needs of parole decision-making; and

(2) the extent to which ~~how well~~ the parole guidelines and range of recommended parole approval rates reflect parole panel decisions[;] and

~~(3) how well parole guidelines] predict successful parole outcomes.~~

(c) ~~(e)~~ Based on the board's review ~~of the parole guidelines~~ under Subsection (b) ~~(d)~~, the board may:

(1) update the guidelines by:

(A) including new risk factors; or

(B) changing the values of offense severity or risk factor scores; or

(2) modify the range of recommended parole approval rates under the guidelines, if parole approval rates differ significantly from the range of recommended parole approval rates.

(d) ~~(f)~~ The board is not required to hold an open meeting to review the parole guidelines and range of recommended parole approval rates as required by Subsection (b) ~~(d)~~, but any modifications or updates to the guidelines or range of recommended parole approval rates made by the board under Subsection (c) ~~(e)~~ must occur in an open meeting.

SECTION 16. Subsection (b), Section 508.1445, Government Code, is amended to read as follows:

(b) The report must include:

(1) a brief explanation of the parole guidelines, including how the board:

(A) defines the risk factors and offense severity levels; and

(B) determines the range of recommended parole approval rates for each guideline score;

(2) a comparison of the range of recommended parole approval rates under the parole guidelines to the actual approval rates for individual parole panel members, regional offices, and the state as a whole; and

(3) a description of instances in which the actual parole approval rates do not meet the range of recommended parole approval rates under the parole guidelines, an explanation of the variations, and a list of actions that the board has taken or will take to meet the guidelines.

SECTION 17. The heading to Section 508.152, Government Code, is amended to read as follows:

Sec. 508.152. INDIVIDUAL TREATMENT PLAN [~~PROPOSED PROGRAM OF INSTITUTIONAL PROGRESS~~].

SECTION 18. Section 508.152, Government Code, is amended by amending Subsections (b) and (d) and adding Subsections (b-1) and (b-2) to read as follows:

(b) The department shall:

(1) establish for the inmate an individual treatment plan [~~a proposed program of measurable institutional progress~~]; and

(2) submit the plan [~~proposed program~~] to the board at the time of the board's consideration of the inmate's case for release.

(b-1) The department shall include in an inmate's individual treatment plan:

(1) a record of the inmate's institutional progress that includes the inmate's participation in any program, including an intensive volunteer program as defined by the department;

(2) the results of any assessment of the inmate, including any assessment made using the risk and needs assessment instrument adopted under Section 501.0921 and any vocational, educational, or substance abuse assessment;

(3) the dates on which the inmate must participate in any subsequent assessment; and

(4) all of the treatment and programming needs of the inmate, prioritized based on the inmate's assessed needs.

(b-2) At least once in every 12-month period, the department shall review each inmate's individual treatment plan to assess the inmate's institutional progress and revise or update the plan as necessary.

(d) Before the inmate is approved for release on parole, the inmate must agree to participate in the programs and activities described by the individual treatment plan [~~proposed program of measurable institutional progress~~].

SECTION 19. Section 508.281, Government Code, is amended by adding Subsection (e) to read as follows:

(e) Any hearing required to be conducted by a parole panel under this chapter may be conducted by a designated agent of the board. The designated agent may make recommendations to a parole panel that has responsibility for making a final determination.

SECTION 20. Chapter 509, Government Code, is amended by adding Section 509.0041 to read as follows:

Sec. 509.0041. USE OF RISK AND NEEDS ASSESSMENT INSTRUMENT.  
The division shall require each department to use the risk and needs assessment instrument adopted by the Texas Department of Criminal Justice under Section 501.0921 to assess each defendant at the time of the defendant's initial placement on community supervision and at other times as required by the comprehensive reentry and reintegration plan adopted under Section 501.092.

SECTION 21. Subsection (b), Section 509.010, Government Code, is amended to read as follows:

(b) Before the 30th day before the date of the meeting, the division, the department that the facility is to serve, or a vendor proposing to operate the facility shall:

(1) publish by advertisement that is not less than 3-1/2 inches by 5 inches notice of the date, hour, place, and subject of the hearing required by Subsection (a) in three consecutive issues of a newspaper of, or in newspapers that collectively have, general circulation in the county in which the proposed facility is to be located; and

(2) mail a copy of the notice to each police chief, sheriff, city council member, mayor, county commissioner, county judge, school board member, state representative, and state senator who serves or represents the area in which the proposed facility is to be located, unless the proposed facility has been previously authorized to operate at a particular location as part of a community justice plan submitted by a community justice council under Section 509.007 [76.003].

SECTION 22. Subsection (a), Section 509.011, Government Code, is amended to read as follows:

(a) If the division determines that a department complies with division standards and if the community justice council has submitted a community justice plan under Section 509.007 [76.003] and the supporting information required by the division and the division determines the plan and supporting information are acceptable, the division shall prepare and submit to the comptroller vouchers for payment to the department as follows:

(1) for per capita funding, a per diem amount for each felony defendant directly supervised by the department pursuant to lawful authority;

(2) for per capita funding, a per diem amount for a period not to exceed 182 days for each defendant supervised by the department pursuant to lawful authority, other than a felony defendant; and

(3) for formula funding, an annual amount as computed by multiplying a percentage determined by the allocation formula established under Subsection (f) times the total amount provided in the General Appropriations Act for payments under this subdivision.

SECTION 23. Chapter 509, Government Code, is amended by adding Sections 509.013 and 509.014 to read as follows:

Sec. 509.013. GRANT PROGRAM ADMINISTRATION. (a) In this section, "grant program" means a grant program administered by the division through which the division awards grants to departments through an application process.

(b) The division shall:

(1) establish goals for each grant program that are consistent with the purposes described by Section 509.002 and the mission of the division;

- (2) establish grant application, review, award, and evaluation processes;  
(3) establish the process by which and grounds on which an applicant may appeal a decision of the division regarding a grant application;  
(4) establish and maintain a system to routinely monitor grant performance;  
(5) establish and make available to the public:  
(A) all criteria used in evaluating grant applications; and  
(B) all factors used to measure grant program performance;  
(6) publish on the division's Internet website for each grant awarded:  
(A) the amount awarded;  
(B) the method used in scoring the grant applications and the results of that scoring; and  
(C) additional information describing the methods used to make the funding determination; and  
(7) require each department to submit program-specific outcome data for the division's use in making grant awards and funding decisions.

Sec. 509.014. STUDY REGARDING PERFORMANCE-BASED FUNDING.

(a) The division shall:

(1) review the funding formulas specified under Section 509.011 and study the feasibility of adopting performance-based funding formulas, including whether the formulas should take into consideration an offender's risk level or other appropriate factors in allocating funding; and

(2) make recommendations for modifying the current funding formulas.

(b) In conducting the study and making recommendations under Subsection (a), the division shall:

(1) seek input from departments, the judicial advisory council established under Section 493.003(b), and other relevant interest groups; and

(2) in consultation with the Legislative Budget Board, determine the impact of any recommendations on the allocation of the division's funds as projected by the Legislative Budget Board.

(c) The division shall include in the reports prepared under Sections 509.004(c) and 509.016(c):

(1) the findings of the study;

(2) any recommendations regarding modifying the funding formulas; and

(3) the projected impact of the recommendations on the allocation of the division's funds.

SECTION 24. Article 42.01, Code of Criminal Procedure, is amended by adding Section 11 to read as follows:

Sec. 11. In addition to the information described by Section 1, the judgment should reflect whether a victim impact statement was returned to the attorney representing the state pursuant to Article 56.03(e).

SECTION 25. Subsection (e), Article 56.03, Code of Criminal Procedure, is amended to read as follows:

(e) Prior to the imposition of a sentence by the court in a criminal case, the court~~[, if it has received a victim impact statement,]~~ shall, as applicable in the case, inquire as to whether a victim impact statement has been returned to the attorney representing the state and, if a victim impact statement has been returned to the

attorney representing the state, consider the information provided in the statement. Before sentencing the defendant, the court shall permit the defendant or the defendant's [his] counsel a reasonable time to read the statement, excluding the victim's name, address, and telephone number, comment on the statement, and, with the approval of the court, introduce testimony or other information alleging a factual inaccuracy in the statement. If the court sentences the defendant to a term of community supervision, the attorney representing the state [court] shall forward any victim's impact statement received in the case to the community supervision and corrections department supervising the defendant[, along with the papers in the case].

SECTION 26. Article 56.04, Code of Criminal Procedure, is amended by adding Subsection (d-1) and amending Subsection (e) to read as follows:

(d-1) The victim services division of the Texas Department of Criminal Justice, in consultation with the Board of Pardons and Paroles, law enforcement agencies, prosecutors' offices, and other participants in the criminal justice system, shall develop recommendations to ensure that completed victim impact statements are submitted to the Texas Department of Criminal Justice as provided by this chapter.

(e) On inquiry by the court, the attorney representing the state [The victim assistance coordinator] shall make available [send] a copy of a victim impact statement for consideration by [to] the court sentencing the defendant. If the court sentences the defendant to imprisonment in the Texas Department of Criminal Justice, the court [it] shall attach the copy of the victim impact statement to the commitment papers.

SECTION 27. Chapter 19, Education Code, is amended by adding Section 19.0022 to read as follows:

Sec. 19.0022. SUNSET PROVISION. The Windham School District is subject to review under Chapter 325, Government Code (Texas Sunset Act). The district shall be reviewed during the period in which the Texas Department of Criminal Justice is reviewed.

SECTION 28. Section 19.0041, Education Code, is amended to read as follows:

Sec. 19.0041. PROGRAM DATA COLLECTION AND BIENNIAL EVALUATION AND REPORT [OF TRAINING SERVICES]. (a) To evaluate the effectiveness of its programs [training services provided to persons confined or imprisoned in the department], the Windham School District shall [consult with the Legislative Budget Board to] compile and analyze information for each of its programs, including performance-based information and data related to academic, vocational training, and life skills programs [person who receives the training services]. This information shall include for each person who participates in district programs an evaluation of:

- (1) institutional disciplinary violations;
- (2) subsequent arrests;
- (3) subsequent convictions or confinements;
- (4) the cost of confinement;
- (5) educational achievement;
- (6) high school equivalency examination passage;
- (7) the kind of training services provided;
- (8) [(2)] the kind of employment the person obtains on release;

(9) ~~(3)~~ whether the employment was related to training;  
 (10) ~~(4)~~ the difference between the amount of the person's earnings on the date employment is obtained following release and the amount of those earnings on the first anniversary of that date; and

(11) ~~(5)~~ the retention factors associated with the employment.

(b) The Windham School District shall use the information compiled and analyzed under Subsection (a) to biennially:

(1) evaluate whether its programs meet the goals under Section 19.003 and make changes to the programs as necessary; and

(2) ~~[Legislative Budget Board shall]~~ submit a ~~[an annual]~~ report to the board, the legislature, and the governor's office ~~[based on data compiled and analyzed under Subsection (a)].~~

(c) The Windham School District may enter into a memorandum of understanding with the department, the Department of Public Safety, and the Texas Workforce Commission to obtain and share data necessary to evaluate district programs.

SECTION 29. The following provisions of the Government Code are repealed:

- (1) Subsection (i), Section 493.009;
- (2) Section 501.100; and
- (3) Subsections (c) and (d), Section 501.148.

SECTION 30. Not later than October 1, 2013, each facility under the oversight of the correctional institutions division of the Texas Department of Criminal Justice shall establish a case management committee as required by Section 493.031, Government Code, as added by this Act.

SECTION 31. Not later than January 1, 2014:

- (1) the Texas Department of Criminal Justice shall adopt the comprehensive reentry and reintegration plan required by Section 501.092, Government Code, as amended by this Act; and
- (2) the executive director of the Texas Department of Criminal Justice shall appoint representatives to serve on the reentry task force as required by Section 501.098, Government Code, as amended by this Act.

SECTION 32. Not later than September 1, 2016, the Texas Department of Criminal Justice shall submit the first report required by Subsection (i), Section 501.092, Government Code, as added by this Act.

SECTION 33. (a) Not later than January 31, 2014, the governor shall appoint to the Correctional Managed Health Care Committee one member from each of the first two medical schools, so as to comply with the membership requirements of Subdivision (4), Subsection (a), Section 501.133, Government Code, as amended by this Act, based on an alphabetical listing of the names of the medical schools.

(b) Not later than January 31, 2014, the governor shall appoint to the Correctional Managed Health Care Committee two members who are licensed mental health professionals, so as to comply with the membership requirements of Subdivision (5), Subsection (a), Section 501.133, Government Code, as added by this Act.



(c) Notwithstanding the terms of the members as provided by Subsections (a) and (b), Section 501.136, Government Code, as added by this Act, the terms of the members appointed under this section expire February 1, 2017.

SECTION 34. Not later than the 30th day after the end of the first quarter of fiscal year 2014, the Texas Department of Criminal Justice shall submit the first report required by Section 501.1471, Government Code, as added by this Act.

SECTION 35. Section 508.1411, Government Code, as added by this Act, applies only to a decision of a parole panel made on or after November 1, 2013. A decision of a parole panel made before November 1, 2013, is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 36. Not later than January 1, 2014, the Board of Pardons and Paroles shall establish the range of recommended parole approval rates required by Subsection (a), Section 508.144, Government Code, as amended by this Act.

SECTION 37. Not later than January 1, 2014, the community justice assistance division of the Texas Department of Criminal Justice shall adopt forms, establish procedures, and take other actions necessary to comply with the requirements of Section 509.013, Government Code, as added by this Act.

SECTION 38. Not later than January 1, 2017, the community justice assistance division of the Texas Department of Criminal Justice shall include in the reports submitted under Subsection (c), Section 509.004 and Subsection (c), Section 509.016, Government Code, the findings, recommendations, and projected impact of recommendations from the first study conducted under Section 509.014, Government Code, as added by this Act.

SECTION 39. Before January 1, 2014, the victim services division of the Texas Department of Criminal Justice shall develop the recommendations required by Subsection (d-1), Article 56.04, Code of Criminal Procedure, as added by this Act.

SECTION 40. This Act takes effect September 1, 2013.

The Conference Committee Report on **SB 213** was filed with the Secretary of the Senate.

### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 215**

Senator Birdwell submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 215** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

BIRDWELL

SELIGER

NICHOLS

DUNCAN

WATSON

On the part of the Senate

ANCHIA

BRANCH

BONNEN, DENNIS

DARBY

CLARDY

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the continuation and functions of the Texas Higher Education Coordinating Board, including related changes to the status and functions of the Texas Guaranteed Student Loan Corporation.

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

SECTION 1. Section 61.0511, Education Code, is transferred to Subchapter G, Chapter 51, Education Code, and redesignated as Section 51.359, Education Code, to read as follows:

Sec. 51.359 ~~[61.0511]~~. **ROLE AND MISSION STATEMENT.** Each institution of higher education shall develop a statement regarding the role and mission of the institution reflecting the three missions of higher education: teaching, research, and public service.

SECTION 2. Section 51.406, Education Code, is amended by adding Subsection (d) to read as follows:

(d) At least every five years, the Texas Higher Education Coordinating Board shall reevaluate its rules and policies to ensure the continuing need for the data requests the coordinating board imposes on university systems, institutions of higher education, or private or independent institutions of higher education. The coordinating board shall consult with those entities to identify unnecessary data requests and shall eliminate data requests identified as unnecessary from its rules and policies. In this subsection, "private or independent institution of higher education" has the meaning assigned by Section 61.003.

SECTION 3. Section 52.39, Education Code, is amended to read as follows:

Sec. 52.39. **DEFAULT; SUIT.** When any person who has received or cosigned as a guarantor for a loan authorized by this chapter has failed or refused to make as many as six monthly payments due in accordance with an executed note, then the full amount of the remaining principal and interest becomes due and payable immediately, and the amount due, the person's name and [his] last known address, and other necessary information shall be reported by the board to the attorney general. Suit for the remaining sum shall be instituted by the attorney general, [or any county or district attorney acting for him, in the county of the person's residence, the county in which is

~~located the institution at which the person was last enrolled, or in Travis County,]~~  
unless the attorney general finds reasonable justification for delaying suit and so advises the board in writing. Venue for a suit arising under this section is exclusively conferred on a court of competent jurisdiction in Travis County.

SECTION 4. Subchapter A, Chapter 56, Education Code, is amended by adding Section 56.009 to read as follows:

Sec. 56.009. FINANCIAL ASSISTANCE FOR STUDENTS ENROLLED AT WGU TEXAS OR SIMILAR ONLINE COLLEGES OR UNIVERSITIES. (a) In this section, "general academic teaching institution" and "private or independent institution of higher education" have the meanings assigned by Section 61.003.

(b) The Texas Higher Education Coordinating Board shall, in consultation with representatives of the coordinating board's financial aid advisory committee, representatives of financial aid offices of WGU Texas and any similar nonprofit, tax-exempt, regionally accredited college or university operating in accordance with a memorandum of understanding with this state pursuant to an executive order issued by the governor and offering competency-based, 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:

(1) conduct a study regarding, and prepare proposed draft legislation for, the creation of a state-funded student financial assistance program:

(A) that is available only to students of nonprofit, tax-exempt, regionally accredited colleges or universities domiciled in this state that offer competency-based, exclusively online or other distance education; and

(B) under which the highest priority is given to awarding grants to those eligible students who demonstrate the greatest financial need; and

(2) 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 conducted under Subdivision (1), together with the proposed draft legislation prepared under that subdivision.

(c) This section expires January 1, 2016.

SECTION 5. Subdivisions (2) and (3), Section 56.301, Education Code, are amended to read as follows:

(2) "Eligible institution" means a general academic teaching [am] institution or a medical and dental unit [of higher education] that offers one or more undergraduate degree or certification programs. The term does not include a public state college.

(3) "General academic teaching institution," "institution of higher education," "medical and dental unit," "public [Public] junior college," "public state college," and "public technical institute" have the meanings assigned by Section 61.003,

SECTION 6. Subsection (b), Section 56.302, Education Code, is amended to read as follows:

(b) The purpose of this subchapter is to provide a grant of money to enable eligible students to attend eligible ~~[public]~~ institutions ~~[of higher education]~~ in this state.

SECTION 7. Subsections (d-1), (e), and (f), Section 56.303, Education Code, are amended to read as follows:

(d-1) In allocating among eligible ~~[general academic teaching]~~ institutions money available for initial TEXAS grants for an academic year, the coordinating board shall ensure that each of those institutions' proportional ~~[percentage]~~ share of the total amount of money for initial grants that is allocated to eligible ~~[general academic teaching]~~ institutions under this section ~~[subsection]~~ for that year does not, as a result of the number of students who establish eligibility at the institution for an initial grant under Section 56.3041(2)(A), change from the institution's proportional ~~[percentage]~~ share of the total amount of money for initial grants that is allocated to those institutions under this section ~~[subsection]~~ for the preceding academic year.

(e) In determining who should receive a TEXAS grant, the coordinating board and the eligible institutions shall give priority to awarding TEXAS grants to students who demonstrate the greatest financial need and whose expected family contribution, as determined according to the methodology used for federal student financial aid, does not exceed 60 percent of the average statewide amount of tuition and required fees described by Section 56.307(a). In giving priority based on financial need as required by this subsection to students who meet the requirements for the highest priority as provided by Subsection (f), an eligible ~~[a general academic teaching]~~ institution shall determine financial need according to the relative expected family contribution of those students, beginning with students who have the lowest expected family contribution.

(f) Beginning with TEXAS grants awarded for the 2013-2014 academic year, in determining who should receive an initial TEXAS grant, each eligible ~~[general academic teaching]~~ institution, in addition to giving priority as provided by Subsection (e), shall give highest priority to students who meet the eligibility criteria described by Section 56.3041(2)(A). If there is money available in excess of the amount required to award an initial TEXAS grant to all students meeting those criteria, an eligible ~~[a general academic teaching]~~ institution shall make awards to other students who meet the eligibility criteria described by Section 56.304(a)(2)(A), provided that the institution continues to give priority to students as provided by Subsection (e).

SECTION 8. Subsections (a) and (e-1), Section 56.304, Education Code, are amended to read as follows:

(a) To be eligible initially for a TEXAS grant, a person who graduated from high school before May 1, 2013, must:

- (1) be a resident of this state as determined by coordinating board rules;
- (2) meet either of the following academic requirements:

(A) be a graduate of a public or accredited private high school in this state who graduated not earlier than the 1998-1999 school year and who completed the recommended or advanced high school curriculum established under Section 28.002 or 28.025 or its equivalent; or

(B) have received an associate degree from a public or private institution of higher education not earlier than May 1, 2001;

(3) meet financial need requirements as defined by the coordinating board;

(4) be enrolled in a baccalaureate [~~an undergraduate~~] degree [~~or certificate~~] program at an eligible institution;

(5) be enrolled as:

(A) an entering undergraduate student for at least three-fourths of a full course load for an entering undergraduate student, as determined by the coordinating board, not later than the 16th month after the date of the person's graduation from high school; or

(B) an entering student for at least three-fourths of a full course load for an undergraduate student as determined by the coordinating board, not later than the 12th month after the month the person receives an associate degree from a public or private institution of higher education;

(6) have applied for any available financial aid or assistance; and

(7) comply with any additional nonacademic requirement adopted by the coordinating board under this subchapter.

(e-1) If a person is initially awarded a TEXAS grant during or after the 2005 fall semester, unless the person is provided additional time during which the person may receive a TEXAS grant under Subsection (e-2), the person's eligibility for a TEXAS grant ends on:

(1) the fifth anniversary of the initial award of a TEXAS grant to the person, if the person is enrolled in a degree [~~or certificate~~] program of four years [~~or less~~]; or

(2) the sixth anniversary of the initial award of a TEXAS grant to the person, if the person is enrolled in a degree program of more than four years.

SECTION 9. Section 56.3041, Education Code, is amended to read as follows:

Sec. 56.3041. INITIAL ELIGIBILITY OF PERSON GRADUATING FROM HIGH SCHOOL ON OR AFTER MAY 1, 2013[~~, AND ENROLLING IN A GENERAL ACADEMIC TEACHING INSTITUTION~~]. To [~~Notwithstanding Section 56.304(a), to~~] be eligible initially for a TEXAS grant, a person graduating from high school on or after May 1, 2013, and enrolling in an eligible [~~a general academic teaching~~] institution must:

(1) be a resident of this state as determined by coordinating board rules;

(2) meet the academic requirements prescribed by Paragraph (A), (B), [~~or~~] (C), or (D) as follows:

(A) be a graduate of a public or accredited private high school in this state who completed the recommended high school program established under Section 28.025 or its equivalent and have accomplished any two or more of the following:

(i) graduation under the advanced high school program established under Section 28.025 or its equivalent, successful completion of the course requirements of the international baccalaureate diploma program, or earning of the equivalent of at least 12 semester credit hours of college credit in high school through courses described in Sections 28.009(a)(1), (2), and (3);

(ii) satisfaction of the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the coordinating board under Section 51.3062(f) on any assessment instrument designated by the coordinating board under Section 51.3062(c) ~~[or (e)]~~ or qualification for an exemption as described by Section 51.3062(p), (q), or (q-1);

(iii) graduation in the top one-third of the person's high school graduating class or graduation from high school with a grade point average of at least 3.0 on a four-point scale or the equivalent; or

(iv) completion for high school credit of at least one advanced mathematics course following the successful completion of an Algebra II course, as permitted by Section 28.025(b-3), or at least one advanced career and technical course, as permitted by Section 28.025(b-2);

(B) have received an associate degree from a public or private institution of higher education; ~~[or]~~

(C) be an undergraduate student who has:

(i) previously attended another institution of higher education;

(ii) received an initial Texas Educational Opportunity Grant under Subchapter P for the 2014 fall semester or a subsequent academic term;

(iii) completed at least 24 semester credit hours at any institution or institutions of higher education; and

(iv) 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

(D) if sufficient money is available, meet the eligibility criteria described by Section 56.304(a)(2)(A);

(3) meet financial need requirements established by the coordinating board;

(4) be enrolled in an undergraduate degree or certificate program at an eligible [the general academic teaching] institution;

(5) except as provided under rules adopted under Section 56.304(h), be enrolled as:

(A) an entering undergraduate student for at least three-fourths of a full course load, as determined by the coordinating board, not later than the 16th month after the calendar month in which the person graduated from high school;

(B) an entering undergraduate student who entered military service not later than the first anniversary of the date the person graduated from high school and who enrolled for at least three-fourths of a full course load, as determined by the coordinating board, at the eligible [general academic teaching] institution not later than 12 months after being honorably discharged from military service; ~~[or]~~

(C) a continuing undergraduate student for at least three-fourths of a full course load, as determined by the coordinating board, not later than the 12th month after the calendar month in which the person received an associate degree from a public or private institution of higher education; or

(D) an undergraduate student described by Subdivision (2)(C) who has never previously received a TEXAS grant;

(6) have applied for any available financial aid or assistance; and

(7) comply with any additional nonacademic requirements adopted by the coordinating board under this subchapter.

SECTION 10. Subsections (b) and (d), Section 56.3042, Education Code, are amended to read as follows:

(b) The coordinating board or the eligible institution may require the student to forgo or repay the amount of an initial TEXAS grant awarded to the student as described by Subsection (a) or (a-1) if the student fails to meet the eligibility requirements described by Subsection (a) or (a-1) [~~of Section 56.304(a)(2)(A), 56.3041(2)(A), 56.304(a)(2)(B), or 56.3041(2)(B)~~], as applicable to the student, after the issuance of the available high school or college transcript.

(d) A person who receives an initial TEXAS grant under Subsection (a) or (a-1) but does not satisfy the applicable eligibility requirement that the person was considered to have satisfied under the applicable subsection and who is not required to forgo or repay the amount of the grant under Subsection (b) may become eligible to receive a subsequent TEXAS grant under Section 56.305 only by satisfying the associate degree requirement prescribed by Section 56.304(a)(2)(B) or 56.3041(2)(B), as applicable to the person, in addition to the requirements of Section 56.305 at the time the person applies for the subsequent grant.

SECTION 11. Subsection (a), Section 56.305, Education Code, is amended to read as follows:

(a) After initially qualifying for a TEXAS grant, a person may continue to receive a TEXAS grant during each semester or term in which the person is enrolled at an eligible institution only if the person:

- (1) meets financial need requirements as defined by the coordinating board;
- (2) is enrolled in a baccalaureate [~~an undergraduate~~] degree [~~or certificate~~] program at an eligible institution;
- (3) is enrolled for at least three-fourths of a full course load for an undergraduate student, as determined by the coordinating board;
- (4) makes satisfactory academic progress toward a baccalaureate [~~an undergraduate~~] degree [~~or certificate~~]; and
- (5) complies with any additional nonacademic requirement adopted by the coordinating board.

SECTION 12. Section 56.306, Education Code, is amended to read as follows:

Sec. 56.306. GRANT USE. A person receiving a TEXAS grant may use the money to pay any usual and customary cost of attendance at an eligible institution [~~of higher education~~] incurred by the student. The institution may disburse all or part of the proceeds of a TEXAS grant directly to an eligible person only if the tuition and required fees incurred by the person at the institution have been paid.

SECTION 13. Subsections (a), (d-1), (i-1), and (j); Section 56.307, Education Code, are amended to read as follows:

(a) The amount of a TEXAS grant for a semester or term for a person enrolled full-time at an eligible institution [~~other than an institution covered by Subsection (e) or (d)~~] is an [~~the~~] amount determined by the coordinating board as the average statewide amount of tuition and required fees that a resident student enrolled full-time in a baccalaureate degree program would be charged for that semester or term at general academic teaching institutions.

(d-1) The coordinating board shall determine the average statewide tuition and fee amounts for a semester or term of the next academic year for purposes of this section by using the amounts of tuition and required fees that will be charged by the ~~[applicable]~~ eligible institutions for that semester or term in that academic year. The board may estimate the amount of the charges for a semester or term in the next academic year by an institution if the relevant information is not yet available to the board.

(i-1) A public institution of higher education may elect to award a TEXAS grant to any student in an amount that is less than the applicable amount established under Subsection (a) ~~[-(e), (d),]~~ or (e).

(j) A public institution of higher education shall use other available sources of financial aid, other than a loan, to cover any difference in the amount of a TEXAS grant awarded to the student and the actual amount of tuition and required fees at the institution if the difference results from:

- (1) a reduction in the amount of a TEXAS grant under Subsection (i-1); or
- (2) a deficiency in the amount of the grant as established under Subsection (a) ~~[-(e), (d),]~~ or (e), as applicable, to cover the full amount of tuition and required fees charged to the student by the institution.

SECTION 14. Subdivisions (2) and (3), Section 56.451, Education Code, are amended to read as follows:

(2) "Eligible institution" means:

- (A) a general academic teaching institution, other than a public state college ~~[an institution of higher education]; [or]~~
- (B) a medical and dental unit that offers baccalaureate degrees; or
- (C) a private or independent institution of higher education that offers baccalaureate degree programs.

(3) "General academic teaching institution," "medical and dental unit," "private or independent institution of higher education," and "public state ~~[junior]~~ college," ~~[and "public technical institute"]~~ have the meanings assigned by Section 61.003.

SECTION 15. Subsection (b), Section 56.452, Education Code, is amended to read as follows:

(b) The purpose of this subchapter is to provide no-interest loans to eligible students to enable those students to earn baccalaureate degrees at ~~[attend all]~~ public and private or independent institutions of higher education in this state.

SECTION 16. Section 56.453, Education Code, is amended by adding Subsections (d), (e), and (f) to read as follows:

(d) The coordinating board, in collaboration with eligible institutions and other appropriate entities, shall adopt and implement measures to:

- (1) improve student participation in the Texas B-On-time loan program, including strategies to better inform students and prospective students about the program; and
- (2) improve the rate of student satisfaction of the requirements for obtaining Texas B-On-time loan forgiveness.

(e) The coordinating board, in collaboration with eligible institutions and appropriate nonprofit or college access organizations, shall:



(1) educate students regarding the eligibility requirements for forgiveness of Texas B-On-time loans;

(2) 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;

(3) ensure that students who are required to repay Texas B-On-time loans receive and understand information regarding loan default prevention strategies; and

(4) through an in-person or online loan counseling module, provide loan repayment and default prevention counseling to students receiving Texas B-On-time loans.

(f) Notwithstanding Subsection (e)(4), the following eligible institutions shall provide the loan repayment and default prevention counseling described by that subdivision to all Texas B-On-time loan recipients enrolled at those institutions:

(1) each institution with a Texas B-On-time loan default rate that exceeds the statewide average default rate for such loans; and

(2) each institution with a Texas B-On-time loan forgiveness rate that is less than 50 percent of the statewide average forgiveness rate for such loans.

SECTION 17. Section 56.455, Education Code, is amended to read as follows:

Sec. 56.455. INITIAL ELIGIBILITY FOR LOAN. To be eligible initially for a Texas B-On-time loan, a person must:

(1) be a resident of this state under Section 54.052 or be entitled, as a child of a member of the armed forces of the United States, to pay tuition at the rate provided for residents of this state under Section 54.241;

(2) meet one of the following academic requirements:

(A) be a graduate of a public or private high school in this state who graduated not earlier than the 2002-2003 school year under the recommended or advanced high school program established under Section 28.025(a) or its equivalent;

(B) be a graduate of a high school operated by the United States Department of Defense who:

(i) graduated from that school not earlier than the 2002-2003 school year; and

(ii) at the time of graduation from that school was a dependent child of a member of the armed forces of the United States; or

(C) have received an associate degree from an ~~eligible~~ institution of higher education or private or independent institution of higher education not earlier than May 1, 2005;

(3) be enrolled for a full course load for an undergraduate student, as determined by the coordinating board, in a baccalaureate ~~[an undergraduate]~~ degree ~~[or certificate]~~ program at an eligible institution;

(4) be eligible for federal financial aid, except that a person is not required to meet any financial need requirement applicable to a particular federal financial aid program; and

(5) comply with any additional nonacademic requirement adopted by the coordinating board under this subchapter.

SECTION 18. Subsection (a), Section 56.456, Education Code, is amended to read as follows:

(a) After initially qualifying for a Texas B-On-time loan, a person may continue to receive a Texas B-On-time loan for each semester or term in which the person is enrolled at an eligible institution only if the person:

(1) is enrolled for a full course load for an undergraduate student, as determined by the coordinating board, in a baccalaureate ~~[an undergraduate]~~ degree ~~[or certificate]~~ program at an eligible institution;

(2) is eligible for federal financial aid, except that a person is not required to meet any financial need requirement applicable to a particular federal financial aid program;

(3) makes satisfactory academic progress toward a degree ~~[or certificate]~~ as determined by the institution at which the person is enrolled, if the person is enrolled in the person's first academic year at the institution;

(4) completed at least 75 percent of the semester credit hours attempted by the person in the most recent academic year and has a cumulative grade point average of at least 2.5 on a four-point scale or the equivalent on all coursework previously attempted at institutions of higher education or private or independent institutions of higher education, if the person is enrolled in any academic year after the person's first academic year; and

(5) complies with any additional nonacademic requirement adopted by the coordinating board.

SECTION 19. Subsections (a), (b), and (f), Section 56.459, Education Code, are amended to read as follows:

(a) The amount of a Texas B-On-time loan for a semester or term for a student enrolled full-time at an eligible institution other than an institution covered by Subsection (b) ~~[(c), or (d)]~~ is an amount determined by the coordinating board as the average ~~[statewide]~~ amount of tuition and required fees that a resident student enrolled full-time in a baccalaureate ~~[an undergraduate]~~ degree program would be charged for that semester or term at general academic teaching institutions.

(b) The amount of a Texas B-On-time loan for a student enrolled full-time at a private or independent institution of higher education is an amount determined by the coordinating board as the average statewide amount of tuition and required fees that a resident student enrolled full-time in a baccalaureate ~~[an undergraduate]~~ degree program would be charged for that semester or term at general academic teaching institutions.

(f) If in any academic year the amount of money in the Texas B-On-time student loan account, other than money appropriated to the account exclusively for loans at eligible institutions that are private or independent institutions of higher education, is insufficient to provide the loans in the amount determined under Subsection (a) to all eligible persons at eligible institutions that are institutions of higher education ~~[[# amounts specified by this section]~~, the coordinating board shall determine the amount of that available money and shall allocate that amount to those eligible institutions in proportion to the amount of tuition set aside by ~~[number of full-time equivalent undergraduate students enrolled at]~~ each of those institutions under Section 56.465 for the preceding academic year, and each of those institutions shall determine the amount of each loan awarded at that institution, not to exceed the amount determined under Subsection (a). In the manner prescribed by the coordinating board for purposes of

this subsection, each eligible institution that is a private or independent institution of higher education is entitled to receive an allocation only from the general revenue appropriations made for that academic year to eligible private or independent institutions of higher education for the purposes of this subchapter. Each institution shall use the money allocated to award Texas B-On-time loans to eligible students enrolled at the institution selected according to financial need.

SECTION 20. Subsection (a), Section 56.460, Education Code, is amended to read as follows:

(a) The coordinating board, in consultation with all eligible institutions, shall prepare materials designed to inform prospective students, their parents, and high school counselors about the program and eligibility for a Texas B-On-time loan. The coordinating board shall distribute to each eligible institution and to each school district a copy of the materials prepared ~~[rules adopted]~~ under this subchapter.

SECTION 21. Sections 56.461 and 56.462, Education Code, are amended to read as follows:

Sec. 56.461. LOAN PAYMENT DEFERRED. The repayment of a Texas B-On-time loan received by a student under this subchapter is deferred as long as the student remains continuously enrolled in a baccalaureate ~~[an undergraduate]~~ degree ~~[or certificate]~~ program at an eligible institution.

Sec. 56.462. LOAN FORGIVENESS. A student who receives a Texas B-On-time loan shall be forgiven the amount of the student's loan if the student is awarded a baccalaureate ~~[an undergraduate certificate or]~~ degree at an eligible institution with a cumulative grade point average of at least 3.0 on a four-point scale or the equivalent:

(1) within:

(A) four calendar years after the date the student initially enrolled in an ~~[the]~~ institution of higher education or private or independent institution of higher education ~~[or another eligible institution]~~ if:

~~[(i) the institution is a four year institution; and~~

~~[(ii) the student is awarded a degree other than a degree in engineering, architecture, or any other program determined by the coordinating board to require more than four years to complete; or~~

(B) five calendar years after the date the student initially enrolled in an ~~[the]~~ institution of higher education or private or independent institution of higher education ~~[or another eligible institution]~~ if:

~~[(i) the institution is a four year institution; and~~

~~[(ii) the student is awarded a degree in engineering, architecture, or any other program determined by the coordinating board to require more than four years to complete; or~~

~~[(C) two years after the date the student initially enrolled in the institution or another eligible institution if the institution is a public junior college or public technical institute;] or~~

(2) with a total number of semester credit hours, including transfer credit hours and excluding hours earned exclusively by examination, hours earned for a course for which the student received credit toward the student's high school academic requirements, and hours earned for developmental coursework that an

institution of higher education required the student to take under Section 51.3062 or under the former provisions of Section 51.306, that is not more than six hours more than the minimum number of semester credit hours required to complete the [certificate or] degree.

SECTION 22. Subchapter A, Chapter 57, Education Code, is amended by adding Section 57.011 to read as follows:

Sec. 57.011. STATUS OF TEXAS GUARANTEED STUDENT LOAN CORPORATION. (a) The Texas Guaranteed Student Loan Corporation is converted as provided by this section from a public nonprofit corporation to a nonprofit corporation under Chapter 22, Business Organizations Code.

(b) On or immediately after September 1, 2013, to effectuate the conversion under Subsection (a), the corporation shall file a certificate of formation with the secretary of state or, if the secretary of state determines it appropriate, the corporation shall file a certificate of conversion under Chapter 10, Business Organizations Code.

(c) The corporation as converted under this section continues in existence uninterrupted from the date of its creation, August 27, 1979. The secretary of state shall recognize the continuous existence of the corporation from that date in the certificate of formation or certificate of conversion, as applicable.

(d) The corporation continues to serve as the designated guaranty agency for the State of Texas under the Higher Education Act of 1965 (20 U.S.C. Section 1001 et seq.).

(e) Student loan borrower information collected, assembled, or maintained by the corporation is confidential and is not subject to public disclosure.

SECTION 23. Section 57.01, Education Code, is transferred to Section 61.002, Education Code, redesignated as Subsection (c), Section 61.002, Education Code, and amended to read as follows:

(c) Postsecondary [Sec. 57.01. DECLARATION OF POLICY. The legislature, giving due consideration to the historical and continuing interest of the people of the State of Texas in encouraging deserving and qualified persons to realize their aspirations for education beyond high school, finds and declares that postsecondary] education for qualified Texans [those] who desire to pursue such [an] education [and are properly qualified therefor] is important to the welfare and security of this state and the nation and, consequently, is an important public purpose. The legislature finds and declares that the state can achieve its full economic and social potential only if every individual has the opportunity to contribute to the full extent of the individual's [his or her] capabilities and only when financial barriers to the individual's [his or her] economic, social, and educational goals are removed. In order to facilitate the removal of those barriers, the board, in consultation with one or more nonprofit entities with experience providing the services on a statewide basis, may [It is, therefore, the purpose of this chapter to establish the Texas Guaranteed Student Loan Corporation to:

[(1) administer a guaranteed student loan program to assist qualified Texas students in receiving a postsecondary education in this state or elsewhere in the nation; and

~~[(2)]~~ provide necessary and desirable services related to financial aid services ~~[the loan program]~~, including cooperative awareness efforts with appropriate educational and civic associations designed to disseminate postsecondary education awareness information, including information regarding available grant and loan programs and ~~[student financial aid and the Federal Family Education Loan Program, and other relevant topics including]~~ the prevention of student loan default.

SECTION 24. Subsection (a), Section 58.002, Education Code, is amended to read as follows:

(a) In this chapter:

(1) "Resident physician" means a person who is appointed 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 ~~[one of the schools of medicine listed in Section 58.001 of this code]~~ and who:

(A) has received a Doctor of Medicine or a Doctor of Osteopathic Medicine degree from the Baylor College of Medicine or from an approved school of medicine ~~[one of the schools listed in Section 58.001 of this code]~~; or

(B) is a citizen of Texas and has received a Doctor of Medicine or a Doctor of Osteopathic Medicine degree from some other school of medicine that is accredited by the Liaison Committee on Medical Education or by the Bureau of Professional Education of the American Osteopathic Association.

~~(2) ["Primary teaching hospital" means a hospital at which one of the schools listed in Section 58.001 of this code educates and trains both resident physicians and undergraduate medical students.]~~

~~[(3)]~~ "Compensation" includes:

(A) stipends;

(B) payments, if any, for services rendered; and

(C) fringe benefits when applied to payments to or for the benefit of resident physicians.

SECTION 25. Section 61.002, Education Code, is amended by adding Subsection (d) to read as follows:

(d) The Texas Higher Education Coordinating Board has only the powers expressly provided by law or necessarily implied from an express grant of power. Any function or power not expressly granted to the board by this code or other law in regard to the 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.

SECTION 26. Section 61.0211, Education Code, is amended to read as follows:

Sec. 61.0211. SUNSET PROVISION. The Texas Higher Education Coordinating Board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2025 ~~[2013]~~.

SECTION 27. Subsection (d), Section 61.025, Education Code, is amended to read as follows:

(d) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board, including a policy to specifically provide, as an item on the board's agenda at each meeting, an opportunity for public comment before the board makes a decision on any agenda item.

SECTION 28. Section 61.026, Education Code, is amended to read as follows:

Sec. 61.026. COMMITTEES AND ADVISORY COMMITTEES. (a) The chair [~~chairman~~] may appoint committees from the board's membership as ~~the chair [he]~~ or the board considers [~~may find~~] necessary [~~from time to time~~].

(b) The board may appoint advisory committees from outside its membership as the board considers [~~it may deem~~] necessary. Chapter 2110, Government Code, applies to an advisory committee appointed by the chair or the board. The board shall adopt rules, in compliance with Chapter 2110, Government Code, regarding an advisory committee that primarily functions to advise the board, including rules governing an advisory committee's purpose, tasks, reporting requirements, and abolishment date. A board member may not serve on a board advisory committee.

(c) The board may adopt rules under this section regarding an advisory committee's:

- (1) size and quorum requirements;
- (2) qualifications for membership, including experience requirements and geographic representation;
- (3) appointment procedures;
- (4) terms of service; and
- (5) compliance with the requirements for open meetings under Chapter 551, Government Code.

(d) Each advisory committee must report its recommendations directly to the board.

SECTION 29. Subchapter B, Chapter 61, Education Code, is amended by adding Section 61.0331 to read as follows:

Sec. 61.0331. NEGOTIATED RULEMAKING REQUIRED. The board shall engage institutions of higher education in a negotiated rulemaking process as described by Chapter 2008, Government Code, when adopting a policy, procedure, or rule relating to:

- (1) an admission policy regarding the common admission application under Section 51.762, a uniform admission policy under Section 51.807, graduate and professional admissions under Section 51.843, or the transfer of credit under Section 61.827;
- (2) the allocation or distribution of funds, including financial aid or other trustee funds under Section 61.07761;
- (3) the reevaluation of data requests under Section 51.406; or
- (4) compliance monitoring under Section 61.035.

SECTION 30. Subchapter B, Chapter 61, Education Code, is amended by adding Section 61.035 to read as follows:

Sec. 61.035. COMPLIANCE MONITORING. (a) The board, in consultation with affected stakeholders, shall adopt rules to establish an agency-wide, risk-based compliance monitoring function for:

(1) funds allocated by the board to institutions of higher education, private or independent institutions of higher education, and other entities, including student financial assistance funds, academic support grants, and any other grants, to ensure that those funds are distributed in accordance with applicable law and board rule; and

(2) data reported by institutions of higher education to the board and used by the board for funding or policymaking decisions, including data used for formula funding allocations, to ensure the data is reported accurately.

(b) For purposes of this section, student financial assistance includes grants, scholarships, loans, and work-study.

(c) After considering potential risks and the board's resources, the board shall review a reasonable portion of the total funds allocated by the board and of data reported to the board. The board shall use various levels of monitoring, according to risk, ranging from checking reported data for errors and inconsistencies to conducting comprehensive audits, including site visits.

(d) In developing the board's risk-based approach to compliance monitoring under this section, the board shall consider the following factors relating to an institution of higher education or private or independent institution of higher education:

(1) the amount of student financial assistance or grant funds allocated to the institution by the board;

(2) whether the institution is required to obtain and submit an independent audit;

(3) the institution's internal controls;

(4) the length of time since the institution's last desk review or site visit;

(5) past misuse of funds or misreported data by the institution;

(6) in regard to data verification, whether the data reported to the board by the institution is used for determining funding allocations; and

(7) other factors as considered appropriate by the board.

(e) The board shall train compliance monitoring staff to ensure that the staff has the ability to monitor both funds compliance and data reporting accuracy. Program staff in other board divisions who conduct limited monitoring and contract administration shall coordinate with the compliance monitoring function to identify risks and avoid duplication.

(f) If the board determines through its compliance monitoring function that funds awarded by the board to an institution of higher education or private or independent institution of higher education have been misused or misallocated by the institution, the board shall present its determination to the institution's governing board, or to the institution's chief executive officer if the institution is a private or independent institution of higher education, and provide an opportunity for a response from the institution. Following the opportunity for response, the board shall report its determination and the institution's response, together with any recommendations, to the institution's governing board or chief executive officer, as applicable, the governor, and the Legislative Budget Board.

(g) If the board determines through its compliance monitoring function that an institution of higher education has included errors in the institution's data reported for formula funding, the board:

(1) for a public junior college, may adjust the appropriations made to the college for a fiscal year as necessary to account for the corrected data; and

(2) for a general academic teaching institution, a medical and dental unit, or a public technical institute, shall calculate a revised appropriation amount for the applicable fiscal year based on the corrected data and report that revised amount to the governor and Legislative Budget Board for consideration as the basis for budget execution or other appropriate action, and to the comptroller.

(h) In conducting the compliance monitoring function under this section, the board may partner with internal audit offices at institutions of higher education and private or independent institutions of higher education, as institutional resources allow, to examine the institutions' use of funds allocated by, and data reported to, the board. To avoid duplication of effort and assist the board in identifying risk, an internal auditor at an institution shall notify the board of any audits conducted by the auditor involving funds administered by the board or data reported to the board. The board by rule may prescribe the timing and format of the notification required by this subsection. The board by rule shall require a private or independent institution of higher education to provide to the board the institution's external audit involving funds administered by the board. The private or independent institution of higher education's external audit must comply with the board's rules for auditing those funds.

(i) The board may seek technical assistance from the state auditor in establishing the compliance monitoring function under this section. The state auditor may periodically audit the board's compliance monitoring function as the state auditor considers appropriate.

(j) In this section:

(1) "Desk review" means an administrative review by the board that is based on information reported by an institution of higher education or private or independent institution of higher education, including supplemental information required by the board for the purposes of compliance monitoring, except that the term does not include information or accompanying notes gathered by the board during a site visit.

(2) "Site visit" means an announced or unannounced in-person visit by a representative of the board to an institution of higher education or private or independent institution of higher education for the purposes of compliance monitoring.

SECTION 31. Section 61.051, Education Code, is amended by amending Subsections (a), (a-1), (a-2), and (a-3) and adding Subsection (a-5) to read as follows:

(a) The board ~~represents~~ ~~[shall represent]~~ 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 ~~[in the various regions of]~~ the state by:

(1) providing a statewide perspective to ensure the efficient and effective use of higher education resources and to eliminate unnecessary duplication;

(2) developing and evaluating progress toward a long-range master plan for higher education and providing analysis and recommendations to link state spending for higher education with the goals of the long-range master plan;



(3) collecting and making accessible data on higher education in the state and aggregating and analyzing that data to support policy recommendations;

(4) making recommendations to improve the efficiency and effectiveness of transitions, including between high school and postsecondary education, between institutions of higher education for transfer purposes, and between postsecondary education and the workforce; and

(5) administering programs and trusteed funds for financial aid and other grants as necessary to achieve the state's long-range goals and as directed by the legislature. [The board shall be responsible for assuring that there is no discrimination in the distribution of programs and resources throughout the state on the basis of race, national origin, or sex.]

(a-1) The board shall develop a long-range [five-year] master plan for higher education in this state. The [five-year] plan shall:

(1) establish long-term, measurable goals and provide strategies for implementing those goals;

(2) assess the higher education needs of each region of the state;

(3) provide for regular evaluation and revision of the plan, as the board considers necessary, to ensure the relevance of goals and strategies; and

(4) take into account the resources of private or independent institutions of higher education [in this state].

(a-2) The board shall establish methods for obtaining input from stakeholders and the general public when developing or revising [periodically review and revise] the long-range [five-year] master plan developed under Subsection (a-1). [As a specific element of its review, the board shall identify and analyze the degree to which the plan reflects the continuing higher education needs of this state, as well as any policy changes necessary to improve overall implementation of the plan and the fiscal impact of those changes. The board shall establish procedures for monitoring the board's implementation of the plan, including an analysis of the degree to which its current activities support implementation of the plan and any change in board rules or practices necessary to improve implementation of the plan. The board shall identify additional strategies necessary to achieve the goals of the plan, emphasizing implementation by institutions of higher education and specific recommendations for the different regions of the state. The board shall notify each institution of higher education of all strategies for implementing the plan.]

(a-3) Not later than December 1 of each even-numbered year, the board shall prepare and deliver a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing committees of the senate and house of representatives with primary jurisdiction over higher education [The board shall inform the legislature on matters pertaining to higher education, including the state's activities in the Board of Control for Southern Regional Education, and shall report to the legislature not later than January 1 of each odd-numbered year on the state of higher education in Texas]. In the [biennial] report, the board shall assess the state's progress in meeting the goals established [stated] in the long-range master plan developed under Subsection (a-1) and [shall] recommend legislative action, including statutory or funding changes, to assist the state in meeting those goals. The report

must include updates on implementation strategies provided for in the long-range master plan ~~[the analyses performed in connection with the board's periodic review]~~ under Subsection (a-1) ~~[(a-2)]~~.

(a-5) In conjunction with development of the long-range master plan under Subsection (a-1), the board shall 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.

SECTION 32. Section 61.0512, Education Code, is amended to read as follows:

Sec. 61.0512. BOARD APPROVAL OF ACADEMIC ~~[NEW DEGREE]~~ PROGRAMS~~;~~ ~~NOTIFICATION TO BOARD~~. (a) A new degree or certificate program may be added at an institution of higher education only with specific prior approval of the board. A new degree or certificate program is considered approved if the board has not completed a review under this section and acted to approve or disapprove the proposed program before the first anniversary of the date on which an institution of higher education submits a completed application for approval to the board. The board may not summarily disapprove a program without completing the review required by this section. The board shall specify by rule the elements that constitute a completed application and shall make an administrative determination of the completeness of the application not later than the fifth business day after receiving the application. A request for additional information in support of an application that has been determined administratively complete does not toll the period within which the application is considered approved under this section.

(b) At the time an institution of higher education ~~[a public senior college or university]~~ begins preliminary planning for a new degree program ~~[or a new organizational unit to administer a new degree program]~~, the institution must ~~[college or university shall]~~ notify the board before the institution may carry out that planning~~[- In the implementation of this subsection, the board may not require additional reports from the institutions]~~.

(c) The board shall review each degree or certificate program offered by an institution of higher education at the time the institution requests to implement a new program to ensure that the program:

(1) is needed by the state and the local community and does not unnecessarily duplicate programs offered by other institutions of higher education or private or independent institutions of higher education;

(2) has adequate financing from legislative appropriation, funds allocated by the board, or funds from other sources;

(3) has necessary faculty and other resources to ensure student success; and

(4) meets academic standards specified by law or prescribed by board rule, including rules adopted by the board for purposes of this section, or workforce standards established by the Texas Workforce Investment Council.

(d) The board may review the number of degrees or certificates awarded through a degree or certificate program every four years or more frequently, at the board's discretion.

(e) The board shall review each degree or certificate program offered by an institution of higher education at least every 10 years after a new program is established using the criteria prescribed by Subsection (c).

(f) The board may not order the consolidation or elimination of any degree or certificate program offered by an institution of higher education but may, based on the board's review under Subsections (d) and (e), recommend such action to an institution's governing board. If an institution's governing board does not accept recommendations to consolidate or eliminate a degree or certificate program, the university system or, where a system does not exist, the institution, must identify the programs recommended for consolidation or elimination on the next legislative appropriations request submitted by the system or institution.

(g) An institution of higher education may offer off-campus courses for credit within the state or distance learning courses only with specific prior approval of the board. An institution must certify to the board that a course offered for credit outside the state meets the board's academic criteria. An institution shall include the certification in submitting any other reports required by the board.

(h) In approving a degree or certificate program under this section, the board:

(1) for a doctoral program, may not consider undergraduate graduation or persistence rates; and

(2) for a baccalaureate degree program proposed to be offered by a public junior college previously authorized by the board to offer baccalaureate degree programs under Section 130.0012:

(A) shall approve the degree program within 60 days after the date the board receives notice of the degree program if the degree program:

(i) is approved by the governing board of the junior college district; and

(ii) is not an engineering program; and

(B) is considered to have approved the degree program after the date described by Paragraph (A) if the conditions of that paragraph are satisfied.

SECTION 33. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.05151 to read as follows:

Sec. 61.05151. SEMESTER CREDIT HOURS REQUIRED FOR ASSOCIATE DEGREE. (a) 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 the completion of additional semester credit hours for the degree.

(b) The board may review one or more of an institution's associate degree programs to ensure compliance with this section.

(c) Subsection (a) does not apply to an associate degree awarded by an institution to a student enrolled in the institution before the 2015 fall semester. This subsection does not prohibit the institution from reducing the number of semester credit hours the student must complete to receive the degree.

SECTION 34. Section 61.052, Education Code, is amended by amending Subsections (a) and (b) and adding Subsection (b-1) to read as follows:

(a) Each governing board shall submit to the board once each year on dates designated by the board a comprehensive list by department, division, and school of all courses, together with a description of content, scope, and prerequisites of all these courses, that will be offered by each institution under the supervision of that governing board during the following academic year. The list for each institution must also specifically identify any course included in the common course numbering system under Section 61.832 that has been added to or removed from the institution's list for the current academic year, and the board shall distribute that information as necessary to accomplish the purposes of Section 61.832.

(b) After the comprehensive list of courses is submitted by a governing board under Subsection (a) ~~[of this section]~~, the governing board shall submit on dates designated by the board any changes in the comprehensive list of courses to be offered, including any changes relating to offering a course included in the common course numbering system.

(b-1) Each governing board must certify at the time of submission under Subsection (a) that the institution does not:

(1) prohibit the acceptance of transfer credit based solely on the accreditation of the sending institution; or

(2) include language in any materials published by the institution, whether in printed or electronic form, suggesting that such a prohibition exists.

SECTION 35. The heading to Section 61.055, Education Code, is amended to read as follows:

Sec. 61.055. ~~[INITIATION OF NEW DEPARTMENTS, SCHOOLS, AND PROGRAMS;]~~ PARTNERSHIPS OR AFFILIATIONS.

SECTION 36. Subsection (a), Section 61.055, Education Code, is amended to read as follows:

(a) The board shall encourage cooperative programs and agreements among institutions of higher education, including programs and agreements relating to degree offerings, research activities, and library and computer sharing. ~~[Except as otherwise provided by law, a new department, school, or degree or certificate program approved by the board or its predecessor, the Texas Commission on Higher Education, may not be initiated by any institution of higher education until the board has made a written finding that the department, school, or degree or certificate program is adequately financed by legislative appropriation, by funds allocated by the board, or by funds from other sources.]~~

SECTION 37. Subsection (l), Section 61.051, Education Code, is transferred to Subchapter C, Chapter 61, Education Code, redesignated as Section 61.0571, Education Code, and amended to read as follows:

Sec. 61.0571. BOARD ASSISTANCE TO INSTITUTIONS. (a) ~~(+)~~ The board shall advise and offer technical assistance on the request of any institution of higher education or system administration.

SECTION 38. Subsection (n), Section 61.051, Education Code, is transferred to Section 61.0571, Education Code, as added by this Act, and redesignated as Subsection (b), Section 61.0571, Education Code, to read as follows:

(b) ~~(+)~~ The board shall develop guidelines for institutional reporting of student performance.

SECTION 39. Subsections (b), (d), and (e), Section 61.0572, Education Code, are amended to read as follows:

(b) The board shall:

(1) determine formulas for space utilization in all educational and general buildings and facilities at institutions of higher education;

(2) devise and promulgate methods to assure maximum daily and year-round use of educational and general buildings and facilities, including but not limited to maximum scheduling of day and night classes and maximum summer school enrollment;

(3) consider plans for selective standards of admission when institutions of higher education approach capacity enrollment;

(4) require, and assist the public technical institutes, public senior colleges and universities, medical and dental units, and other agencies of higher education in developing long-range campus master plans for campus development;

(5) ~~by rule adopt [endorse, or delay until the next succeeding session of the legislature has the opportunity to approve or disapprove, the proposed purchase of any real property by an institution of higher education, except a public junior college;~~

~~[(6) develop and publish] standards[, rules, and regulations] to guide the board's review [institutions and agencies of higher education in making application for the approval] of new construction and the [major] repair and rehabilitation of all buildings and facilities regardless of proposed use; and~~

~~(6) [(7)] ascertain that the board's standards and specifications for new construction, repair, and rehabilitation of all buildings and facilities are in accordance with Chapter 469, Government Code [Article 9102, Revised Statutes].~~

~~(d) [(4)] The board[, for purposes of state funding,] may review purchases of [and approve as an addition to an institution's educational and general buildings and facilities inventory any] improved real property added to an institution's educational and general buildings and facilities inventory [acquired by gifts or lease purchase only if:~~

~~[(A) the institution requests to place the improved real property on its educational and general buildings and facilities inventory; and~~

~~[(B) the value of the improved real property is more than \$300,000 at the time the institution requests the property to be added to the educational and general buildings and facilities inventory.~~

~~[(2) This subsection does not apply to gifts, grants, or lease purchase arrangements intended for clinical or research facilities.~~

~~(e) Approval of the board is not required to acquire real property that is financed by bonds issued under Section 55.17(e)(3) or (4), 55.1713 55.1718, 55.1721 55.1728, 55.1735(a)(1), 55.174, 55.1742, 55.1743, 55.1744, 55.1751 55.17592, 55.1768, 55.1771, or 55.17721, except that the board shall review all real property to be financed by bonds issued under those sections] to determine whether the property meets the standards adopted by the board for cost, efficiency, space need, and space use, but the purchase of the improved real property is not contingent on board review. Standards must be adopted by the board using the negotiated rulemaking procedures under Chapter 2008, Government Code. If the property does not meet those standards, the board shall notify the governor, the~~

lieutenant governor, the speaker of the house of representatives, the governing board of the applicable institution, and the Legislative Budget Board. This subsection does not impair the board's authority to collect data relating to the improved real property that is added each year to the educational and general buildings and facilities inventory of institutions of higher education.

SECTION 40. Subsections (a) and (b), Section 61.058, Education Code, are amended to read as follows:

(a) This section does not apply to ~~[Except as provided by Subsection (b) of this section, the board shall approve or disapprove all new construction and repair and rehabilitation of all buildings and facilities at institutions of higher education financed from any source provided that:~~

~~[(A) the board's consideration and determination shall be limited to the purpose for which the new or remodeled buildings are to be used to assure conformity with approved space utilization standards and the institution's approved programs and role and mission if the cost of the project is not more than \$4,000,000, but the board may consider cost factors and the financial implications of the project to the state if the total cost is in excess of \$4,000,000;~~

~~[(B) the requirement of approval for new construction applies only to projects the total cost of which is in excess of \$4,000,000;~~

~~[(C) the requirement of approval for major repair and rehabilitation of buildings and facilities applies only to a project the total cost of which is more than \$4,000,000;~~

~~[(D) the requirement of approval or disapproval by the board does not apply to any new construction or major repair and rehabilitation project that is specifically approved by the legislature;~~

~~[(E) the requirement of approval by the board does not apply to a junior college's construction, repair, or rehabilitation financed entirely with funds from a source other than the state, including funds from ad valorem tax receipts of the college, gifts, grants, and donations to the college, and student fees; and~~

~~[(F) the requirement of approval by the board does not apply to construction, repair, or rehabilitation of privately owned buildings and facilities located on land leased from an institution of higher education if the construction, repair, or rehabilitation is financed entirely from funds not under the control of the institution, and provided further that:~~

~~[(i) the] buildings and facilities that are to be used exclusively for auxiliary enterprises[;] and~~

~~[(ii) the buildings and facilities] will not require appropriations from the legislature for operation, maintenance, or repair [unless approval by the board has been obtained].~~

(b) The [This section does not apply to construction, repair, or rehabilitation financed by bonds issued under Section 55.17(e)(3) or (4), 55.1713 55.1718, 55.1721 55.1728, 55.174, 55.1742, 55.1743, 55.1744, 55.1751 55.17592, 55.1768, 55.1771, or 55.17721, except that the] board may [shall] review all construction, repair, or rehabilitation of buildings and facilities at institutions of higher education [to be financed by bonds issued under those sections] to determine whether the construction, rehabilitation, or repair meets the standards adopted by board rule for

cost, efficiency, space need, and space use, but the construction, rehabilitation, or repair is not contingent on board review. Standards must be adopted by the board using the negotiated rulemaking procedures under Chapter 2008, Government Code. If the construction, rehabilitation, or repair does not meet those standards, the board shall notify the governor, the lieutenant governor, the speaker of the house of representatives, the governing boards of the applicable institutions, and the Legislative Budget Board. This subsection does not impair the board's authority to collect data relating to the construction, repair, or rehabilitation of buildings and facilities occurring each year at institutions of higher education.

SECTION 41. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.05821 to read as follows:

Sec. 61.05821. CONDITION OF BUILDINGS AND FACILITIES; ANNUAL REPORT REQUIRED. Each institution of higher education, excluding each public junior college and excluding other agencies of higher education, annually shall report to the governing board of the institution information regarding the condition of the buildings and facilities of the institution, including information concerning deferred maintenance with respect to those buildings and facilities as defined by the board.

SECTION 42. Subsection (a-4), Section 61.051, Education Code, is transferred to Subchapter C, Chapter 61, Education Code, redesignated as Section 61.0661, Education Code, and amended to read as follows:

Sec. 61.0661. OPPORTUNITIES FOR GRADUATE MEDICAL EDUCATION. (a) ~~[(a-4)]~~ The board shall conduct ~~[include in the five year master plan developed under Subsection (a-1)]~~ an assessment of the adequacy of opportunities for graduates of medical schools in this state to enter graduate medical education in this state. The assessment must:

(1) compare the number of first-year graduate medical education positions available annually with the number of medical school graduates;

(2) include a statistical analysis of recent trends in and projections of the number of medical school graduates and first-year graduate medical education positions in this state;

(3) develop methods and strategies for achieving a ratio for the number of first-year graduate medical education positions to the number of medical school graduates in this state of at least 1.1 to 1;

(4) evaluate current and projected physician workforce needs of this state, by total number and by specialty, in the development of additional first-year graduate medical education positions; and

(5) examine whether this state should ensure that a first-year graduate medical education position is created in this state for each new medical student position established by a medical and dental unit.

(b) Not later than December 1 of each even-numbered year, the board shall 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 senate and house of representatives with primary jurisdiction over higher education.

SECTION 43. Subsection (h), Section 61.051, Education Code, is transferred to Subchapter C, Chapter 61, Education Code, redesignated as Section 61.0662, Education Code, and amended to read as follows:

Sec. 61.0662. INFORMATION ON RESEARCH CONDUCTED BY INSTITUTIONS. (a) ~~(h) The board shall make continuing studies of the needs of the state for research and designate the institutions of higher education to perform research as needed.~~ The board shall ~~[also]~~ maintain an inventory of all institutional and programmatic research activities being conducted by the various institutions of higher education, whether state-financed or not.

(b) Once a year, on dates prescribed by the board, each institution of higher education shall report to the board all research conducted at that institution during the ~~[last]~~ preceding year.

(c) All reports required by this section ~~[subsection]~~ shall be made subject to the limitations imposed by security regulations governing defense contracts for research.

SECTION 44. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.069 to read as follows:

Sec. 61.069. BOARD ROLE IN ESTABLISHING BEST PRACTICES.

(a) The board may administer or oversee a program to identify best practices only in cases where funding or other restrictions prevent entities other than the board from administering the program.

(b) The board may initiate a new pilot project only if other entities, including nonprofit organizations and institutions of higher education, are not engaging in similar projects or if the initiative cannot be performed by another entity.

(c) The board may use its position as a statewide coordinator to assist with matching nonprofit organizations or grant-funding entities with institutions of higher education and private or independent institutions of higher education to implement proven programs and best practices.

(d) The board may compile best practices and strategies resulting from its review of external studies for use in providing technical assistance to institutions of higher education and as the basis for the board's statewide policy recommendations.

SECTION 45. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0763 to read as follows:

Sec. 61.0763. STUDENT LOAN DEFAULT PREVENTION AND FINANCIAL AID LITERACY PILOT PROGRAM. (a) In this section, "career school or college" has the meaning assigned by Section 132.001.

(b) Not later than January 1, 2014, the board shall establish and administer a pilot program at selected postsecondary educational institutions to ensure that students of those institutions are informed consumers with regard to all aspects of student financial aid, including:

(1) the consequences of borrowing to finance a student's postsecondary education;

(2) the financial consequences of a student's academic and career choices;  
and

(3) strategies for avoiding student loan delinquency and default.

(c) The board shall select at least one institution from each of the following categories of postsecondary educational institutions to participate in the program:

(1) general academic teaching institutions;

(2) public junior colleges;

(3) private or independent institutions of higher education; and



(4) career schools or colleges.

(d) In selecting postsecondary educational institutions to participate in the pilot program, the board shall give priority to institutions that have a three-year cohort student loan default rate, as reported by the United States Department of Education:

(1) of more than 20 percent; or

(2) that has above average growth as compared to the rates of other postsecondary educational institutions in this state.

(e) The board, in consultation with postsecondary educational institutions, shall adopt rules for the administration of the pilot program, including rules governing the selection of postsecondary educational institutions to participate in the pilot program consistent with the requirements of Subsection (d).

(f) The board may contract with one or more entities to administer the pilot program according to criteria established by board rule.

(g) Not later than January 1 of each year, beginning in 2016:

(1) the board shall submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives regarding the outcomes of the pilot program, as reflected in the federal student loan default rates reported for the participating institutions; and

(2) each participating institution shall submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives regarding the outcomes of the pilot program at the institution, as reflected in the federal student loan default rate reported for the institution.

(h) This section expires December 31, 2020.

SECTION 46. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.07761 to read as follows:

Sec. 61.07761. FINANCIAL AID AND OTHER TRUSTEED FUNDS ALLOCATION. (a) For any funds trustee to the board for allocation to institutions of higher education and private or independent institutions of higher education, including financial aid program funds, the board by rule shall:

(1) establish and publish the allocation methodologies; and

(2) develop procedures to verify the accuracy of the application of those allocation methodologies by board staff.

(b) The board shall consult with affected stakeholders before adopting rules under this section.

SECTION 47. Section 61.306, Education Code, is amended by adding Subsection (c) to read as follows:

(c) The board may not issue a certificate of authority for a private postsecondary institution to grant a professional degree or to represent that credits earned in this state are applicable toward a degree if the institution is chartered in a foreign country or has its principal office or primary educational program in a foreign country. In this subsection, "professional degree" includes a Doctor of Medicine (M.D.), Doctor of Osteopathy (D.O.), Doctor of Dental Surgery (D.D.S.), Doctor of Veterinary Medicine (D.V.M.), Juris Doctor (J.D.), and Bachelor of Laws (LL.B.).

SECTION 48. The heading to Section 61.822, Education Code, is amended to read as follows:

Sec. 61.822. TRANSFER OF CREDITS; CORE CURRICULUM.

SECTION 49. Section 61.822, Education Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The board shall encourage the transferability of lower division course credit among institutions of higher education.

(a-1) The board, with the assistance of advisory committees composed of representatives of institutions of higher education, shall develop a recommended core curriculum of at least 42 semester credit hours, including a statement of the content, component areas, and objectives of the core curriculum. At least a majority of the members of any advisory committee named under this section shall be faculty members of an institution of higher education. An institution shall consult with the faculty of the institution before nominating or recommending a person to the board as the institution's representative on an advisory committee.

SECTION 50. Subchapter C, Chapter 62, Education Code, is amended to read as follows:

SUBCHAPTER C. TEXAS COMPETITIVE KNOWLEDGE ~~[RESEARCH UNIVERSITY DEVELOPMENT]~~ FUND

Sec. 62.051. DEFINITIONS. In this subchapter:

(1) "Eligible institution" means an institution of higher education that:

(A) is designated as a research university [or emerging research university] under the coordinating board's accountability system and, for any three consecutive state fiscal years beginning on or after September 1, 2010, made total annual research expenditures in an average annual amount of not less than \$450 million; or

(B) is designated as an emerging research university under the coordinating board's accountability system and, for any three consecutive state fiscal years beginning on or after September 1, 2010, made total annual research expenditures in an average annual amount of not less than \$50 million.

(2) "Fund" means the Texas competitive knowledge fund.

(3) "Institution of higher education" has the meaning assigned by Section 61.003.

Sec. 62.052. PURPOSE. The purpose of this subchapter is to provide funding to eligible research universities and emerging research universities to support faculty to ensure excellence in instruction and research [for the recruitment and retention of highly qualified faculty and the enhancement of research productivity at those universities].

Sec. 62.053. FUND ~~[FUNDING]~~. (a) The Texas competitive knowledge fund consists of money [For each state fiscal year, the coordinating board shall distribute any funds] appropriated by the legislature for the purposes of this subchapter[, and any other funds made available for the purposes of this subchapter.] to eligible institutions [based on the average amount of total research funds expended by each institution annually during the three most recent state fiscal years, according to the following rates:

[(1) at least \$1 million for every \$10 million of the average annual amount of those research funds expended by the institution, if that average amount for the institution is \$50 million or more; and

~~[(2) at least \$500,000 for every \$10 million of the average annual amount of those research funds expended by the institution, if that average amount for the institution is less than \$50 million].~~

~~(b) For purposes of this section [Subsection (a)], the amount of total research funds expended by an eligible institution in a state fiscal year is the amount of those funds as reported to the coordinating board by the institution for that fiscal year, subject to any adjustment by the coordinating board in accordance with the standards and accounting methods the coordinating board prescribes for purposes of this section. [If the funds available for distribution for a state fiscal year under Subsection (a) are not sufficient to provide the amount specified by Subsection (a) for each eligible institution or exceed the amount sufficient for that purpose, the available amount shall be distributed in proportion to the total amount to which each institution is otherwise entitled under Subsection (a).]~~

Sec. 62.0535. INITIAL CONTRIBUTION. For the first state fiscal biennium in which an eligible institution receives an appropriation under this subchapter, the institution's other general revenue appropriations shall be reduced by \$5 million for the biennium or the amount of the institution's appropriation under this subchapter for the biennium. The bill making the appropriation must expressly identify the purpose for which the appropriations were reduced in accordance with this section.

~~[Sec. 62.054. RULES. The coordinating board shall adopt rules for the administration of this subchapter, including any rules the coordinating board considers necessary regarding the submission to the coordinating board by eligible institutions of any student data required for the coordinating board to carry out its duties under this subchapter.]~~

SECTION 51. The heading to Chapter 142, Education Code, is amended to read as follows:

CHAPTER 142. NORMAN HACKERMAN ADVANCED RESEARCH PROGRAM; ADVANCED TECHNOLOGY PROGRAM

SECTION 52. Section 142.001, Education Code, is amended by amending Subdivisions (1) and (4) and adding Subdivisions (1-a) and (6) to read as follows:

(1) "Applied research" means research directed at gaining the knowledge or understanding necessary to meet a specific and recognized need, including the discovery of new scientific knowledge that has specific objectives relating to products or processes.

(1-a) "Basic research" means research the primary object of which is to gain a fuller fundamental knowledge of the subject under study.

(4) "Research program [Program]" means the Norman Hackerman advanced research program established under this chapter.

(6) "Technology program" means the advanced technology program established under this chapter.

SECTION 53. The heading to Section 142.002, Education Code, is amended to read as follows:

Sec. 142.002. NORMAN HACKERMAN ADVANCED RESEARCH PROGRAM; PURPOSE.

SECTION 54. Section 143.002, Education Code, is transferred to Chapter 142, Education Code, redesignated as Section 142.0025, Education Code, and amended to read as follows:

Sec. 142.0025 [~~143.002~~]. ADVANCED TECHNOLOGY PROGRAM [ESTABLISHMENT]; PURPOSE. (a) It is essential to the state's economic growth that the state ~~[#]~~ exploit the potential of technology to advance the development and growth of technology and that industry be promoted and expanded. The advanced technology program is established as a means to accomplish this purpose.

(b) Providing appropriated funds to faculty members of institutions of higher education [public] and private or independent institutions of higher education to conduct applied research is important to the state's welfare and, consequently, is an important public purpose for the expenditure of public funds because the applied research will enhance the state's economic growth by:

- (1) educating the state's scientists and engineers;
- (2) creating new products and production processes; and
- (3) contributing to the application of science and technology to state businesses.

SECTION 55. Section 142.003, Education Code, is amended to read as follows:

Sec. 142.003. ADMINISTRATION; GUIDELINES AND PROCEDURES. (a) The coordinating board shall administer the technology program and the research program.

(b) The coordinating board shall appoint an advisory committee that consists of experts in the specified research areas of both programs to advise the coordinating board regarding the coordinating board's development of research priorities, guidelines, and procedures for the selection of specific projects at eligible institutions.

(c) The guidelines and procedures developed for the research program by the coordinating board must:

(1) provide for awards on a competitive, peer review basis for specific projects at eligible institutions; and

(2) require that, as a condition of receiving an award, an eligible institution must use a portion of the award to support, in connection with the project for which the award is made, basic research conducted by:

(A) graduate or undergraduate students, if the eligible institution is a medical and dental unit; or

(B) undergraduate students, if the eligible institution is any other eligible institution [of higher education].

(d) The guidelines and procedures developed for the technology program by the coordinating board must:

(1) provide for determining whether an institution of higher education or private or independent institution of higher education qualifies as an eligible institution for the purposes of the technology program 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 facilities; and

(2) provide for awards on a competitive, peer review basis for specific projects at eligible institutions.

(e) The coordinating board shall encourage projects under the technology program that leverage funds from other sources and projects that propose innovative, collaborative efforts:

- (1) across academic disciplines;
- (2) among two or more eligible institutions; or
- (3) between an eligible institution or institutions and private industry.

SECTION 56. Section 143.003, Education Code, is transferred to Chapter 142, Education Code, redesignated as Section 142.0035, Education Code, and amended to read as follows:

Sec. 142.0035 [~~143.003~~]. TECHNOLOGY PROGRAM: PRIORITY RESEARCH AREAS. The technology program may provide support for faculty members to conduct research in areas determined by an advisory panel appointed by the coordinating board. Initial research areas shall include: agriculture, biotechnology, biomedicine, energy, environment, materials science, microelectronics, aerospace, marine science, aquaculture, telecommunications, manufacturing science, environmental issues affecting the Texas-Mexico border region, the reduction of industrial, agricultural, and domestic water use, recycling, and related disciplines. The advisory committee appointed under Section 142.003(b) [~~panel~~] may add or delete priority research areas as the advisory committee [~~panel~~] considers warranted.

SECTION 57. Section 142.004, Education Code, is amended by amending Subsections (a) and (c) and adding Subsections (c-1) and (f) to read as follows:

(a) The programs created under this chapter are [~~program is~~] funded by appropriations and by gifts, grants, and donations made for purposes of each [~~the~~] program.

(c) The funds allocated [~~appropriated~~] for the research program may be expended to support the particular projects for which an award is made and may not be expended for the general support of ongoing research at an eligible institution or for the construction or remodeling of a facility.

(c-1) The funds allocated for the technology program may be:

(1) expended to support particular research projects for which an award is made, and may not be expended for the general support of ongoing research and instruction at an eligible institution or for the construction or remodeling of a facility; and

(2) used to match a grant provided by private industry for a particular collaborative research project with an eligible institution.

(f) The advisory committee appointed under Section 142.003(b) shall determine when and to what extent funds appropriated under this chapter will be allocated to each program under this chapter unless the legislature specifies a division in the General Appropriations Act.

SECTION 58. Sections 142.006 and 142.007, Education Code, are amended to read as follows:

Sec. 142.006. MERIT REVIEW. (a) The coordinating board shall appoint a committee that consists of experts in the specified research areas to evaluate the research program's effectiveness and report its findings to the coordinating board not later than January 31 of each odd-numbered year.

(b) The coordinating board shall appoint a committee consisting of representatives of higher education and private enterprise advanced technology research organizations to evaluate the technology program's effectiveness and report its findings to the coordinating board not later than January 31 of each odd-numbered year.

Sec. 142.007. CONFIDENTIALITY. Information submitted as part of a pre-proposal or proposal or related to the evaluation and selection of research projects to be funded by the research program or technology program is confidential unless made public by coordinating board rule.

SECTION 59. Section 143.0051, Education Code, is transferred to Chapter 142, Education Code, and redesignated as Section 142.009, Education Code, to read as follows:

Sec. 142.009 [~~143.0051~~]. APPLIED RESEARCH FOR CLEAN COAL PROJECT AND OTHER PROJECTS FOR ELECTRICITY GENERATION. The coordinating board shall use money available for the purpose from legislative appropriations, including gifts, grants, and donations, to support at one or more eligible institutions applied research related to:

(1) the development, construction, and operation in this state of a clean coal project, as defined by Section 5.001, Water Code; or

(2) electricity generation using lignite coal deposits in this state or integrated gasification combined cycle technology.

SECTION 60. Subsection (f), Section 130.0012, Education Code, is amended to read as follows:

(f) Each public junior college that offers a baccalaureate degree program under this section must enter into an articulation agreement for the first five years of the program with one or more general academic teaching institutions to ensure that students enrolled in the degree program have an opportunity to complete the degree if the public junior college ceases to offer the degree program. The coordinating board may require a general academic teaching institution that offers a comparable degree program to enter into an articulation agreement with the public junior college as provided by this subsection.

SECTION 61. Subsection (f), Section 42.0421, Human Resources Code, as added by Chapter 82 (S.B. 265), Acts of the 82nd Legislature, Regular Session, 2011, is amended to read as follows:

(f) The training required by this section must be appropriately targeted and relevant to the age of the children who will receive care from the individual receiving training and must be provided by a person who:

(1) is a training provider registered with the Texas Early Care and Education Career Development System's Texas Trainer Registry that is maintained by the Texas Head Start State Collaboration Office;

(2) is an instructor at a public or private secondary school, an [or at a public or private] institution of higher education, as defined by Section 61.003 [~~61.801~~], Education Code, or a private college or university accredited by a recognized accrediting agency who teaches early childhood development or another relevant course, as determined by rules adopted by the commissioner of education and the commissioner of higher education;

- (3) is an employee of a state agency with relevant expertise;
- (4) is a physician, psychologist, licensed professional counselor, social worker, or registered nurse;
- (5) holds a generally recognized credential or possesses documented knowledge relevant to the training the person will provide;
- (6) is a registered family home care provider or director of a day-care center or group day-care home in good standing with the department, if applicable, and who:
  - (A) has demonstrated core knowledge in child development and caregiving; and
  - (B) is only providing training at the home or center in which the provider or director and the person receiving training are employed; or
- (7) has at least two years of experience working in child development, a child development program, early childhood education, a childhood education program, or a Head Start or Early Head Start program and:
  - (A) has been awarded a Child Development Associate (CDA) credential; or
  - (B) holds at least an associate's degree in child development, early childhood education, or a related field.

SECTION 62. The following provisions of the Education Code are repealed:

- (1) Chapters 144, 147, 148, and 152;
- (2) Subchapters J, M, Q, and X, Chapter 51;
- (3) Subchapters B and D, Chapter 57;
- (4) Subchapters K, P, Q, U, and W, Chapter 61;
- (5) Section 51.916; Subsection (f), Section 52.17; Section 52.56; Subsections (c) and (d), Section 56.307; Subsection (d), Section 56.456; Subsections (c) and (d), Section 56.459; Subsection (e), Section 56.407; Subsections (b), (c), (d), and (e), Section 58.002; Section 61.0573; and Subsection (c), Section 61.058;
- (6) Subdivisions (1) and (3), Section 57.02;
- (7) Sections 57.41, 57.42, 57.43, 57.44, 57.45, 57.46, 57.461, 57.47, 57.471, 57.481, 57.50, 58.001, 58.003, 58.004, and 58.005;
- (8) Subsections (b), (c), (d), (e), (f), (g), (i), (j), (k), (m), (o), (p), and (q), Section 61.051;
- (9) Subsections (i) and (i-1), Section 61.059; Sections 61.0591, 61.0631, and 61.066; Subsection (d), Section 61.0761; Sections 61.078, 61.088, and 61.660; and Subsection (c), Section 62.096; and
- (10) Sections 143.001, 143.004, 143.005, 143.007, and 143.008.

SECTION 63. The changes in law made by this Act to Section 52.39, Education Code, apply only to a suit filed under that section on or after the effective date of this Act. A suit filed under Section 52.39, Education Code, before the effective date of this Act is governed by the law in effect on the date the suit is filed, and the former law is continued in effect for that purpose.

SECTION 64. (a) The change in law made by this Act to Subchapter M, Chapter 56, Education Code, applies beginning with TEXAS grants awarded for the 2014 fall semester. Grants awarded for a semester or term before the 2014 fall semester are governed by the applicable law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(b) Notwithstanding Subsection (a) of this section, a student who first receives a TEXAS grant for attendance at a public junior college, public state college, or public technical institute for a semester or other academic term before the 2014 fall semester may continue to receive a TEXAS grant under Subchapter M, Chapter 56, Education Code, as that subchapter existed immediately before the effective date of this Act, as long as the student remains eligible for a TEXAS grant under the former law, and, if eligible, may continue to receive a TEXAS grant if the student enrolls at an eligible institution under Subchapter M, Chapter 56, Education Code, as amended by this Act. The Texas Higher Education Coordinating Board shall adopt rules to administer this subsection and shall notify each student who receives a TEXAS grant in the 2013-2014 academic year of the provisions of this subsection.

SECTION 65. (a) The change in law made by this Act in amending Subchapter Q, Chapter 56, Education Code, applies beginning with Texas B-On-time loans awarded for the 2014-2015 academic year.

(b) Notwithstanding Subsection (a) of this section, a student who first receives a Texas B-On-time loan for a semester or other academic term before the 2014 fall semester may continue to receive Texas B-On-time loans under Subchapter Q, Chapter 56, Education Code, as that subchapter existed immediately before the effective date of this Act, as long as the student remains eligible for a Texas B-On-time loan under the former law, and is entitled to obtain forgiveness of the loans as permitted by Section 56.462, Education Code, as that section existed immediately before the effective date of this Act. The Texas Higher Education Coordinating Board shall adopt rules to administer this subsection and shall notify each student who receives a Texas B-On-time loan in the 2013-2014 academic year of the provisions of this subsection.

SECTION 66. The changes in law made by this Act to Section 61.052, Education Code, apply to the comprehensive lists of courses offered by public institutions of higher education beginning with lists required to be submitted for the 2014-2015 academic year. Course lists for an academic year before that academic year are covered by the law in effect before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 67. The Texas Higher Education Coordinating Board shall adopt rules for the administration of Section 61.0763, Education Code, as added by this Act, as soon as practicable after this Act takes effect. For that purpose, the coordinating board may adopt the initial rules in the manner provided by law for emergency rules.

SECTION 68. The Texas Higher Education Coordinating Board shall adopt rules as required by Section 61.07761, Education Code, as added by this Act, as soon as practicable after this Act takes effect. For that purpose, the coordinating board may adopt the initial rules in the manner provided by the law for emergency rules.

SECTION 69. This Act takes effect September 1, 2013.

The Conference Committee Report on **SB 215** was filed with the Secretary of the Senate.



**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 270**

Senator Seliger submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 270** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

SELIGER  
HUFFMAN  
HINOJOSA  
DUNCAN  
SCHWERTNER  
On the part of the Senate

HERRERO  
GONZÁLEZ, MARY  
PRICE  
CANALES  
CARTER  
On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to a limited exception to the prohibition on releasing personal information about a juror collected during the jury selection process in certain cases.

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

SECTION 1. Article 35.29, Code of Criminal Procedure, is amended to read as follows:

Art. 35.29. PERSONAL INFORMATION ABOUT JURORS. (a) Except as provided by Subsections (b) and (c), information ~~Information~~ collected by the court or by a prosecuting attorney during the jury selection process about a person who serves as a juror, including the juror's home address, home telephone number, social security number, driver's license number, and other personal information, is confidential and may not be disclosed by the court, the prosecuting attorney, the defense counsel, or any court personnel.

(b) On ~~except 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 described by Subsection (a), the court shall, on in which the person is serving or did serve as a juror. On a showing of good cause, ~~the court shall~~ permit disclosure of the information sought.

(c) The defense counsel may disclose information described by Subsection (a) to successor counsel representing the same defendant in a proceeding under Article 11.071 without application to the court or a showing of good cause.

SECTION 2. The change in law made by this Act applies to an application for a writ of habeas corpus under Article 11.071, Code of Criminal Procedure, that is pending on the effective date of this Act or filed on or after that date.

SECTION 3. This Act takes effect September 1, 2013.

The Conference Committee Report on **SB 270** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 58

Senator Nelson submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 58** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

NELSON  
HUFFMAN  
NICHOLS  
TAYLOR  
URESTI

On the part of the Senate

ZERWAS  
DAVIS, JOHN  
NAISHTAT  
PRICE  
ROSE

On the part of the House

#### A BILL TO BE ENTITLED AN ACT

relating to delivery of and reporting on mental health, behavioral health, substance abuse, and certain other services.

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

SECTION 1. Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.00255 to read as follows:

Sec. 533.00255. BEHAVIORAL HEALTH AND PHYSICAL HEALTH SERVICES NETWORK. (a) In this section, "behavioral health services" means mental health and substance abuse disorder services, other than those provided through the NorthSTAR demonstration project.

(b) The commission shall, to the greatest extent possible, integrate into the Medicaid managed care program implemented under this chapter the following services for Medicaid-eligible persons:

- (1) behavioral health services, including targeted case management and psychiatric rehabilitation services; and  
(2) physical health services.

(c) A managed care organization that contracts with the commission under this chapter shall 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.

(d) In implementing this section, the commission shall ensure that:

(1) an appropriate assessment tool is used to authorize services;  
(2) providers are well-qualified and able to provide an appropriate array of services;

(3) appropriate performance and quality outcomes are measured;  
(4) 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) a serious mental illness; and

(B) at least one other chronic health condition;

(5) a health home established under a pilot program under Subdivision (4) complies with the principles for patient-centered medical homes described in Section 533.0029; and

(6) all behavioral health services provided under this section are based on an approach to treatment where the expected outcome of treatment is recovery.

(e) The commission and the Department of State Health Services shall establish a Behavioral Health Integration Advisory Committee:

(1) whose membership must include:

(A) individuals with behavioral health conditions who are current or former recipients of publicly funded behavioral health services;

(B) representatives of managed care organizations that have expertise in offering behavioral health services;

(C) public and private providers of behavioral health services; and

(D) providers of behavioral health services who are both Medicaid primary care providers and providers for individuals that are dually eligible for Medicaid and Medicare; and

(2) that shall:

(A) meet at least quarterly to address the planning and development needs of the behavioral health services network established under this section;

(B) seek input from the behavioral health community on the implementation of this section; and

(C) issue formal recommendations to the commission regarding the implementation of this section.

(f) The commission shall provide administrative support to facilitate the duties of the advisory committee established under Subsection (e). This subsection and Subsection (e) expire September 1, 2017.

(g) The commission shall, if the commission determines that it is cost-effective and beneficial to recipients, include a peer specialist as a benefit to recipients or as a provider type.

(h) To the extent of any conflict between this section and any other law relating to behavioral health services, this section prevails.

(i) The executive commissioner shall adopt rules necessary to implement this section.

SECTION 2. Subtitle I, Title 4, Government Code, is amended by adding Chapter 539 to read as follows:

CHAPTER 539. COMMUNITY COLLABORATIVES

Sec. 539.001. DEFINITIONS. In this chapter:

(1) "Department" means the Department of State Health Services.

(2) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

Sec. 539.002. GRANTS FOR ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLABORATIVES. (a) To the extent funds are appropriated to the department for that purpose, the department shall make grants to entities, including local governmental entities, nonprofit community organizations, and faith-based community organizations, to establish or expand community collaboratives that bring the public and private sectors together to provide services to persons experiencing homelessness and mental illness. The department may make a maximum of five grants, which must be made in the most populous municipalities in this state that are located in counties with a population of more than one million. In awarding grants, the department shall give special consideration to entities establishing a new collaborative.

(b) The department shall require each entity awarded a grant under this section to:

(1) leverage additional funding from private sources in an amount that is at least equal to the amount of the grant awarded under this section; and

(2) provide evidence of significant coordination and collaboration between the entity, local mental health authorities, municipalities, and other community stakeholders in establishing or expanding a community collaborative funded by a grant awarded under this section.

Sec. 539.003. ACCEPTABLE USES OF GRANT MONEY. An entity shall use money received from a grant made by the department and private funding sources for the establishment or expansion of a community collaborative, provided that the collaborative must be self-sustaining within seven years. Acceptable uses for the money include:

(1) the development of the infrastructure of the collaborative and the start-up costs of the collaborative;

(2) the establishment, operation, or maintenance of other community service providers in the community served by the collaborative, including intake centers, detoxification units, sheltering centers for food, workforce training centers, microbusinesses, and educational centers;

(3) the provision of clothing, hygiene products, and medical services to and the arrangement of transitional and permanent residential housing for persons served by the collaborative;

(4) the provision of mental health services and substance abuse treatment not readily available in the community served by the collaborative;

(5) the provision of information, tools, and resource referrals to assist persons served by the collaborative in addressing the needs of their children; and

(6) the establishment and operation of coordinated intake processes, including triage procedures, to protect the public safety in the community served by the collaborative.

Sec. 539.004. ELEMENTS OF COMMUNITY COLLABORATIVES. (a) If appropriate, an entity may incorporate into the community collaborative operated by the entity the use of the Homeless Management Information System, transportation plans, and case managers. An entity may also consider incorporating into a collaborative mentoring and volunteering opportunities, strategies to assist homeless youth and homeless families with children, strategies to reintegrate persons who were recently incarcerated into the community, services for veterans, and strategies for persons served by the collaborative to participate in the planning, governance, and oversight of the collaborative.

(b) The focus of a community collaborative shall 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.

Sec. 539.005. OUTCOME MEASURES FOR COMMUNITY COLLABORATIVES. Each entity that receives a grant from the department to establish or expand a community collaborative shall select at least four of the following outcome measures that the entity will focus on meeting through the implementation and operation of the collaborative:

(1) persons served by the collaborative will find employment that results in those persons having incomes that are at or above 100 percent of the federal poverty level;

(2) persons served by the collaborative will find permanent housing;

(3) persons served by the collaborative will complete alcohol or substance abuse programs;

(4) the collaborative will help start social businesses in the community or engage in job creation, job training, or other workforce development activities;

(5) there will be a decrease in the use of jail beds by persons served by the collaborative;

(6) there will be a decrease in the need for emergency care by persons served by the collaborative;

(7) there will be a decrease in the number of children whose families lack adequate housing referred to the Department of Family and Protective Services or a local entity responsible for child welfare; and

(8) any other appropriate outcome measure that measures whether a collaborative is meeting a specific need of the community served by the collaborative and that is approved by the department.

Sec. 539.006. ANNUAL REVIEW OF OUTCOME MEASURES. The department shall contract with an independent third party to verify annually whether a community collaborative is meeting the outcome measures under Section 539.005 selected by the entity that operates the collaborative.

Sec. 539.007. REDUCTION AND CESSATION OF FUNDING. The department shall establish processes by which the department may reduce or cease providing funding to an entity if the community collaborative operated by the entity

does not meet the outcome measures selected by the entity for the collaborative under Section 539.005 or is not self-sustaining after seven years. The department shall redistribute any funds withheld from an entity under this section to other entities operating high-performing collaboratives on a competitive basis.

Sec. 539.008. RULES. The executive commissioner shall adopt any rules necessary to implement the community collaborative grant program established under this chapter, including rules to establish the requirements for an entity to be eligible to receive a grant, the required elements of a community collaborative operated by an entity, and permissible and prohibited uses of money received by an entity from a grant made by the department under this chapter.

SECTION 3. Subchapter D, Chapter 1001, Health and Safety Code, is amended by adding Section 1001.078 to read as follows:

Sec. 1001.078. MENTAL HEALTH AND SUBSTANCE ABUSE PUBLIC REPORTING SYSTEM. (a) The department, in collaboration with the commission, shall 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, the department, and the commission. The system must allow external users to view and compare the performance, outputs, and outcomes of:

(1) community centers established under Subchapter A, Chapter 534, that provide mental health services;

(2) Medicaid managed care pilot programs that provide mental health services; and

(3) agencies, organizations, and persons that contract with the state to provide substance abuse services.

(b) The system must allow external users to view and compare the performance, outputs, and outcomes of the Medicaid managed care programs that provide mental health services.

(c) The department shall post the performance, output, and outcome measures on the department's website so that the information is accessible to the public. The department shall post the measures quarterly or semiannually in accordance with when the measures are reported to the department.

(d) The department shall consider public input in determining the appropriate outcome measures to collect in the public reporting system. To the extent possible, the department shall 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.

(e) The commission shall 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 impact on managed care organizations and providers of collecting the outcome measures required by Subsection (d). Not later than December 1, 2014, the commission shall report the results of the study to the legislature and appropriate legislative committees.

(f) The department shall ensure that information reported through the public reporting system does not permit the identification of an individual.

SECTION 4. Not later than December 1, 2013, the Health and Human Services Commission shall establish the Behavioral Health Integration Advisory Committee required by Section 533.00255, Government Code, as added by this Act.

SECTION 5. Not later than September 1, 2014, the Health and Human Services Commission shall complete the integration of behavioral health and physical health services required by Section 533.00255, Government Code, as added by this Act.

SECTION 6. Not later than December 1, 2013, the Department of State Health Services shall establish the public reporting system as required under Section 1001.078, Health and Safety Code, as added by this Act.

SECTION 7. Not later than December 1, 2014, the Department of State Health Services shall submit a report to the legislature and the Legislative Budget Board on the development of the public reporting system as required by Section 1001.078, Health and Safety Code, as added by this Act, and the outcome measures collected.

SECTION 8. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 9. This Act takes effect September 1, 2013.

The Conference Committee Report on **SB 58** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3142

Senator Estes submitted the following Conference Committee Report:

Austin, Texas  
May 23, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3142** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ESTES  
SCHWERTNER  
URESTI  
HINOJOSA  
HEGAR

On the part of the Senate

BELL  
FLYNN  
NEVÁREZ  
PICKETT  
SHEETS

On the part of the House

The Conference Committee Report on **HB 3142** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 773**

Senator Schwertner submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 773** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SCHWERTNER  
CAMPBELL  
LUCIO  
PATRICK

FARNEY  
AYCOCK  
BRANCH

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 773** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 910**

Senator Duncan submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 910** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

DUNCAN  
DEUELL  
HUFFMAN  
LUCIO  
VAN DE PUTTE

MORRISON  
MILES  
SIMMONS  
JOHNSON

On the part of the Senate

On the part of the House



A BILL TO BE ENTITLED  
AN ACT

relating to certain election practices and procedures.

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

SECTION 1. Subsection (c), Section 1.007, Election Code, is amended to read as follows:

(c) A delivery, submission, or filing of a document or paper under this code may be made by personal delivery, mail, telephonic facsimile machine, or any other method of transmission.

SECTION 2. Subsection (a), Section 13.002, Election Code, is amended to read as follows:

(a) A person desiring to register to vote must submit an application to the registrar of the county in which the person resides. Except as provided by Subsection (e), an application must be submitted by personal delivery, ~~or~~ by mail, or by telephonic facsimile machine in accordance with Sections 13.143(d) and (d-2).

SECTION 3. Section 13.143, Election Code, is amended by amending Subsection (d) and adding Subsections (d-1) and (d-2) to read as follows:

(d) For purposes of determining the effective date of a registration, an application submitted by:

(1) mail is considered to be submitted to the registrar on the date it is placed with postage prepaid and properly addressed in the United States mail; or

(2) telephonic facsimile machine is considered to be submitted to the registrar on the date the transmission is received by the registrar, subject to Subsection (d-2).

(d-1) The date indicated by the post office cancellation mark is considered to be the date the application was placed in the mail unless proven otherwise.

(d-2) For a registration application submitted by telephonic facsimile machine to be effective, a copy of the registration application must be submitted by mail and be received by the registrar not later than the fourth business day after the transmission by telephonic facsimile machine is received.

SECTION 4. Section 16.001, Election Code, is amended by adding Subsection (e) to read as follows:

(e) The information required to be filed with the secretary of state under this section must be filed electronically. The secretary of state may waive this requirement on application for a waiver submitted by the appropriate entity.

SECTION 5. Subsection (b), Section 31.006, Election Code, is amended to read as follows:

(b) The documents submitted ~~[to the attorney general]~~ under Subsection (a) are not considered public information until:

(1) the secretary of state makes a determination that the complaint received does not warrant an investigation; or

(2) if referred to the attorney general, the attorney general has completed the investigation or has made a determination that the complaint referred does not warrant an investigation.

SECTION 6. Section 32.054, Election Code, is amended by adding Subsection (d) to read as follows:

(d) Notwithstanding Subsection (b), a person employed by a county solely as an early voting clerk appointed under Chapter 83 is not employed by a candidate for purposes of this section.

SECTION 7. Subchapter C, Chapter 52, Election Code, is amended by adding Section 52.075 to read as follows:

Sec. 52.075. MODIFICATION OF BALLOT FORM FOR CERTAIN VOTING SYSTEMS. The secretary of state may prescribe the form and content of a ballot for an election using a voting system, including an electronic voting system or a voting system that uses direct recording electronic voting machines, to conform to the formatting requirements of the system.

SECTION 8. Section 63.0011, Election Code, is amended by adding Subsection (f) to read as follows:

(f) Information included on a statement of residence under Subsection (c)(2) is subject to Section 13.004(c).

SECTION 9. Subsection (c), Section 84.007, Election Code, is amended to read as follows:

(c) An application must be submitted on or after the 60th day before election day and before the close of regular business in the early voting clerk's office or 12 noon, whichever is later, on the ninth ~~seventh~~ day before election day unless that day is a Saturday, Sunday, or legal state or national holiday, in which case the last day is the first preceding regular business day.

SECTION 10. Section 85.034, Election Code, is amended to read as follows:

Sec. 85.034. VOTER UNABLE TO ENTER POLLING PLACE. ~~[(a)]~~ Early voting by personal appearance by a voter who is voting outside the early voting polling place ~~[under Section 64.009]~~ shall be conducted pursuant to Section 64.009 ~~[in accordance with this section if voting at the early voting polling place is by voting machine].~~

~~[(b) The early voting clerk shall furnish each accepted voter with the early voting ballot used for voting by mail and the official ballot envelope.~~

~~[(c) The voter must mark the ballot and seal it in the envelope.~~

~~[(d) Immediately after sealing the ballot envelope, the voter must give it to the clerk. Before depositing the envelope in the ballot box, the clerk shall indicate on the envelope that the ballot was voted outside the polling place under this section.~~

~~[(e) The secretary of state may provide for the use of envelopes or other containers instead of ballot boxes in which to deposit ballots voted under this section.]~~

SECTION 11. Subsection (a), Section 86.014, Election Code, is amended to read as follows:

(a) A copy of an application for a ballot to be voted by mail is not available for public inspection, except to the voter seeking to verify that the information pertaining to the voter is accurate, until the first business day after the election day of the latest occurring election for which the application is submitted.

SECTION 12. Section 141.031, Election Code, is amended by adding Subsection (d) to read as follows:

(d) The secretary of state may prescribe a different form for an application for a place on the ballot for each of the following:

(1) an office of the federal government;

- (2) an office of the state government; or
- (3) an office of a political party.

SECTION 13. Subsection (a), Section 144.005, Election Code, is amended to read as follows:

(a) Except as provided by Subsection (d), an application for a place on the ballot must be filed not later than 5 p.m. of the 62nd day before election day. Notwithstanding any other law outside this code, an application may not be filed earlier than the 30th day before the date of the filing deadline.

SECTION 14. Subsection (a), Section 145.096, Election Code, is amended to read as follows:

(a) Except as provided by Subsection (b), a candidate's name shall be placed on the ballot if the candidate:

(1) dies on or after the second day before the deadline for filing the candidate's application for a place on the ballot;

(2) is declared ineligible after 5 p.m. of the third ~~[second]~~ day after the deadline for filing the candidate's application for a place on the ballot ~~[before the beginning of early voting by personal appearance]~~, in an election subject to Section 145.092(a);

(3) is declared ineligible after 5 p.m. of the 53rd day before election day, in an election subject to Section 145.092(b); or

(4) is declared ineligible after 5 p.m. of the 71st day before election day, in an election subject to Section 145.092(f).

SECTION 15. Subsections (a) and (b), Section 172.054, Election Code, are amended to read as follows:

(a) The deadline for filing an application for a place on the general primary election ballot is extended as provided by this section if a candidate who has made an application that complies with the applicable requirements:

(1) dies on or after the fifth day before the date of the regular filing deadline and on or before the first ~~[79th]~~ day after the date of the regular filing deadline ~~[before general primary election day]~~;

(2) holds the office for which the application was made and withdraws or is declared ineligible on ~~[or after]~~ the date of the regular filing deadline ~~[and on]~~ or ~~[before]~~ the first ~~[79th]~~ day after the date of the regular filing deadline ~~[before general primary election day]~~; or

(3) withdraws or is declared ineligible during the period prescribed by Subdivision (2), and at the time of the withdrawal or declaration of ineligibility no other candidate has made an application that complies with the applicable requirements for the office sought by the withdrawn or ineligible candidate.

(b) An application for an office sought by a withdrawn, deceased, or ineligible candidate must be filed not later than 6 p.m. of the fifth day after the date of the regular filing deadline ~~[81st day before general primary election day]~~. An application filed by mail with the state chair is not timely if received later than 5 p.m. of the fifth day after the date of the regular filing deadline ~~[81st day before general primary election day]~~.

SECTION 16. Section 172.057, Election Code, is amended to read as follows:

Sec. 172.057. ~~WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME OMITTED FROM GENERAL PRIMARY BALLOT.~~ A candidate's name shall be omitted from the general primary election ballot if the candidate withdraws, dies, or is declared ineligible on or before the first [79th] day after the date of the regular filing deadline ~~[before general primary election day].~~

SECTION 17. Subsection (a), Section 172.058, Election Code, is amended to read as follows:

(a) If a candidate who has made an application for a place on the general primary election ballot that complies with the applicable requirements dies or is declared ineligible after the first [79th] day after the date of the regular filing deadline ~~[before general primary election day]~~, the candidate's name shall be placed on the ballot and the votes cast for the candidate shall be counted and entered on the official election returns in the same manner as for the other candidates.

SECTION 18. Section 201.052, Election Code, is amended to read as follows:

Sec. 201.052. DATE OF ELECTION. (a) Except as otherwise provided by this code, a special election to fill a vacancy shall be held on the first authorized uniform election date occurring on or after the 45th [30th] day after the date the election is ordered.

(b) If a law outside this code authorizes the holding of the election on a date earlier than the 45th [30th] day after the date of the order, the election shall be held on the first authorized uniform election date occurring on or after the earliest date that the election could be held under that law.

SECTION 19. Subsection (a), Section 201.054, Election Code, is amended to read as follows:

(a) Except as provided by Subsection (f), a candidate's application for a place on a special election ballot must be filed not later than:

(1) 5 p.m. of the 62nd day before election day, if election day is on or after the 70th day after the date the election is ordered; or

(2) 5 p.m. of the 45th [31st] day before election day, if election day is on or after the 57th [36th] day and before the 70th day after the date the election is ordered; ~~or~~

~~[(3) 5 p.m. of a day fixed by the authority ordering the election, which day must be not earlier than the fifth day after the date the election is ordered and not later than the 20th day before election day, if election day is before the 36th day after the date the election is ordered].~~

SECTION 20. Subsections (a) and (c), Section 202.004, Election Code, are amended to read as follows:

(a) A political party's nominee for an unexpired term must be nominated by primary election if:

(1) the political party is making nominations by primary election for the general election in which the vacancy is to be filled; and

(2) the vacancy occurs on or before the fifth [62nd] day before the date of the regular deadline for candidates to file applications for a place on the general primary ballot ~~[general primary election day].~~

(c) If the vacancy occurs after the 10th day before the date of the regular filing deadline, an application for the unexpired term must be filed not later than 6 [5] p.m. of the fifth day after the date of the regular filing deadline ~~[15th day after the date the vacancy occurs or 5 p.m. of the 60th day before general primary election day, whichever is earlier]~~.

SECTION 21. Section 215.002, Election Code, is amended to read as follows:

Sec. 215.002. ASSESSABLE COSTS. Only the following costs of a recount are assessable against a person:

(1) compensation of members of a recount committee as provided by Section 213.004;

(2) charges for use of automatic tabulating equipment as provided by Section 214.044;

(3) a service charge of \$15 for each recount supervisor involved in the recount as a reimbursement to the fund from which the telephone, postage, and other office expenses of the recount supervisor are paid; ~~and~~

(4) in a recount of an election for which the final canvass is at the state level, a service charge of \$15 for each recount supervisor involved in the recount plus an additional \$50 as a reimbursement to the fund from which the telephone, postage, and other office expenses of the recount coordinator are paid; and

(5) the actual expense incurred in producing a printed ballot image from an electronic voting system record.

SECTION 22. Section 62.113, Government Code, is amended by adding Subsection (e) to read as follows:

(e) The information required to be filed with the secretary of state under this section must be filed electronically. The secretary of state may waive this requirement on application for a waiver submitted by the clerk.

SECTION 23. Subsection (f), Section 86.001, Election Code, is repealed.

SECTION 24. This Act takes effect September 1, 2013.

The Conference Committee Report on **SB 910** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 281

Senator Estes submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 281** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

ESTES  
ELTIFE  
HEGAR  
FRASER  
URESTI

On the part of the Senate

FRANK  
KING, TRACY O.  
LARSON  
LAVENDER  
SPRINGER

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the administration and powers of the Red River Authority of Texas.

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

SECTION 1. Chapter 279, Acts of the 56th Legislature, Regular Session, 1959, is amended by adding Section 7a to read as follows:

Sec. 7a. The Authority's Board of Directors or a Board committee may hold a meeting by telephone conference call, by video conference call, or through communications over the Internet, in accordance with procedures provided by Subchapter F, Chapter 551, Government Code, if holding the meeting in that way is determined to be necessary or convenient by the Board president or any three Board members.

SECTION 2. Section 19, Chapter 279, Acts of the 56th Legislature, Regular Session, 1959, is amended to read as follows:

Sec. 19. Said Authority shall have and may exercise such functions, powers, authority, rights and duties as may permit the accomplishment of 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, as provided by Section 19a, 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 shall not engage in the generation or distribution of electric power except as provided by Section 14b of this Act. The right of eminent domain shall not be exercised or extend beyond the boundaries of this District.

SECTION 3. Chapter 279, Acts of the 56th Legislature, Regular Session, 1959, is amended by adding Section 19a to read as follows:

Sec. 19a. The Authority may purchase groundwater rights in a county in the Authority's territory only if:

(1) there is a groundwater conservation district that has jurisdiction over water wells located in the county; or

(2) in the case where a county is not in the jurisdiction of a groundwater conservation district, the commissioners court of the county approves the purchase of groundwater rights by the Authority in the county.

SECTION 4. Section 25, Chapter 279, Acts of the 56th Legislature, Regular Session, 1959, is amended to read as follows:

Sec. 25. Nothing in this Act shall be construed as authorizing the Authority to acquire or~~;~~ 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 ~~[- This Act is intended to govern and shall be construed to govern and apply to surface water only].~~

SECTION 5. This Act takes effect September 1, 2013.

The Conference Committee Report on **SB 281** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1897

Senator Carona submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1897** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

CARONA  
WEST  
DEUELL  
TAYLOR

EILAND  
ANCHIA  
HARLESS  
HUBERTY  
KACAL

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 1897** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 217

Senator Patrick submitted the following Conference Committee Report:

Austin, Texas  
May 23, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 217** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

PATRICK  
BIRDWELL  
GARCIA  
HUFFMAN  
WHITMIRE

On the part of the Senate

ANCHIA  
SIMMONS  
BONNEN, DENNIS  
ORR  
STRAMA

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the continuation and functions of the state employee charitable campaign.

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

SECTION 1. Subdivision (11), Section 659.131, Government Code, is amended to read as follows:

(11) "Local campaign area" means an area established by the state policy committee under Section 659.140(e)(1)(A) [the county or counties] in which a local campaign is conducted as part of the [manager conducts a] state employee charitable campaign.

SECTION 2. Subsection (g), Section 659.132, Government Code, is amended to read as follows:

(g) An authorization must direct the comptroller to distribute the deducted funds to a participating federation or fund or a local charitable organization selected by the state policy committee [and a local campaign manager] as prescribed by rule.

SECTION 3. Subsection (a), Section 659.133, Government Code, is amended to read as follows:

(a) Participation by a state employee in a state employee charitable campaign is voluntary. The state [Each] campaign manager, any local employee committee or local campaign manager appointed by the state policy committee, each charitable organization, each state employee, and each state agency shall inform state employees that deductions are voluntary.

SECTION 4. Section 659.140, Government Code, is amended by amending Subsections (a), (b), (e), and (i) and adding Subsections (c-1) and (e-1) to read as follows:

(a) The state employee charitable campaign policy committee shall consist of nine [13] members.

(b) The governor with the advice and consent of the senate shall appoint two [four] members who are state employees at the time of their appointment and one member [three members] who is a [are] retired state employee [employees] receiving



benefits under Chapter 814. The lieutenant governor and the comptroller shall ~~[may]~~ appoint ~~[not more than]~~ three members each. An appointment to the committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee. The state policy committee shall elect a chair ~~[chairman]~~ biennially from its own membership.

(c-1) The governor, lieutenant governor, and comptroller shall attempt to appoint members to the state policy committee from institutions of higher education and a range of small, medium, and large state agencies.

(e) The state policy committee shall:

(1) establish the organization and structure of the state employee charitable campaign at the state and local levels, including:

(A) establishing local campaign areas ~~[based on recommendations by the state advisory committee];~~

(B) appointing any local employee committees the state policy committee considers necessary to assist the state policy committee with evaluating applications from organizations that seek to participate in the state employee charitable campaign only in a local campaign area; and

(C) appointing any local campaign managers the state policy committee considers necessary to administer the state employee charitable campaign in a local campaign area;

(2) develop a strategic plan for the state employee charitable campaign and make changes to improve the campaign as necessary;

(3) in coordination with the state campaign manager, post on the state employee charitable campaign Internet website annual summary information regarding the state employee charitable campaign's performance, including information about:

(A) state employee participation;

(B) the amount of donations pledged and collected;

(C) the amount of donations pledged to and received by each charitable organization;

(D) the total cost to administer the state employee charitable campaign;  
and

(E) the balance of any surplus account maintained by the state policy committee;

(4) ~~(2)~~ select as the state campaign manager:

(A) a federated community campaign organization; or

(B) a charitable organization determined by the state policy committee to have demonstrated the capacity to conduct a state campaign;

(5) enter into a contract with the state campaign manager selected under Subdivision (4) for the administration of the state employee charitable campaign;

(6) ~~(3)~~ determine the eligibility of:

(A) a federation or fund and its affiliated agencies for statewide participation in the state employee charitable campaign; and

(B) if the state policy committee does not appoint a local employee committee, a charitable organization for participation in the state employee charitable campaign in a local campaign area;

(7) develop in coordination with the state campaign manager, review, and approve:

(A) an annual [(4) approve the recommended] campaign plan;

(B) an annual[;] budget, including:

(i) costs related to contracting for the administration of the state employee charitable campaign at the state and local levels;

(ii) costs related to changes or improvements to the state employee charitable campaign; and

(iii) other costs determined and prioritized by the state policy committee; and

(C) generic materials to be used for the [by] campaign [managers];

(8) [(5)] oversee the state employee charitable campaign to ensure that all:

(A) campaign activities are conducted fairly and equitably to promote unified solicitation on behalf of all participants; and

(B) donations are appropriately distributed by a federation or fund or a charitable organization that receives money from the state employee charitable campaign; and

(9) [(6)] perform other duties prescribed by the comptroller's rules.

(e-1) The comptroller shall provide administrative support to the state policy committee, including assistance in:

(1) developing and overseeing contracts; and

(2) developing the budget of the state employee charitable campaign.

(i) The state employee charitable campaign policy committee is subject to the Texas Sunset Act. Unless continued in existence as provided by that chapter, the committee is abolished and Government Code, Chapter 659, Subchapter I, and Sections 814.0095 and 814.0096 expire on September 1, 2017 [2013].

SECTION 5. Subsection (c), Section 659.140, Government Code, as amended by Chapters 280 (H.B. 1608), 1249 (S.B. 1664), and 1015 (H.B. 2549), Acts of the 82nd Legislature, Regular Session, 2011, is reenacted and amended to read as follows:

(c) ~~[A member of the state policy committee may not receive compensation for serving on the committee and is not entitled to reimbursement from state funds for expenses incurred in performing functions as a member of the committee.]~~ The state policy committee must:

(1) be composed of employees and retired state employees receiving benefits under Chapter 814; and

(2) in its membership, represent employees at different levels of employee classification.

SECTION 6. Subchapter I, Chapter 659, Government Code, is amended by adding Sections 659.1401 and 659.1402 to read as follows:

Sec. 659.1401. GROUNDS FOR REMOVAL FROM STATE POLICY COMMITTEE. (a) It is a ground for removal from the state policy committee that a member:

(1) does not have at the time of taking office the qualifications required by Section 659.140;

(2) does not maintain during service on the state policy committee the qualifications required by Section 659.140;

(3) is ineligible for membership under Section 659.140;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled state policy committee meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the state policy committee.

(b) The validity of an action of the state policy committee is not affected by the fact that it is taken when a ground for removal of a state policy committee member exists.

(c) If the chair of the state policy committee has knowledge that a potential ground for removal exists, the chair shall notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the chair, another member of the state policy committee shall notify the governor and the attorney general that a potential ground for removal exists.

Sec. 659.1402. TRAINING FOR STATE POLICY COMMITTEE MEMBERS.

(a) A person who is appointed to and qualifies for office as a member of the state policy committee may not vote, deliberate, or be counted as a member in attendance at a meeting of the state policy committee until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the state employee charitable campaign;

(2) the programs, functions, rules, and budget of the state employee charitable campaign;

(3) the results of the most recent formal audit of the state employee charitable campaign;

(4) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and

(5) any applicable ethics policies adopted by the Texas Ethics Commission or adopted for the state employee charitable campaign by the state policy committee.

SECTION 7. Section 659.141, Government Code, is amended to read as follows:

Sec. 659.141. STATE CAMPAIGN MANAGER. The state campaign manager shall:

(1) assist the state policy committee to:

(A) develop a campaign plan;

(B) develop ~~[(2) prepare]~~ a [statewide] campaign budget [in cooperation with local campaign managers]; and

(C) ~~[(3)]~~ prepare generic materials to be used for the campaign [by campaign managers];

(2) ~~[(4)]~~ coordinate and facilitate campaign services to state employees throughout the state;

(3) ~~[(5)]~~ ensure that all state employee charitable campaign activities are conducted fairly and equitably to promote unified solicitation on behalf of all participants; ~~[and]~~

(4) ~~[(6)]~~ perform other duties prescribed by the comptroller's rules; and

(5) perform other duties required by the contract with the state policy committee.

SECTION 8. Subsections (b) and (e), Section 659.142, Government Code, are amended to read as follows:

(b) ~~Four members must represent campaign managers.~~ Four members must represent statewide or local federations or funds ~~[that are not campaign managers].~~ Four members must represent other charitable organizations participating in the state employee charitable campaign.

(e) The state advisory committee shall:

(1) advise the comptroller and state policy committee in adopting rules and establishing procedures for the operation and management of the state employee charitable campaign; and

(2) provide input from charitable organizations participating in the state employee charitable campaign to the state policy committee ~~[recommend the number, not to exceed 50, and geographic scope of local campaign areas to the state policy committee; and~~

~~[(3) review and submit the recommended campaign plan, budget, and generic materials to be used by campaign managers].~~

SECTION 9. Section 659.145, Government Code, is amended to read as follows:

Sec. 659.145. TERMS OF COMMITTEE MEMBERS; COMPENSATION.

(a) A member of the state advisory committee~~[, the state policy committee, or a local employee committee]~~ serves a two-year term.

(a-1) Members of the state policy committee serve staggered terms of two years, with the terms of four or five members expiring September 1 of each year.

(b) A member of the state advisory committee, the state policy committee, or a local employee committee appointed by the state policy committee may not receive compensation for serving on the committee and is not entitled to reimbursement from state funds for expenses incurred in performing functions as a member of the committee.

SECTION 10. Section 659.146, Government Code, is amended by amending Subsection (e) and adding Subsections (f) and (g) to read as follows:

(e) An appeal from a decision of the state policy committee shall be conducted in the manner prescribed by the committee. The appeals process must permit a charitable organization that is not approved for statewide participation to apply for participation in the [a local] state employee charitable campaign only in a local campaign area.

(f) The state policy committee shall develop guidelines for evaluation of applications based on eligibility criteria under this section and Section 659.150. The state policy committee shall make the guidelines publicly available.

(g) A federation or organization that participated in the state employee charitable campaign before June 20, 2003, is not barred from participation in the program, both in terms of actual participation and the purposes for which the contributions are used, solely as a result of changes made by Sections 35, 36, 37, and 121(9) and (11),

Chapter 1310 (H.B. 2425), Acts of the 78th Legislature, Regular Session, 2003. This subsection does not excuse a federation or organization from compliance with any other law, rule, or state policy.

SECTION 11. Section 659.147, Government Code, is amended to read as follows:

Sec. 659.147. ELIGIBILITY OF CHARITABLE ORGANIZATIONS FOR LOCAL PARTICIPATION. (a) A charitable organization that seeks to participate ~~[local participation]~~ in the ~~[a]~~ state employee charitable campaign only in a local campaign area must apply to the state policy committee ~~[appropriate local employee committee]~~ during the annual eligibility determination period specified by the state policy committee.

(b) The state policy committee, with assistance of any applicable local employee committee appointed by the state policy committee, shall review each application and may approve a charitable organization for ~~[local]~~ participation only in a local campaign area only if the organization qualifies as a local charitable organization and is:

- (1) an unaffiliated local organization; or
- (2) a federation or fund or an affiliate of a federation or fund that is not approved for statewide participation.

(c) An affiliated organization of an eligible federation or fund that does not qualify as a statewide charitable organization under Section 659.146 because it does not provide services in two or more noncontiguous standard metropolitan statistical areas may apply to the state policy committee ~~[a local employee committee]~~ for participation in the ~~[a local]~~ state employee charitable campaign only in a local campaign area.

(d) An appeal from a decision of the state policy committee regarding the eligibility of an organization to participate in the state employee charitable campaign only in a local campaign area ~~[a local employee committee]~~ shall be conducted in the manner prescribed by the state policy committee.

(e) The state policy committee shall develop guidelines for evaluation of applications based on eligibility criteria under this section and Section 659.150. The state policy committee shall make the guidelines publicly available.

SECTION 12. Section 659.148, Government Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (b-1) to read as follows:

(a) The state [A] campaign manager or any local campaign manager appointed by the state policy committee may not charge a fee to the comptroller, a state agency, or a state employee for the services the state campaign manager or local campaign manager provides in connection with a state employee charitable campaign.

(b) The state [A] campaign manager may charge a reasonable and necessary fee for actual campaign expenses in an amount authorized by the state policy committee to the participating charitable organizations in the same proportion that the contributions to that charitable organization bear to the total of contributions in the state employee charitable campaign.

(b-1) If the state policy committee appoints a local campaign manager to administer the state employee charitable campaign in a local campaign area, the state policy committee may authorize the local campaign manager to charge a reasonable and necessary fee in an amount authorized by the state policy committee in the same manner provided for the state campaign manager under Subsection (b).

(c) Fees [A fee] under Subsections [Subsection] (b) and (b-1) must be based on the combined expenses of the state campaign manager and any [each] local campaign managers appointed by the state policy committee [manager] and may not exceed 10 percent of the total amount collected in the state employee charitable campaign [unless the state policy committee approves a higher amount to accommodate reasonable documented costs].

SECTION 13. Subsections (a), (b), and (c), Section 659.151, Government Code, are amended to read as follows:

(a) The state policy committee may request the comptroller or state auditor to audit a participating charitable organization, the state [a] campaign manager, or a local employee committee or local campaign manager appointed by the state policy committee that the state policy committee reasonably believes has misapplied contributions under this subchapter.

(b) If an audit under this section reveals gross negligence or intentional misconduct on the part of the state [a] campaign manager or a local employee committee or local campaign manager appointed by the state policy committee, the state policy committee shall remove the campaign manager or local employee committee. A person removed under this subsection is not eligible to serve in the capacity from which the person was removed before the fifth anniversary of the date the person was removed.

(c) If an audit under this section reveals intentional misconduct on the part of the state [a] campaign manager, [or] a local employee committee or local campaign manager appointed by the state policy committee, or a participating charitable organization that has distributed money received from the state employee charitable campaign, the state policy committee shall forward its findings to the appropriate law enforcement agency.

SECTION 14. Section 659.153, Government Code, is amended to read as follows:

Sec. 659.153. LEGAL REPRESENTATION. The attorney general shall represent the state policy committee and any [each] local employee committee appointed by the state policy committee in all legal matters.

SECTION 15. Subdivisions (1), (12), and (14), Section 659.131, and Sections 659.143 and 659.144, Government Code, are repealed.

SECTION 16. (a) Section 18.01, Chapter 3 (House Bill No. 7), Acts of the 78th Legislature, 3rd Called Session, 2003, is repealed.

(b) Each federation or charitable organization is subject to Subdivision (3), Subsection (a), Section 659.146, Government Code.

(c) Subsections (a) and (b) of this section and Subsection (g), Section 659.146, Government Code, as added by this Act, apply only to the eligibility of a charitable organization to participate in, and the use of contributions from, a state employee charitable campaign conducted on or after January 1, 2014.

(d) This section and Subsection (g), Section 659.146, Government Code, as added by this Act, take effect January 1, 2014.

SECTION 17. (a) The term of each member of the state employee charitable campaign policy committee expires September 1, 2013.

(b) Not later than September 2, 2013:

(1) the governor shall appoint one member who is a state employee and one member who is a retired state employee receiving benefits under Chapter 814, Government Code, the lieutenant governor shall appoint one member, and the comptroller of public accounts shall appoint one member to the state employee charitable campaign policy committee for terms expiring September 1, 2014; and

(2) the governor shall appoint one member who is a state employee, the lieutenant governor shall appoint two members, and the comptroller of public accounts shall appoint two members to the state employee charitable campaign policy committee for terms expiring September 1, 2015.

SECTION 18. Not later than December 31, 2013, the comptroller of public accounts shall adopt rules necessary to implement the changes in law made by this Act.

SECTION 19. Any changes made by the state employee charitable campaign policy committee to the operation of the state employee charitable campaign under Subsection (e), Section 659.140, Government Code, as amended by this Act, apply only to a state employee charitable campaign conducted on or after January 1, 2014.

SECTION 20. Except as otherwise provided by this Act, this Act takes effect September 1, 2013.

The Conference Committee Report on **SB 217** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 630

Senator Huffman submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 630** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HUFFMAN  
DEUELL  
VAN DE PUTTE  
WHITMIRE

On the part of the Senate

LARSON  
MILLER, RICK  
KLICK  
PADDIE  
SPRINGER

On the part of the House

The Conference Committee Report on **HB 630** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2982**

Senator Duncan submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2982** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DUNCAN  
DAVIS  
SELIGER  
URESTI

KEFFER  
WU  
LOZANO  
KING, TRACY O.  
RITTER

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2982** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 8**

Senator Nelson submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 8** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

NELSON  
DEUELL  
HUFFMAN  
SCHWERTNER  
On the part of the Senate

KOLKHORST  
BONNEN, GREG  
DAVIS, SARAH  
ZEDLER  
On the part of the House



A BILL TO BE ENTITLED  
AN ACT

relating to the provision and delivery of certain health and human services in this state, including the provision of those services through the Medicaid program and the prevention of fraud, waste, and abuse in that program and other programs.

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

SECTION 1. Subchapter A, Chapter 531, Government Code, is amended by adding Section 531.0082 to read as follows:

Sec. 531.0082. DATA ANALYSIS UNIT. (a) The executive commissioner shall establish a data analysis unit within the commission to establish, employ, and oversee data analysis processes designed to:

(1) improve contract management;  
(2) detect data trends; and  
(3) 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 contracts.

(b) The commission shall assign staff to the data analysis unit who perform duties only in relation to the unit.

(c) The data analysis unit shall use all available data and tools for data analysis when establishing, employing, and overseeing data analysis processes under this section.

(d) Not later than the 30th day following the end of each calendar quarter, the data analysis unit shall provide an update on the unit's activities and findings to the governor, the lieutenant governor, the speaker of the house of representatives, the chair of the Senate Finance Committee, the chair of the House Appropriations Committee, and the chairs of the standing committees of the senate and house of representatives having jurisdiction over the Medicaid program.

SECTION 2. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.02115 to read as follows:

Sec. 531.02115. MARKETING ACTIVITIES BY PROVIDERS PARTICIPATING IN MEDICAID OR CHILD HEALTH PLAN PROGRAM. (a) A provider participating in the Medicaid or child health plan program, including a provider participating in the network of a managed care organization that contracts with the commission to provide services under the Medicaid or child health plan program, may not engage in any marketing activity, including any dissemination of material or other attempt to communicate, that:

(1) involves unsolicited personal contact, including by door-to-door solicitation, solicitation at a child-care facility or other type of facility, direct mail, or telephone, with a Medicaid client or a parent whose child is enrolled in the Medicaid or child health plan program;

(2) is directed at the client or parent solely because the client or the parent's child is receiving benefits under the Medicaid or child health plan program; and

(3) is intended to influence the client's or parent's choice of provider.

(b) In addition to the requirements of Subsection (a), a provider participating in the network of a managed care organization described by that subsection must comply with the marketing guidelines established by the commission under Section 533.008.

(c) Nothing in this section prohibits:

(1) a provider participating in the Medicaid or child health plan program from:

(A) engaging in a marketing activity, including any dissemination of material or other attempt to communicate, that is intended to influence the choice of provider by a Medicaid client or a parent whose child is enrolled in the Medicaid or child health plan program, if the marketing activity:

(i) is conducted at a community-sponsored educational event, health fair, outreach activity, or other similar community or nonprofit event in which the provider participates and does not involve unsolicited personal contact or promotion of the provider's practice; or

(ii) involves only the general dissemination of information, including by television, radio, newspaper, or billboard advertisement, and does not involve unsolicited personal contact;

(B) as permitted under the provider's contract, engaging in the dissemination of material or another attempt to communicate with a Medicaid client or a parent whose child is enrolled in the Medicaid or child health plan program, including communication in person or by direct mail or telephone, for the purpose of:

(i) providing an appointment reminder;

(ii) distributing promotional health materials;

(iii) providing information about the types of services offered by the provider; or

(iv) coordinating patient care; or

(C) engaging in a marketing activity that has been submitted for review and obtained a notice of prior authorization from the commission under Subsection (d); or

(2) a provider participating in the Medicaid STAR + PLUS program from, as permitted under the provider's contract, engaging in a marketing activity, including any dissemination of material or other attempt to communicate, that is intended to educate a Medicaid client about available long-term care services and supports.

(d) The commission shall establish a process by which providers may submit proposed marketing activities for review and prior authorization to ensure that providers are in compliance with the requirements of this section and, if applicable, Section 533.008, or to determine whether the providers are exempt from a requirement of this section and, if applicable, Section 533.008. The commission may grant or deny a provider's request for authorization to engage in a proposed marketing activity.

(e) The executive commissioner shall adopt rules as necessary to implement this section, including rules relating to provider marketing activities that are exempt from the requirements of this section and, if applicable, Section 533.008.

SECTION 3. Section 531.02414, Government Code, is amended by amending Subsection (d) and adding Subsections (g) and (h) to read as follows:

(d) Subject to Section 533.00257, the ~~The~~ commission may contract with a public transportation provider, as defined by Section 461.002, Transportation Code, a private transportation provider, or a regional transportation broker for the provision of public transportation services, as defined by Section 461.002, Transportation Code, under the medical transportation program.

(g) The commission shall enter into a memorandum of understanding with the Texas Department of Motor Vehicles and the Department of Public Safety for purposes of obtaining the motor vehicle registration and driver's license information of a provider of medical transportation services, including a regional contracted broker and a subcontractor of the broker, to confirm that the provider complies with applicable requirements adopted under Subsection (e).

(h) The commission shall establish a process by which providers of medical transportation services, including providers under a managed transportation delivery model, that contract with the commission may request and obtain the information described under Subsection (g) for purposes of ensuring that subcontractors providing medical transportation services meet applicable requirements adopted under Subsection (e).

SECTION 4. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.076 to read as follows:

Sec. 531.076. REVIEW OF PRIOR AUTHORIZATION AND UTILIZATION REVIEW PROCESSES. (a) The commission shall periodically review in accordance with an established schedule the prior authorization and utilization review processes within the Medicaid fee-for-service delivery model to determine if those processes need modification to reduce authorizations of unnecessary services and inappropriate use of services. The commission shall also monitor the processes described in this subsection for anomalies and, on identification of an anomaly in a process, shall review the process for modification earlier than scheduled.

(b) The commission shall monitor Medicaid managed care organizations to ensure that the organizations are using prior authorization and utilization review processes to reduce authorizations of unnecessary services and inappropriate use of services.

SECTION 5. Section 531.102, Government Code, is amended by amending Subsection (a) and adding Subsection (l) to read as follows:

(a) The [commission, through the] commission's office of inspector general[,] 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. The commission may obtain any information or technology necessary to enable the office to meet its responsibilities under this subchapter or other law.

(l) Nothing in this section limits the authority of any other state agency or governmental entity.

SECTION 6. Subchapter C, Chapter 531, Government Code, is amended by adding Section 531.1022 to read as follows:

Sec. 531.1022. PEACE OFFICERS. (a) The commission's office of inspector general shall employ and commission not more than five peace officers at any given time for the purpose of assisting the office in carrying out the duties of the office relating to the investigation of fraud, waste, and abuse in the Medicaid program.

(b) Peace officers employed under this section are administratively attached to the Department of Public Safety. The commission shall provide administrative support to the department necessary to support the assignment of peace officers employed under this section.

(c) A peace officer employed and commissioned by the office under this section is a peace officer for purposes of Article 2.12, Code of Criminal Procedure.

SECTION 7. (a) Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.00257 to read as follows:

Sec. 533.00257. DELIVERY OF MEDICAL TRANSPORTATION PROGRAM SERVICES. (a) In this section:

(1) "Managed transportation organization" means:

(A) a rural or urban transit district created under Chapter 458, Transportation Code;

(B) a public transportation provider defined by Section 461.002, Transportation Code;

(C) a regional contracted broker defined by Section 531.02414;

(D) a local private transportation provider approved by the commission to provide Medicaid nonemergency medical transportation services; or

(E) any other entity the commission determines meets the requirements of this section.

(2) "Medical transportation program" has the meaning assigned by Section 531.02414.

(3) "Transportation service area provider" means a for-profit or nonprofit entity or political subdivision of this state that provides demand response, curb-to-curb, nonemergency transportation under the medical transportation program.

(b) Subject to Subsection (i), the commission shall provide medical transportation program services on a regional basis through a managed transportation delivery model using managed transportation organizations and providers, as appropriate, that:

(1) operate under a capitated rate system;

(2) assume financial responsibility under a full-risk model;

(3) operate a call center;

(4) use fixed routes when available and appropriate; and

(5) agree to provide data to the commission if the commission determines that the data is required to receive federal matching funds.

(c) The commission shall procure managed transportation organizations under the medical transportation program through a competitive bidding process for each managed transportation region as determined by the commission.

(d) A managed transportation organization that participates in the medical transportation program must attempt to contract with medical transportation providers that:

(1) are considered significant traditional providers, as defined by rule by the executive commissioner;

(2) meet the minimum quality and efficiency measures required under Subsection (g) and other requirements that may be imposed by the managed transportation organization; and

(3) agree to accept the prevailing contract rate of the managed transportation organization.

(e) To the extent allowed under federal law, a managed transportation organization may own, operate, and maintain a fleet of vehicles or contract with an entity that owns, operates, and maintains a fleet of vehicles. The commission shall seek appropriate federal waivers or other authorizations to implement this subsection as necessary.

(f) The commission shall consider the ownership, operation, and maintenance of a fleet of vehicles by a managed transportation organization to be a related-party transaction for purposes of applying experience rebates, administrative costs, and other administrative controls determined by the commission.

(g) The commission shall require that managed transportation organizations and providers participating in the medical transportation program meet minimum quality and efficiency measures as determined by the commission.

(h) The commission may contract with transportation service area providers providing services under the medical transportation program 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 medical transportation program service delivery activities within the area served by the providers for the evaluation of:

- (1) cost-savings measures;
- (2) efficiencies;
- (3) best practices; and
- (4) available matching funds.

(i) The commission may delay providing medical transportation program services through a managed transportation delivery model in areas of this state in which the commission on September 1, 2013, is operating a full-risk transportation broker model.

(j) Notwithstanding Subsection (i), the commission may not delay providing medical transportation program services through a managed transportation delivery model in:

- (1) a county with a population of 750,000 or more:
  - (A) in which all or part of a municipality with a population of one million or more is located; and
  - (B) that is located adjacent to a county with a population of two million or more; or
- (2) a county with a population of at least 55,000 but not more than 65,000 that is located adjacent to a county with a population of at least 500,000 but not more than 1.5 million.

(k) Subsection (h) and this subsection expire August 31, 2015.

(b) The Health and Human Services Commission shall begin providing medical transportation program services through the delivery model required by Section 533.00257, Government Code, as added by this section, not later than September 1, 2014, subject to Subsection (i), Section 533.00257, Government Code, as added by this section.

SECTION 8. Subsection (a-1), Section 533.005, Government Code, is amended to read as follows:

(a-1) The requirements imposed by Subsections (a)(23)(A), (B), and (C) do not apply, and may not be enforced, on and after August 31, 2018 [2013].

SECTION 9. (a) Section 773.0571, Health and Safety Code, is amended to read as follows:

Sec. 773.0571. REQUIREMENTS FOR PROVIDER LICENSE. The department shall issue to an emergency medical services provider applicant a license that is valid for two years if the department is satisfied that:

(1) the applicant [~~emergency medical services provider~~] has adequate staff to meet the staffing standards prescribed by this chapter and the rules adopted under this chapter;

(2) each emergency medical services vehicle is adequately constructed, equipped, maintained, and operated to render basic or advanced life support services safely and efficiently;

(3) the applicant [~~emergency medical services provider~~] offers safe and efficient services for emergency prehospital care and transportation of patients; [~~and~~]

(4) the applicant:  
(A) possesses sufficient professional experience and qualifications to provide emergency medical services; and

(B) has not been excluded from participation in the state Medicaid program;

(5) the applicant holds a letter of approval issued under Section 773.0573 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 emergency medical services, as applicable;

(6) the applicant employs a medical director; and

(7) the applicant [~~emergency medical services provider~~] complies with the rules adopted [~~by the board~~] under this chapter.

(b) Subchapter C, Chapter 773, Health and Safety Code, is amended by adding Sections 773.05711, 773.05712, and 773.05713 to read as follows:

Sec. 773.05711. ADDITIONAL EMERGENCY MEDICAL SERVICES PROVIDER LICENSE REQUIREMENTS. (a) In addition to the requirements for obtaining or renewing an emergency medical services provider license under this subchapter, a person who applies for a license or for a renewal of a license must:

(1) provide the department with a letter of credit issued by a federally insured bank or savings institution in the amount of:

(A) \$100,000 for the initial license and for renewal of the license on the second anniversary of the date the initial license is issued;

(B) \$75,000 for renewal of the license on the fourth anniversary of the date the initial license is issued;

(C) \$50,000 for renewal of the license on the sixth anniversary of the date the initial license is issued; and

(D) \$25,000 for renewal of the license on the eighth anniversary of the date the initial license is issued;

(2) if the applicant participates in the medical assistance program operated under Chapter 32, Human Resources Code, the Medicaid managed care program operated under Chapter 533, Government Code, or the child health plan program operated under Chapter 62 of this code, provide the Health and Human Services Commission with a surety bond in the amount of \$50,000; and

(3) submit for approval by the department the name and contact information of the provider's administrator of record who satisfies the requirements under Section 773.05712.

(b) An emergency medical services provider that is directly operated by a governmental entity is exempt from this section.

Sec. 773.05712. ADMINISTRATOR OF RECORD. (a) The administrator of record for an emergency medical services provider licensed under this subchapter:

(1) may not be employed or otherwise compensated by another private for-profit emergency medical services provider;

(2) must meet the qualifications required for an emergency medical technician or other health care professional license or certification issued by this state; and

(3) must submit to a criminal history record check at the applicant's expense.

(b) Section 773.0415 does not apply to information an administrator of record is required to provide under this section.

(c) An administrator of record initially approved by the department may be required to complete an education course for new administrators of record. The executive commissioner shall recognize, prepare, or administer the education course for new administrators of record, which must include information about the laws and department rules that affect emergency medical services providers.

(d) An administrator of record approved by the department under Section 773.05711(a) annually must complete at least eight hours of continuing education following initial approval. The executive commissioner shall recognize, prepare, or administer continuing education programs for administrators of record, which must include information about changes in law and department rules that affect emergency medical services providers.

(e) Subsection (a)(2) does not apply to an emergency medical services provider that held a license on September 1, 2013, and has an administrator of record who has at least eight years of experience providing emergency medical services.

(f) An emergency medical services provider that is directly operated by a governmental entity is exempt from this section.

Sec. 773.05713. REPORT TO LEGISLATURE. Not later than December 1 of each even-numbered year, the department shall electronically submit a report to the lieutenant governor, the speaker of the house of representatives, and the standing committees of the house and senate with jurisdiction over the department on the effect of Sections 773.05711 and 773.05712 that includes:

(1) the total number of applications for emergency medical services provider licenses submitted to the department and the number of applications for which licenses were issued or licenses were denied by the department;

(2) the number of emergency medical services provider licenses that were suspended or revoked by the department for violations of those sections and a description of the types of violations that led to the license suspension or revocation;

(3) the number of occurrences and types of fraud committed by licensed emergency medical services providers related to those sections;

(4) the number of complaints made against licensed emergency medical services providers for violations of those sections and a description of the types of complaints; and

(5) the status of any coordination efforts of the department and the Texas Medical Board related to those sections.

(c) Subchapter C, Chapter 773, Health and Safety Code, is amended by adding Section 773.0573 to read as follows:

Sec. 773.0573. LETTER OF APPROVAL FROM LOCAL GOVERNMENTAL ENTITY. (a) An emergency medical services provider applicant must obtain a letter of approval from:

(1) the governing body of the municipality in which the applicant is located and is applying to provide emergency medical services; or

(2) 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 emergency medical services.

(b) A governing body of a municipality or a commissioners court of a county may issue a letter of approval to an emergency medical services provider applicant who is applying to provide emergency medical services in the municipality or county only if the governing body or commissioners court determines that:

(1) the addition of another licensed emergency medical services provider will not interfere with or adversely affect the provision of emergency medical services by the licensed emergency medical services providers operating in the municipality or county;

(2) the addition of another licensed emergency medical services provider will remedy an existing provider shortage that cannot be resolved through the use of the licensed emergency medical services providers operating in the municipality or county; and

(3) the addition of another licensed emergency medical services provider will not cause an oversupply of licensed emergency medical services providers in the municipality or county.

(c) An emergency medical services provider is prohibited from expanding operations to or stationing any emergency medical services vehicles in a municipality or county other than the municipality or county from which the provider obtained the letter of approval under this section until after the second anniversary of the date the provider's initial license was issued, unless the expansion or stationing occurs in connection with:

(1) a contract awarded by another municipality or county for the provision of emergency medical services;

(2) an emergency response made in connection with an existing mutual aid agreement; or

(3) an activation of a statewide emergency or disaster response by the department.

(d) This section does not apply to:

(1) renewal of an emergency medical services provider license; or

(2) a municipality, county, emergency services district, hospital, or emergency medical services volunteer provider organization in this state that applies for an emergency medical services provider license.

(d) Subchapter C, Chapter 773, Health and Safety Code, is amended by adding Section 773.06141 to read as follows:

Sec. 773.06141. SUSPENSION, REVOCATION, OR DENIAL OF EMERGENCY MEDICAL SERVICES PROVIDER LICENSE. (a) The commissioner may suspend, revoke, or deny an emergency medical services provider license on the grounds that the provider's administrator of record, employee, or other representative:

(1) has been convicted of, or placed on deferred adjudication community supervision or deferred disposition for, an offense that directly relates to the duties and responsibilities of the administrator, employee, or representative, other than an offense for which points are assigned under Section 708.052, Transportation Code;

(2) has been convicted of or placed on deferred adjudication community supervision or deferred disposition for an offense, including:

(A) an offense listed in Sections 3g(a)(1)(A) through (H), Article 42.12, Code of Criminal Procedure; or

(B) an offense, other than an offense described by Subdivision (1), for which the person is subject to registration under Chapter 62, Code of Criminal Procedure; or

(3) has been convicted of Medicare or Medicaid fraud, has been excluded from participation in the state Medicaid program, or has a hold on payment for reimbursement under the state Medicaid program under Subchapter C, Chapter 531, Government Code.

(b) An emergency medical services provider that is directly operated by a governmental entity is exempt from this section.

(e) Notwithstanding Chapter 773, Health and Safety Code, as amended by this section, the Department of State Health Services may not issue any new emergency medical services provider licenses for the period beginning on September 1, 2013, and ending on August 31, 2014. The moratorium does not apply to the issuance of an emergency medical services provider license to a municipality, county, emergency services district, hospital, or emergency medical services volunteer provider



organization in this state, or to an emergency medical services provider applicant who is applying to provide services in response to 9-1-1 calls and is located in a rural area, as that term is defined in Section 773.0045, Health and Safety Code.

(f) Section 773.0571, Health and Safety Code, as amended by this section, and Section 773.0573, Health and Safety Code, as added by this section, apply only to an application for approval of an emergency medical services provider license submitted to the Department of State Health Services on or after the effective date of this Act. An application submitted before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(g) The changes in law made by this section apply only to an application for approval or renewal of an emergency medical services provider license submitted to the Department of State Health Services on or after the effective date of this Act. An application submitted before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 10. Section 32.0322, Human Resources Code, is amended by amending Subsection (b) and adding Subsections (b-1), (e), and (f) to read as follows:

(b) Subject to Subsections (b-1) and (e), the ~~[The]~~ executive commissioner of the Health and Human Services Commission by rule shall establish criteria for the department or the commission's office of inspector general to suspend a provider's billing privileges under the medical assistance program, revoke a provider's enrollment under the program, or deny a person's application to enroll as a provider under the program based on:

- (1) the results of a criminal history check;
- (2) any exclusion or debarment of the provider from participation in a state or federally funded health care program;
- (3) the provider's failure to bill for medical assistance or refer clients for medical assistance within a 12-month period; or
- (4) any of the provider screening or enrollment provisions contained in 42 C.F.R. Part 455, Subpart E.

(b-1) In adopting rules under this section, the executive commissioner of the Health and Human Services Commission shall 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:

(1) a criminal conviction or finding of civil or administrative liability for committing a fraudulent act, theft, embezzlement, or other financial misconduct under a state or federally funded health care program; or

(2) a criminal conviction for committing an act under a state or federally funded health care program that caused bodily injury to:

- (A) a person who is 65 years of age or older;
- (B) a person with a disability; or
- (C) a person under 18 years of age.

(e) The department may reinstate a provider's enrollment under the medical assistance program or grant a person's previously denied application to enroll as a provider, including a person described by Subsection (b-1), if the department finds:

(1) good cause to determine that it is in the best interest of the medical assistance program; and

(2) the person has not committed an act that would require revocation of a provider's enrollment or denial of a person's application to enroll since the person's enrollment was revoked or application was denied, as appropriate.

(f) The department must support a determination made under Subsection (e) with written findings of good cause for the determination.

SECTION 11. Section 32.073, Human Resources Code, is amended by adding Subsection (c) to read as follows:

(c) Not later than the second anniversary of the date national standards for electronic prior authorization of benefits are adopted, the Health and Human Services Commission shall 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 prior authorization requests electronically with a prescribing provider participating in the medical assistance program who has electronic prescribing capability and who initiates a request electronically.

SECTION 12. Section 36.005, Human Resources Code, is amended by amending Subsection (b-1) and adding Subsections (e), (f), and (g) to read as follows:

(b-1) The period of ineligibility begins on the date on which the judgment finding the provider liable under Section 36.052 is entered by the trial court [determination that the provider is liable becomes final].

(e) Notwithstanding Subsection (b-1), 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.

(f) For purposes of Subsection (e), a "physician" includes a physician, a professional association composed solely of physicians, a single legal entity authorized to practice medicine owned by two or more physicians, a nonprofit health corporation certified by the Texas Medical Board under Chapter 162, Occupations Code, or a partnership composed solely of physicians.

(g) For purposes of Subsection (e), "health care regulatory agency" has the meaning assigned by Section 774.001, Government Code.

SECTION 13. (a) The Health and Human Services Commission, in cooperation with the Department of State Health Services and the Texas Medical Board, shall:

(1) as soon as practicable after the effective date of this 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 established under Chapter 32, Human Resources Code;

(2) not later than January 1, 2014, make recommendations to the legislature regarding suggested changes to the law that would reduce the incidence of and opportunities for fraud, waste, and abuse with respect to the activities described by Subdivision (1) of this subsection; and

(3) amend the policies described by Subdivision (1) of this subsection as necessary to assist in accomplishing the goals described by Subdivision (2) of this subsection.

(b) This section expires September 1, 2015.

SECTION 14. (a) The Department of State Health Services, in cooperation with the Health and Human Services Commission and the Texas Medical Board, shall:

(1) as soon as practicable after the effective date of this Act, conduct a thorough review of and solicit stakeholder input regarding the laws and policies related to the licensure of nonemergency transportation providers;

(2) not later than January 1, 2014, make recommendations to the legislature regarding suggested changes to the law that would reduce the incidence of and opportunities for fraud, waste, and abuse with respect to the activities described by Subdivision (1) of this subsection; and

(3) amend the policies described by Subdivision (1) of this subsection as necessary to assist in accomplishing the goals described by Subdivision (2) of this subsection.

(b) This section expires September 1, 2015.

SECTION 15. (a) The Texas Medical Board, in cooperation with the Department of State Health Services and the Health and Human Services Commission, shall:

(1) as soon as practicable after the effective date of this Act, conduct a thorough review of and solicit stakeholder input regarding the laws and policies related to:

(A) the delegation of health care services by physicians or medical directors to qualified emergency medical services personnel; and

(B) physicians' assessment of patients' needs for purposes of ambulatory transfer or transport or other purposes;

(2) not later than January 1, 2014, make recommendations to the legislature regarding suggested changes to the law that would reduce the incidence of and opportunities for fraud, waste, and abuse with respect to the activities described by Subdivision (1) of this subsection; and

(3) amend the policies described by Subdivision (1) of this subsection as necessary to assist in accomplishing the goals described by Subdivision (2) of this subsection.

(b) This section expires September 1, 2015.

SECTION 16. (a) The Health and Human Services Commission shall study the feasibility of developing and implementing a single standard prior authorization form to be used for requesting prior authorization 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 prior authorization requests. The commission shall complete the study not later than December 31, 2014.

(b) If the Health and Human Services Commission determines that developing and implementing the form described in Subsection (a) of this section is feasible, will reduce administrative burdens, and is cost-effective, the commission shall adjust contracts with participating health benefit plan issuers and participating health benefit plan administrators to require acceptance of the form.

SECTION 17. (a) The office of inspector general of the Health and Human Services Commission shall review the manner in which:

(1) the office investigates fraud, waste, and abuse in the supplemental nutrition assistance program under Chapter 33, Human Resources Code, including in the provision of benefits under that program; and

(2) the office coordinates with other state and federal agencies in conducting those investigations.

(b) Not later than September 1, 2014, and based on the review required by Subsection (a) of this section, the office of inspector general of the Health and Human Services Commission shall submit to the legislature a written report containing strategies for addressing fraud, waste, and abuse in the supplemental nutrition assistance program under Chapter 33, Human Resources Code, including in the provision of benefits under that program.

(c) This section expires January 1, 2015.

SECTION 18. (a) This section is a clarification of legislative intent regarding Subsection (s), Section 32.024, Human Resources Code, and a validation of certain Health and Human Services Commission acts and decisions.

(b) In 1999, the legislature became aware that certain children enrolled in the Medicaid program were receiving treatment under the program outside the presence of a parent or another responsible adult. The treatment of unaccompanied children under the Medicaid program resulted in the provision of unnecessary services to those children, the exposure of those children to unnecessary health and safety risks, and the submission of fraudulent claims by Medicaid providers.

(c) In addition, in 1999, the legislature became aware of allegations that certain Medicaid providers were offering money and other gifts in exchange for a parent's or child's consent to receive unnecessary services under the Medicaid program. In some cases, a child was offered money or gifts in exchange for the parent's or child's consent to have the child transported to a different location to receive unnecessary services. In some of those cases, once transported, the child received no treatment and was left unsupervised for hours before being transported home. The provision of money and other gifts by Medicaid providers in exchange for parents' or children's consent to services deprived those parents and children of the right to choose a Medicaid provider without improper inducement.

(d) In response, in 1999, the legislature enacted Chapter 766 (H.B. 1285), Acts of the 76th Legislature, Regular Session, 1999, which amended Section 32.024, Human Resources Code, by amending Subsection (s) and adding Subsection (s-1). As amended, Subsection (s), Section 32.024, Human Resources Code, requires 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. As filed, the bill required a child's parent or guardian to accompany the child. The house committee report added the language allowing an adult authorized by the child's parent or guardian to accompany the child in order to accommodate a parent or guardian for whom accompanying the parent's or guardian's child to each visit or screening would be a hardship.

(e) The legislature finds that:

(1) in amending Subsection (s), Section 32.024, Human Resources Code, in 1999, the legislature did not intend to:

(A) create a hardship for families whose circumstances prevent a parent or guardian from accompanying the parent's or guardian's child to each visit or screening under the early and periodic screening, diagnosis, and treatment program; and

(B) 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;

(2) in enacting and enforcing administrative rules and policies to implement the parental accompaniment requirement of Subsection (s), Section 32.024, Human Resources Code, the Health and Human Services Commission 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:

(A) has a full-time job that does not allow the parent or guardian to take time off during a provider's regular business hours;

(B) attends school or participates in a job training program that requires the parent's or guardian's full-time attendance and does not allow absences for medical or personal needs;

(C) is the caretaker of two or more children and does not have access to child care;

(D) has a disability or illness that prevents the parent or guardian from safely accompanying the child to a visit or screening; or

(E) is the primary caregiver of a person who has a disability or illness and for whom no alternate caregiver is available; and

(3) in developing reasonable accommodations described by this subsection, the Health and Human Services Commission 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 Paragraph (B), Subdivision (2), Subsection (s), Section 32.024, Human Resources Code.

(f) 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. 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.

(g) The legislature, in amending Subsection (s), Section 32.024, Human Resources Code, understood that:

(1) the effectiveness of medical, dental, and therapy services provided to a child improves when the child's parent or guardian actively participates in the delivery of those services;

(2) a parent is responsible for the safety and well-being of the parent's child, and that a parent cannot casually delegate this responsibility to a stranger;

(3) a parent may not always be available to accompany the parent's child at a visit to the child's doctor, dentist, or therapist; and

(4) Medicaid providers and their employees and associates have a financial interest in the delivery of services under the Medicaid program and, accordingly, cannot fulfill the responsibilities of a parent or guardian when providing services to a child.

(h)(1) On March 15, 2012, the Health and Human Services Commission notified certain Medicaid providers that state law and commission policy require a child's parent or guardian or another properly authorized adult to accompany a child receiving services under the Medicaid program. This notice followed the commission's discovery that some providers were transporting children from schools to therapy clinics and other locations to receive therapy services. Although the children were not accompanied by a parent or guardian during these trips, the providers were obtaining reimbursement for the trips under the Medicaid medical transportation program. The commission clarified in the notice that, in order for a provider to be reimbursed for transportation services provided to a child under the Medicaid medical transportation program, 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.

(2) In May 2012, a lawsuit was filed to enjoin the Health and Human Services Commission from enforcing Subsection (s), Section 32.024, Human Resources Code, and I T.A.C. Section 380.207, as interpreted in certain notices issued by the commission. A state district court enjoined the commission from denying eligibility to a child for transportation services under the Medicaid medical transportation program 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. The court also enjoined the commission from requiring as a condition for a provider to be reimbursed for services provided to a child during a visit or screening under the early and periodic screening, diagnosis, and treatment program 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. The state has filed a notice of appeal of the court's order.

(3) The legislature declares that a rule or policy adopted by the Health and Human Services Commission 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 the medical transportation program, the child must 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 the commission's authority and consistent with the intent of the legislature, provided that the rule or policy:

(A) was adopted pursuant to Subsection (s), Section 32.024, Human Resources Code; and

(B) 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.

(4) Subdivision (3) of this subsection does not apply to:

(A) an action or decision that was void at the time the action was taken or the decision was made;

(B) an action or decision that violates federal law or the terms of a federal waiver; or

(C) an action or decision that, under a statute of this state or the United States, was a misdemeanor or felony at the time the action was taken or the decision was made.

(5) This section does not apply to:

(A) an action or decision that was void at the time the action was taken or the decision was made;

(B) an action or decision that violates federal law or the terms of a federal waiver; or

(C) an action or decision that, under a statute of this state or the United States, was a misdemeanor or felony at the time the action was taken or the decision was made.

SECTION 19. As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall establish the data analysis unit required under Section 531.0082, Government Code, as added by this Act. The data analysis unit shall provide the initial update required under Subsection (d), Section 531.0082, Government Code, as added by this Act, not later than the 30th day after the last day of the first complete calendar quarter occurring after the date the unit is established.

SECTION 20. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 21. This Act takes effect September 1, 2013.

The Conference Committee Report on **SB 8** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2818**

Senator Carona submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2818** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

CARONA  
VAN DE PUTTE  
HANCOCK

SHEFFIELD, RALPH  
THOMPSON, SENFRONIA  
GEREN  
KUEMPEL  
JOHNSON

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2818** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 508**

Senator Patrick submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 508** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

PATRICK  
DEUELL  
PAXTON  
CARONA

GUILLEN  
FLYNN  
FLETCHER

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 508** was filed with the Secretary of the Senate.

**MOTION TO ADJOURN**

On motion of Senator Whitmire and by unanimous consent, the Senate at 7:47 p.m. agreed to adjourn, in memory of Yanci Tolbert, upon conclusion of the Joint Session, until 1:30 p.m. tomorrow.

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Memorial Resolutions**

**HCR 205** (Van de Putte), In memory of U.S. Marine Corporal Michael Arthur Preuss of Houston.

**HCR 206** (Van de Putte), In memory of U.S. Army Specialist James Jesse Delacruz of Spring.

**HCR 207** (Van de Putte), In memory of U.S. Marine Sergeant Lorenzo Aranda, Jr., of Baytown.

**Congratulatory Resolutions**

**SR 1057** by Garcia, Recognizing Father Benito Retortillo for his service in South Texas.

**SR 1058** by Garcia, Recognizing Father Epifanio Rodriguez for his service in South Texas.

**SR 1062** by Ellis, Congratulating Angela and Dallas Jones on the occasion of the birth of their daughter, Zoë Victoria Jones.

**RECESS**

On motion of Senator Whitmire, the Senate at 7:47 p.m. recessed until 10:00 a.m. tomorrow for the Joint Session.

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**APPENDIX**

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**BILLS AND RESOLUTIONS ENROLLED**

May 23, 2013

**SB 24, SB 718, SB 763, SB 869, SB 1074, SB 1771, SB 1838, SR 534, SR 1017, SR 1030, SR 1044, SR 1045, SR 1046, SR 1047, SR 1048, SR 1050, SR 1051, SR 1052, SR 1053, SR 1054**

**SIGNED BY GOVERNOR**

May 24, 2013

**SB 181, SB 233, SB 245, SB 274, SB 350, SB 376, SB 487, SB 610, SB 620, SB 651, SB 654, SB 661, SB 670, SB 696, SB 727, SB 748, SB 821, SB 860, SB 864, SB 878, SB 887, SB 984, SB 1004, SB 1093, SB 1133, SB 1191, SB 1212, SB 1300, SB 1360, SB 1427, SB 1538, SB 1589, SB 1889**





